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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Florence County

Honorable H. Steven DeBerry IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMUEL L. MCNEIL,

APPELLANT

APPELLATE CASE NO. 2022-000093

RECORD ON APPEAL

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33 (STATEMENT ON DISK)**

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COUNTY OF FLORENCE	)	2017-GS-21-00561
	)	
	)	
	)	
	)	
State of South Carolina	)	TRANSCRIPT OF RECORD
vs.	)	
Samuel McNeil	)	
	)	November 7, 2017
	)	Marion, South Carolina
	)	

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR.

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KESHIA REED
 Official Court Reporter

State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2017-GS-21-01049
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Samuel Lee McNeil,	)	
	)	
Defendant.	)	
	)	

January 10-12, 2022
 Florence, South Carolina

B E F O R E:

The Honorable H. Steven DeBerry IV, Judge

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Krystal J. Smith
 Official Circuit Court Reporter

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COURT REPORTER LEGEND

20 dashes -- intentional or purposeful interruption

21 or change in thought

22 ellipses . . . trailing off

23 [ph] phonetically written

24 [sic] written as said

25

1 JANUARY 10, 2021

2 (WHEREUPON, the proceedings began at 11:24 a.m.)

3 THE COURT: All right. Madam Solicitor, you may call
4 your first case.

5 MS. MCGILL: May it please the Court, Your Honor.

6 At this time, the State calls true-billed Indictment
7 2017-GS-21-1049, State of South Carolina versus Samuel Lee
8 McNeil, for one count of domestic violence of a high and
9 aggravated nature.

10 THE COURT: All right. All right. Ladies and
11 gentlemen, the indictment charges the defendant with one
12 count of assault -- criminal domestic violence of a high and
13 aggravated nature. Is that right?

14 MS. MCGILL: Yes, Your Honor.

15 THE COURT: All right. And I need to tell you that the
16 fact the defendant was arrested, charged, and indicted in
17 this case is not evidence in this case and cannot be
18 considered by you as evidence of guilt in this case, nor does
19 it create any presumption or inference of guilt. This
20 document simply is the formal written instrument which
21 contains the charge made against the defendant, and it is the
22 formal document by which this case is brought into this
23 court.

24 So before we continue with jury selection in this case,
25 we're going to have to ask you some more questions and, at

1 challenging it. Thank you.

2 THE COURT: All right. Well, I find it's admissible.

3 You can have a seat, Mr. Shelley.

4 THE WITNESS: Thank you.

5 THE COURT: Anything further?

6 MS. MCGILL: No, Your Honor.

7 THE COURT: All right.

8 MS. MCGILL: Not from -- nothing from the State.

9 THE COURT: All right. Ms. Neyle?

10 MS. NEYLE: Thank you, Judge. May it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. NEYLE: Judge, at this time I would renew Rule 5 and
13 *Brady*, Your Honor.

14 This case is over five years old. I think it's one of
15 the oldest cases in Florence County and -- and we've had a
16 couple of discovery issues, namely in regard to medical
17 records. There was a -- there was a period where the State
18 had sent over medical records that had been redacted, and
19 there was a -- an order compelling those medical records.

20 Your Honor, I received them and -- and I've spoken with
21 Ms. McGill. There were still some missing pages. We met
22 yesterday and I believe that I have everything in regard to
23 the medical records, Judge. I just want to renew that Rule 5
24 and *Brady* in regard to that, Your Honor.

25 THE COURT: All right.

1 MS. NEYLE: The next -- the next issue, Judge, just to
2 put a plea offer on the record. Mr. -- Mr. McNeil had a plea
3 offer of a straight up plea last week. He -- he was brought
4 over to court last Thursday and he indicated he did not want
5 to plea, and I just want to put that on the record.

6 THE COURT: All right. And what was the offer?

7 MS. NEYLE: It was -- it was to straight up without
8 recommendation or negotiation to a domestic violence of a
9 high and aggravated nature.

10 THE COURT: All right. All right.

11 MS. NEYLE: Thank you, Judge. And the next -- the next
12 matter is, if this is applicable, to -- to sequester any
13 witnesses, Your Honor, and Ms. McGill and I can police that
14 and make sure if there are people out there that don't need
15 to be in here, they can be outside.

16 THE COURT: Ms. McGill, any issue with that?

17 MS. MCGILL: No issues from the State, Your Honor.

18 THE COURT: All right. So we'll sequester your
19 witnesses.

20 MS. NEYLE: Thank you, Judge.

21 THE COURT: All right.

22 MS. NEYLE: The next motion I would make -- the State
23 has sent over a couple incident reports dealing with Mr.
24 McNeil, and I would ask the State to disclose any existence
25 of any Lyle evidence or any prior bad acts that they intend

1 to introduce in trial, Judge.

2 THE COURT: All right. And are you in possession of any
3 of that evidence, Ms. McGill?

4 MS. MCGILL: Your Honor, the State has already turned
5 over those prior incident reports to the defense. At this
6 point, you know, it's hard to say, Your Honor, what we're
7 going to use, what if anything. Your Honor, I don't see
8 where we're going to use anything at all regarding those
9 incident reports at this time.

10 THE COURT: All right. Does that satisfy the defense or
11 would you like to have --

12 MS. NEYLE: Judge, I believe since we've made this
13 motion for Lyle that if the State intends to introduce them,
14 it needs to be ruled upon now, and it seems like the State is
15 saying they don't intend to introduce any, Judge.

16 THE COURT: Well, that's what I understand. Is that --

17 MS. NEYLE: Oh, okay.

18 MS. MCGILL: Your Honor, that's what I just told Your
19 Honor. Yes, sir.

20 MS. NEYLE: Thank you, Judge. And I would just also ask
21 if that also includes any prior incidents with the victim,
22 Ms. Cunningham.

23 THE COURT: Ms. McGill?

24 MS. MCGILL: Your Honor, he has a prior conviction. I
25 mean, you know, that's the only thing that the State would

1 intend to use. He does have a prior conviction from 2016,
2 Your Honor.

3 THE COURT: All right. And I mean that would certainly
4 be able to be used against him in the event he was going to
5 take the stand. Do you agree with that?

6 MS. NEYLE: Yes, Your Honor.

7 THE COURT: I mean --

8 MS. NEYLE: If it's character evidence.

9 THE COURT: I mean as long as it -- it is admissible
10 according to the rules. Now, as far as, you know, the
11 particulars of that act and who it -- you know, who the
12 victim might have been, I'm not even sure what it was.

13 MS. MCGILL: Your Honor, it was a different victim on
14 that case. I don't have a report with this victim with this
15 defendant regarding another incident, Your Honor.

16 THE COURT: Ms. Neyle?

17 MS. NEYLE: Judge, I just want to clarify that at first
18 Ms. McGill said she didn't intend to introduce any, and then
19 I -- please tell me if I heard this wrong. She said she
20 might introduce another incident, and I just want to clarify.

21 THE COURT: Well, I think what I understood is that she
22 just said -- I mean I would think it's in context -- in
23 context if your client decides to take the stand if there's
24 any crimes or convictions that --

25 MS. NEYLE: Okay.

1 THE COURT: -- would be relevant or that would be
2 admissible. Is that right?

3 MS. MCGILL: Your Honor, that's the only thing the State
4 is asking at this time.

5 MS. NEYLE: Okay. Yes, Your Honor.

6 THE COURT: So that's discernible from what you're
7 asking about; right?

8 MS. NEYLE: Yes, Your Honor. It's clear. Thank you.

9 THE COURT: Okay. Is there anything further?

10 MS. NEYLE: I believe that's it, Judge.

11 THE COURT: All right. So that's all we have before we
12 need to start trial? I mean that's okay. I'm just asking.

13 All right. Did y'all have any --

14 MS. MCGILL: No, because we took up the other matter in
15 chambers this morning --

16 THE COURT: Okay.

17 MS. MCGILL: -- in camera.

18 THE COURT: Yeah. All right. Well, so the jury is
19 coming back at 9:15. I think that we can start at 9:30.
20 Does that sound good to y'all?

21 MS. MCGILL: Yes, Your Honor.

22 THE COURT: All right.

23 MS. NEYLE: Yes, Your Honor.

24 THE COURT: Anything further?

25 MS. MCGILL: Nothing from the State, Your Honor.

1 THE COURT: All right.

2 MS. NEYLE: No, Your Honor.

3 (WHEREUPON, the proceedings adjourned for the day at
4 2:41 p.m.)

5 JANUARY 11, 2022

6 (WHEREUPON, the proceedings resumed at 9:38 a.m.)

7 THE COURT: Are we ready to go? All right. Is there
8 anything from the State or the defense before we bring the
9 jury in?

10 MS. MCGILL: Nothing from the State, Your Honor.

11 MS. NEYLE: Judge, I had the opportunity to look at
12 photos that the -- the State intends to introduce today, and
13 I just have an issue with one of the photos. I didn't know
14 if you wanted me to take it up now or when they seek to
15 introduce it.

16 THE COURT: All right. When do you anticipate
17 introducing it?

18 MS. MCGILL: Your Honor, it will be this morning.

19 THE COURT: Like the first witness or --

20 MS. MCGILL: It won't be the first witness. It probably
21 would be the second or third witness, Your Honor, or the
22 third witness or fourth, but the first two witnesses will be
23 short. So if Your Honor wants to take it up now.

24 THE COURT: All right. We'll -- we'll take a look at
25 it.

1 MS. NEYLE: Okay. Thank you, Your Honor.

2 Judge, the case that we have before you, the DVHAN,
3 there is a significant injury to the victim's face, Your
4 Honor, and the State intends to introduce three photos of her
5 face. There's one that would -- they would seek to get
6 through a doctor, and I'm not challenging that picture.

7 One of the ones that I am challenging, there is picture
8 No. 18, State's Exhibit 18, and State's 21. They are both
9 pictures of the victim's face in the exact same angle, Your
10 Honor. I understand that the State needs to show the
11 injuries to the jury. I just believe that one extra photo of
12 the exact same angle would be cumulative and prejudicial,
13 Your Honor.

14 THE COURT: All right. Can I take a look at them?

15 MS. MCGILL: May I approach, Your Honor?

16 THE COURT: Yes, ma'am.

17 All right. Assuming -- Ms. -- Ms. McGill, do you have
18 any argument?

19 MS. MCGILL: Your Honor, I would just say that the State
20 has a high burden in this case in terms of great bodily
21 injury. Your Honor, one picture was taken immediately at the
22 scene before she got to the hospital before they started
23 treating her. The second one just shows the course of
24 treatment at the hospital.

25 I mean I think both pictures depict a little bit

1 different injuries there. It's essentially the same injury
2 in terms of the location of it, but, Your Honor, in different
3 scenes. It goes to the State's theory in this case. Your
4 Honor, I think it's necessary for us to be able to prove the
5 elements of this case.

6 THE COURT: All right. Anything further, Ms. Neyle?

7 MS. NEYLE: Judge, the third picture that the State
8 intends to introduce of the victim's face, they would seek to
9 introduce it through the doctor. It shows stitches. It
10 shows a course of treatment, Your Honor.

11 That second photo at the hospital, the wounds have not
12 been treated. They're the exact same as they're presented in
13 Photo 18 at the -- at the scene, Your Honor, and so I think
14 they're cumulative.

15 MS. MCGILL: And, Judge, those photos were taken by two
16 different people.

17 THE COURT: All right. You know, I think that these
18 pictures certainly show these injuries or this injury or
19 these injuries from a different distance. You know, it being
20 one additional photograph, you know, as long as there's a
21 proper foundation laid, I don't think it's cumulative.

22 I think that it kind of shows it in a little bit
23 different light, and I just -- if we were talking about a
24 whole lot more photos of the same, then certainly I
25 understand your position a little bit better, but I think the

1 fact that, you know, they're certainly taken from a different
2 distance in a different light and there's only two
3 photographs we're talking about, I don't -- I just don't
4 think it's cumulative or prejudicial. All right?

5 MS. NEYLE: Thank you, Your Honor.

6 And, Judge, just one other thing, if I may. I know the
7 State will put the pictures on the screen, Your Honor. I
8 would just ask that when they do present the pictures, they
9 don't zoom in. I think that would create another image. I
10 would just ask that they present them as they are taken.

11 THE COURT: Yeah. I think that's fair. What's your
12 position, Ms. McGill?

13 MS. MCGILL: May I have the Court's indulgence for a
14 moment?

15 THE COURT: Yes, ma'am.

16 MS. MCGILL: Your Honor, that's fine. We won't do it.
17 The State won't zoom.

18 THE COURT: Yeah. I mean I think that the pictures are
19 what they are. They're going to be introduced into evidence
20 and they're going to have the ability to look at them and
21 they need to be looking at what exactly is introduced into
22 evidence.

23 MS. NEYLE: Thank you, Judge.

24 MS. MCGILL: Thank you, Your Honor.

25 THE COURT: All right. Is there anything further?

1 MS. MCGILL: No, Your Honor.

2 THE COURT: All right. If you could bring us the jury.

3 (WHEREUPON, the jury entered the courtroom at 9:45 a.m.)

4 THE COURT: All right. Ladies and gentlemen, thank you
5 for being back here on time. We are about to begin the trial
6 of this case. First of all, there are some -- some notes
7 that I have to go over with you to begin with.

8 So do we have Ms. -- who are our two alternates? Is it
9 Ms. Sheila Ard and Ms. Johnson? Or no? Do we know who our
10 alternates are?

11 THE CLERK: It should be -- wait a minute. It should be
12 Robert Burgess, I think.

13 THE COURT: Okay.

14 THE CLERK: And Sheila Ard.

15 THE COURT: Robert Burgess? All right. So if y'all two
16 will switch seats there.

17 THE CLERK: Y'all were the last two pulled; correct?

18 THE COURT: That's right. All right. It's real
19 important that we not forget that the two of y'all are our
20 alternates and the purpose for y'all being here is in the
21 event that some of the jurors can't complete this trial for
22 whatever reason. Okay?

23 But it's extremely important that you're here with us
24 for the entire trial, that you pay close attention, but also
25 that at the end of this trial if all the jurors are doing

1 well and can continue that you're not to go and participate
2 in the deliberations. Okay? Because that can really mess
3 things up. But we're going to keep the two of you in those
4 two seats. The rest of you can sit anywhere you would like
5 to.

6 Now, what I will ask you is that at some point in time
7 this morning when we go take a break and you're in the jury
8 room, select among yourselves who wants to be the foreman of
9 the jury or the foreperson of the jury. And that doesn't
10 give you any more power than any other juror. Basically, the
11 purpose of that person is to communicate with the Court. If
12 there's any issues or from time to time if there's questions
13 or directions that we need to give you, then that would be
14 the person that would -- would communicate with the Court.

15 So that person would sit here on the front left where
16 the gentleman in the yellow shirt is. And throughout the
17 trial, it doesn't matter if you sit in the same seat again,
18 but we've got to have the two alternates and the foreperson
19 of the jury in the same seat for the whole trial. Okay?

20 All right. At this time I'm going to ask the clerk of
21 court to swear you in.

22 THE CLERK: If you will please stand and raise your
23 right hand.

24 You shall well and truly try and a true deliverance make
25 between the State of South Carolina and the defendant at the

1 bar, whom you shall have in your charge, and a true verdict
2 render according to the law and evidence, so help you God.

3 Please be seated.

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, we're -- the case we're about to try is the case of the
6 State of South Carolina versus Samuel Lee McNeil.

7 Before we begin this trial, I want to tell you that the
8 trial will probably be different from what you might expect.
9 Many people don't have the chance to attend actual court
10 sessions as you're doing now and may think from watching
11 television or movies or reading books that trials are always
12 full of high drama, intense action, riveting circumstances,
13 and while all of these things may be true at times, this
14 trial is not for entertainment.

15 It's a fundamental part of our democracy, a search for
16 what happened in an effort to make sure that justice is done
17 between the parties before the Court. Doing so is often
18 slow, deliberate, and repetitive, and it's sometimes the
19 opposite of what you might've seen on television or read in
20 books or seen in movies.

21 This courtroom is a place of honor dedicated to the
22 protection and preservation of citizens' rights through what
23 many have called the greatest system of justice that's ever
24 been created. The attorneys appearing before you are
25 advocates for their party they represent, but first and

1 foremost, they are officers of this Court. They are sworn to
2 uphold the integrity and fairness of our judicial system and
3 to help you in the search for what happened.

4 You should expect them to be professional, competent,
5 and ethical in their representation of their client's
6 interest, and also remember that you have taken an oath to do
7 the same in your search for the facts in this case. So you
8 are also expected to be professional, reasonable, and
9 ethical. So thank you for accepting the important
10 responsibility of jury service and for your contribution
11 today to our system of justice.

12 What I will now say is intended to serve as an
13 introduction of the trial of this case. These remarks are
14 not a charge on the law in this case, and I will instruct you
15 what the law is in this case at the end of this trial. This
16 is merely an explanation of the procedure that we will follow
17 in the trial of this case so that you can understand what
18 might be happening.

19 The defendant is charged by an indictment filed in this
20 case of criminal domestic violence of a high and aggravated
21 nature. I will tell you what the elements are of that charge
22 later. The indictment is simply the charge by which the case
23 is brought into court. It is not in any sense evidence of
24 any allegations that it contains.

25 The defendant has pled not guilty to this indictment.

1 The State, therefore, has the burden of proving each of the
2 elements of the indictment beyond a reasonable doubt. It
3 will be your duty, ladies and gentlemen, to decide whether
4 the State has met that burden at the end of this trial.

5 Your purpose as jurors is to find and determine what the
6 facts are. You are the sole judges of the facts and if at
7 any time I make a -- the judge -- if I make a comment
8 regarding the facts, then you must disregard that. You are
9 to determine the facts from the testimony you hear and the
10 other evidence that's introduced in this court during this
11 trial.

12 It is up to you to determine the inferences which you
13 feel may be properly drawn from the evidence. It is
14 especially important that you perform your duty to determine
15 the facts diligently and conscientiously because ordinarily
16 if you make an error in determining what the facts are,
17 there's nothing that can be done to reverse that.

18 On the other hand and with equal emphasis, the same law
19 that makes you the judges of the facts makes me the judge of
20 the law. The law as given by the Court is the only law that
21 you can consider. You must accept it and follow it, even
22 though you might disagree with it. I can't tell you what the
23 facts of this case are, and you can't tell me what the law of
24 this case is or what it should be.

25 Your job is to take the law as I give it to you and

1 apply it to the facts as you find them from the testimony of
2 the witnesses and other evidence that's introduced during
3 this trial. After doing that, you will render your verdict.
4 All right? And that's a verdict under the solemn oath that
5 you just took as jurors.

6 You must decide this case based solely on the evidence
7 presented here in this courtroom. That means that during the
8 trial you must not conduct any independent research about
9 this case, the facts of the case, the evidence presented in
10 the case, or the people or organizations involved in any way
11 in this case. Please don't try to find out any information
12 from any source outside of this courtroom.

13 In other words, you must not look at dictionaries or
14 other reference materials, do any independent research on the
15 Internet, look through any old newspaper articles. All of
16 that would be improper. You're supposed to consider only the
17 evidence that is presented during this trial during this in
18 this courtroom.

19 All right. So we don't know if there -- if there will
20 be any, but during this trial don't read, listen to, or watch
21 any news reports about this case. This includes anything
22 that may be in the newspapers or on the Internet, radio or
23 television. You must not consider anything that you may have
24 read or heard about the case outside of the courtroom,
25 whether before or during this trial. Information on

1 television, radio, the Internet or from other sources might
2 be wrong or incomplete.

3 In our judicial system it's important that you are not
4 influenced by anything or anyone that's outside of this
5 courtroom. If -- if at any time you become aware of another
6 juror's violation of these instructions, please inform the
7 Court immediately.

8 It is important that you keep an open mind and not
9 decide any issue in this case until all of the evidence has
10 been presented, the parties have made their closing
11 arguments, and I have told you what the law is in this case.
12 It is your solemn responsibility to determine the guilt or
13 innocence of the defendant, and your verdict must be based
14 solely on the evidence as it is presented to you in this
15 trial and on the law as I instruct you during and at the end
16 and the close of this trial.

17 So in just a moment the solicitor will make what is
18 called an opening statement in which the solicitor will
19 explain to you the issues in this case or at least what she
20 thinks the issues are in this case. The attorney for the
21 defendant may also make an opening statement, although
22 they're not required to do so.

23 What the attorneys tell you during their opening
24 statement is not evidence in this case. It is only their --
25 their contention as to what the issues are. The evidence in

1 this case will presented -- will be presented to you by the
2 testimony of sworn witnesses from this witness stand and any
3 exhibits and other articles of evidence that may be
4 introduced during this trial.

5 From time to time during the trial, you may hear one of
6 the lawyers ask something like, Your Honor, we need to take
7 up a matter of law or I will have to excuse you to your jury
8 room as sometimes in points during these trials it's -- I
9 might have to make a ruling on a matter of law that would be
10 improper for you to hear because at some point I might have
11 to make some comment regarding the facts of this case, and
12 that's what's improper.

13 It's not proper for the jury to hear the judge's
14 comments on any facts of this case because it's your job as
15 the jury to determine what the facts of this case are and
16 it's my job to tell you what the law is. All right? So from
17 time to time if we have to excuse you to your jury room,
18 that's why. All right? And just be patient and I promise
19 not to waste any of your time.

20 All right. In determining what the facts are in this
21 case, you must decide whether or not the testimony of the
22 witnesses is believable. It will be my responsibility again
23 to rule as a matter of law as to whether certain testimony is
24 admissible at all or not, but once the testimony is admitted,
25 whether or not you believe it is solely up for you to

1 determine.

2 In deciding whether to believe a witness, you have the
3 right to consider the interest of any witness, the bias of
4 any witness, the prejudice of any witness, the opportunity
5 for the witness to have seen the matters and the things about
6 which the witness is testifying about, and the way the
7 witness acts on the witness stand. You have the right to
8 consider anything that is in the record that will help you
9 evaluate the testimony of the witnesses.

10 That means that it is your duty to pay close attention
11 to these witnesses, to observe the witnesses, to listen to
12 the witnesses, and to pay close attention to the attorneys
13 and to the Court. So don't let your thoughts wander but give
14 strict attention to the testimony in this case so that at the
15 end of the testimony after the arguments of counsel and the
16 charge on the law by the Court, you will then be in a
17 position to determine what the facts are and to apply the law
18 to those facts and render a verdict.

19 It is your added duty -- okay. The rest of that is
20 about the foreperson and, again, I ask you when we take a
21 break to elect that foreperson and just to let us know who
22 that is.

23 So at this time I'm going to ask if there's any
24 objections to my opening charge to the jury from the State?

25 MS. MCGILL: No objections from the State, Your Honor.

1 THE COURT: All right. From the defense?

2 MS. NEYLE: No, Your Honor.

3 THE COURT: All right. Ladies and gentlemen, we're
4 about to begin this trial. I'm going to ask Madam Solicitor
5 to give you her opening arguments.

6 OPENING STATEMENT ON BEHALF OF THE STATE

7 MS. MCGILL: Good morning, ladies and gentlemen of the
8 jury.

9 Love. For some it means eternal devotion. Love. For
10 others it means unwavering commitment. But love for the
11 defendant means if I can't have you, I'm going to make sure
12 no one else will want you.

13 Christmastime is a time of year that you often think
14 about celebration, peace on earth, goodwill towards everyone,
15 a time of food, fellowship, and relationships with the people
16 that we love and care about the most. That's quite different
17 from what the victim in this case, Tanisia Cunningham,
18 experienced in December of 2016. Her Christmastime was
19 reminded and remembered of a brutal attack suffered at the
20 hands of her on-again, off-again boyfriend that left her with
21 a permanent reminder of his rage and violent behavior towards
22 her.

23 The evidence will show that on December the 8th of 2016,
24 Tanisia Cunningham went to the home of the defendant located
25 at [REDACTED] Pawley Street here in Florence, South Carolina. She

1 arrived there about 9 o'clock that evening and, in the spirit
2 of Christmas and celebration, she took along with her some
3 beer to celebrate with her on-again, off-again boyfriend.

4 And at some point while she's there, he accuses her of
5 messing with another man or being with another man. And
6 you'll learn that at that point his rage increased, and that
7 exchange ultimately ended up outside of that residence where
8 his rage escalated. And you will come to learn that at some
9 point she told the defendant it's over, I'm leaving, and
10 you'll understand at that point that his anger and his
11 violence and his jealous rage resulted in him taking a beer
12 bottle and beating her about her face.

13 Instead of calling for immediate help, getting her some
14 treatment for her obviously severe injuries, or taking her to
15 the hospital, he took a dazed, badly beaten, and bloody
16 Tanisia inside of his residence and he put her in a bed and
17 he left her there from that night until the next morning
18 around 7 a.m. So she laid in that bed and she suffered for
19 approximately ten hours.

20 You'll also learn that when EMS arrived, they noticed
21 her severe injuries and at some point they contacted law
22 enforcement. And when law enforcement got there, they too
23 were able to immediately observe Tanisia's severe injuries.
24 They also noticed something else. That the defendant had
25 injuries to his right hand consistent with someone who had

1 taken a beer bottle and smashed someone in the face and
2 injured their hand in the process.

3 You will also learn that when asked about what happened
4 by the EMT personnel, by law enforcement while she was still
5 on the scene, dazed, the defendant being there, and suffering
6 from the brutal attack that she had undergone, that she told
7 them that she did this to herself. She was later transported
8 to the hospital right here in Florence, and when she got
9 there, she again was still reluctant to tell medical
10 personnel what happened to her, only that she was assaulted.

11 The evidence will also show that at some point she asked
12 to be listed as an alias patient, and law enforcement
13 responded and when they got there, she was still a little
14 reluctant to tell them what happened, but at some point after
15 she felt safe being away from this defendant, she was able to
16 tell law enforcement the details of the brutal attack that
17 she had suffered the night before.

18 Ladies and gentlemen, I wish I could tell you that this
19 story had a good ending, that things went well for Ms.
20 Tanisia after this happened, but they didn't. This brutal
21 attack resulted in her losing her left eye and being scarred
22 with the defendant's rage as a daily reminder every time she
23 looks into the mirror.

24 Love. Some people express it with flowers. Love. Some
25 people express it with gifts. But this defendant expresses

1 his love for Tanisia by beating her in the face with a beer
2 bottle that resulted in her losing her eye, being forever
3 scarred by his violence and jealous rage. This case is about
4 control, this case is about senseless violence and,
5 ultimately, ladies and gentlemen, this case is about unhinged
6 rage.

7 Thank you.

8 THE COURT: Ms. Neyle?

9 MS. NEYLE: Thank you, Your Honor. May it please the
10 Court.

11 THE COURT: Sure.

12 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

13 MS. NEYLE: My client, Samuel Lee McNeil, as he sits
14 before you today, he does so an innocent man. Because the
15 State has charged him with this offense, they must prove
16 beyond a reasonable doubt that he committed this offense.
17 Samuel doesn't have to prove anything.

18 This case is going to take you back to December of 2016,
19 more than five years ago, and you're going to learn about an
20 incident that occurred at [REDACTED] Pawley Street. And over the
21 course of this trial, you'll learn -- you'll learn about an
22 argument between Samuel and a Ms. Tanisia Cunningham.

23 And after you hear all the evidence and you consider
24 everything, you will find him not guilty. Thank you.

25 THE COURT: All right. Ms. McGill, you can call your

LEVI JAMES - DIRECT BY MS. MCGILL

1 first witness.

2 MS. MCGILL: Your Honor, at this time, the State calls
3 Levi James.

4 (WHEREUPON, there was a pause in the proceedings until
5 the witness entered the courtroom, after which the
6 proceedings resumed as follows.)

7 THE CLERK: Sir, if you'll please step up to the stand
8 and place your left hand on the Bible and raise your right
9 hand.

10 Do you swear or affirm the testimony you give in this
11 case to be the truth, the whole truth, and nothing but the
12 truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: Please be seated and state your full name
15 for the record.

16 THE WITNESS: Levi James.

17 LEVI JAMES, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MCGILL:

21 Q: Mr. James, by whom are you employed?

22 A: Florence County Emergency Management 9-1-1.

23 Q: And how long have you been employed there?

24 A: Five and a half years now.

25 Q: And in what capacity?

LEVI JAMES - DIRECT BY MS. MCGILL

1 A: The public information officer.

2 Q: And are you a supervisor there?

3 A: Yes, ma'am.

4 Q: And will you please tell the Court about some of your
5 responsibilities and duties in that capacity?

6 A: I handle public relations. I handle court cases for on
7 behalf of our dispatchers. I pull records for the
8 Solicitor's Office and other public entities that may need
9 9-1-1 information as far as CAD reports, 9-1-1 calls, and
10 radio traffic.

11 Q: And so what does E-9-1-1 mean?

12 A: It's a 9-1-1 center for the County of Florence, and we
13 take all 9-1-1 calls and we also dispatch fire, law
14 enforcement, and EMS.

15 Q: And so when a call comes into the E-9-1-1 for Florence
16 County, how does that call get handled?

17 A: The dispatcher takes the call, gets the vital
18 information like the caller's name, telephone number, what's
19 going on, the address of the -- of the location, and do they
20 need fire, law enforcement or EMS.

21 Q: And so what kind of information can be identified from
22 this type of call?

23 A: The location, telephone number, victim information,
24 suspect information, some detailed information about what is
25 going on on the scene, and what do you need as far as

LEVI JAMES - DIRECT BY MS. MCGILL

1 resources, such as fire, law enforcement or EMS.

2 Q: And this information would be reflected in a CAD report?

3 A: Yes.

4 Q: And did a call come in to E-9-1-1 on December the 9th of
5 2016 around 7:11 a.m.?

6 A: Yes.

7 Q: Okay. And was that call in reference to a sick person?

8 A: Yes.

9 Q: And when you get a call regarding a sick person, what
10 type of questions would you ask?

11 A: What's the nature of -- what illness you have, what
12 caused the sickness, what other resources do you need us to
13 provide for you, and it depends upon what those questions and
14 those answers are, we can give you pre-arrival information
15 before EMS gets there to see if we can help you until they
16 get there.

17 Q: And if you had a call that came in for a possible
18 stabbing or wounds or some type of trauma, would your line of
19 questioning be different than it would for a sick person?

20 A: It would be totally different.

21 Q: Would you tell the Court about that?

22 A: Generic sickness could be, like, a common cold and
23 versus you having trauma. And with a cut or a laceration,
24 you would give the instruction on how you need to control
25 bleeding and stuff like that versus a common cold you

LEVI JAMES - DIRECT BY MS. MCGILL

1 wouldn't do that.

2 MS. MCGILL: Your Honor, may I approach?

3 THE COURT: Yes, ma'am.

4 BY MS. MCGILL:

5 Q: Mr. James, I am going to show you what's been pre-marked
6 as State's Exhibit 32. Do you recognize that document?

7 A: Yes. It's a CAD report from my office.

8 Q: And is it -- does it represent -- is it a fair and
9 accurate depiction of what you would have submitted based on
10 this E-9-1-1 discovery?

11 A: Yes.

12 MS. MCGILL: Your Honor, at this time, the State would
13 move to admit State's Exhibit No. 32 into evidence.

14 THE COURT: Is there any objection?

15 MS. NEYLE: No, Your Honor.

16 THE COURT: All right. State's Exhibit 32 is into
17 evidence.

18 (WHEREUPON, State's Exhibit No. 32, CAD report, was
19 admitted into evidence.)

20 MS. MCGILL: Your Honor, may I publish it to the jury?

21 THE COURT: Yes, ma'am.

22 BY MS. MCGILL:

23 Q: Mr. James, will you walk me through this CAD report?

24 Based on the information contained here, what was the nature
25 of the call that came in?

LEVI JAMES - DIRECT BY MS. MCGILL

1 A: It was just a generic sick person call.

2 Q: And that call was initiated at what time?

3 A: At 7:11 a.m.

4 Q: And who was the caller?

5 A: Sam -- a subject by the name of Sam McNeil.

6 Q: And what was the address that dispatch was sent to?

7 A: [REDACTED] Pawley Street in Florence.

8 Q: And initially when EMS was dispatched there, what time
9 -- if I can point you down to the unit times there, would you
10 explain that to the jurors?

11 A: Yes. The dispatch -- DSP is the dispatch time, which is
12 at -- they were dispatched at 7:13. The CTC is when they
13 copied the call, and that was at 014 and they were in route
14 -- in route to the location at 015 and on scene at 0719.

15 Q: And I'm going to direct your attention to page 2 of this
16 report. The 229A there, what does that mean?

17 A: That is a law enforcement unit ID number.

18 Q: And if this was for a sick person and EMS responded, why
19 would it switch to law enforcement being on scene?

20 A: Once EMS got on scene, they must have made a
21 determination that --

22 MS. NEYLE: Objection, Your Honor. Speculation.

23 THE COURT: I agree. Please ask another question.

24 BY MS. MCGILL:

25 Q: Was law enforcement dispatched to this location at some

LEVI JAMES - DIRECT BY MS. MCGILL

1 point?

2 A: Yes.

3 Q: And how do you know that?

4 A: Because they were -- it's -- they were dispatched at
5 0721 per the CAD report.

6 Q: And can you tell me how many officers responded to that
7 location?

8 A: Three.

9 Q: And would you tell us how you know that?

10 A: Because there are three different unit ID numbers there.

11 Q: And would you explain that to the jurors?

12 A: In our CAD system, we identify our officers when they're
13 on duty by unit ID numbers, and those would be the three
14 separate units that responded to that location for this
15 particular day.

16 Q: So they would be the different numbers in this left
17 column?

18 A: Yes.

19 Q: And at some point since law enforcement responded, was a
20 case number assigned?

21 A: Yes.

22 MS. MCGILL: May I have the Court's indulgence for a
23 moment, Your Honor?

24 THE COURT: Yes, ma'am.

25 MS. MCGILL: No further questions, Your Honor.

LEVI JAMES - CROSS BY MS. NEYLE

1 THE COURT: All right. Ms. Neyle?

2 MS. NEYLE: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. NEYLE:

5 Q: Mr. James, you weren't the recipient of that call, were
6 you?

7 A: No.

8 Q: So you don't know what was said on that call, do you?

9 A: No.

10 Q: Okay. And you're not playing that 9-1-1 call to the
11 jury today, are you?

12 A: No.

13 Q: Okay.

14 MS. NEYLE: Your Honor, I have no further questions.

15 THE COURT: All right. Anything further?

16 MS. MCGILL: No, Your Honor.

17 THE COURT: All right. Is there any objection to Mr.
18 James being dismissed?

19 MS. MCGILL: No, Your Honor. None from the State.

20 THE COURT: All right.

21 MS. NEYLE: No, Judge.

22 THE COURT: Thank you for being here, Mr. James.

23 All right. Ms. McNeil? I mean -- I'm sorry. Ms.
24 McGill?

25 MS. MCGILL: Your Honor, at this time, the State would

THOMAS MATTIS - DIRECT BY MS. MCGILL

1 call Thomas Mattis.

2 (WHEREUPON, there was a pause in the proceedings until
3 the witness entered the courtroom, after which the
4 proceedings resumed as follows.)

5 THE CLERK: Sir, if you'll please step up to the stand
6 and place your left hand on the Bible and raise your right
7 hand.

8 Do you swear or affirm the testimony you give in this
9 case to be the truth, the whole truth, and nothing but the
10 truth, so help you God?

11 THE WITNESS: I do.

12 THE CLERK: Please be seated and state your full name
13 for the record.

14 THE WITNESS: Thomas Vance Mattis.

15 THOMAS MATTIS, being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. MCGILL:

19 Q: Mr. Mattis, by whom are you employed?

20 A: I'm currently employed with the City of Florence Police
21 Department.

22 Q: And back on December 9th of 2016, were you employed with
23 a different company?

24 A: Yes, ma'am.

25 Q: Who were you employed with?

THOMAS MATTIS - DIRECT BY MS. MCGILL

1 A: I was employed with Florence County EMS.

2 Q: Okay. And how long had you worked there?

3 A: I was hired the end of October of 2014.

4 Q: So that would make how many years?

5 A: Just shy of two or just over two.

6 Q: And in what capacity were you employed?

7 A: Initially, I was employed as an EMT basic and then after
8 completing my paramedic certification, I was hired as an EMT
9 paramedic.

10 Q: And what does an EMTP do?

11 A: We work with a paramedic partner, and we respond to
12 various calls of service regarding medical or trauma-related
13 contacts.

14 Q: So are there different levels of EMTs?

15 A: Yes, ma'am.

16 Q: Will you explain that to the jurors?

17 A: So the basic level is your entry-level position. We
18 focus on non -- non-life-threatening conditions. We assess
19 vital signs. We assist paramedic partners within our scope
20 of practice. You have an advanced EMT certification, which
21 gives you a little bit more, and then you have your paramedic
22 certification.

23 Q: And what type of education would you need to become an
24 EMTP?

25 A: It's roughly a 10-month course through either a college

THOMAS MATTIS - DIRECT BY MS. MCGILL

1 or local area that puts on the course.

2 Q: And what type of training would that entail?

3 A: We are taught how to assess vital signs, how to assess
4 patients, wound care, certain medications, understanding
5 signs and symptoms of medical -- medical illnesses.

6 Q: Okay. And were you working at a particular station back
7 in December of 2016?

8 A: I was the scheduled overtime truck at Station 2.

9 Q: And is that central headquarters?

10 A: Yes, ma'am.

11 Q: And do you recall responding to a call for service
12 around 7:19 a.m. that morning?

13 A: From documentation, I do.

14 Q: And do you know what address you responded to?

15 A: [REDACTED] Pawley Street.

16 Q: And what was that call in reference to?

17 A: My paramedic partner and I were dispatched to a sick
18 person call.

19 Q: And that address that you all went to at [REDACTED] Pawley
20 Street, is that located here in Florence County?

21 A: Yes, ma'am.

22 Q: And when you first arrived on scene, what did you do?

23 A: We were met by the patient's boyfriend, and then we went
24 inside and spoke with the patient and began our assessment.

25 Q: And what did you learn about what happened to her?

THOMAS MATTIS - DIRECT BY MS. MCGILL

1 A: The patient's boyfriend told us that the injuries were
2 self-inflicted. And once he told us that, we notified our
3 dispatchers to notify law enforcement.

4 Q: And why did you do that?

5 A: Seemed suspicious from a sick person call to the
6 injuries are now self-inflicted.

7 MS. NEYLE: Objection. Speculation.

8 THE COURT: All right. Overruled. Go ahead and
9 continue.

10 BY MS. MCGILL:

11 Q: And when you -- what was your general observation when
12 you made contact with the victim?

13 A: We found her in the back bedroom. My partner and I
14 noted blood on various areas inside the bedroom where we
15 found her at and on her clothes. We observed her injuries
16 and a short time later we moved her to the ambulance and
17 provided patient care and took her to the hospital.

18 Q: And was she more than merely sick when you made contact
19 with her?

20 A: Yes. The nature of contact was not a sick person call
21 as we were dispatched to. Because of the open wounds, it
22 moved to a trauma-related call.

23 Q: Can you tell us about those injuries and those wounds?

24 A: From documentation, she had several lacerations above
25 her -- above her left eye and towards the top of her

THOMAS MATTIS - DIRECT BY MS. MCGILL

1 forehead. At the time of our contact, the blood around the
2 area had been dried.

3 Q: And did you observe any type of blood loss related to
4 you responding there?

5 A: There were several different areas that we noted blood
6 that I put in my report. We saw dried blood on the floor,
7 the walls, on the TV, and the pillow where the patient was
8 located.

9 Q: And did you note any type of other injuries?

10 A: Not to my recollection, no.

11 Q: So no injuries to her hands?

12 A: I did note some minor abrasions on both of her hands,
13 but nothing that needed immediate wound care.

14 Q: And were you able to determine the victim's name?

15 A: Yes, ma'am. The victim identified her -- or the patient
16 identified herself to us as Tanisia Cunningham.

17 Q: And when you were dispatched out to this call, do you
18 know who the requester for services were -- was?

19 A: The -- according to the dispatch CAD, the requester was
20 a Sam McNeil.

21 Q: And then at that point once you all put her on the
22 stretcher, did you transport her anywhere?

23 A: We took her to McLeod Hospital.

24 Q: And did that end your involvement with Ms. Cunningham?

25 A: At that time, yes.

THOMAS MATTIS - CROSS BY MS. NEYLE

1 MS. MCGILL: No further questions, Your Honor.

2 THE COURT: All right. Ms. Neyle?

3 MS. NEYLE: Thank you.

4 CROSS-EXAMINATION

5 BY MS. NEYLE:

6 Q: Mr. Mattis?

7 A: Yes, ma'am.

8 Q: Good morning. How are you?

9 A: Good. How are you?

10 Q: Good. Thank you. In your report you also stated that
11 Ms. Cunningham stated that her wounds were self-inflicted?

12 A: Correct.

13 Q: And that she -- they were self-inflicted using a beer
14 bottle; correct?

15 A: That -- that is what she told us, yes.

16 Q: Okay. And Ms. Cunningham also told you that she did
17 this around 9 p.m. last night; correct?

18 A: Correct.

19 Q: And she refused to call 9-1-1?

20 A: Yes.

21 Q: Okay. And in your report, you also noted to -- to
22 alcohol use?

23 A: Okay.

24 Q: Okay. And -- and what would that be?

25 A: She just admitted to my partner and I that she had

THOMAS MATTIS - CROSS BY MS. NEYLE

1 alcohol within the past -- within recent hours.

2 Q: Okay.

3 MS. NEYLE: Thank you, Your Honor. I have no further
4 questions.

5 THE COURT: All right. Anything further, Ms. McGill?

6 MS. MCGILL: Just briefly, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. MCGILL:

9 Q: And after her discussions about this being self-
10 inflicted, you still made a decision to ask for law
11 enforcement to respond?

12 A: I did.

13 MS. MCGILL: No further questions, Your Honor.

14 THE COURT: All right. Is there any objection to Mr.
15 Mattis being released?

16 MS. MCGILL: None from the State, Your Honor.

17 MS. NEYLE: No, Your Honor.

18 THE COURT: All right. Thank you for being here, sir.
19 All right. Ms. McGill?

20 MS. MCGILL: Your Honor, at this time, the State calls
21 Kevin Buxton, Officer Kevin Buxton.

22 THE COURT: All right.

23 (WHEREUPON, there was a pause in the proceedings until
24 the witness entered the courtroom, after which the
25 proceedings resumed as follows.)

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 THE CLERK: Sir, if you will please place your left hand
2 on the Bible and raise your right hand.

3 Do you swear or affirm the testimony you give in this
4 case to be the truth, the whole truth, and nothing but the
5 truth, so help you God?

6 THE WITNESS: I do.

7 THE CLERK: Please be seated and state your full name
8 for the record.

9 THE WITNESS: Kevin Buxton.

10 KEVIN BUXTON, being first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MCGILL:

14 Q: Officer Buxton, by whom are you employed?

15 A: City of Florence Police Department.

16 Q: And how long have you been employed in that capacity?

17 A: Just over eight years.

18 Q: And in what capacity are you employed?

19 A: Currently, right now I'm assigned to the special
20 investigations unit. I've been there since 2019, around
21 August of 2019. Prior to that, I was assigned to the
22 uniformed patrol division.

23 Q: And back on December 9th of 2016, were you employed in
24 that capacity?

25 A: Yes. On the day you just asked about, I was on the

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 uniformed patrol division.

2 Q: And can you tell me what you would do or what your
3 assignments would be as uniformed patrol?

4 A: Any 9-1-1 call that came in through central dispatch, we
5 would respond to. Any -- any number of different things,
6 anything that came in through central dispatch, we responded
7 to. We would also do proactive things such as traffic stops,
8 property checks, speaking with citizens in the community.
9 It's a very wide range of things we did.

10 Q: I'm going to direct your attention to December the 9th,
11 2016. Did you respond to a call at [REDACTED] Pawley Street here
12 in Florence, South Carolina?

13 A: I did.

14 Q: And is that located here in Florence County?

15 A: It is, and within the city limits of Florence.

16 Q: And what was the basis for you responding to that
17 location?

18 A: We received a call to respond with EMS in reference to a
19 possible attempted suicide.

20 MS. MCGILL: Your Honor, may I approach?

21 THE COURT: Yes, ma'am.

22 BY MS. MCGILL:

23 Q: Officer Buxton, I'm going to show you what's been pre-
24 marked as State's Exhibit No. 1. Do you recognize this?

25 A: I do.

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 Q: Can you tell me what it is?

2 A: It's an aerial photo of Pawley Street in the area that I
3 responded to near the -- that's the [REDACTED] block of Pawley
4 Street between Ames Street and I'm not sure what this -- I
5 believe Malloy Street here.

6 Q: And is the location you responded to indicated on this
7 map?

8 A: It is.

9 Q: Where is it?

10 A: That house there.

11 MS. MCGILL: Your Honor, may I have him -- at this time,
12 the State would move to admit what's been pre-marked as
13 State's Exhibit 1 into evidence.

14 THE COURT: All right. Is there any objection?

15 MS. NEYLE: No, Your Honor.

16 THE COURT: All right. State's Exhibit 1 is into
17 evidence, and the witness can step down.

18 (WHEREUPON, State's Exhibit No. 1, large aerial photo,
19 was admitted into evidence.)

20 MS. MCGILL: Thank you, Your Honor.

21 THE COURT: Just keep in mind you've got to be close to
22 the microphones for the recording system to work.

23 MS. NEYLE: Your Honor, may I move so that I can see the
24 exhibit?

25 THE COURT: Yes, ma'am.

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 MS. NEYLE: Okay. Thank you.

2 THE WITNESS: Do I need to step --

3 MS. MCGILL: Officer, can you step down for me?

4 BY MS. MCGILL:

5 Q: I'm going to give you my pen. Would you explain to the
6 jurors what this map depicts?

7 A: This is the [REDACTED] block of Pawley Street between Ames
8 Street and Malloy Street. The house in question is the third
9 house here.

10 Q: Will you circle it for the jurors?

11 (WHEREUPON, the witness complied and then returned to
12 the witness stand.)

13 BY MS. MCGILL:

14 Q: And after you responded to the location, what did you do
15 as the initial responder?

16 A: Once I got on scene, I -- as I was approaching the front
17 of the house, I immediately observed some blood outside the
18 residence on the -- on the ground, as well as going up the
19 steps. I was dispatched along with EMS. So I went to the
20 residence, made contact with the complainant, and went into
21 the residence to make sure everything was secure prior to EMS
22 arriving on scene.

23 Q: And did the defendant tell you anything when you arrived
24 on scene?

25 A: Yes, he did. He informed me that the victim attempted

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 to -- or hit herself with a beer bottle in the head.

2 Q: And do you know -- do you know what time you were
3 dispatched to respond to that location?

4 A: We were dispatched at 7:21 a.m.

5 Q: And what time did you arrive at [REDACTED] Pawley Street?

6 A: 7:23 a.m.

7 Q: And when you entered the residence, did you notice
8 anything?

9 A: I did. Like I said, I observed blood on the steps and
10 outside leading up to the residence. Once inside, there was
11 blood on the hallway or in the hallway, as well as there was
12 some furniture in the hallway that there was blood on it as
13 well. I continued down the hallway and into the bedroom
14 where I located the victim. In that bedroom there was blood
15 everywhere, blood all over the bed sheets, on her. The
16 primary focus was all over the bed. It was just, like I
17 said, a large amount of blood on the bed around where she was
18 at.

19 Q: Did you immediately notice the nature of her injuries?

20 A: Yes. Like I said, the blood that was all in the bed
21 appeared to be dried. It wasn't wet, but there was some wet
22 blood around her on her face that appeared to be fresher than
23 what the blood on the bed showed.

24 Q: And in your role as a patrol officer, have you responded
25 to attempted suicides before?

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 A: I have, yes.

2 Q: And typically when you arrive on scene, what type of
3 things do you see?

4 A: With attempted suicides, you'd see a lot of different --
5 different types of cases. It would be overdoses where in a
6 case like that you would find paraphernalia you would find,
7 such as needles or other drug paraphernalia items. Attempted
8 suicides involving a handgun, you'd find a handgun. A lot of
9 times you'd find projectiles or possibly shell casings,
10 different things of that nature.

11 Q: Did you find any of those things on scene?

12 A: Not -- not in the bedroom where she was at, I did not,
13 no.

14 Q: Did you find any kind of weapon?

15 A: I believe that the -- a beer bottle was located. I
16 don't remember -- recall finding it or seeing that.

17 Q: And in your past experiences when you responded to
18 attempted suicides, have you seen attempts made with beer
19 bottles?

20 A: I have never.

21 Q: So did this appear to be an attempted suicide to you at
22 that point?

23 A: No. At that --

24 MS. NEYLE: Objection, Your Honor. Speculation.

25 THE COURT: All right. Please ask another question.

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 BY MS. MCGILL:

2 Q: When you made contact with the victim in this case,
3 Tanisia Cunningham, did you observe her emotional state?

4 A: Yes. She was -- she was upset. She wasn't talkative
5 with us. She didn't want to say much. She was -- she was
6 upset.

7 Q: Did anyone else from Florence Police Department respond
8 to the location with you?

9 A: Originally, yes. Officer Minors responded to that
10 location, and he took photographs of the scene.

11 Q: And did you ask for backup while you were there?

12 A: I don't -- I don't remember if I asked for backup. On a
13 call like that, a majority of the time when we respond,
14 whether we as officers initiate more than one person
15 responding, if we don't do it, a lot of times the supervisor
16 will go ahead as soon as the call is dispatched have more
17 than one officer respond.

18 Q: And why did you want Minors to take pictures of Tanisia?

19 A: While I was able to -- because I was going to be the
20 reporting officer, that was the area that on Pawley Street
21 was in the area that I was assigned to working. So I knew
22 that I was going to be the reporting officer. That way I
23 could focus on getting as much information as possible while
24 he could take the pictures.

25 Q: And did you have an opportunity to talk to Tanisia?

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 A: I attempted to, but like I said, she -- she was very
2 emotional and didn't want to -- didn't want to say very much
3 at all about -- about the incident while I was with her at
4 the residence.

5 Q: And was the defendant still on scene while you were
6 talking to her?

7 A: He was.

8 Q: He was still in the house?

9 A: He was.

10 Q: And Tanisia was in the bedroom?

11 A: Yes.

12 Q: Did you have an opportunity to speak with the defendant,
13 Samuel McNeil?

14 A: I did briefly. He stated that the defendant arrived at
15 his house around 9 p.m. on December the 8th, 2016, and stated
16 that it appeared to him that the victim was severely
17 intoxicated when she arrived. The defendant stated that Ms.
18 Cunningham and him were outside of the residence when she
19 used a bottle to hit herself with it in the head.

20 Q: Did you all photograph any pictures of Ms. Cunningham's
21 hands?

22 A: Of Ms. Cunningham's hands? I personally did not. I
23 don't know if they were taken or not.

24 Q: Did you observe anything regarding the defendant's
25 hands?

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 A: Yes. I did observe blood on the defendant's right hand.

2 Q: And was anybody else on scene while you were there, any

3 other residents?

4 A: Not that I can recall or not that I remember speaking

5 with.

6 Q: And at some point, did you clear the scene there?

7 A: I did. Once we gained all of the information we could

8 at the time, we left after EMS had transported the victim to

9 McLeod Hospital.

10 Q: And did that conclude your investigation at that point?

11 A: It did not. I received information from central

12 dispatch that a medic wanted to speak with me, but prior to

13 speaking with that medic, central also advised that I was

14 needed at McLeod Hospital because the victim, Ms. Cunningham,

15 stated that she was assaulted.

16 Q: And so what did you do at that point?

17 A: I went to McLeod to speak with her to try to get more

18 information as to what actually took place.

19 Q: And was anybody else at McLeod with you?

20 A: Originally, no. On my way there, I spoke with my

21 supervisor at the time and informed him of what was going on.

22 I don't know if that's when the call was made to the on-call

23 investigator, Investigator Shelley, or if he heard the call.

24 I don't know the nature of how he got there, but at some

25 point while I was speaking with Ms. Cunningham at McLeod,

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 Investigator Shelley responded there.

2 Q: So both of you all were there and talking with her?

3 A: Yes.

4 Q: And did you talk to Tanisia?

5 A: I did.

6 Q: Can you tell me if she -- was she reluctant to talk to
7 you?

8 A: Very. She -- she gave me numerous different accounts of
9 what -- of what took place. She changed her story several
10 times. We'd ask her a question and she would pause and
11 wouldn't immediately jump in to answering it. We had -- we
12 -- myself and Investigator Shelley spoke with her numerous
13 times telling her that she could trust us, that we were there
14 to help her. In doing all that, she -- she asked us to put
15 her under an alias, and that was -- that was kind of strange
16 to me for someone that would -- that apparently was -- we
17 were told that had just tried to kill themselves.

18 Q: And did you know why she asked to be listed as an alias
19 patient?

20 A: She stated that she was afraid.

21 Q: And did she indicate who she was afraid of or what she
22 was afraid of?

23 A: She needed -- she said she needed protection from the
24 defendant.

25 Q: And at that point what, if anything, happened after

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 that?

2 A: At that point, it started leading our questioning and
3 investigation a little deeper as to what actually took place.
4 At that point, she -- she stated that she got into an
5 argument with the defendant in her vehicle. During that
6 argument, the defendant asked her for a beer. Later they
7 ended up outside of the vehicle still arguing in front of the
8 residence, and that's when she stated that the defendant hit
9 her in the face with the beer bottle.

10 Q: And did you observe any other bruising on her at the
11 hospital?

12 A: At first, we did not. Then we asked her, as well as the
13 nurse, if there was any bruising, and the nurse said that
14 there was and slightly pulled her shirt down a little bit and
15 across her chest you could see bruising.

16 Q: And as a patrol officer, have you had the opportunity to
17 respond to domestic violence calls in the past?

18 A: Several, yes.

19 Q: Do you know about how many?

20 A: I couldn't tell you. Some days there's multiple
21 domestic violence calls in a shift and sometimes we go a day
22 or so without one, but it's quite frequent.

23 Q: And is it uncommon for a victim to be reluctant to tell
24 law enforcement what happened?

25 A: No. That's normally --

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 MS. NEYLE: Objection, Your Honor. May we approach?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held off the record,
4 after which the proceedings resumed as follows.)

5 BY MS. MCGILL:

6 Q: And at that point what, if anything, did you do next,
7 Officer Buxton, after you took the statement from Ms.
8 Cunningham?

9 A: That was when -- after the information we learned about
10 Mr. McNeil being a possible suspect, at that point we
11 responded back to the residence on Pawley Street. And I
12 don't know who, but crime -- a crime scene unit was contacted
13 to also respond there.

14 Q: And so you were able to ID a suspect?

15 A: We were. We -- after speaking with the victim, Ms.
16 Cunningham, we identified the defendant, Mr. McNeil, as a --
17 as a suspect in this case.

18 Q: And what did you do next?

19 A: That's when we went back to the residence. Investigator
20 Shelley began speaking with the defendant, and crime scene
21 began processing the scene. After a conversation between
22 Investigator Shelley and the defendant, Investigator Shelley
23 and I briefly spoke, and it was determined that we would be
24 taking Mr. McNeil into custody.

25 Q: And did he give you all consent to search his residence

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 while you were there?

2 A: He did.

3 Q: And so did you go in and take pictures at that point?

4 A: That's when I believe crime scene was notified and
5 responded, and they processed the scene with photographs as
6 well as other -- I'm not exactly sure what all they did while
7 they were there, but they -- I know they took pictures.

8 Q: And at some point, did you make an arrest?

9 A: We did. That's when, like I said, we -- Investigator
10 Shelley and I spoke, and that's when we determined that we
11 would take Mr. McNeil into custody, and he was placed under
12 arrest.

13 Q: And who was responsible for transporting him to the
14 jail?

15 A: I did.

16 Q: And what, if anything, happened once you transported him
17 to the detention center?

18 A: Once at the jail, I escorted him into the booking area.
19 When he was being searched or when he was being checked and
20 searched by the booking officers, they located a laceration,
21 a small laceration on his hand. They informed me that before
22 they could accept him that he needed to be seen by a doctor
23 and medically cleared before he would be accepted at the
24 jail. So at that point I transported him to McLeod Hospital.
25 After some time there, he was discharged and I again

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 transported him back to the Florence County Detention Center.

2 Q: And did you utilize your DVR during this entire
3 investigation?

4 A: I did.

5 Q: What about your body camera?

6 A: I did use that as well.

7 Q: And can you tell me anything about your body camera?

8 A: The body camera video and audio is not available. At
9 the -- at that time of this case, the body cameras were
10 fairly new. I won't say they were exactly new. I don't
11 remember exactly when we got them, but they were fairly new.

12 There's a form that we had that I'm not sure if it was
13 available then or not, but there's a form that we have that
14 we can fill out requesting that all of our body camera
15 footage be transferred to a disk and saved. If that form
16 wasn't filled out, then the storage space is limited and the
17 body -- the footage gets deleted.

18 Q: And so your body camera footage got deleted?

19 A: Yes.

20 MS. MCGILL: No further questions, Your Honor.

21 THE COURT: All right. Ms. Neyle?

22 MS. NEYLE: Thank you.

23 CROSS-EXAMINATION

24 BY MS. NEYLE:

25 Q: Officer Buxton, you said you were dispatched along with

KEVIN BUXTON - CROSS BY MS. NEYLE

1 EMS?

2 A: Yes.

3 Q: Okay. And that was in reference to an attempted

4 suicide?

5 A: That's the way the call came in, yes.

6 Q: And EMS was on scene?

7 A: They were.

8 Q: And they told you that Ms. Cunningham told them that she

9 hit herself with a beer bottle?

10 A: They may have. I don't remember speaking with them very

11 much.

12 Q: And there were also concerns about intoxication?

13 A: There was.

14 Q: Okay. And while you were on scene, you spoke with Mr.

15 McNeil?

16 A: I did.

17 Q: Okay. And he told you that Ms. Cunningham had come to

18 his house the night before?

19 A: Yes. On -- yes.

20 Q: And he told you she was severely intoxicated when she

21 came over?

22 A: Yes. That's what his view of her was.

23 Q: Okay. And he told you that they were outside and she

24 used a beer bottle to hit herself in the face?

25 A: That's what she -- yes.

KEVIN BUXTON - CROSS BY MS. NEYLE

1 Q: And he also told you that she wanted to go back inside
2 and go to sleep; correct?

3 A: Uh-huh.

4 Q: So he went inside with her to the house?

5 A: Yes.

6 Q: Okay. He also told you he didn't realize how bad her
7 injuries were until the next morning?

8 A: That's correct.

9 Q: And then he called 9-1-1?

10 A: Yes.

11 Q: Okay. He also told you he cut himself while he was
12 trying to stop her from hitting herself?

13 A: He did.

14 Q: Okay. You then went to McLeod Hospital?

15 A: I did.

16 Q: Okay. To go talk to Ms. Cunningham?

17 A: I did.

18 Q: Okay. Mr. McNeil was not the hospital, was he?

19 A: He was not.

20 Q: Okay. And Ms. Cunningham told you at the hospital that
21 she hit herself with a beer bottle in the first story she
22 gave?

23 A: She did. Like I said, her story changed numerous times.
24 That was one of the stories.

25 Q: I think you made a note. You said every story that

KEVIN BUXTON - CROSS BY MS. NEYLE

1 Cunningham told me from this time on began basically the
2 same, but the endings continuously changed; correct?

3 A: Yes.

4 Q: Okay. You also made a note that you didn't know if it
5 was just hard for her to remember?

6 A: Uh-huh.

7 Q: Okay. And you said your body camera footage was
8 deleted?

9 A: It was, yes.

10 Q: Okay.

11 MS. NEYLE: I beg the Court's indulgence.

12 I have no further questions for Officer Buxton.

13 THE COURT: All right. Anything further?

14 MS. MCGILL: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MCGILL:

17 Q: When you made the note that Ms. Cunningham couldn't
18 remember, why did you make that note, Officer Buxton?

19 A: Once we learned the severity of her injuries, it was the
20 trauma that she occurred to her face and head area, it was
21 unknown if she could remember. That the damage that was
22 caused it was unknown if there was internal damage at that
23 point with her brain to where she was able to remember
24 anything or not.

25 Q: And when you made contact with her at the hospital, did

KEVIN BUXTON - REDIRECT BY MS. MCGILL

1 she appear to understand your questions?

2 A: She did.

3 Q: Did she appear to give an adequate response?

4 A: Yes. Like I said, in that it was -- it was un -- it was
5 unknown if she was reluctant or I mean she was able to speak
6 clearly to me understood, but it was unknown if she was
7 reluctant or just couldn't fully remember the exact details
8 of what happened due to the severity of her injury.

9 Q: Did she appear to be intoxicated?

10 A: She did not.

11 MS. MCGILL: No further questions, Your Honor.

12 THE COURT: All right. Mr. Buxton, you can step down.
13 Thank you, sir.

14 THE WITNESS: Thank you.

15 MS. MCGILL: May I have the Court's indulgence for just
16 a moment?

17 THE COURT: Yes, ma'am.

18 MS. MCGILL: Your Honor, at this time, the State would
19 call Cpl. Hill.

20 THE COURT: All right.

21 (WHEREUPON, there was a pause in the proceedings until
22 the witness entered the courtroom, after which the
23 proceedings resumed as follows.)

24 THE CLERK: Sir, if you will please place your left hand
25 on the Bible and raise your right hand.

SHANNON HILL - DIRECT BY MS. MCGILL

1 Do you swear or affirm the testimony you give in this
2 case to be the truth, the whole truth, and nothing but the
3 truth, so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Please be seated and state your full name
6 for the record.

7 THE WITNESS: My name is Shannon Hill.

8 SHANNON HILL, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MCGILL:

12 Q: Mr. Hill, where are you retired from?

13 A: The City of Florence Police Department.

14 Q: And in what level did you retire or what rank?

15 A: Corporal at the time. Yes, ma'am.

16 Q: And you retired back when?

17 A: June of 2018.

18 Q: And so I want to draw your attention to December the 9th
19 of 2016. Were you employed with the Florence Police
20 Department at that time?

21 A: Yes, ma'am, I was.

22 Q: In what capacity?

23 A: At that -- at that present time I was assigned to the
24 crime scene unit within the Florence Police Department.

25 Q: And did you have an occasion to respond to [REDACTED] Pawley

SHANNON HILL - DIRECT BY MS. MCGILL

1 Street on December the 9th of 2016?

2 A: Yes, ma'am, I did.

3 Q: And let me go back for just a second. In regards to
4 your crime scene training, did you have to receive any type
5 of specialized training to be on crime scene?

6 A: Throughout my time in crime scene, a lot of it was
7 hands-on training with a more experienced officer, but there
8 were times that I attended the South Carolina Criminal
9 Justice Academy to receive specialized training in certain
10 areas.

11 Q: And can you elaborate a little bit more in terms of your
12 training?

13 A: Training in evidence, general evidence collection at a
14 scene, how to properly collect biological evidence that you
15 might find, how to photograph a crime scene, fingerprinting,
16 how to -- how to retrieve and get fingerprints from a crime
17 scene, and some other various other training.

18 Q: And you -- when you arrived on the incident location,
19 what did you do first?

20 A: I met Investigator Shelley in the front yard of [REDACTED]
21 Pawley Street, which is in the city limits of Florence, and
22 when I arrived, I spoke with him, and he told me that he had
23 a possible assault and would like me to photograph and try to
24 -- try to process the scene.

25 Q: And so, at that point, what did you do?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: While I was standing in the front yard, I did notice
2 what appeared to be some red stains in the front yard. A
3 busted bottle which appeared to be from a beer beverage was
4 also in the front yard. Inside that bottle I observed some
5 other red droplets or red stains. And I noticed leading from
6 that area that the drops of what appeared to be red led back
7 into the house. And at that point in time, I prepared my
8 digital camera that I used to photograph the scene and I
9 started that process of photographing the scene from the
10 front yard.

11 Q: And so did you make any kind of markings to take these
12 pictures or you just went through and observed the area?

13 A: I went through and observed as I took my photographs.
14 And as I was taking the photographs of the scene, we take
15 outside photographs. We go all the way around the property.
16 And then we'll start our photographs going inside the scene,
17 whether it be a business, whether it be a house or something
18 like that. So I did that.

19 Once I completed the outside perimeter shots and started
20 going into the house, I started taking more photographs. And
21 what we do then is take photographs of each individual room
22 from all four sides. In other words, we'll go into the front
23 room and then we'll go to all four corners of the room taking
24 photos so you can get a complete picture of what that
25 particular room looked like at the time that we're there, and

SHANNON HILL - DIRECT BY MS. MCGILL

1 then we progress through the house through each room taking
2 those same kind of photographs.

3 As I was doing that, I did notice from the front yard,
4 as I mentioned earlier, a trail of a red liquid or red spots
5 that led from that busted beer bottle that I saw and it went
6 into the front of the house. And while I was taking photos,
7 I observed red stains on the hallway on the left side of the
8 hallway wall, and those stains -- red stains then went into a
9 bedroom that was located on the east side of the house. Now,
10 once I went in there to take the photographs of that room is
11 when I noticed a lot of red staining on the bed linens, on
12 the pillows, and on the south side wall of that bedroom.

13 MS. MCGILL: Your Honor, may I approach the witness?

14 THE COURT: Yes, ma'am.

15 BY MS. MCGILL:

16 Q: Cpl. Hill, I'm going to give you what's been pre-marked
17 as State's Exhibits 1 through 5. Will you please take a look
18 at those and tell the Court what they depict?

19 THE COURT: 1 is the map; right?

20 THE COURT REPORTER: Yeah, 1 is the map.

21 THE WITNESS: I have starting at 2.

22 MS. MCGILL: I'm sorry, 2 through -- 2 through 5.

23 THE COURT: All right.

24 BY MS. MCGILL:

25 Q: Do you recognize those pictures?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: Yes, ma'am. These are the photos I took when I was on
2 the scene that day.

3 Q: And are they an accurate and fair depiction of the
4 pictures that you took that day?

5 A: Yes, ma'am, they are.

6 MS. MCGILL: Your Honor, at this time, the State would
7 move to admit into evidence what's been pre-marked as State's
8 Exhibits 2 through 5.

9 THE COURT: Any objection?

10 MS. NEYLE: No, Your Honor.

11 THE COURT: All right.

12 MS. MCGILL: Your Honor, may I publish those to the
13 jury?

14 THE COURT: Yes, ma'am. They're into evidence without
15 objection.

16 (WHEREUPON, State's Exhibits No. 2 through No. 5,
17 photographs, were admitted into evidence.)

18 BY MS. MCGILL:

19 Q: Cpl. Hill, will you explain to the jurors what Exhibit 2
20 depicts?

21 A: This is looking at [REDACTED] Pawley Street. If I'm standing
22 in the street looking back towards the front of the house,
23 this is what you're looking at. This is what I see. And you
24 can see on the mailbox it has the address there and then you
25 can see a burgundy Toyota in the driveway of that house.

SHANNON HILL - DIRECT BY MS. MCGILL

1 Q: I'm going to show you Exhibit 3. Will you explain that
2 to the jurors?

3 A: That's still looking at the front of the house, but what
4 -- but it's going to be on the passenger side of the burgundy
5 car that's in the driveway of [REDACTED] Pawley Street, and you can
6 tell from this picture too, if you look, next to, like, the
7 driver's and passenger side door on the grass what appears to
8 be some red staining in the grass and leaves.

9 Q: And will you explain what's depicted in State's Exhibit
10 No. 4?

11 A: This would be a side view of that car looking at the
12 passenger side. And if you look down at the grass area at
13 the edge of the concrete driveway or dirt driveway, you can
14 see a better look of the red staining that's on the grass and
15 leaves and what appears to -- possibly this picture is going
16 to be one that has what looked like a beer bottle, a busted
17 beer bottle.

18 Q: And will you explain what's depicted in State's Exhibit
19 No. 5?

20 A: This is just a photo of me standing at the driver's side
21 door and taking a photo of the inside of the vehicle as it
22 was that day that I was there.

23 Q: Cpl. Hill, I'm also going to give you what's been pre-
24 marked as State's Exhibits No. 6 through 18. Will you take a
25 look at those and let the Court know if you recognize them?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: Okay.

2 Q: Do you recognize the photos?

3 A: I think I took all the photos except for maybe the last
4 one. It may have came from --

5 Q: Okay.

6 A: -- some other source.

7 Q: So you don't recognize that photo at all?

8 A: I recognize the room that it's in, yes, ma'am, but I
9 don't remember taking that particular photo.

10 Q: As it relates to State's Exhibits 6 through 17, do you
11 recognize these photos?

12 A: Yes, ma'am, I do.

13 Q: Will you explain what these photos depict?

14 A: This is a close-up photo of the red staining on the
15 grass that I mentioned earlier on the passenger side of the
16 burgundy car.

17 Q: And that is State's Exhibit --

18 A: 6.

19 Q: -- 6?

20 A: And in this photo you can see a more detailed look of a
21 busted beer bottle with a Bud Light label clearly visible in
22 the photographs.

23 Q: And as it relates to State's Exhibit No. 7, can you tell
24 me what that depicts?

25 A: That is another photo of the same red staining on the

SHANNON HILL - DIRECT BY MS. MCGILL

1 grass. It's just maybe a step or two back to kind of get a
2 little bit of a wider field of vision.

3 Q: What about State's Exhibit No. 8?

4 A: This is the driveway or sidewalk, but you can see the
5 red droplets of red stain leading kind of away from the
6 vehicle.

7 Q: Exhibit 9?

8 A: This is going to be a photograph that I took of the
9 suspect, I believe the suspect's right hand, the top of his
10 right hand.

11 Q: Exhibit 10?

12 A: And this will be another photo of the suspect's right
13 hand, but it would be a photo of the palm side.

14 Q: Will you also explain what State's Exhibit No. 11
15 depicts?

16 A: This is just a photo of the -- a front facial photo,
17 like from the waist up of the suspect that we were talking to
18 at the incident location.

19 Q: State's Exhibit 12?

20 A: This is going to be a photo of red staining that I
21 mentioned earlier on the hallway. As you go down through the
22 middle of the house, it's on the left-hand side, left wall,
23 and this is a photo of what I saw.

24 Q: State's Exhibit 13?

25 A: Just another photo of the red stain on the hallway just

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1 before you get to the entrance to a bedroom that's located on
2 the east side of the house.

3 Q: State's Exhibit 14?

4 A: And this would be a photo of the bedroom, the side
5 bedroom, as I was standing in the doorway looking into the
6 bedroom. And from this photo, you can see bed linens and
7 other personal objects, as well as a lot of red staining on
8 the bed linens.

9 Q: State's Exhibit 15?

10 A: And this is a close-up shot of that same bedroom
11 focusing on the bed itself with everything that was on it at
12 the time of the photographs, as well as the stained bed
13 linens.

14 Q: State's Exhibit 16?

15 A: This is just a close-up photo of one of the pillows that
16 was on that bed and the red staining that's on the pillow.

17 Q: And State's Exhibit 17?

18 A: And this is a photograph of a cell phone in an OtterBox
19 -- what appears to be an OtterBox case, outer case, and the
20 front screen being that it's shattered.

21 MS. MCGILL: Your Honor, at this time, the State would
22 move to admit what's been pre-marked as State's Exhibit 6
23 through 17 into evidence.

24 THE COURT: All right. Any objection?

25 MS. NEYLE: No, Your Honor.

SHANNON HILL - DIRECT BY MS. MCGILL

1 THE COURT: All right.

2 MS. MCGILL: Your Honor, may I publish these pictures to
3 the jury?

4 THE COURT: Yes, ma'am. Items -- State's Exhibits 6
5 through 17 are into evidence.

6 (WHEREUPON, State's Exhibits No. 6 through No. 17,
7 photographs, were admitted into evidence.)

8 BY MS. MCGILL:

9 Q: And, Cpl. Hill, I need you to walk these -- walk me
10 through these pictures for the edification of the jury. Will
11 you please tell the Court and the jurors what State's Exhibit
12 No. 6 depicts?

13 A: That's a close-up shot of the red stains that I had
14 mentioned earlier in the grassy area on the passenger side of
15 that red car, and you can see in the photo what appears to be
16 a broken beer bottle with what looks like a Bud Light label
17 attached to part of the glass.

18 Q: Will you also explain what's depicted in State's Exhibit
19 No. 7?

20 A: This is kind of a wider view shot of those same red
21 stains that you see on the grass, and the left stain that you
22 see on the left side of your picture is the -- what appears
23 to be the labeling from that beer bottle.

24 Q: And did you say there's a fragment of the beer bottle in
25 this picture?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: Yes, ma'am. The blue label that you see to the left of
2 the photograph, left of the red stain that's in the
3 photograph.

4 Q: Will you also explain what's depicted in State's Exhibit
5 No. 8?

6 A: Those are some more red stains that were found on the
7 driveway or on the concrete portion.

8 Q: Will you explain State's Exhibit 9?

9 A: And that is a photograph of the suspect and his right
10 hand and, you know, the top of the right-hand and some red
11 stains, as well as it looks like some sort of cuts.

12 Q: Is there also a broken fingernail in that picture?

13 A: It appears that the pinky finger is the one that has a
14 broke fingernail, as well as some other cuts on the knuckles.

15 Q: I'll show you what's been marked as State's Exhibit No.
16 10.

17 A: This is the suspect's right hand, a photo of the
18 underside of his hand, the palm. You can still see some red
19 staining and you can see what appears to be several cuts on
20 the -- one on the palm of his hand on the right side of his
21 palm, as well as some closer down towards his fingers area.

22 Q: Which finger are you referring to, Cpl. Hill?

23 A: The pinky finger and the finger next to the pinky.

24 Q: Cpl. Hill, can you explain to the jurors what State's
25 Exhibit No. 11 depicts?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: That would be a photo I took, a frontal photo of the
2 suspect as he was at the scene that morning from -- like,
3 from the waist up.

4 Q: Will you explain State's Exhibit No. 12?

5 A: This is a photograph of the hallway and as you see on
6 the left-hand side of the hallway, the wall there, and that
7 is the red staining that I observed when I first walked in
8 and was photographing the scene.

9 Q: State's Exhibit No. 13?

10 A: This is a photograph of the same hallway. I've taken a
11 couple of steps forward, but you can still see some red
12 staining on the -- on the wall there right before you get to
13 the entrance of a bedroom.

14 Q: And is the bedroom to the left or to the right?

15 A: It's to the left. It's on the same side of the hallway
16 as that wall with the red stains.

17 Q: And, Cpl. Hill, will you also explain what's depicted in
18 State's Exhibit No. 14?

19 A: This is a photo of me standing at the entrance to a
20 bedroom on the east side of the house looking into the
21 bedroom and from there you can see various personal items as
22 well, as well as the bed linens and a lot of red staining on
23 those linens.

24 Q: When you're talking about the red staining on the
25 linens, what particular parts of the linens are you referring

SHANNON HILL - DIRECT BY MS. MCGILL

1 to?

2 A: Well, from this photo you can see on all the pillows
3 that are there. I see one on the little -- on the white
4 pillows that are up against the wall. Also, the little round
5 -- I'm not sure what you call that, but the pillow that's in
6 front on the backside of the pocketbook that you see. And
7 then you can see some on the actual bedspread, the top
8 bedspread towards the end of the bed.

9 Q: I'm going to draw your attention to State's Exhibit No.
10 15.

11 A: This is just a more -- it's the same photo of the same
12 room, same bed, same bed linens. It's just a little bit of a
13 closer-up view, and you can see a better view of the stained
14 pillows, as well as the end of the bed comforter there you
15 can see some red staining.

16 Q: And if you would please explain State's Exhibit No. 16?

17 A: And that is the same bedroom, but that's just a close-up
18 photo of a pillow that was on that bed that has a lot of red
19 staining.

20 Q: If I can get you to explain State's Exhibit No. 17?

21 A: This is a photo of a cell phone in what appears to be
22 some sort of OtterBox case and shows that the front glass to
23 the phone was obviously shattered, and you can see what looks
24 like a little bit of a red stain on the right side of the
25 screen next to the edge of the phone.

SHANNON HILL - DIRECT BY MS. MCGILL

1 Q: And which side are you referring to, Cpl. Hill?

2 A: The right side as I look at it.

3 Q: Cpl. Hill, I'm going to also show you what's been pre-
4 marked as State's Exhibit 19 and 20. Do you recognize those
5 photos?

6 A: Yes, ma'am.

7 Q: Would you explain what they depict?

8 A: Number 19 is a photo of a TV and at the top of the TV
9 you can see a lot of heavy red staining on the -- on the top
10 edge of it above the screen. The second photo is going to be
11 more red droplets of a red stain on the hardwood floor of the
12 bedroom, the same bedroom on the east side of the house.

13 MS. MCGILL: Your Honor, at this time the State would
14 move to admit what's been pre-marked as State's Exhibit 19
15 through 20 into evidence.

16 THE COURT: Is there any objection?

17 MS. NEYLE: No, Your Honor.

18 THE COURT: All right. State's 19 and 20 are into
19 evidence.

20 (WHEREUPON, State's Exhibits No. 19 and No. 20,
21 photographs, were admitted into evidence.)

22 MS. MCGILL: Your Honor, may I publish these to the
23 jury?

24 THE COURT: Yes, ma'am.

25 BY MS. MCGILL:

SHANNON HILL - DIRECT BY MS. MCGILL

1 Q: Cpl. Hill, would you explain what's depicted in State's
2 Exhibit 19?

3 A: That is the top of a television screen, the top edge of
4 a television. Below it is the actual television screen, but
5 on top of the edge of the TV this photo has a picture of a
6 lot of heavy red staining on top of the TV.

7 Q: I'm going to also show you what's been marked as State's
8 Exhibit No. 20. Will you explain that to the jurors?

9 A: These are going to be the same bedroom. On the hardwood
10 floor you can see in this photo what appears to be a lot of
11 droplets of a red stain coming down onto -- gathering on the
12 floor and then on the actual bed linens there to the right of
13 the photo, you can actually see some more red stains.

14 Q: And, Cpl. Hill, did you conduct any type of presumptive
15 blood tests while you were on scene?

16 A: Yes, ma'am, I did.

17 Q: And can you tell me about your findings?

18 A: I'm sorry. Say that again. I couldn't hear.

19 Q: Will you tell me about your findings?

20 A: Okay. I took a total of four presumptive blood tests,
21 what we call presumptive blood tests, and that's a test you
22 can do on the scene to presumptively tell you whether
23 something is blood or not. I collected one from the pillow
24 that was in the bedroom, as well as the beer bottle or what
25 we believe to be the beer bottle in the front yard, and from

SHANNON HILL - DIRECT BY MS. MCGILL

1 the suspect's hand who had the red stains on it, and I
2 believe there may have -- I believe that was the only ones
3 that I took at the scene.

4 Q: Cpl. Hill, if I show you a copy of your supplemental
5 report, would that refresh your memory?

6 A: I have it here.

7 Q: Would that refresh your recollection?

8 A: Yes. If you give me a moment to just go over it.

9 THE COURT: He says he's got it.

10 MS. MCGILL: Okay.

11 BY MS. MCGILL:

12 A: As I said earlier, I collected -- I did a presumptive
13 blood test on the pillow that was in the bedroom, as well as
14 the red stains that were found in the front yard near the
15 beer bottle, and on the suspect's hand where he had those red
16 stains, his right hand. All those tests indicated a positive
17 presumptive result for blood. So the swabs were allowed to
18 dry, and they were sealed in separate envelopes as evidence.

19 MS. MCGILL: May I approach, Your Honor?

20 THE COURT: Yes, ma'am.

21 MS. MCGILL: Mark that, please.

22 BY MS. MCGILL:

23 Q: Cpl. Hill, I'm going to show you what's been pre-marked
24 as State's Exhibit No. 34. Will you open this and tell me if
25 you recognize it?

SHANNON HILL - DIRECT BY MS. MCGILL

1 A: All right. The front of the envelope says one cell
2 phone in green OtterBox case. Inside this envelope is
3 another brown paper bag, and I have written on the front
4 received from Investigator Shelley on the 9th of December,
5 2016, at 1027 hours. And inside this paper bag -- do you
6 want me to take it out or --

7 Q: Do you recognize it?

8 A: I do. It is a cell phone in a green OtterBox case with
9 a shattered front screen.

10 Q: And do you recognize that as a fair and accurate --

11 A: Yes.

12 Q: -- reflection of what you collected that day on scene?

13 A: Yes, ma'am.

14 MS. MCGILL: Your Honor, at this time, the State would
15 move to move into evidence what's been pre-marked as State's
16 Exhibit No. 34.

17 THE COURT: Any objection?

18 MS. NEYLE: Judge, may I just walk up --

19 THE COURT: Sure.

20 MS. NEYLE: -- and see that?

21 Your Honor, I have no objection.

22 THE COURT: All right. 34 is into evidence without
23 objection.

24 (WHEREUPON, State's Exhibit No. 34, cell phone in green
25 OtterBox case, was admitted into evidence.)

SHANNON HILL - DIRECT BY MS. MCGILL

1 BY MS. MCGILL:

2 Q: Cpl. Hill, will you just explain to the jury the
3 envelope that this cell phone is placed in that's been pre-
4 marked as State's Exhibit No. 34 or what's been marked as
5 State's Exhibit No. 34? Can you explain the details on this
6 envelope?

7 A: This is the outer envelope that the phone was placed in
8 for evidence storage. At the top left-hand corner of the
9 envelope where it says 16-011471, that's the case number
10 assigned to this incident. On the top right-hand portion of
11 the envelope where it says Item 5, that's just the number of
12 when it was logged into evidence what number it was when it
13 was logged in. And then in the middle of the envelope is a
14 description of what's inside the envelope, which says one
15 cell phone in a green OtterBox case.

16 Q: And can you also explain what is on this brown paper bag
17 that is enclosed in that envelope?

18 A: That's a brown paper bag that I used to secure the phone
19 in when it was given to me at the scene, and I have written
20 in my handwriting the time and the date when I received it
21 from Investigator Shelley.

22 Q: And will you also explain what was enclosed in the
23 envelope?

24 A: The cell phone with the green case and the shattered
25 front screen. When it was given to me, I placed it in a

SHANNON HILL - DIRECT BY MS. MCGILL

1 brown paper bag and then it was placed in that manila
2 envelope that you saw, and then it was sealed with the
3 evidence tape.

4 Q: And the information or the evidence that you collected
5 from the scene, was that ultimately submitted to SLED?

6 A: No. Nothing that was submitted -- that I collected from
7 the scene that day was submitted to SLED for any further
8 analysis.

9 Q: And can you explain why?

10 A: At the time during 2016, SLED had a policy where if you
11 had a known victim and you had what you believed to be a
12 possible suspect, they would not analyze a presumptive blood
13 test to see who it came back to. If we'd had a situation
14 where we didn't have either one and we needed to try to find
15 out who maybe this blood belonged to, we could send it in and
16 that they would do an analysis and try to see if they had
17 anything in their database that might indicate who the blood
18 belonged to.

19 Q: And that would've only occurred if the parties would
20 have been unknown?

21 A: That's correct.

22 MS. MCGILL: No further questions, Your Honor.

23 THE COURT: All right. Ms. Neyle?

24 MS. NEYLE: Thank you.

25 CROSS-EXAMINATION

SHANNON HILL - CROSS BY MS. NEYLE

1 BY MS. NEYLE:

2 Q: Cpl. Hill, you stated that you observed broken glass
3 from a beer bottle?

4 A: Yes, ma'am.

5 Q: And that was next to the burgundy sedan?

6 A: Yes, ma'am.

7 Q: And that was on the passenger side of the car?

8 A: That is correct.

9 Q: Passenger side? Okay.

10 MS. NEYLE: Your Honor, I have no further questions.

11 THE COURT: All right. All right. Ms. McGill, is there
12 any objection to him being released from his subpoena?

13 MS. MCGILL: No, Your Honor.

14 THE COURT: Any from the defense?

15 MS. NEYLE: No, Your Honor.

16 THE COURT: All right. Thank you for being here, sir.

17 THE WITNESS: Thank you.

18 THE COURT: You're welcome to go.

19 All right. Ladies and gentlemen, at this time, we're
20 going to take about a 15-minute break. We'll have you right
21 back out and resume the trial as soon as that's over with.
22 Okay?

23 Please remember your instructions not to discuss this
24 case. That would be improper. You can talk about anything
25 you want to except for the facts or the circumstances or

1 anything to do with this case.

2 And also while you're back on your break, if you will
3 decide who is going to be the foreperson of the jury. Thank
4 you very much.

5 (WHEREUPON, the jury exited the courtroom at 11:18 a.m.)

6 THE COURT: All right. We'll be at ease until about
7 11:35.

8 MS. MCGILL: Your Honor, may we approach?

9 THE COURT: Sure.

10 (WHEREUPON, a bench conference was held off the record.)

11 (WHEREUPON, there was a break in the proceedings from
12 11:19 a.m. until 11:55 a.m., after which the proceedings
13 resumed as follows.)

14 THE COURT: All right. Are we ready to continue?

15 MS. MCGILL: Yes, Your Honor.

16 THE COURT: All right. If we could have the jury?

17 MS. CRAYTON: Oh, Judge, can we just get the defendant
18 out first?

19 THE COURT: Yes. Sorry.

20 MS. CRAYTON: I'm sorry.

21 THE COURT: I'm sorry about that.

22 MS. CRAYTON: No, you're good.

23 THE COURT: I didn't realize he wasn't here.

24 (WHEREUPON, there was a pause in the proceedings until
25 the defendant entered the courtroom, after which the

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 proceedings resumed as follows.)

2 MS. CRAYTON: Thank you, Your Honor.

3 THE COURT: Sure. All right, sir.

4 (WHEREUPON, the jury entered the courtroom at 11:57
5 a.m.)

6 THE COURT: All right. Thank you for your -- for your
7 patience. We had a little scheduling issue with a witness,
8 but I think we're ready to go now. We're going to hear some
9 more testimony and then we'll break for lunch.

10 So did -- did you win the election?

11 THE FOREPERSON: Yes, sir.

12 THE COURT: All right. Congratulations. Tell me your
13 name again, please.

14 THE FOREPERSON: Haley Sims.

15 THE COURT: All right. Ms. Sims, I appreciate your
16 service.

17 All right. Ms. McGill?

18 MS. MCGILL: Your Honor, at this time, the State would
19 recall Officer Kevin Buxton.

20 THE COURT: Okay. Mr. Buxton, we're just going to have
21 you still be under oath from prior testimony.

22 KEVIN BUXTON, being previously
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. MCGILL:

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 Q: Officer Buxton, when you arrived on scene at [REDACTED] Pawley
2 Street on December the 9th of 2016, was the victim, Tanisia
3 Cunningham, on scene at that time?

4 A: She was.

5 MS. MCGILL: Your Honor, may I approach?

6 THE COURT: Yes, ma'am.

7 BY MS. MCGILL:

8 Q: Officer Buxton, I'm going to show you what's been pre-
9 marked as State's Exhibit 18.

10 A: Uh-huh.

11 Q: Do you recall if that's -- do you recognize that photo?

12 A: I do.

13 Q: And is that the way that the victim looked on that
14 particular morning when you arrived at that incident
15 location?

16 A: Yes.

17 MS. MCGILL: Your Honor, at this time, the State would
18 move to admit what's been pre-marked as State's Exhibit No.
19 18 into evidence.

20 THE COURT: Is there any objection?

21 MS. NEYLE: I would object to a lack of foundation, Your
22 Honor. He didn't take the photograph.

23 THE COURT: All right. He's testified that that fairly
24 and accurately depicts --

25 MS. MCGILL: That that's the way she looked that

KEVIN BUXTON - DIRECT BY MS. MCGILL

1 particular morning, Your Honor.

2 THE WITNESS: Yes.

3 MS. MCGILL: He was there on scene, and he saw her
4 there.

5 THE COURT: All right. I'm going to allow the State's
6 Exhibit 18 into evidence.

7 (WHEREUPON, State's Exhibit No. 18, photograph, was
8 admitted into evidence.)

9 MS. MCGILL: May I publish this to the jury, Your Honor?

10 THE COURT: Yes, ma'am.

11 BY MS. MCGILL:

12 Q: Officer Buxton, will you please explain to the -- to the
13 Court and to the jurors what this picture depicts?

14 A: It depicts the severity of the injuries to the victim,
15 Ms. Cunningham, as well as predominantly you can see a lot on
16 the -- looking at the picture on the right side of the
17 picture, the amount of blood that was all over the bed and on
18 the different items that were on the bad.

19 MS. MCGILL: No further questions, Your Honor.

20 THE COURT: All right. Ms. Neyle, any -- any cross-
21 examination?

22 MS. NEYLE: No, Your Honor.

23 THE COURT: All right. Thank you, Mr. Buxton.

24 THE WITNESS: Thank you.

25 THE COURT: Madam Solicitor?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 MS. MCGILL: Your Honor, at this time, the State would
2 call Dr. Howard Farrell.

3 THE COURT: All right.

4 (WHEREUPON, there was a pause in the proceedings until
5 the witness entered the courtroom, after which the
6 proceedings resumed as follows.)

7 THE CLERK: Yes, sir. If you will please place your
8 left hand on the Bible and raise your right hand.

9 Do you swear or affirm the testimony you give in this
10 case to be the truth, the whole truth, and nothing but the
11 truth, so help you God?

12 THE WITNESS: Yes, ma'am.

13 THE CLERK: Please be seated and state your full name
14 for the record.

15 THE WITNESS: Should I take my mask off?

16 THE COURT: If you would like to.

17 THE WITNESS: Okay.

18 THE COURT: Yes, sir. Thank you. Thank you for being
19 here.

20 THE WITNESS: I'm Dr. Howard Farrell.

21 DR. HOWARD FARRELL, being
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MCGILL:

25 Q: And, Dr. Farrell, where are you employed?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 A: Florence Ears, Nose, and Throat in Florence.

2 Q: And how long have you been employed in that capacity?

3 A: I've been in Florence since 1998 and originally Jay
4 Lucas brought me to town and then -- and so since 1998.

5 Q: And were you employed in that capacity back on December
6 9th of 2016?

7 A: Yes, ma'am.

8 Q: Okay. And can you please explain to the Court your
9 educational background?

10 A: I'm an otolaryngologist in ears, nose, and throat. I
11 went to the University of Rochester for medical school,
12 graduated from there in 1989. I did a general surgery year
13 at the State University of New York City -- of New York in
14 New York City. I did my surgical internship there. Then I
15 did otolaryngology at the University of Kentucky. And I'm
16 board certified in ears, nose, and throat, facial -- ears,
17 nose, and throat, and neck surgery.

18 Q: And I'm going to stop you right there. Can you tell us
19 how you received your board certification?

20 A: Well, you know, a written and oral exam and you also
21 have to have done a variety of procedures that your program
22 keeps track of.

23 Q: And so that's more schooling beyond medical school?

24 A: Yes.

25 Q: Beyond residency?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

- 1 A: Yeah. Well, it's -- it was four years of medical
2 school, one year of general surgery internship, and then four
3 years of otolaryngology.
- 4 Q: And what exactly does an ear, nose, and throat
5 specialist do?
- 6 A: Well, we do a variety of things. We take care of
7 medical and surgical problems of the ears, nose, and throat.
8 We do facial plastic surgery. We do facial trauma. We do
9 ear surgery, sinus surgery, and a variety of soft tissue neck
10 surgeries.
- 11 Q: And so what is your expertise?
- 12 A: I would probably be termed a general otolaryngologist.
13 I do -- I do a whole lot of different things.
- 14 Q: And do you deal with facial trauma?
- 15 A: Yes. You know, with McLeod, we're -- I saw the patient
16 on that day. We share facial trauma call with plastic
17 surgery, maxillofacial surgery, and otolaryngology, and so we
18 -- you know, we've been -- facial trauma is part of our board
19 certification. We're board-certified in that and trained in
20 that, and you really do it -- you do it since during your
21 whole residency.
- 22 Q: And how many surgeries do you think you've performed?
- 23 A: Myself?
- 24 Q: Yes.
- 25 A: Oh, man. I don't know.

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 Q: Did you lose count?

2 A: Yes. Like, I saw 9,800 patients last year. In terms of
3 surgeries, you know, a whole bunch.

4 Q: And so facial trauma has been a part of your practice
5 since the late '80s?

6 A: Since '89.

7 Q: Since '89?

8 A: I've been taking care -- been doing that.

9 MS. MCGILL: Your Honor, at this time, the State would
10 ask that he be offered as an expert in the area of facial
11 trauma.

12 THE COURT: All right. Is there any objection?

13 MS. NEYLE: No, Your Honor.

14 THE COURT: All right. The Court recognizes and finds
15 Dr. Farrell is an expert in the area of facial trauma.

16 BY MS. MCGILL:

17 Q: And I'm going to direct your attention, Dr. Farrell, to
18 December the 9th of 2016, and you were working for McLeod
19 Regional Medical Center at that time?

20 A: I was on call for McLeod, yes.

21 Q: And in what capacity were you working that particular
22 day?

23 A: Well, I'd be on call for ears, nose, and throat, and
24 facial trauma patients.

25 Q: Okay. Do you recall receiving a consult for the victim

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 in this case, Tanisia Cunningham?

2 A: Yes.

3 Q: And what do you recall about receiving that call?

4 A: Well, I do have copies of my notes. Could I -- could I
5 quote from there? Okay. So I saw Ms. Cunningham. At that
6 point, she was listed as Tanisia Walker because I think it
7 was an alias that the hospital assigned, which they routinely
8 do for folks who they were in danger.

9 I saw her at 5:30 p.m. She had facial lacerations. In
10 my note I say that the patient was beaten about the face by
11 her ex-boyfriend this morning. She sustained significant
12 injuries to the globe. CT scan of face is reported to have
13 no fractures. She has significant facial lacerations,
14 complex lacerations of the face. Location, face. Grade
15 severity, severe. Duration, less than a day. Symptoms,
16 facial lacerations.

17 Q: Can I stop you there, Dr. Farrell? Can you explain the
18 type of lacerations that you just mentioned that are in your
19 report?

20 A: Well, you know, you can have a simple laceration, which
21 is like a little cut, or you can have, you know, an
22 intermediate kind of laceration or a laceration that's a
23 whole bunch of different angles, all tore up. You could call
24 that a complex laceration.

25 Q: And that's what this was --

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 A: Yes.

2 Q: -- Dr. Farrell?

3 A: Yes.

4 Q: And before you started treating her, did you talk to the
5 attending ER physician?

6 A: I cannot recall.

7 Q: You cannot recall? Okay.

8 A: Yeah. I'm not sure. I'm sure I did, but I can't recall
9 any discussion.

10 Q: And when you initially observed the victim's injuries,
11 did you have any initial concerns?

12 A: Well, the first concern was about the eye because there
13 was a globe injury. We call the eyeball a globe. The globe
14 had been injured, and I was -- before I got involved, I knew
15 she was going to get transferred to the Medical University in
16 Charleston for -- for eye care because the eye -- the eyeball
17 was injured. So I knew that, and then -- and then went ahead
18 and assessed her and then closed the lacerations.

19 Q: And so, Dr. Farrell, in your expert opinion, were her
20 injuries serious?

21 A: Absolutely, yes.

22 Q: And can you tell me about how much procedure you had to
23 do to her face in terms of centimeters or --

24 A: Right.

25 Q: -- inches that you had to use to repair the lacerations?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 A: Right. I described it in my note. I describe a variety
2 of lacerations, the various different lacerations, and in
3 total I said about -- I said 33 centimeters of laceration was
4 closed, and these were extensive lacerations of the forehead,
5 the brow, and the eyelid and -- you know.

6 Q: And, Dr. Farrell, in your expert opinion, what would
7 have happened to her if she had not received that type of
8 medical treatment?

9 A: I can't imagine not receiving medical treatment for the
10 injuries. You have my picture; right?

11 Q: Dr. Farrell, we'll get to the picture.

12 A: Okay.

13 Q: Yes.

14 A: Because that summarizes it.

15 Q: And, Dr. Farrell, based on what you saw, would you
16 characterize this as serious disfigurement?

17 A: Yes. You know, there'll be -- I haven't seen the
18 patient since the injury. I mean I saw her one time after,
19 but I would imagine there is scarring and disfigurement, yes.

20 Q: Based on the nature of the injury?

21 A: Yes.

22 MS. MCGILL: Your Honor, may I approach?

23 THE COURT: Yes, ma'am.

24 BY MS. MCGILL:

25 Q: Dr. Farrell, I'm going to show you what's been pre-

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 marked as State's Exhibit No. 29.

2 A: Uh-huh.

3 Q: Do you recognize that?

4 A: Yes.

5 Q: And will you tell me what it depicts?

6 A: It depicts the -- the closed lacerations.

7 Q: Don't show it.

8 A: Oh, I'm sorry. It's the closed lacerations. It's the
9 lacerations after I was done closing them.

10 Q: Okay.

11 A: On Ms. Cunningham.

12 Q: And is that the way that she looked once you completed
13 those --

14 A: Yes, ma'am.

15 Q: -- procedures on her on that day?

16 A: Yes, ma'am.

17 MS. MCGILL: Your Honor, at this time, the State would
18 move to offer into evidence what has been pre-marked as
19 State's Exhibit No. 29.

20 THE COURT: Is there any objection?

21 MS. NEYLE: No, Your Honor.

22 THE COURT: All right. 29 is into evidence. Thank you.
23 (WHEREUPON, State's Exhibit No. 29, photograph, was
24 admitted in evidence.)

25 MS. MCGILL: Your Honor, may I publish this to the jury?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 THE COURT: Yes, ma'am.

2 BY MS. MCGILL:

3 Q: Dr. Farrell, will you walk us through this picture in
4 terms of what repairs you did that day in terms of treatment?

5 A: Now, you have the other picture; right? I'm sorry.
6 That's a better picture.

7 Q: We'll just focus on --

8 A: Okay.

9 Q: -- this picture right here.

10 A: This is -- this is the lacerations closed. Okay?
11 There's a laceration along the lip. Then the laceration
12 under her eyebrow on -- under her eyebrow on the eyelid. I
13 would assume that's how the globe was injured. And then the
14 lacerations up on the forehead and on the brow, and there's
15 also a laceration I think up on the scalp as well.

16 Q: And, Dr. Farrell, you indicated that you've treated a
17 number of trauma patients in the past?

18 A: Yes, ma'am.

19 Q: In your expert opinion, have you ever treated a patient
20 that could inflict this type of injury to themselves?

21 A: I've never seen it ever.

22 Q: And in your expert opinion, what type of force would
23 have been necessary to inflict these types of injuries?

24 A: Severe force.

25 Q: And did you find out during your treatment that she had

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 not been seen by any kind of medical personnel for
2 approximately ten hours before coming into the hospital?

3 A: I did not know about -- I can't -- I'm not sure about
4 any of that.

5 Q: And you indicated prior that she was later transferred
6 to MUSC?

7 A: Yes, ma'am.

8 Q: Can you tell me why? Because, you know, McLeod is a big
9 hospital.

10 A: Because -- because of the -- because of her eyeball
11 injury. Because of the -- because of the globe, the eyeball
12 injury was severe. The ophthalmologist -- she had been seen
13 by ophthalmology at McLeod and they felt that they could not
14 take care of that injury. So she was transferred.

15 Q: And, Dr. Farrell, if these injuries had gone untreated,
16 could there have been a substantial risk of death or possible
17 serious injury?

18 A: Well, infection and -- sure, if untreated potentially or
19 a whole lot more scarring and disfigurement. I don't know
20 about death, but scarring and disfigurement.

21 Q: And the loss of the eye would be a loss of a function of
22 a bodily member or organ? Would that be a permanent loss?

23 A: Yes.

24 Q: Of a bodily organ or member?

25 A: Yes. If -- yes.

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 Q: And, Dr. Farrell, the number of lacerations that you
2 were able to stitch up, was that a large amount of
3 lacerations? I think you indicated 33 centimeters?

4 A: Yes. That's a -- that's a lot.

5 Q: How much do you think that is? Can you kind of explain
6 what 33 centimeters is?

7 A: Well, you know, the images show it. It's -- it's an
8 extensive laceration, and it was complex in that it was all
9 -- it was all out of position, like tore up. So then you've
10 got to kind of figure out how it's all coming back together.

11 Q: And, Dr. Farrell, where did you perform this treatment?

12 A: I believe I did it right in the emergency room because
13 the emergency room is -- they're set up to almost be like
14 little ORs. So I just --

15 Q: And could you -- when you made your initial assessment
16 with her, did you determine if there were multiple impact
17 points?

18 A: I don't know how this could be done with just one
19 laceration, with one cut or one hit.

20 Q: So there --

21 A: It looks like multiple hits. It looks, you know, a
22 whole bunch of hits, several hits, not just one.

23 Q: Was she put under general anesthesia for this procedure?

24 A: No. No.

25 Q: Explain how you performed that?

DR. HOWARD FARRELL - DIRECT BY MS. MCGILL

1 A: Well, a lot of times -- I'd have to look at the
2 emergency room record from that day, but a lot of times we'll
3 give them some sedation, some morphine. The emergency room
4 doctor will help us with that, and then I'll put in a whole
5 bunch of local anesthesia and -- and then clean the wound and
6 close it.

7 Q: And did you prescribe any kind of medication or give her
8 any kind of medication?

9 A: You know, she's going to the Medical University. So
10 that's after I was done, she went to Charleston.

11 Q: You didn't prescribe any kind of antibiotics?

12 A: Huh-uh.

13 Q: Or give her anything?

14 A: I did say continue antibiotics, but she was heading to
15 Charleston.

16 MS. MCGILL: No further questions, Your Honor.

17 THE COURT: All right. Thank you.

18 Ms. Neyle?

19 CROSS-EXAMINATION

20 BY MS. NEYLE:

21 Q: Hello, Dr. Farrell.

22 A: Hello. Hey.

23 Q: In -- in your report that you prepared for Ms.
24 Cunningham, you look at their past medical history, their
25 social history; correct?

DR. HOWARD FARRELL - CROSS BY MS. NEYLE

1 A: Not extensively. A lot of times in the emergency room
2 you kind of -- you know, you're there to close a wound. I
3 didn't talk. We didn't have a big social history talk.

4 Q: But in your -- in your report, you said that she denied
5 drinking?

6 A: Right. I did say that. Right. Denies smoking and
7 drinking.

8 Q: Okay.

9 MS. NEYLE: Your Honor, I have no further questions.

10 THE COURT: All right. Is there any objection to
11 releasing Dr. Farrell?

12 MS. MCGILL: None from the State, Your Honor.

13 THE COURT: All right. Dr. Farrell, thank you for being
14 here and taking your time out of your day, and you're free to
15 go.

16 THE WITNESS: Thank you, sir. Thank you, Your Honor.
17 Thank you.

18 MS. MCGILL: Thank you, Dr. Farrell.

19 THE COURT: Can y'all approach for just a second?

20 (WHEREUPON, a bench conference was held off the record,
21 after which the proceedings resumed as follows.)

22 THE COURT: All right. Ladies and gentlemen, we're
23 going to break for lunch at this time. I'm going to ask you
24 to be back here in your jury room at 2 o'clock. Okay? It's
25 12:15 now. So if you can be back at 2 o'clock.

1 you.

2 THE CLERK: Do you want me to go talk to him?

3 (WHEREUPON, there was a pause in the proceedings as the
4 clerk went to speak with the juror, after which the
5 proceedings resumed as follows.)

6 THE CLERK: Are you ready for them?

7 THE COURT: Uh-huh.

8 (WHEREUPON, the jury entered the courtroom at 2:18 p.m.)

9 THE COURT: All right. Ladies and gentlemen, thank you
10 for your patience. Thank you for being back on time from
11 lunch.

12 Unfortunately, one of the -- one of your fellow jurors
13 had a -- had a death in the family. He was excused and only
14 under extreme circumstances will you be excused from this
15 jury.

16 Ms. Ard, you were fortunate enough to have been selected
17 from a random drawing to become our next member of the jury.
18 Okay?

19 So at this time we're going to continue the trial of
20 this case and we'll ask Mr. McGill to call her next witness.

21 MS. MCGILL: Your Honor, at this time, the State calls
22 Sgt. Sheldon Shelley to the stand.

23 THE CLERK: Sir, if you will please place your left hand
24 on the Bible and raise your right hand.

25 Do you swear or affirm the testimony you give in this

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 case to be the truth, the whole truth, and nothing but the
2 truth, so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Please be seated and state your full name
5 for the record.

6 THE WITNESS: My name is Sheldon Shelley.

7 SHELDON SHELLEY, being first
8 duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. MCGILL:

11 Q: Sgt. Shelley, where do you work?

12 A: City of Florence Police Department.

13 Q: And in what capacity are you employed?

14 A: Currently, I'm a sergeant assigned to the uniformed
15 patrol division.

16 Q: And so you're a supervisor?

17 A: Yes, ma'am.

18 Q: And were you employed in that capacity back on December
19 the 9th of 2016?

20 A: No, ma'am. At that time, I was the rank of lance
21 corporal, and I was assigned to the criminal investigations
22 division as an investigator.

23 Q: I think you want to speak into that mic.

24 A: Do you want me to repeat it one more time?

25 Q: Yes. Please repeat that.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 A: At the date of the incident that we're here about today,
2 I was a lance corporal and I was assigned to the criminal
3 investigations division as an investigator.

4 Q: And how long have you been with Florence Police
5 Department?

6 A: Since November of 2009.

7 Q: So I'm going to direct your attention back to December
8 the 9th of 2016. Did you have an occasion to respond to
9 McLeod Hospital?

10 A: Yes, ma'am.

11 Q: Okay. Can you tell me what prompted you to respond
12 there?

13 A: Uniformed patrol would respond to an incident prior to
14 us, and then in the event based on the severity of the call
15 they respond to, they will notify an investigator at
16 investigations and one of us will be assigned to respond. In
17 this particular case, I was notified of this incident and was
18 directed to respond to McLeod Hospital in reference to a
19 potential assault victim being at that location.

20 Q: And was anybody else from the Florence Police Department
21 there when you responded?

22 A: To the hospital, I believe that would have been the
23 officer that everyone heard from earlier, Agent Buxton.

24 Q: So Buxton was there while you were at the hospital?

25 A: Yes, ma'am.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 Q: And did you have an opportunity to talk to anybody while
2 you were at the hospital?

3 A: Yes, ma'am. I had an opportunity to speak with Officer
4 Buxton and the victim.

5 Q: Okay. And what's the victim's name?

6 A: Ms. Tanisia Cunningham.

7 Q: Okay. Can you tell me about your exchange with her?

8 A: When I first arrived, I observed Ms. Cunningham. She
9 had already had her clothing removed and put into a hospital
10 gown, but I observed injuries on and about her face and head
11 and -- I'm sorry.

12 Q: I'm going to stop you right there. Can you describe the
13 nature of the injuries she sustained when you made an
14 observation of her?

15 A: My initial impression of her injuries is they were
16 significant lacerations and --

17 MS. NEYLE: Objection, Your Honor. He's not a doctor.

18 THE COURT: All right. You can just -- can you rephrase
19 the question, please?

20 MS. MCGILL: Your Honor, may I approach?

21 THE COURT: Sure.

22 BY MS. MCGILL:

23 Q: Sgt. Shelley, did you take pictures of Tanisia
24 Cunningham while you were at the hospital?

25 A: Yes, ma'am.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 Q: I'm going to show you what's been pre-marked as State's
2 Exhibit No. 21. Do you recognize this photo?

3 A: Yes, ma'am.

4 Q: Will you describe it?

5 A: That would be the victim, Ms. Cunningham, and that's a
6 photograph taken of the injuries to her head and face area.

7 Q: And is that the way she looked when you arrived at the
8 hospital that day?

9 A: Yes, ma'am.

10 MS. MCGILL: Your Honor, at this time, the State would
11 move to admit into evidence State's Exhibit No. 21.

12 THE COURT: All right. Is there any objection?

13 MS. NEYLE: I would just note my prior objection, Your
14 Honor.

15 THE COURT: All right. State's Exhibit No. 21 is into
16 evidence over prior objection.

17 (WHEREUPON, State's Exhibit No. 21, photograph, was
18 admitted into evidence.)

19 MS. MCGILL: Your Honor, may I publish this to the jury?

20 THE COURT: Yes, ma'am.

21 BY MS. MCGILL:

22 Q: Officer Shelley -- excuse me. Sgt. Shelley, will you
23 explain what this picture depicts to the jury?

24 A: Yes, ma'am. Just significant injury to the victim's
25 face. When I walked in and saw her this way, my initial

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 reaction is what you're asking for?

2 Q: I just want you to describe what this picture depicts.

3 It's just a picture of the victim? Is that what you're

4 saying?

5 A: It's just a pic --

6 Q: This is the way she looked when you arrived at the

7 hospital?

8 A: That's the way that I found her when I arrived. That's

9 the way that I observed her, the way that you see her

10 depicted in that photograph.

11 Q: And at that point what, if anything, did you do next?

12 A: I spoke with Ms. Cunningham about the nature of the

13 injuries and how she came to receive those injuries was my

14 general inquiry.

15 Q: And did she tell you anything?

16 A: Yes, ma'am. Initially, her statement was that she had

17 inflicted the injuries on herself.

18 Q: And at some point while you were there, were you able to

19 determine kind of what her emotional state was?

20 A: Yes, ma'am. She was very upset.

21 Q: And as she told you this story that you just mentioned,

22 did that story change at any point?

23 A: Yes, ma'am.

24 Q: Will you explain that to the Court?

25 A: The story changed when she requested that the hospital

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 staff place her under an alias, and that indicated to me to
2 ask the question why she would request to be put under an
3 alias by the hospital staff, and it was at that point that it
4 turned to that she was afraid or that she felt she was in
5 danger. Obviously, that led to the inquiry of who are you
6 afraid of, what are you afraid of, what is the need, what is
7 the need of the request for an alias here at the hospital.

8 Q: And did you get any kind of response?

9 A: Yes. And that's when it changed to I was assaulted.

10 Q: And did she indicate who assaulted her?

11 A: Yes, ma'am.

12 Q: And who was that person?

13 A: The defendant here in the courtroom today, Mr. Samuel
14 Lee McNeil.

15 Q: And at that point, did you continue to take any more
16 pictures?

17 A: If I recall correctly, I photographed her clothing that
18 the hospital had removed. You can see in that photograph
19 that she's in a hospital gown or such a garment that would've
20 been provided to her by the hospital. Her clothing was
21 removed, as well as her shoes, and if I recall correctly, I
22 photographed those as well.

23 Q: And why did you take pictures of her clothing?

24 A: They were stained in a red substance that was not --
25 obviously not meant to be that way and that I presumed to

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 potentially be blood. So I photographed them.

2 MS. MCGILL: Your Honor, may I approach?

3 THE COURT: All right.

4 BY MS. MCGILL:

5 Q: Investigator Shelley, I'm going to show you what's been
6 pre-marked as State's Exhibit No. 22, 23, 24, 25, 26, 27, and
7 28.

8 A: Okay.

9 Q: Sgt. Shelley, did you take these pictures at the
10 hospital that day?

11 A: Yes, ma'am.

12 Q: Do they reflect -- are they an accurate and fair
13 depiction of what you took a picture of that day in the same
14 state?

15 A: Yes, ma'am.

16 Q: And can you please describe what each picture depicts?

17 A: The first picture here, Exhibit 22, would be a
18 photograph of small scrapes, scratches, however you
19 categorize those, to the victim's left hand.

20 Upon inquiry if the victim had any additional injuries
21 further than what was visible on just her head and face, I
22 was informed by medical staff that she did have some
23 discoloration, possible bruising to her upper chest area. So
24 State's Exhibit No. 23 is a photographic depiction of where
25 we were assisted with staff of McLeod Hospital lowering our

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1 garments just enough for us to observe that what appeared to
2 be bruising and to photograph that as well.

3 State's Exhibit No. 24 is a photograph that I took of
4 the shoes that were taken off the victim when she presented
5 at the hospital with red staining on the insides of the
6 shoes.

7 State's Exhibit No. 25 is a photograph of the blouse
8 that was removed from the victim when she presented at the
9 hospital. It also appears to be heavily stained red.

10 State's Exhibit No. 26 is the defendant's bottoms that
11 she had on. It's a pair of blue bottoms that have red stains
12 on them as well.

13 And State's Exhibit No. 27 is a photograph of a dark-
14 colored jacket with red splotches and stains on it.

15 It appears to be two copies of No. 28. Nope. No. 28 is
16 the blue bottoms again. It appears to be the other side of
17 those bottoms that has heavily red stain marks on the blue
18 shorts. And that's the last one.

19 MS. MCGILL: Your Honor, at this time, the State would
20 move to enter into evidence what's been pre-marked as State's
21 Exhibit No. 22 through 28.

22 THE COURT: All right. Is there any objections?

23 MS. NEYLE: Your Honor, may I briefly look at the
24 pictures?

25 THE COURT: Yes, ma'am.

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1 MS. NEYLE: I have no objection, Your Honor.

2 THE COURT: All right. State's Exhibits No. 22 through
3 28 are into evidence with no objection.

4 (WHEREUPON, State's Exhibits No. 22 through No. 28,
5 photographs, were admitted into evidence.)

6 MS. MCGILL: Your Honor, may I publish them to the jury?

7 THE COURT: Yes, ma'am.

8 MS. MCGILL: Thank you, Your Honor.

9 BY MS. MCGILL:

10 Q: Sgt. Shelley, will you describe to the jury what's
11 depicted in State's Exhibit No. 22?

12 A: Yes, ma'am. That's a photograph of the victim's left
13 hand.

14 Q: And that's the outside of her hand?

15 A: Yes, ma'am.

16 Q: And would you describe what's depicted in State's
17 Exhibit No. 23?

18 A: That is the victim in the hospital room in the hospital
19 bed, and that would be the hands of a McLeod staff member
20 assisting in lowering her garments low enough for me to
21 photograph the bruising that I was informed that she had on
22 her upper chest area as well.

23 Q: Would you describe State's Exhibit No. 24?

24 A: That would be the shoes that the victim was wearing that
25 were stained on the insides with red stains. She was wearing

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1 those at the time that she presented in the emergency room at
2 McLeod, and they were removed by medical staff.

3 Q: Will you also describe State's Exhibit No. 25?

4 A: That is a red-stained blouse that the victim was wearing
5 when she presented at the emergency room.

6 Q: And will you describe what's depicted in State's Exhibit
7 No. 26?

8 A: That's a pair of blue bottoms that the victim was
9 wearing when she presented at McLeod emergency room with red
10 splotches and stains on them.

11 Q: Will you describe what's depicted in State's Exhibit No.
12 27?

13 A: It is a red-stained jacket removed from the victim at
14 the time that she presented at the emergency room.

15 Q: And lastly, will you describe what is depicted in
16 State's Exhibit No. 28?

17 A: That is the opposite side of the blue bottoms that the
18 victim was wearing when she presented at the emergency room.

19 Q: And after taking the pictures and talking to the victim,
20 were you able to get a statement from her?

21 A: Yes, ma'am.

22 Q: And was that statement recorded?

23 A: I don't recall. I'll have to check my supplemental
24 report.

25 Q: Or did she give you a written statement at some point?

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1 A: I did receive a written statement from her subsequently
2 later on. Yes, ma'am.

3 Q: Do you need to review your case file to refresh your
4 recollection?

5 A: Yes, ma'am. In terms of a verbal statement from her
6 that day at the hospital or in terms of the written statement
7 later on?

8 Q: Any kind of verbal statement.

9 A: Okay.

10 (WHEREUPON, there was a pause in the proceedings, after
11 which the proceedings resumed as follows.)

12 BY MS. MCGILL:

13 A: Yes, ma'am. She did ultimately provide me a statement
14 of what took place.

15 Q: And after you received her statement, what, if anything,
16 did you do next?

17 A: I left the McLeod Regional Medical Center emergency
18 department and responded to the address where she informed me
19 that the assault took place.

20 Q: So did you identify a suspect at that point?

21 A: Yes, ma'am. And the location.

22 Q: And who was that suspect?

23 A: Samuel Lee McNeil.

24 Q: And so did you return to [REDACTED] Pawley Street?

25 A: I responded to 1004 Pawley Street after leaving the

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1 hospital. Yes, ma'am.

2 Q: And is that located here in Florence County?

3 A: Yes, ma'am.

4 Q: And when you arrived on scene, did you make any
5 observations?

6 A: Yes, ma'am. When I arrived on scene as I was
7 approaching the residence, I noticed a burgundy sedan in the
8 driveway. I noticed red staining, more than one spot of red
9 staining in the grass, and I noticed what appeared to me to
10 be a broken beer bottle in proximity to the red staining.
11 That was as I was approaching the residence.

12 MS. MCGILL: May I approach, Your Honor?

13 THE COURT: Yes, ma'am.

14 BY MS. MCGILL:

15 Q: Sgt. Shelley, I'm going to show you what's been marked
16 -- or I'm going to show you State's Exhibits No. 6 and 7.
17 Are these a representation of the beer bottles that you saw
18 on the ground?

19 A: Yes, ma'am.

20 Q: Will you walk me through for the jury what you saw on
21 State's Exhibit No. 6?

22 A: It's kind of blurry on my screen. This is No. 6 up now?

23 Q: It is.

24 A: Yes, ma'am. This is a photograph of the grass yard in
25 front of [REDACTED] Pawley Street, and in the image there are

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 several splotchy areas of red staining in the grass and what
2 appears to be shards and pieces of a Bud Light -- glass Bud
3 Light alcoholic beverage bottle.

4 Q: And then State's Exhibit No. 7?

5 A: That's from a -- a wider angle. The two separate red
6 poolings can be observed there, and I believe if you look to
7 the left, that's a zoomed-out representation of No. 6.

8 Q: Okay. When you arrived back on Pawley Street, other
9 than making these observations before you went in the house,
10 what did you -- did you meet anybody at the house? Did you
11 find anybody there?

12 A: Yes, ma'am.

13 Q: Can you tell me who?

14 A: The individuals who were present at the house at the
15 time were Mr. McNeil, a roommate -- if I'm saying his name
16 correctly -- Mr. Agoha, and a female named Dominique, I
17 believe, who was a guest of Mr. Agoha's.

18 Q: And did you make contact with the defendant?

19 A: Yes, ma'am.

20 Q: And were you able to talk to him at any point?

21 A: Yes, ma'am.

22 Q: Did you mirandize him?

23 A: Yes, ma'am.

24 MS. MCGILL: May I approach, Your Honor?

25 THE COURT: Yes, ma'am.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 BY MS. MCGILL:

2 Q: Sgt. Shelley, I'm going to show you what's been pre-
3 marked as State's Exhibit No. 30. Do you recognize this
4 form?

5 A: Yes, ma'am, I do.

6 Q: Will you tell me what it is?

7 A: It's a Florence Police Department Waiver of Rights form,
8 and it contains Miranda warnings.

9 Q: And -- and is that the same form you would have used
10 when you talked to the defendant?

11 A: Yes, ma'am. It's labeled with the case number, the date
12 of this incident, his name and date of birth and the address
13 where we were located at the time that it was read to him.

14 Q: And is it signed?

15 A: No, ma'am.

16 Q: And why isn't it signed?

17 A: It's unsigned. It's indicated in my handwriting on this
18 exhibit it was unable to sign due to the defendant having a
19 bloody hand, and he was advised of this on the DVR, which
20 stands for my digital voice recorder.

21 MS. MCGILL: Your Honor, at this time, the State would
22 move to admit what's been marked as State's Exhibit No. 30.

23 THE COURT: All right. Ms. Neyle, is there any
24 objection?

25 MS. NEYLE: No, Your Honor.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 THE COURT: All right. State's Exhibit 30 is into
2 evidence.

3 (WHEREUPON, State's Exhibit No. 30, waiver of rights
4 form, was admitted into evidence.)

5 MS. MCGILL: Your Honor, may I publish it to the jury?

6 THE COURT: Yes, ma'am.

7 BY MS. MCGILL:

8 Q: Sgt. Shelley, will you explain this form for the jury?

9 A: Yes, ma'am. The Florence Police Department Waiver of
10 Rights form that you see now includes Miranda warnings.

11 Those -- I can speak for myself. I never recite those to
12 anyone who I intend to ask questions to by heart. I read it
13 to them from this form as you see it word for word.

14 Once I've read it to them, I ask them if they understand
15 it and ask for a verbalization of their understanding of it,
16 and I also indicate to them that if there's any part of it
17 that they don't understand, if they have any questions or
18 need me to clarify for them what this means, then I'll be
19 happy to do that for them, which I did in this instance as
20 well.

21 Q: And can you go over what you would've asked him before
22 he gave you his verbal consent in terms of the rights?

23 A: You just want me to read the rights?

24 Q: Yes.

25 A: Yes, ma'am. So obviously, I would identify myself.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 THE FOREPERSON: Our screens went off.

2 THE COURT: All right. Their screens are off. Do you
3 know anything about that?

4 THE WITNESS: Mine just went off as well.

5 MS. MCGILL: This one is out.

6 THE WITNESS: Oh, back up.

7 THE COURT: Are y'all's back on now?

8 THE FOREPERSON: It just came back up.

9 THE COURT: All right.

10 THE WITNESS: Proceed?

11 MS. MCGILL: Yes.

12 THE COURT: All right.

13 BY MS. MCGILL:

14 A: Okay. In all capital letters it says before we ask you
15 any questions, you must understand your rights. You have the
16 right to remain silent. Anything you say can and will be
17 used against you in a court of law. You have the right to
18 talk to a lawyer and to have him or her present with you
19 while you're being questioned. If you cannot afford to hire
20 a lawyer, one will be appointed to represent you before any
21 questioning if you wish. You can decide at any time to
22 exercise these rights and not answer any questions or make
23 any statements.

24 I would -- I typically stop there and ask if they
25 understand that part of it. If they indicate yes, I move on

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 to the next part, which is I -- and I state the individual's
2 name -- voluntarily, without threats, duress, force, promises
3 of immunity or reward agree to be questioned by the Florence
4 Police Department.

5 And it says in bold letters, important notice, if you do
6 not understand any part of this form, do not sign it until
7 you do.

8 Q: And at some point, did you get a statement from the
9 defendant after signing this form?

10 A: After I signed it, yes, ma'am.

11 Q: I'm going to show you what's been pre-marked as State's
12 Exhibit No. 33.

13 A: Yes, ma'am.

14 Q: Do you recognize this?

15 A: Yes, ma'am. I believe that would be my recorded
16 statement with the defendant.

17 Q: Is this an accurate depiction of the redacted version
18 that the parties have agreed on of the defendant's statement?

19 A: Yes, ma'am. To my knowledge, yes.

20 MS. MCGILL: Your Honor, at this time, the State would
21 ask to or move to -- move into evidence what's been marked as
22 State's Exhibit No. 33.

23 THE COURT: All right. Is there any objection?

24 MS. NEYLE: Judge, may we approach?

25 THE COURT: Yes, ma'am.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 (WHEREUPON, a bench conference was held off the record,
2 after which the proceedings resumed as follows.)

3 THE COURT: All right. Ladies and gentlemen, if you
4 will, please take a few minutes' break. We'll have you right
5 back out. We've got a matter of law that we need to take up
6 outside of your presence. It will only take a few minutes
7 and we'll have you right back out.

8 (WHEREUPON, the jury exited the courtroom at 2:43 p.m.)

9 THE COURT: All right. Ms. Neyle?

10 MS. NEYLE: Thank you, Your Honor.

11 Ms. McGill in questioning Investigator Shelley just
12 referred to the defendant's statement as a redacted version
13 of a statement that was agreed upon by the parties, Your
14 Honor. I think that was an inappropriate comment to make
15 before the jury. I think it was inaccurate because his
16 statement was not redacted. There was just a portion at the
17 end that was redacted.

18 I think it's prejudicial to -- to Mr. McNeil in how that
19 was phrased to the jury, Your Honor. I would object to it.
20 I would respectfully make a motion for a mistrial. I think
21 it's prejudicial. It's harmful. It certainly paints a light
22 that to the jury that just is not -- is not appropriate, Your
23 Honor.

24 THE COURT: All right. Ms. McGill?

25 MS. MCGILL: Judge, I think you could give an

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 instruction that we're not hiding anything, that the
2 statement was redacted for efficiency purposes. It has no
3 bearing on what the defendant said.

4 THE COURT: All right. Well, since the jury just went
5 out, we'll have to give them a few minutes. We'll just take
6 a ten-minute recess and we'll be back and we'll address this.
7 Okay?

8 MS. NEYLE: Thank you, Judge.

9 MS. MCGILL: Thank you, Your Honor.

10 (WHEREUPON, there was a break in the proceedings from
11 2:45 p.m. until 2:57 p.m., after which the proceedings
12 resumed as follows.)

13 THE COURT: All right. With regards to the mistrial
14 motion, I don't think that just the mentioning of the
15 recorded statement being redacted in and of itself brings any
16 prejudice to the defendant, but I certainly will agree to
17 give them a curative instruction if you choose to do -- if
18 you want me to.

19 But let me -- is my recollection correct in that -- I
20 mean is the reason -- isn't it the reason that it was
21 redacted or shortened is just because of the quality and the
22 substance?

23 MS. MCGILL: Your Honor, it was essentially that law
24 enforcement started talking beyond the point that we stopped.
25 It had nothing to do with the defendant about his statement.

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 MS. NEYLE: And I was just concerned about the inference
2 about a redacted statement and the jury hearing that. When
3 you have a statement redacted for *Bruton* issues, you know,
4 they don't tell the jury that that's been redacted. You just
5 play the statement. And so I --

6 THE COURT: Yeah.

7 MS. NEYLE: -- just worry about that kind of prejudice
8 and what the jury might think.

9 THE COURT: Well, I understand and I'm certainly willing
10 to tell the jury that, you know, the fact that it was
11 mentioned that the statement was redacted is basically it was
12 redacted for the purpose of bringing the relevant parts of it
13 to the jury's attention and not to have to play long portions
14 that are inaudible or not -- not relevant.

15 MS. NEYLE: Would it be possible to perhaps instruct the
16 jury that any redaction wasn't in regards to the defendant's
17 statement, it was redacted after?

18 THE COURT: Yeah. I don't -- I mean does --

19 MS. NEYLE: Okay.

20 THE COURT: -- the State have any objection to that?

21 MS. MCGILL: No objections, Your Honor.

22 THE COURT: All right. Tell me again what it is that
23 you -- how would you phrase that?

24 MS. NEYLE: That any redaction was not in regards to the
25 defendant's statement. It was redacted afterwards, and it

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 had no bearing on what the defendant said.

2 And, Judge, just for appeal purposes, I just want to put
3 on the record we accept the curative. I would argue it
4 doesn't remedy the prejudice and just renew that motion for a
5 mistrial despite the curative.

6 THE COURT: All right. I understand.

7 MS. NEYLE: Thank you.

8 THE COURT: All right. So I mean what I have proposed
9 here is any redaction of the recording was not -- was not in
10 regard to the defendant's statement portion of the recording
11 and, therefore, shouldn't be considered by you.

12 MS. NEYLE: Yes, Your Honor.

13 THE COURT: Fair enough?

14 MS. MCGILL: No objection from the State, Your Honor.

15 THE COURT: All right. Are we ready?

16 MS. MCGILL: Yes, Your Honor.

17 MS. NEYLE: Yes, Your Honor.

18 THE COURT: All right.

19 (WHEREUPON, the jury entered the courtroom at 3:02 p.m.)

20 THE COURT: All right. Ladies and gentlemen, before our
21 last break, there was a mention by the solicitor that the
22 audio recording that's being introduced into evidence was a
23 redacted version, and I just need to tell you that any
24 redaction of the recording was not in regard to the
25 defendant's statement portion of the recording and,

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 therefore, any redaction should not be considered by the jury
2 in any way. Okay?

3 All right. Ms. McGill?

4 MS. MCGILL: Your Honor, at this time, the State moves
5 to admit what's been pre-marked as State's Exhibit No. 33
6 into evidence.

7 THE COURT: Any objection?

8 MS. NEYLE: No, Your Honor.

9 THE COURT: All right. 33 is into evidence.

10 (WHEREUPON, State's Exhibit No. 33, statement of the
11 defendant, was admitted into evidence.)

12 MS. MCGILL: Your Honor, may I publish this to the jury?

13 THE COURT: Yes, ma'am.

14 (WHEREUPON, State's Exhibit No. 33, statement of the
15 defendant, was played in open court, after which the
16 proceedings resumed as follows. Not transcribed
17 herein.)

18 MS. MCGILL: May I approach, Your Honor? May I
19 approach?

20 THE COURT: Yes, ma'am.

21 BY MS. MCGILL:

22 Q: Investigator Shelley, I'm going to show you what's been
23 pre-marked as State's Exhibit No. 31. Do you recognize that?

24 A: Yes, ma'am.

25 Q: Will you tell the Court what it is?

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 A: It's a City of Florence Police Department Consent to
2 Search form.

3 Q: And is that the same consent to search warrant --
4 consent to search that you used during the interview of the
5 defendant?

6 A: Yes, ma'am.

7 Q: Is it in the same form that it was in on that day?

8 A: Yes, ma'am.

9 Q: Is it signed by the defendant?

10 A: Yes, ma'am.

11 MS. MCGILL: Your Honor, at this point, the State would
12 move to admit what's been pre-marked as State's Exhibit No.
13 31 into evidence.

14 THE COURT: Any objection?

15 MS. NEYLE: No, Your Honor.

16 THE COURT: All right. 31 is in evidence.

17 (WHEREUPON, State's Exhibit No. 31, consent to search
18 form, was admitted into evidence.)

19 MS. MCGILL: Your Honor, may I publish it to the jury?

20 THE COURT: Yes, ma'am.

21 BY MS. MCGILL:

22 Q: Investigator Shelley, will you identify what this
23 document depicts? Exhibit 31?

24 A: Yes, ma'am. Again, that's the City of Florence Police
25 Department's Consent to Search form that was used on the date

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 of my interview with the defendant.

2 Q: And what date was that?

3 A: December the 9th, 2016.

4 Q: And where did this interview take place?

5 A: At the defendant's residence at [REDACTED] Pawley Street in
6 the city of Florence.

7 Q: And there's notated there unable to sign?

8 A: Yes, ma'am. I had initially notated unable to sign due
9 to his hand being bloody as previously on the Miranda form,
10 but this came secondary and we were able to locate a pen that
11 could stay there with him and he was able to sign this one as
12 a result of that.

13 Q: Investigator Shelley, is this the way the defendant's
14 hands looked that day while you were on scene?

15 A: Yes, ma'am.

16 Q: And that's his bloody right hand?

17 A: Yes, ma'am.

18 THE COURT REPORTER: What number?

19 THE WITNESS: I didn't see.

20 THE COURT: No. 9.

21 MS. MCGILL: That's State's Exhibit No. 9.

22 BY MS. MCGILL:

23 Q: I'm also showing you now State's Exhibit No. 10. What
24 does that depict, Sgt. Shelley?

25 A: That would be the inside palm of the defendant's right

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 hand.

2 Q: And, Sgt. Shelley, I think you previously mentioned that
3 there was some other folks on scene that day?

4 A: Yes, ma'am.

5 Q: And who was -- who was that party?

6 A: There were two other individuals on scene, a Mr. Agoha
7 and another female. I believe her name was Ms. Dominique.

8 Q: And do you know the whereabouts of Mr. Agoha?

9 A: I have recently been informed that Mr. Agoha passed away
10 in 2018.

11 Q: And when you talked to Ms. Barber, did she give you any
12 information regarding this incident?

13 A: No, ma'am. She informed me that she was asleep.

14 MS. NEYLE: Objection, Your Honor. Hearsay.

15 THE COURT: Yeah. You're going to have to ask another
16 question. Sustained.

17 BY MS. MCGILL:

18 Q: And did you do anything else while you were on scene
19 that day or did that conclude your investigation?

20 A: No, ma'am. That concluded the investigation portion of
21 it.

22 Q: And at some point, did you make an arrest?

23 A: Yes, ma'am.

24 Q: And did you collect any evidence that day while you were
25 on scene?

SHELDON SHELLEY - DIRECT BY MS. MCGILL

1 A: Yes, ma'am. When I initially walked inside of the
2 residence, I observed a broken cell phone that had what
3 appeared to be -- there was a red substance on the shattered
4 screen cell phone. It was on the arm of the couch near the
5 door.

6 It having the appearance of being the scene of a crime,
7 for the integrity of that potential evidence, I went ahead
8 and secured that in my vehicle. And then I had notified the
9 crime scene unit to respond when I initially responded and
10 observed the red pools in the front yard in the grass. When
11 they arrived on scene to take over the entirety of evidence
12 collection and preservation, I turned it over to Cpl. Hill.

13 MS. MCGILL: Your Honor, may I approach?

14 THE COURT: Yes, ma'am.

15 BY MS. MCGILL:

16 Q: Sgt. Shelley, I'm going to show you State's Exhibit No.
17 34. Is this the cell phone that you collected --

18 A: Yes, ma'am.

19 Q: -- while you were on scene at [REDACTED] Pawley Street?

20 A: Yes, it is.

21 MS. MCGILL: Your Honor, the State has no further
22 questions for this witness.

23 THE COURT: All right. Ms. Neyle?

24 MS. NEYLE: Thank you, Your Honor.

25 CROSS-EXAMINATION

SHELDON SHELLEY - CROSS BY MS. NEYLE

1 BY MS. NEYLE:

2 Q: Investigator Shelley, in the course of your

3 investigation, you learned that Samuel called 9-1-1; correct?

4 A: Yes, ma'am.

5 Q: Okay. And he gave you permission to search his home?

6 A: Yes, ma'am.

7 Q: Okay. He willingly gave you a statement?

8 A: Yes, ma'am.

9 Q: Okay. And you spoke with the other people in the house

10 that day?

11 A: Yes, ma'am.

12 Q: And that was Mr. Agoha and Ms. Barber?

13 A: Yes, ma'am.

14 Q: And you audio recorded statements from them as well?

15 A: To my knowledge, my DVR was running during that time.

16 Q: You didn't speak to any neighbors, did you?

17 A: No, ma'am.

18 Q: Okay. And the broken beer bottle that was next to the

19 passenger car -- passenger side of the car, that -- that

20 wasn't collected into evidence, was it?

21 A: Not to my knowledge. Again, I turned that portion of it

22 over to the crime scene unit.

23 Q: Okay.

24 A: So I wouldn't be able to answer that.

25 Q: Okay. And when you first arrived at the hospital, you

SHELDON SHELLEY - CROSS BY MS. NEYLE

1 spoke with Officer Buxton; correct?

2 A: Yes, ma'am.

3 Q: Are you aware if Ms. Cunningham was tested for drugs or
4 alcohol at the hospital?

5 A: No, ma'am.

6 Q: Okay. When you were at the hospital, Samuel was not
7 there?

8 A: No, ma'am.

9 Q: Okay. When you met with her, she was initially unclear
10 about how she received her injuries?

11 A: Yes, ma'am.

12 Q: It's fair to say she gave law enforcement multiple
13 stories about what happened that night?

14 A: That's fair. Yes, ma'am.

15 Q: And those were recorded on -- on Officer Buxton's body
16 camera?

17 A: His DVR, I believe. I don't think we were utilizing
18 body cams at that point. I think it may have been his DVR,
19 but again, that would be a question for him. I don't know.

20 Q: Okay. When she finally -- when Ms. Cunningham finally
21 told you that it was Samuel who did this to her, that was
22 recorded; correct?

23 A: Yes, ma'am, to my knowledge.

24 Q: Okay.

25 MS. NEYLE: Your Honor, I have no further questions.

1 THE COURT: All right.

2 MS. NEYLE: Thank you.

3 THE COURT: Thank you, Mr. Shelley. You may --

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Well, is there anything further, Ms. McGill?

6 MS. MCGILL: Nothing from the State, Your Honor.

7 THE COURT: All right. Mr. Shelley, you may step down.

8 All right. Would the two attorneys approach, please?

9 (WHEREUPON, a bench conference was held off the record,
10 after which the proceedings resumed as follows.)

11 THE COURT: All right. Ladies and gentlemen, thank you
12 again for your patience.

13 The State I believe has two more witnesses, the issue
14 being their schedules. They can't be here this afternoon.
15 They are going to be here first thing in the morning. We're
16 going to ask that you break for the day.

17 Again, it's improper to go home and try to do any
18 research about this matter. I don't know if there's anything
19 that you could find out there if you tried. It's also
20 improper for you to talk to anybody about this. Again, you
21 can tell somebody that you're serving on a jury, but please
22 don't discuss the facts of this case with anyone. It's
23 important that you make your decision in this matter based on
24 the testimony and the evidence that you hear in this
25 courtroom.

1 So we ask that you have a good evening and that you
2 report back here at 9 o'clock in the morning. We're going to
3 do everything -- you know, it's just speculation on my part,
4 but I would assume we could finish this trial tomorrow.
5 Okay? But I can't promise you that, but I think we probably
6 would.

7 So having said that, please go ahead and retire to your
8 jury room. Have a good evening, and we'll see you back at 9
9 o'clock in the morning. Thank you.

10 (WHEREUPON, the jury exited the courtroom at 3:30 p.m.)

11 THE COURT: All right. Is there anything from the State
12 before we adjourn for the day?

13 MS. MCGILL: Nothing from the State, Your Honor.

14 THE COURT: All right. Anything from the defense?

15 MS. NEYLE: No, Your Honor.

16 THE COURT: All right. Well, thank y'all.

17 MS. NEYLE: Thank you.

18 MS. MCGILL: Thank you, Your Honor.

19 THE COURT: Have a good day.

20 (WHEREUPON, the proceedings adjourned for the day at
21 3:31 p.m.)

22 JANUARY 12, 2022

23 (WHEREUPON, the proceedings resumed at 9:21 a.m.)

24 THE COURT: All right. Are we ready to go?

25 MS. MCGILL: Yes, Your Honor.

1 THE COURT: I didn't hear you. What did you say?

2 MS. MCGILL: I said, yes, Your Honor.

3 THE COURT: Okay.

4 MS. NEYLE: Judge, the State just provided me with a
5 copy of the victim's prior record. I don't know if you want
6 to address that now all or when she -- right before she
7 testifies.

8 THE COURT: When is she -- when are you going to call
9 her?

10 MS. MCGILL: She'll be the second witness, Your Honor.

11 THE COURT: Okay. And what issues are there?

12 MS. NEYLE: The only one, Your Honor, back in October of
13 2004 in New Jersey, she was convicted of a credit card crime.
14 I believe it's entitled theft by deception, Judge. It's more
15 than ten years old, Your Honor. So I think then the analysis
16 goes to whether it's more probative than prejudicial.

17 I would argue -- because it's a crime entitled theft by
18 deception and in this case her credibility is directly at
19 issue, I would argue it's more probative than prejudicial,
20 Your Honor, and I would ask that you allow it.

21 THE COURT: All right. And what's the State's position?

22 MS. MCGILL: And, Your Honor, I think the rule still
23 applies. I mean it's beyond the ten-year time frame. We are
24 talking about something that happened in 2004 in another
25 state. This isn't a theft-related type case and, Your Honor,

1 I just think it's more prejudicial than probative at this
2 point.

3 THE COURT: What's that rule number?

4 MS. NEYLE: 609, Your Honor.

5 THE COURT: 609?

6 (WHEREUPON, there was a pause in the proceedings, after
7 which the proceedings resumed as follows.)

8 THE COURT: All right. And do you agree -- does the
9 State agree that it's in the discretion of the Court as to
10 whether or not it's admissible?

11 MS. MCGILL: Your Honor, I think that it is in the
12 discretion of the Court if the probative value of the
13 conviction is supported by specific facts and circumstances
14 that outweigh its prejudicial effect.

15 THE COURT: All right. And the -- and the specific
16 facts and circumstances would be, Ms. Neyle?

17 MS. NEYLE: Your Honor, that she was convicted back in
18 2004 of a credit card crime that was a theft by deception.
19 And because her credibility in this case is at issue, I think
20 a theft by deception -- I mean I think that's highly
21 probative even though it's past the ten-year mark.

22 THE COURT: I mean I understand, but the credibility of
23 every witness is in question. I think the fact that it's as
24 old as it is, it's 2004, and that this case specifically
25 doesn't have anything to do with any allegations of theft or

1 deception, I just think that it would probably be more
2 prejudicial to the State than probative, and I don't think
3 I'm going to allow that.

4 MS. NEYLE: Okay. Thank you, Your Honor.

5 THE COURT: All right.

6 MS. MCGILL: Thank you, Your Honor.

7 THE COURT: Anything else before we have the jury?

8 MS. MCGILL: Nothing from the State, Your Honor.

9 MS. NEYLE: None from the defense.

10 THE COURT: All right. Can we have the jury, please?

11 (WHEREUPON, the jury entered the courtroom at 9:27 a.m.)

12 THE COURT: All right. Good morning, ladies and
13 gentlemen. Thank you for being back here on time. I
14 appreciate your cooperation and your patience and your
15 attention ever since this trial has begun. We're going to
16 now continue the trial of this case.

17 Ms. McGill?

18 MS. MCGILL: Your Honor, at this time, the State calls
19 Dr. Magrath.

20 THE COURT: All right.

21 THE CLERK: Sir, if you'll please place your left hand
22 on the Bible and raise your right hand.

23 Do you swear or affirm the testimony you give in this
24 case to be the truth, the whole truth, and nothing but the
25 truth, so help you God?

DR. GEORGE MAGRATH - DIRECT BY MS. MCGILL

1 THE WITNESS: I do.

2 THE CLERK: Please be seated and state your full name
3 for the record.

4 THE WITNESS: Okay. So my name is George Nathaniel
5 Magrath.

6 DR. GEORGE MAGRATH, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MCGILL:

10 Q: And, Dr. Magrath, by whom are you employed?

11 A: The Medical University of South Carolina.

12 Q: And how long have you been employed there?

13 A: Since 2016.

14 Q: And in what capacity are you employed?

15 A: I'm employed as an ophthalmologist.

16 Q: And can you give us a summary of your educational
17 background?

18 A: Sure, yes. I went to Clemson University, degree in
19 biochemistry there, followed by a medical degree at the
20 Medical University of South Carolina. Following that, I did
21 an internship in general surgery at the Medical University.
22 I did a residency in ophthalmology at the Medical University,
23 and then went and did a fellowship in ocular oncology at the
24 Thomas Jefferson University in Philadelphia.

25 Q: And, Dr. Magrath, are you board-certified?

DR. GEORGE MAGRATH - DIRECT BY MS. MCGILL

1 A: I am, yes, in ophthalmology.

2 Q: And can you tell me about how you reached that level of
3 specialty?

4 A: Yeah. So board -- so board certification is a
5 culmination. In medicine, it's the culmination of -- of
6 basically your training. So after you've finished -- after
7 you've finished all of your training, you are allowed to take
8 a written exam followed by an oral examination. If you pass
9 both of those, you will be considered board-certified.

10 Q: And, Dr. Magrath, have you ever been published?

11 A: I have, yes.

12 Q: And would you tell me about that, please, or tell the
13 jury about that?

14 A: Sure. So I've published around 20 articles in the peer-
15 reviewed literature. And the peer-reviewed literature in
16 medicine is -- is how we -- how we publish our research. So
17 what we do is we write an article about the research we've
18 done. It is then submitted to our peers. They review it.
19 If they find it to be of importance and good sound quality,
20 then they'll publish it in one of the journals.

21 MS. MCGILL: Your Honor, at this time, the State moves
22 to qualify Dr. Magrath -- Dr. Magrath as an expert in
23 ophthalmology.

24 THE COURT: All right. Ms. Neyle?

25 MS. NEYLE: I have no objection, Your Honor.

DR. GEORGE MAGRATH - DIRECT BY MS. MCGILL

1 THE COURT: All right. We'll qualify Dr. Magrath as an
2 expert in ophthalmology. Thank you.

3 BY MS. MCGILL:

4 Q: Dr. Magrath, I want to draw your attention back to
5 December of 2016. Did you have an occasion to treat Tanisia
6 Cunningham at the Medical University of South Carolina?

7 A: I did, yes.

8 Q: And will you tell me about your assessment of her?

9 A: Sure, sure. So I -- I met Tanisia about nine days after
10 her initial surgery. So she came in through the emergency
11 room at the Medical University with her -- with her injury.

12 Q: When you say her injury, I'm going to stop you. What
13 injury are you referring to?

14 A: The injury was reported as -- as an assault with a
15 bottle.

16 Q: Was it an injury to a specific part of her body?

17 A: It was. It was to her face and to the eye, the left
18 eye. Yeah. When she came in, she came into the ER early
19 morning on I think December 10th and was seen by the
20 ophthalmologist that was on call. They diagnosed her with
21 what's called a ruptured globe, along with eyelid
22 lacerations.

23 A ruptured globe is -- so if you think about the eyeball
24 as a ball, a ruptured globe is a cut in that ball. So it's
25 just like a basketball. You know, if you cut it, the thing

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1 deflates, and -- and isn't really usable. They did a surgery
2 that day to repair that rupture and then I saw her in follow-
3 up nine days later.

4 Q: And what did your treatment entail?

5 A: So my treatment -- so the initial part of my treatment,
6 we -- we worked really hard for quite some time to see if we
7 could get any vision back in that eye. Her vision was really
8 limited because at the time of the surgery she lost -- she
9 lost a lot of the -- the tissue that's within the eye and --
10 and she -- and it was -- what was left was pretty
11 disorganized.

12 And so myself and one of my colleagues at the Medical
13 University -- his name is Emil Say. He -- we evaluated her
14 to see if there was anything we could do to try to bring her
15 vision back. After going back and forth on that for quite
16 some time, we decided that there wasn't really anything we
17 could do. At that point we began to treat her for comfort to
18 keep the eye so it at least felt okay, even though she
19 couldn't see anything.

20 And that culminated with her -- the eye becoming painful
21 and the eye being removed. So we did remove the eye. After
22 removing the eye, she -- so when we remove an eye, we take
23 the -- take what's left of the eyeball out, you know.

24 So the eye has little muscles attached to it that move
25 it back and forth, up and down. You detach those muscles.

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1 You remove the eye. You put in a little sphere -- right? --
2 that sits back in that place and you attach the muscles to it
3 and then the idea is six or so weeks later you get a
4 prosthesis so that you've got this sphere with a prosthesis
5 over it and it sort of moves it around.

6 She had significant scarring and -- and a sort of
7 deformed orbit, which made it really difficult for that to
8 heal. So we did three additional surgeries to attempt to get
9 it to heal correctly and, at this time, she's pretty stable
10 with the prosthesis.

11 Q: And so she's been treating since 2016 and continuing to
12 have surgeries and treatments too?

13 A: That's right, all the way up until recently, yeah.

14 Q: And so at some point did you determine that she was
15 eligible for a prosthetic eye?

16 A: I did, yeah.

17 Q: And how did you -- what did you do to get her eligible
18 for an eye?

19 A: Yeah. So to get eligible for a prosthetic eye, you have
20 to -- everything in the -- everything in the orbit has to
21 heal nicely. It has to be nice and smooth. You can't have
22 any -- you can't have any inflammation. You can't have any
23 exposure of the implant or anything like that. So it has to
24 heal nicely.

25 Q: And did you have to treat her eyelid at any point?

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1 A: So I personally did not treat her eyelid. It was
2 treated by other ophthalmologists at the Medical University
3 though for the lacerations.

4 Q: And, Dr. Magrath, do you consider these injuries
5 serious?

6 A: Yeah, definitely. Yeah.

7 Q: And would you consider this the loss of a -- of a bodily
8 member?

9 A: Yes, absolutely. Not only did she lose the vision, but
10 she lost the eye itself.

11 Q: So the eye would be the member?

12 A: Yes.

13 Q: And would you consider this some type of permanent
14 disfigurement?

15 A: Yes.

16 Q: And in your expert opinion, Doctor, how much force would
17 be necessary to rupture the globe?

18 MS. NEYLE: Objection, Your Honor. I think it's beyond
19 the scope of his expertise.

20 THE COURT: I'm going to allow the question. You can
21 answer, please. Thank you. If you know.

22 BY MS. MCGILL:

23 A: Yeah. Usually, it's a combination of -- it's a
24 combination of -- of force plus the object. So sharp
25 objects, you know, obviously will slice through something

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1 with very little force. A blunt rupture takes -- takes a
2 whole lot more force, and then it also depends on where it --
3 where it hits.

4 So the reason that our eyebrows kind of protrude out a
5 little bit and the reason that there's a bone all the way
6 around and typically the eyes sit a little bit set back from
7 that is because it creates a little bit of a -- of a
8 protective case. So if you're hit with a -- say, you're hit
9 with a basketball, most of the -- most of the force is
10 absorbed by the bone rather than the eye itself.

11 So if you're hit by a smaller object, typically we see
12 this with, like, golf balls that kind of fit in here and then
13 the force gets transferred to the eye itself. So that's a
14 little primer on that, but it's a combination of whether or
15 not it was a blunt object and then where exactly the force is
16 delivered.

17 Q: And, Dr. Magrath, which eye is it that you performed all
18 these procedures on?

19 A: Her left eye.

20 MS. MCGILL: No further questions, Your Honor.

21 THE COURT: All right. Ms. Neyle?

22 MS. NEYLE: Your Honor, I have no further -- I have no
23 questions for Dr. Magrath.

24 THE COURT: All right. Anything further, Ms. McGill?

25 MS. MCGILL: No, Your Honor. He can be released from

TANISIA CUNNINGHAM - DIRECT BY MS. MCGILL

1 his subpoena.

2 THE COURT: All right. Thank you, Mr. -- or Dr.
3 Magrath, for being here. You're free to go.

4 THE WITNESS: Thank you.

5 THE COURT: We appreciate it.

6 MS. MCGILL: Your Honor, at this time, the State calls
7 Tanisia Cunningham.

8 THE CLERK: Ma'am, if you will please place your left
9 hand on the Bible and raise your right hand.

10 Do you swear or affirm the testimony you give in this
11 case to be the truth, the whole truth, and nothing but the
12 truth, so help you God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Please be seated and state your full name
15 for the record.

16 THE WITNESS: Tanisia Cunningham.

17 TANISIA CUNNINGHAM, being first
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MCGILL:

21 Q: Ms. Cunningham, I want to take you back to December 8th,
22 2016. Did you have an occasion to go over to [REDACTED] Pawley
23 Street here in Florence, South Carolina?

24 A: Yes, ma'am.

25 Q: And why were you going over there?

TANISIA CUNNINGHAM - DIRECT BY MS. MCGILL

1 A: To meet up with my boyfriend, Samuel McNeil.

2 Q: And how did you get there that day?

3 A: I drove.

4 Q: And when you arrived there, approximately what time was

5 it?

6 A: At 9 o'clock.

7 Q: Did you go inside the home at some point?

8 A: Yes, ma'am. I went inside the home when I got there.

9 Q: Okay. And what, if anything, happened once you went

10 inside the home?

11 A: We started arguing.

12 Q: Okay. And what was the argument regarding?

13 A: That I was -- he think that I was cheating on him.

14 Q: And did the argument continue?

15 A: Yes, ma'am.

16 Q: And what, if anything, happened next?

17 A: He just kept on verbally arguing with me, getting angry,

18 getting upset. So I just said that I was getting ready to

19 go. I would leave to go home.

20 Q: You said you would --

21 A: I was leaving to go home.

22 Q: Okay. And so at that point did you proceed to leave?

23 A: Yes.

24 Q: And so did you make it outside?

25 A: Yes, ma'am.

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1 Q: Were you outside by yourself?

2 A: Yes, I was at first, and then he came behind me.

3 Q: And when you say who, who are you referring to?

4 A: Mr. Samuel McNeil.

5 Q: And so when he gets outside, did anything occur?

6 A: He started arguing, cussing at me, and I told him I
7 didn't want to hear it no more and I was getting in my car to
8 go home.

9 THE COURT: All right. Ma'am, if you could, could you
10 speak up just a little or maybe pull those microphones closer
11 to you?

12 THE WITNESS: Oh, okay.

13 THE COURT: All right. Thank you.

14 THE WITNESS: All right.

15 BY MS. MCGILL:

16 Q: And did you proceed to try to leave?

17 A: Yes, I did.

18 Q: What -- what did you do to try to leave?

19 A: I got in my car. I got in my car to leave to go home,
20 and I told him that it was over. I didn't want to be
21 bothered with him no more.

22 Q: And were you in your car alone the entire time?

23 A: No. He was in the car with me. He got in the car too.

24 Q: He got in the car?

25 A: Yes, on the passenger side.

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1 Q: And what, if anything, occurred in the car?

2 A: He argued with me some more, turned around, slapped me,
3 snatched my wig off my head.

4 Q: Okay. And I'm going to stop you right there, Ms.
5 Cunningham.

6 MS. MCGILL: May I approach, Your Honor?

7 THE COURT: Yes, ma'am.

8 BY MS. MCGILL:

9 Q: Ms. Cunningham, I'm going to show you State's Exhibit
10 No. 5. Will you explain --

11 A: It's blurry.

12 Q: Ms. Cunningham, I'm showing you what's been marked as
13 State's Exhibit No. 5. Will you tell me what this picture
14 depicts?

15 A: It's a picture of my wig.

16 Q: Is this your car?

17 A: That's my car inside.

18 Q: And where is the wig in this picture?

19 A: Right there in the console.

20 Q: And after Mr. McNeil snatched your wig off, what, if
21 anything, happened next?

22 A: He just slapped me and then he snatched my phone from me
23 and took it to the back -- got out of the -- out of the
24 passenger side, took it to the back of the car, slammed it
25 down on the ground, and stomped on it.

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1 MS. MCGILL: Your Honor, may I approach?

2 THE COURT: Yes, ma'am.

3 BY MS. MCGILL:

4 Q: Ms. Cunningham, I'm showing you what's been marked as
5 State's Exhibit No. 34. Do you recognize this?

6 A: Yes, ma'am. That's my phone.

7 Q: And is this the way it was broken on December --

8 A: Yes.

9 Q: -- the 8th of 2016?

10 A: Yes, ma'am.

11 Q: And, Ms. Cunningham, after your phone was smashed or
12 after your phone was broken, what, if anything, happened at
13 that point?

14 A: I didn't have no phone or nothing to call nobody or
15 either to dial 9-1-1.

16 Q: And so did anything else transpire while you were still
17 in your car or outside?

18 A: When he got back in the car, he asked me for a beer. So
19 I gave him a beer.

20 Q: And when you say he asked you for a beer --

21 A: Mr. McNeil. Mr. McNeil.

22 Q: Okay. And you gave him a beer?

23 A: Yes, ma'am.

24 Q: And what, if anything, happened at that point?

25 A: We started back arguing. I told him it was over and

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1 after that he, like, came to the driver's side, snatched me
2 out of my car. We was face-to-face talking. Then he started
3 back arguing again.

4 Q: Okay. And at any point did anything else happen?

5 A: Then otherwise at that point, that's when he took the
6 bottle and hit me upside my head.

7 Q: And when you say he hit you upside your head --

8 A: Mr. McNeil.

9 Q: And what kind of beer bottle was this, Ms. Cunningham?

10 A: It was a Bud Light beer bottle, 12 ounce.

11 Q: And after that beer bottle struck you across the head,
12 what happened to the contents of that beer bottle?

13 A: The beer and everything, the glass and everything got in
14 my eye and the beer wasted all over my clothes.

15 Q: And did you remain outside after that happened?

16 A: For about five minutes and then he decided to take me in
17 the house and lay me down in his bedroom.

18 Q: And how did you feel when you were going through that
19 house?

20 A: Weak. Couldn't walk. Dazed.

21 Q: And you said you -- when you got in the house, where did
22 you go at that point?

23 A: To his bedroom.

24 Q: And did you get in the bed?

25 A: Yes. He laid me down in the bed.

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- 1 Q: And did you go to the hospital that night?
- 2 A: No, ma'am.
- 3 Q: Did EMS come to treat you that night?
- 4 A: No, ma'am.
- 5 Q: Do you remember anything -- at some point anybody coming
- 6 into your room?
- 7 A: No, ma'am.
- 8 Q: Did you ever have any contact with EMS workers or EMTs?
- 9 A: Yes, early that morning when they came in.
- 10 Q: You said the next morning?
- 11 A: Yeah, the next morning when they came in.
- 12 Q: And will you tell me about that?
- 13 A: They came in. They woke me up and asked me can I sit
- 14 up, that I was okay, I was safe. They asked me can I sit up.
- 15 I sat up and so I looked in the mirror and I was just, like,
- 16 oh, my God. So --
- 17 Q: And I'm going to stop you just one second.
- 18 MS. MCGILL: Your Honor, may I approach?
- 19 THE COURT: Yes, ma'am.
- 20 BY MS. MCGILL:
- 21 Q: Ms. Cunningham, I'm showing you what's been marked as
- 22 State's Exhibit No. 18. Will you tell me what this is a
- 23 picture of?
- 24 A: That's a picture of me.
- 25 Q: Was this on the morning that you woke up on December the

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1 9th of 2016?

2 A: Yes.

3 Q: And at some point, were you transported to a hospital?

4 A: Yes.

5 Q: And what hospital did you go to?

6 A: McLeod Hospital.

7 Q: And let me back you up. While the EMTs were there, did
8 law enforcement respond?

9 A: Yes.

10 Q: And did you tell them anything about what happened to
11 you?

12 A: I told them that I did this to myself, I believe I did
13 this to myself.

14 Q: And when you got to the hospital, was the defendant
15 there?

16 A: No.

17 Q: And were you able to tell the medical staff there
18 anything about what happened to you?

19 A: That I wanted to be put up under an alias name.

20 Q: And why did you ask to be listed as an alias patient?

21 A: Because I feared for my life.

22 Q: And ultimately, were you treated at McLeod?

23 A: Yes, ma'am.

24 MS. MCGILL: Your Honor, may I approach?

25 THE COURT: Yes, ma'am.

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1 BY MS. MCGILL:
2 Q: Ms. Cunningham, I'm going to show you what's been marked
3 as State's Exhibit No. 21. Will you tell me what that's a
4 picture of?
5 A: Rephrase that question, please, again?
6 Q: Ms. Cunningham, I would like -- I'm showing you what's
7 been marked as State's Exhibit No. 21. Will you tell me what
8 this is a picture of?
9 A: Me and my injuries.
10 Q: And is that you at the hospital?
11 A: Yes, ma'am.
12 Q: Ms. Cunningham, I'm also showing you State's Exhibit No.
13 22. Will you tell me what that's a picture of?
14 A: That's a picture of my hand with the scar on it.
15 Q: Ms. Cunningham, I'm also showing you State's Exhibit No.
16 23. Will you tell me what this picture depicts?
17 A: A picture of me with marks -- marks on my body and my
18 face.
19 Q: Ms. Cunningham, I'm also showing you State's Exhibit No.
20 24.
21 A: That's blood in my shoe.
22 Q: Are those the shoes that you had on on December --
23 A: Yes, ma'am.
24 Q: -- the 8th of 2016?
25 A: Yes, ma'am.

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1 Q: And they weren't red inside before?

2 A: No.

3 Q: And, Ms. Cunningham, I'm now showing you State's Exhibit

4 No. 25.

5 A: Yes, ma'am.

6 Q: Will you tell me what this is a picture of?

7 A: That's a picture of my shirt.

8 Q: Was your shirt this color when you put it on that

9 morning?

10 A: No, ma'am.

11 Q: What's different about it?

12 A: It has a whole lot of blood on it.

13 Q: Ms. Cunningham, do you recognize what's in State's

14 Exhibit No. 26?

15 A: Yes.

16 Q: And what is this a picture of?

17 A: Those are the pants that I had on with the blouse.

18 Q: Ms. Cunningham, do you recognize what's in State's

19 Exhibit No. 27?

20 A: Yes. That's my jacket I had on.

21 Q: And do you recognize State's Exhibit No. 28?

22 A: Yes.

23 Q: And what is that a picture of?

24 A: The pants I had on.

25 Q: And, Ms. Cunningham, after you completed your treatment

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1 at McLeod, were you transported anywhere?

2 A: Yes. I was transported to MUSC in Charleston, South
3 Carolina.

4 Q: For treatment?

5 A: Yes, ma'am.

6 Q: And ultimately, what happened to you as a result of this
7 accident -- I mean -- excuse me -- as a result of this
8 assault?

9 A: I lost my left eye.

10 Q: And so do you also have any kind of scarring?

11 A: Yes, I do. Scarring up here on my head and everything.

12 Q: Would you say that again?

13 A: I said I have scarring up here on my head and right here
14 on my lip.

15 MS. MCGILL: Your Honor, may Ms. Cunningham step down
16 and pull her hair back to show her scarring?

17 THE COURT: Yes, ma'am.

18 MS. MCGILL: Ms. Cunningham, I'd ask that you step down
19 from the witness stand.

20 (WHEREUPON, the witness complied.)

21 MS. MCGILL: Ms. Cunningham, if you'll come over here.

22 (WHEREUPON, the witness complied and approached the jury
23 to show her face.)

24 MS. MCGILL: You can take your seat.

25 BY MS. MCGILL:

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1 Q: And, Ms. Cunningham, you ultimately received a
2 prosthetic eye?

3 A: Yes, ma'am. I surely did.

4 Q: Is it easily removable?

5 A: Yes, it is.

6 MS. MCGILL: Your Honor, may I approach the witness?

7 THE COURT: Yes, ma'am.

8 BY MS. MCGILL:

9 Q: Ms. Cunningham, will you remove your eye for the jury?

10 MS. NEYLE: Objection, Your Honor. May we approach?

11 THE COURT: Yes, ma'am.

12 Ladies and gentlemen, if you'll take a short break,
13 we'll have you right back out. Thank you very much.

14 (WHEREUPON, the jury exited the courtroom at 9:56 a.m.)

15 THE COURT: All right. Ms. Neyle?

16 MS. NEYLE: Your Honor, the State just asked Ms.

17 Cunningham to remove her eyeball in front of the jury. I --

18 I think that is a completely inappropriate question to pose

19 in front of a jury. It is highly prejudicial. It has

20 nothing to do with the offense, Your Honor.

21 I just -- I've never seen something like that before. I

22 understand Ms. Cunningham has these terrible injuries, but

23 that is completely inappropriate to ask in front of a jury,

24 and I would respectfully ask for a motion -- I would

25 respectfully ask for a mistrial. This is completely

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1 prejudicial. It cannot be cured.

2 MS. MCGILL: Your Honor, the State has the burden of
3 proving great bodily injury. The only way that we can prove
4 that is to show that she no longer has the -- has lost her
5 eye. That's a member. Your Honor, we can't meet that burden
6 without her showing the jury that she has lost that eye.
7 It's an element of this offense.

8 MS. NEYLE: Your Honor, she put ten doctors on the
9 witness list. Two doctors testified. One of them testified
10 that she lost her eye, Your Honor. Ms. Cunningham testified
11 she lost her eye. I think that is more than sufficient.

12 THE COURT: All right. Anything further, Ms. McGill?

13 MS. MCGILL: Judge, again, they have not seen her eye
14 that she lost, and they are the ones that -- they are -- they
15 are the factfinders and so, Your Honor, we have this high
16 burden of proving great bodily injury and so the State
17 believes it's necessary to meet that burden.

18 THE COURT: All right. Well, we're going to take about
19 a five-minute recess just in case the jury is using the
20 restroom or whatever they're doing, and I'll be right back
21 out. Okay?

22 MS. NEYLE: Thank you, Your Honor.

23 MS. MCGILL: Thank you, Your Honor.

24 (WHEREUPON, there was a break in the proceedings from
25 9:58 a.m. until 10:11 a.m., after which the proceedings

TANISIA CUNNINGHAM - DIRECT BY MS. MCGILL

1 resumed as follows.)

2 THE COURT: All right. Are we ready to go?

3 MS. MCGILL: Yes, Your Honor.

4 THE COURT: All right. Certainly, as an element of
5 domestic violence of a high and aggravated nature, you have
6 to prove great bodily injury, and the charge that I have for
7 great bodily injury means that bodily injury which causes a
8 substantial risk of death or which causes serious permanent
9 disfigurement or protracted loss or impairment of the
10 function of a bodily member or organ.

11 I understand the defense's position that there's been
12 several witnesses -- doctors -- or at least two doctors so
13 far and Ms. Cunningham has testified that she's lost an eye.
14 Okay? But also, we're going to tell the jury in the charge
15 of this case that they have the right to believe any witness
16 and, basically, it's their job to judge the credibility of
17 the witnesses and that they can disregard any witness's
18 testimony or any portion of any witness's testimony or they
19 can believe it all. That's up to them. That's their
20 prerogative as jurors.

21 Being that the great bodily injury definition certainly
22 includes the protracted loss or impairment of the function of
23 a bodily member or organ, then I think this line of
24 questioning and this request of the victim is -- is
25 admissible.

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1 I understand that you think that it's more prejudicial
2 than probative, but I think given the law and what the State
3 has to prove to meet their burden of proof, then it's an
4 acceptable question and I'm going to allow it.

5 Is there anything further?

6 MS. NEYLE: And just so we're clear for the record, you
7 are denying my motion for a mistrial?

8 THE COURT: I will deny your motion for a mistrial.

9 MS. NEYLE: Thank you.

10 MS. MCGILL: Thank you, Your Honor.

11 THE COURT: All right. Can we have the jury, please?

12 I will add before the jury comes in that I think it's --
13 I think it's okay if she just stays in the jury box -- I mean
14 in the witness stand to be able to do that.

15 MS. MCGILL: I wasn't going to ask her to come down,
16 Judge. Thank you.

17 (WHEREUPON, the jury entered the courtroom at 10:15
18 a.m.)

19 THE COURT: All right. Ms. McGill?

20 BY MS. MCGILL:

21 Q: Ms. Cunningham?

22 A: Yes, ma'am.

23 Q: Will you please remove your eye?

24 MS. NEYLE: And, Judge, I would just ask you note my
25 prior objection.

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1 THE COURT: I understand.

2 (WHEREUPON, the witness complied.)

3 BY MS. MCGILL:

4 Q: Now, Ms. Cunningham, you mentioned that Samuel McNeil
5 did this to you. Is he in the courtroom?

6 A: Yes, ma'am. He surely is.

7 Q: Will you point to him, please?

8 A: He's sitting right there at the defense table.

9 MS. MCGILL: Your Honor, let the record reflect that Ms.
10 Cunningham is pointing to the defendant at defense counsel's
11 table.

12 THE COURT: So reflected.

13 BY MS. MCGILL:

14 Q: Ms. Cunningham, at any point during your relationship
15 with Mr. McNeil, did you all live together?

16 A: Yes, we did.

17 MS. MCGILL: No further questions, Your Honor.

18 THE COURT: All right.

19 CROSS-EXAMINATION

20 BY MS. NEYLE:

21 Q: Ms. Cunningham, prior to this incident back in December
22 of 2016, you had just gotten custody of your son back?

23 MS. MCGILL: Objection. Relevance.

24 MS. NEYLE: I think it goes to state of mind, Your
25 Honor.

TANISIA CUNNINGHAM - CROSS BY MS. NEYLE

1 THE COURT: I'll allow it.

2 BY MS. NEYLE:

3 A: I never lost custody of my son.

4 Q: You never lost custody of your son?

5 A: No.

6 Q: How old was he at the time?

7 A: I don't remember.

8 Q: You don't remember how old he was?

9 A: I don't remember.

10 Q: And that night back in December of [REDACTED] on Pawley

11 Street, you had been drinking that night?

12 A: Yes, ma'am.

13 Q: Okay. And you had been smoking that night?

14 A: No, ma'am.

15 Q: You had not been smoking marijuana?

16 A: No, ma'am.

17 Q: Okay. And you said that Samuel took you out of the

18 driver's side --

19 A: Yes.

20 Q: -- of your car and then he hit you with a beer bottle?

21 A: Yes.

22 Q: Okay. Where did you live with Samuel?

23 A: On Waverly -- on Waverly Place in Florence, South

24 Carolina.

25 Q: Okay. And when was that?

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- 1 A: I don't remember.
- 2 Q: You don't remember when you lived with him?
- 3 A: No, I don't remember.
- 4 Q: Okay. Do you remember how long you lived with him?
- 5 A: About a year.
- 6 Q: Who moved in with who?
- 7 A: Excuse me?
- 8 Q: Did you move into a place together or did -- was someone
- 9 already residing there?
- 10 A: Somebody was already residing there. His sister was.
- 11 Q: And I'm sorry?
- 12 A: His sister was residing there.
- 13 Q: Okay. And so you moved in with him?
- 14 A: Yes.
- 15 Q: Okay. Did you receive mail there?
- 16 A: No, ma'am.
- 17 Q: No? Did you change your address with the DMV?
- 18 A: No, ma'am.
- 19 Q: Ms. Cunningham, when -- when EMS arrived that morning,
- 20 you told them that you -- you hit yourself with a beer
- 21 bottle; correct?
- 22 A: Yes, ma'am, I did.
- 23 Q: And you told them you did it the night before?
- 24 A: No.
- 25 Q: You didn't tell them that you did this around 9 p.m.

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1 that night?

2 A: At 9 p.m. I was at his house.

3 Q: Okay. And you also told EMS that you refused to call

4 9-1-1?

5 A: No, I did not.

6 Q: You did not say that?

7 A: No. I did not say that.

8 Q: You also admitted to EMS that you had had alcohol that

9 night?

10 A: Yes, ma'am, I did.

11 Q: Okay. When you arrived at the hospital, Ms. Cunningham,

12 you were seen by a nurse at first; correct?

13 A: Yes, ma'am.

14 Q: And -- and you initially told her that you wanted to

15 leave Samuel's house; correct?

16 A: Rephrase that question?

17 Q: When you met with the nurse at McLeod and you began

18 talking with her, did you tell her that you wanted to go home

19 from Samuel's house and when you sat in your car you felt

20 depressed and wanted to hurt yourself?

21 A: No, ma'am.

22 Q: You did not say that to the nurse?

23 A: No, ma'am.

24 Q: Okay. You didn't -- you didn't say that to Nurse Mary

25 Gliarmis [ph] at McLeod?

TANISIA CUNNINGHAM - CROSS BY MS. NEYLE

1 A: No, ma'am.

2 Q: You didn't say that?

3 A: No.

4 Q: And when you were at McLeod, you saw a Dr. Thomas Lewis?

5 A: I don't remember.

6 Q: You don't remember? You don't remember telling him you

7 couldn't remember what happened?

8 A: I couldn't remember.

9 Q: And Samuel wasn't with you at the hospital, was he?

10 A: No, ma'am.

11 Q: Okay. And at the hospital you spoke with Officer

12 Buxton?

13 A: Yes, ma'am.

14 Q: And Investigator Shelley?

15 A: Yes, ma'am.

16 Q: And you first told Officer Buxton that you hit yourself

17 with the beer bottle?

18 A: Yes, ma'am.

19 Q: You also told him you were angry and frustrated?

20 A: No, ma'am.

21 Q: You didn't say that?

22 A: No, ma'am. I was more hurt.

23 Q: I'm sorry?

24 A: I was more hurt than angry and frustrated.

25 Q: Okay. You also told Officer Buxton the second time that

TANISIA CUNNINGHAM - CROSS BY MS. NEYLE

1 you didn't remember what happened?

2 A: Yes, I did.

3 Q: And then the third time you talked to him you told him
4 that Samuel did it?

5 A: Excuse me?

6 Q: The third -- the third story you told Officer Buxton was
7 that Samuel did it?

8 A: I don't understand.

9 Q: Ms. Cunningham, the first time you told -- the first
10 story you told Officer Buxton was that you did this to
11 yourself; correct?

12 A: Yes.

13 Q: Okay. And the second story you told him was that you
14 couldn't remember?

15 A: I couldn't remember.

16 Q: Okay. And then the third story you told him was that
17 Samuel did it?

18 A: It was for my safety.

19 Q: Okay. And it's been more than five years since this
20 happened?

21 A: Six years.

22 Q: Okay. And a lot has happened since then?

23 A: Yes.

24 Q: And you were involved in a bad car accident in 2017?

25 MS. MCGILL: Objection. Relevance.

TANISIA CUNNINGHAM - CROSS BY MS. NEYLE

1 THE COURT: I'll give you a little bit of leeway. It's
2 hard to say if it's relevant at this point.

3 BY MS. NEYLE:

4 Q: And you suffered injuries from that car accident?

5 A: Yes, ma'am, I did.

6 Q: And alcohol was involved as well?

7 MS. MCGILL: Objection. Relevance.

8 THE COURT: Yeah. Sustained. Please ask another
9 question.

10 MS. NEYLE: I beg the Court's indulgence.
11 May we approach, Judge?

12 THE COURT: Yes, ma'am.

13 (WHEREUPON, a bench conference was held off the record,
14 after which the proceedings resumed as follows.)

15 MS. NEYLE: Your Honor, I have no further questions.

16 THE COURT: All right. Is there anything further, Ms.
17 McGill?

18 MS. MCGILL: Nothing from the State, Your Honor.

19 THE COURT: All right. Thank you, Ms. Cunningham. You
20 can step down.

21 THE WITNESS: Thank you.

22 THE COURT: All right. Ms. McGill?

23 MS. MCGILL: Your Honor, at this time, the State would
24 rest.

25 THE COURT: All right. Ladies and gentlemen, at this

1 time, there's a matter of law that we need to take up outside
2 of your presence. It shouldn't take very long. We'll
3 continue this trial. So I appreciate again your patience and
4 your attention, and we'll ask you to retire to your jury
5 realm for just a few minutes. Thank you very much.

6 (WHEREUPON, the jury exited the courtroom at 10:26 a.m.)

7 THE COURT: All right. Are there any -- anything from
8 the State?

9 MS. MCGILL: Nothing from the State, Your Honor.

10 THE COURT: Ms. Neyle?

11 MS. NEYLE: Judge, at this point I would renew all my
12 prior motions and objections, Your Honor, and I'd also make a
13 motion for a directed verdict.

14 Pursuant to the statute, a DVHAN requires an injury
15 against a household member, and that includes someone that --
16 a male and female who are cohabiting or formerly cohabited.
17 Ms. Cunningham couldn't remember when she lived with Mr.
18 McNeil. She testified that they lived together for a year,
19 but she couldn't remember when. She didn't provide an exact
20 address, Your Honor. It sounds to me it was more like a
21 roommate situation. I don't think there's enough evidence in
22 the record to prove that element of a DVHAN for a household
23 member, Your Honor, and at this point I'd make a motion for a
24 directed verdict on that.

25 THE COURT: Don't you agree that the -- that the

1 standard for the directed verdict is not whether or not
2 there's enough evidence, but whether or not there's any
3 evidence?

4 MS. NEYLE: Yes, Your Honor.

5 THE COURT: All right. Anything, Ms. McGill?

6 MS. MCGILL: And, Your Honor, that's the only thing the
7 State was going to say is that there is evidence in the
8 record so it should go to the factfinders.

9 THE COURT: All right. And I do find that Ms.
10 Cunningham testified that she -- that she did live with the
11 defendant. Certainly, that becomes a question of fact for
12 the jury to decide and give any weight that they deem
13 appropriate to that testimony. So I'm going to deny the
14 motion for a directed verdict.

15 Is there -- do you plan to call any witnesses?

16 MS. NEYLE: Your Honor, if I may have one minute?

17 THE COURT: Sure. We're going to take about a 15-minute
18 break. The jurors are asking to take a smoke break.

19 MS. NEYLE: Thank you, Judge.

20 MS. MCGILL: Okay.

21 THE COURT: All right.

22 (WHEREUPON, there was a break in the proceedings from
23 10:28 a.m. until 10:46 a.m., after which the proceedings
24 resumed as follows.)

25 THE COURT: All right. Ms. Neyle, has Mr. McNeil

1 decided whether or not he's going to testify?

2 MS. NEYLE: Yes, Your Honor. He does not plan to
3 testify today.

4 THE COURT: All right. Mr. McNeil, if you will, please
5 stand up. Please raise your right hand.

6 Do you swear or affirm that the testimony or the answers
7 you're about to give will be the truth, the whole truth, and
8 nothing but the truth?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Thank you. You can put your
11 hand down.

12 All right, sir. You understand that you absolutely have
13 the right to remain silent and you do not have to testify in
14 this trial. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But you also have the absolute right if you
17 want to to present evidence, to call witnesses, and to
18 testify in this trial if you choose to do so. Do you
19 understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. You can talk to your attorney
22 and you can get the advice of your counsel, but ultimately,
23 your decision to testify in this trial or to not testify in
24 this trial is your decision to make. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Is that a yes?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. And is it your decision not to
4 testify in this -- in this trial?

5 MS. CRAYTON: Court's indulgence.

6 THE COURT: Sure.

7 (WHEREUPON, there was a pause in the proceedings, after
8 which the proceedings resumed as follows.)

9 MS. CRAYTON: Your Honor, we're ready. I'm sorry.

10 THE COURT: All right. And let me ask you or let me
11 just tell you a couple more things, Mr. McNeil.

12 If you do elect your -- to exercise your right to
13 testify in this trial, you understand you will be treated
14 like any other witness. Any criminal history that might be
15 admissible to impeach your testimony might be able to come
16 in. Do you understand those things?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. And having all those -- those
19 matters in mind, have you made a decision as to whether or
20 not you want to testify in this trial?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And do you want -- do you wish to testify?

23 THE DEFENDANT: No, sir.

24 THE COURT REPORTER: Judge, I can't hear him on the
25 tape.

1 THE COURT: Okay. All right. Mr. McNeil, I'll just ask
2 you again. Considering all the factors that the Court has
3 been over with you just now and having those things in mind,
4 do you wish to testify in this trial?

5 THE DEFENDANT: No, sir.

6 THE COURT: Okay. Do you have any questions about your
7 right to testify in this trial?

8 THE DEFENDANT: No, sir.

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

10 MS. CRAYTON: Can he sit down, Your Honor?

11 THE COURT: Sure.

12 MS. CRAYTON: Thank you.

13 THE COURT: Sorry about that.

14 All right. Does the defense intend to call any
15 witnesses?

16 MS. NEYLE: No, Your Honor.

17 THE COURT: All right. So should we go ahead and have a
18 charge conference?

19 MS. MCGILL: Yes, Your Honor.

20 THE COURT: Okay. All right. All right. So I have a
21 proposed charge here that I'll just kind of go through and
22 then I'll hear from the State and the defense. Okay? And
23 we'll see what we come up with.

24 So basically, I'll start with the general post-trial
25 charge that's in our charge book that's basically outlining

1 (WHEREUPON, the jury entered the courtroom at 11:34
2 a.m.)

3 THE COURT: All right. Ladies and gentlemen, thank you
4 again for your time and your patience and your attention.

5 Ms. Neyle?

6 MS. NEYLE: Thank you, Your Honor. At this time, the
7 defense rests.

8 THE COURT: All right. All right. Ladies and
9 gentlemen, I know this is going to sound crazy to you. We're
10 going to have to take a brief moment to take up a matter of
11 law outside of your presence. I wouldn't even think it would
12 last very long at all. So we're going to bring you right
13 back in for closing arguments. So if you will go to your
14 jury room for just a minute, and we'll have you right back
15 out. Thank you.

16 (WHEREUPON, the jury exited the courtroom at 11:35 a.m.)

17 THE COURT: All right. Ms. Neyle?

18 MS. NEYLE: Thank you, Your Honor. At this time, I
19 would renew all of my prior objections and motions, Your
20 Honor, including my motion for a directed verdict.

21 THE COURT: All right. And that's noted for the record
22 and the rulings are the same. So I appreciate it.

23 MS. NEYLE: Thank you.

24 THE COURT: All right. Are we ready for the -- for the
25 jury?

1 I think we're ready for them, Mr. Willie.

2 (WHEREUPON, the jury entered the courtroom at 11:36
3 a.m.)

4 THE COURT: All right. Ladies and gentlemen, the
5 parties have now presented their evidence in this case. It
6 is now time for them to make their closing arguments.

7 The arguments of the attorneys are not evidence in this
8 case, and their statements and arguments are meant only to
9 help you understand the evidence and apply the law to the
10 evidence. You should disregard any remark, statement, or
11 argument which is not supported by the evidence presented
12 during this trial or the law that I will explain to you after
13 the arguments.

14 All right. Ms. McGill?

15 MS. MCGILL: May it please the Court, Your Honor.

16 THE COURT: Yes, ma'am.

17 MS. MCGILL: Opposing counsel.

18 CLOSING ARGUMENT ON BEHALF OF THE STATE

19 MS. MCGILL: Madam Forelady and members of the jury, she
20 told him it was over, and he savagely attacked her. She told
21 him I'm leaving, and he beat her over her head with a beer
22 bottle, a brutal assault that was so severe that Tanisia
23 Cunningham lost her eye and she is forever scarred by his
24 brutal attack. This case is about control, this case is
25 about senseless violence, but ultimately, ladies and

1 gentlemen, this case is about unhinged rage.

2 They say a picture is worth a thousand words, yet when
3 looking at all the numerous pictures of Tanisia during this
4 trial that she suffered at the hands of this defendant's
5 brutal attack, there are several words that come to mind.
6 It's not love, it's not affection, it's not respect, and it's
7 not concern. So if a picture is really worth a thousand
8 words, how many words do these pictures convey? We'll come
9 back to that.

10 Where I want to go now is back, back to December the 8th
11 of 2016, back to the incident location at [REDACTED] Pawley Street
12 here in South Carolina, back to the moment where the
13 defendant accused Tanisia of cheating on him, back to the
14 moments thereafter that she told him it's over and then she
15 told him that she was leaving.

16 Back to the moment when the defendant chose not to let
17 her leave. He wouldn't simply just let her walk away, but he
18 chose to pick up a beer bottle and strike her with it. It
19 was in that moment that Tanisia found her strength, strength
20 she didn't know she had, and it was also in that moment that
21 the defendant's true character was revealed.

22 And then we go back to the moment after she took a
23 severe beating where she's scarred for life and lost her left
24 eye. Rather than call 9-1-1 for help or take her to the
25 hospital, he kept her there for ten hours. Rather than

1 calling for EMS, he kept her there to continue to bleed out
2 for ten hours.

3 And then we'll go to Tanisia's cell phone. I want to go
4 back to the moment where he broke her cell phone so she
5 couldn't call for help even if she could. Ladies and
6 gentlemen, when we go back to those moments, that's when we
7 see the true nature of Samuel McNeil.

8 Now, the defendant has been indicted for domestic
9 violence of a high and aggravated nature, and Your Honor is
10 going to charge you on the law, but I want to talk to you
11 briefly about the elements of this offense.

12 Domestic violence of a high and aggravated nature means
13 that you caused physical harm or injury to your household
14 member or you offered or attempted to cause harm or injury to
15 your household member with apparent present ability under
16 circumstances creating fear of imminent peril.

17 A household member is defined as a spouse or a former
18 spouse, persons who have children in common, or a male and
19 female -- or female who are cohabitating or formerly
20 cohabitated.

21 Extreme indifference to the value of human life.
22 Commits this offense under circumstances manifesting
23 indifference -- extreme indifference to the value of human
24 life and great bodily injury results. Commits the offense
25 with or without an accompanying battery under circumstances

1 manifesting extreme indifference to the value of human life
2 and would reasonably cause a person to fear imminent great
3 bodily injury or death.

4 Extreme indifference to the value of human life. There
5 are certain circumstances that you can infer extreme
6 indifference to the value of human life. They include but
7 are not limited to the use of a deadly weapon, and there are
8 others that Your Honor will go over. A deadly weapon is any
9 pistol, dirk, slingshot, metal knuckles, razor, or any other
10 instrument which can be used to inflict deadly force. You
11 can use anything as a weapon.

12 Great bodily injury means bodily injury which causes a
13 substantial risk of death or which causes serious permanent
14 disfigurement or protracted loss or impairment of a function
15 of a bodily member or organ.

16 So let's talk about the testimony. Initially, you heard
17 from Levi James, and a call came in for a sick person. And
18 when they got there and arrived on scene, Ms. Tanisia was
19 there. There was a broken bottle. There was a broken
20 Tanisia.

21 And when we heard from Dr. Farrell, he indicated that
22 her injuries about the face were complex lacerations, that
23 they were severe injuries and, in fact, he indicated that
24 there were 33 centimeters' worth of lacerations that he
25 repaired. He also said that this was serious disfigurement.

1 And then we heard from Dr. Magrath, and he talked about
2 how she had been injured as well and that he had to perform
3 certain surgeries on her. Tanisia by her own testimony
4 indicated that she was struck with a bottle by the defendant.

5 Household member. We heard testimony from Tanisia that
6 indicated that she and the defendant lived together in the
7 past. And again, when you think about the use of a glass
8 beer bottle, anything can be used as a deadly weapon. It
9 depends on how you use it. And when we talk about great
10 bodily injury, it means bodily injury that causes a
11 substantial risk of death or which causes permanent
12 disfigurement, protracted loss or the impairment of a
13 function of a bodily member or organ.

14 And we heard from two doctors this week. Dr. Farrell
15 told us that she had to have a number of stitches and
16 surgeries to her face to repair 33 centimeters' worth of
17 lacerations. He characterized those as serious and permanent
18 disfigurement.

19 When we heard from Dr. Magrath, he told us that he's
20 performed a number of surgeries on Tanisia. It took a lot of
21 surgeries to get her eye repaired and, ultimately, she ended
22 up losing it because they were unable to save it. He had to
23 remove that eye. He told us that that was protracted loss.
24 He also testified that that was a function of a bodily
25 member, the eye.

1 And what we also heard even from the scene, EMTs
2 responded. They saw severe injuries. When Mr. Mattis
3 arrived, he told us shortly thereafter when he observed
4 Tanisia that he called for law enforcement. He thought it
5 was much more than just a sick person; so he made that call.
6 In fact, he indicated on this form that it was trauma
7 related.

8 And then we heard from Officer Buxton. He gets there
9 and he finds blood on the ground, blood smeared on the walls,
10 blood on the furniture, blood on the bed, blood on the
11 sheets. He immediately noticed the severity of Tanisia's
12 injuries, and he wanted photos taken.

13 And we heard from Sgt. Shelley. Sgt. Shelley talked to
14 Tanisia at the hospital. He said that there were multiple
15 impacts. There were numerous severe lacerations. He took
16 pictures again at the hospital. He found some wounds on this
17 side of her hand.

18 And again, we've heard from two doctors this week who
19 have testified extensively about her injuries, and so you'll
20 have all the pictures that we've looked at all week. All
21 this evidence will go back with you, but just remember she
22 was treated here at McLeod. Her injuries were so severe that
23 she had to be transferred to MUSC.

24 And when we asked Dr. Farrell about the impact points,
25 he said it looked like a whole bunch of holes. They both

1 discussed the force it would take to cause these type of
2 injuries. They both characterized it as severe.

3 And so, folks, you can just use your good common sense.
4 When we talk about a deadly weapon, again I submit to you you
5 can use anything as a deadly weapon. A glass bottle that's
6 broken that's used to beat somebody in the face with severe
7 force, domestic violence of a high and aggravated nature.
8 The loss of the eye, domestic violence of a high and
9 aggravated nature.

10 We also heard one other thing from Dr. Magrath that I
11 want to point out. He walked us through extensively all the
12 surgeries that he performed, and from that witness stand he
13 told us that up until recently she was still treating. From
14 2016 to 2022, up until recently she's still treating. She
15 has suffered extensively.

16 I'll tell you this. I'm going to bring you back to the
17 defendant. Let's go back to his statement.

18 (WHEREUPON, a portion of audio from State's Exhibit No.
19 33 was played.)

20 MS. MCGILL: So which one is it, folks? Did she hit
21 herself? Did she fall? Did she hit a tree? This is common
22 sense. It doesn't make sense.

23 And then on scene they take pictures, and these are the
24 pictures that law enforcement was able to recover. Hands
25 indicative of having taken a bottle and smashed it over

1 someone's head. It's defendant's own voluntary statement
2 that puts him right there before, during, and after this
3 assault.

4 If it was self-inflicted, why did he break her phone?
5 If it was self-inflicted, why didn't he stop her from hitting
6 herself repeatedly? If it was self-inflicted, why didn't he
7 call EMS? Why didn't he take her to the hospital? This is
8 good common sense. Good common sense.

9 And let's think about Tanisia, who comes here five
10 years, almost six years later, five years later, summoned to
11 the court with the courage to come to court and testify in
12 front of the man who permanently disfigured her, and she told
13 you exactly what happened. She testified that the defendant
14 accused her of cheating. And during this argument he was
15 yelling and at some point he slapped her, he took off her
16 wig, he broke her phone and then, ultimately, he assaulted
17 her with a beer bottle.

18 She told him it's over, and he savagely attacked her.
19 She told him I'm leaving, and he beat her over the head with
20 a bottle, a brutal beating. He assaulted her so severely
21 that Tanisia Cunningham has lost her eye forever. She will
22 always be reminded every day when she looks in the mirror of
23 this defendant's brutal attack.

24 They say a picture is worth a thousand words. So when
25 we look back at all of the pictures that we've seen all week,

1 there are few words that come to mind. In fact, there's only
2 one word that would come to mind at this point having seen
3 all of them. That word isn't love. That word isn't
4 affection. That word isn't respect. That word is not
5 concern. That word is guilty.

6 Thank you, ladies and gentlemen.

7 MS. NEYLE: May it please the Court.

8 THE COURT: Yes, ma'am.

9 MS. NEYLE: Thank you.

10 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

11 MS. NEYLE: When I first spoke to you all earlier this
12 week, I told you this trial would take you back five years to
13 an incident that happened between Ms. Cunningham and Samuel.
14 Samuel wants you to hear the truth about what happened that
15 night, not multiple stories told to multiple different
16 people. The truth.

17 We didn't see what happened that night. Only two people
18 know what happened that night. One of those people told
19 different stories to different people. One person, Samuel,
20 told one story, the truth.

21 Ms. Cunningham went over to Samuel's house that night.
22 He didn't go to hers. She brought beer. Started talking
23 about her cheating on him. This incident happens.

24 EMS testified she stated both wounds were self-inflicted
25 using a broken beer bottle. She did this around 9 p.m. last

1 night, refused to call 9-1-1 for transport to the hospital.

2 The State wants you to believe she said that because she
3 was scared of Samuel, but she kept telling that story at the
4 hospital. Samuel wasn't there. She told it to law
5 enforcement multiple times. She doesn't remember what she
6 told medical staff. She, up on the stand today, couldn't
7 tell you her son's age. She said she didn't remember. I
8 asked her when she lived with Samuel. She said she doesn't
9 remember. Samuel wasn't there at that hospital, but she
10 continued to be unclear about what happened. The stories
11 kept changing.

12 The State wants you to look at Samuel's bloody hands.
13 He could've washed those hands. He could've cleaned up the
14 scene. He could've left [REDACTED] Pawley Street and been on his
15 way to Florida. He didn't do that. He called 9-1-1. The
16 State said he didn't, but he did call 9-1-1. He willingly
17 gave a statement. He willingly let law enforcement search
18 his home. These are the actions of somebody not trying to
19 hide something. Telling law enforcement multiple stories
20 about what happened, those are the actions of someone trying
21 to hide something.

22 The State has continually referred to Ms. Cunningham as
23 the victim. Someone who admits to multiple people that they
24 did this to themselves may be a victim of their own actions,
25 but Ms. Cunningham is not Samuel's victim.

1 The State wants you to only hear certain things. They
2 didn't play the 9-1-1 call. They brought someone to talk
3 about the call, but they didn't play it. You didn't hear it.
4 They didn't -- excuse me.

5 They didn't talk to neighbors. This happened outside at
6 9 p.m. They didn't bother to ask if anyone else saw what
7 happened. They didn't put any other witnesses on the stand.
8 You heard that there were other people in the house that
9 night. You didn't hear from them.

10 The body camera footage that showed Ms. Cunningham's
11 multiple stories, deleted. You didn't get to see that.

12 The State wants you to hear about her terrible injuries
13 and, ladies and gentlemen, they are, but they don't want you
14 to hear about her telling EMS that she did it to herself.
15 She refused to call 9-1-1, admitted drinking alcohol.

16 Officer Buxton noted in his report the stories started
17 the same, but the endings continuously changed, and those
18 stories were at the hospital where Samuel wasn't. Those are
19 two law enforcement officers at the hospital. She's safe.
20 Samuel is not there, yet she's still telling these stories.

21 Something I want to point your attention to, Ms.
22 Cunningham testified that Samuel snatched her from the
23 driver's side and then hit her with the beer bottle on the
24 driver's side, but, ladies and gentlemen, the broken bottle
25 you saw is on the passenger side.

1 The State wants you to believe that this is just
2 unbelievable, implausible that Ms. Cunningham could do this
3 to herself, but if you told me back in December of 2016 that
4 we would be standing before you today dealing with
5 quarantines and you all would be wearing masks, I would say
6 that's pretty implausible we'd be dealing with a global
7 pandemic, but here we are.

8 We don't doubt that Ms. Cunningham suffered great injury
9 to her eye. The pictures show it and she showed it to you,
10 but there is significant doubt as to who caused that injury.

11 The State has to prove this beyond a reasonable doubt,
12 the highest legal standard we have in our court system.
13 Every single time that Ms. Cunningham gave a different story
14 to a different person, that beyond a reasonable doubt
15 standard chipped away. I did this to myself. I was
16 frustrated. I refused to call 9-1-1. I don't remember what
17 happened. That beyond a reasonable doubt chipped away. It's
18 not here.

19 When you go back in the jury room and you start
20 deliberating, please consider these don't remembers, these
21 inconsistencies, the fact that she told Dr. Farrell she
22 wasn't drinking, the lies. Please consider these. There is
23 doubt in this case and, after you consider everything, we ask
24 that you find Samuel not guilty.

25 Thank you.

CHARGE ON THE LAW

1
2 THE COURT: All right. Ladies and gentlemen, I remind
3 you that during this trial you and I -- you and I have
4 certain duties to perform. As the trial judge, it's my
5 responsibility to preside over the trial of this case, and I
6 also have the duty to rule on the admissibility of the
7 evidence offered during this trial. You are to consider only
8 the evidence that is before you. You are to consider only
9 the testimony which has been presented from this witness
10 stand and any exhibits which have been made a part of this
11 record in this case.

12 All right. I have the additional duty to charge you the
13 law applicable to this case, and it's your duty as jurors to
14 accept and apply the law as I now give it to you. If you
15 think you have any ideas as to what the law is or what the
16 law should be and it does not agree with what I tell you the
17 law is, then you must forget that idea because you're sworn
18 to accept the law and apply the law exactly as I tell it to
19 you.

20 In every -- in every case tried in this court before a
21 jury, the jury becomes the sole and exclusive judges of the
22 facts. A trial judge cannot comment or make any statement
23 about the facts in a case. Since you're the sole judges of
24 the facts, do not think that by anything I have said or done
25 during this trial that I have any opinion about the facts in

1 this case. The law doesn't allow me to have any opinion
2 about the facts of this case.

3 I remind you that the fact that the defendant was
4 arrested, charged, and indicted in this case is not evidence
5 in this case. It can't be considered by you as evidence of
6 guilt in this case, nor does it create any presumption or
7 inference of guilt. This document is -- these facts are
8 simply the formal instruments which contain the charges made
9 against the defendant and it's the formal documents by which
10 this case is brought to this court and able to be tried here.

11 The defendant has pled not guilty to this indictment,
12 and that plea puts the burden on the State to prove the
13 defendant guilty. A person charged with committing a
14 criminal offense in South Carolina is never required to prove
15 himself innocent.

16 I charge you that it is an important rule of law that
17 the defendant in a criminal trial, no matter what the
18 seriousness of the charge may be, will always and is always
19 presumed to be innocent of the crime for which the indictment
20 was issued unless the guilt has been proven by evidence
21 satisfying -- satisfying you of that guilt beyond a
22 reasonable doubt.

23 The presumption of innocence does not end when you begin
24 your deliberations. It accompanies the defendant throughout
25 the trial until you reach a verdict of guilt based on

1 evidence satisfying you of that guilt beyond a reasonable
2 doubt.

3 The presumption of innocence is like a robe of
4 righteousness placed about the shoulders of the defendant.
5 It remains with the defendant until it has been stripped from
6 the defendant by the evidence satisfying you of the
7 defendant's guilt beyond a reasonable doubt. The presumption
8 of innocence is not a mere legal theory. It's not just a
9 legal phrase. It's a substantial right to which every
10 defendant is entitled unless you, the jury, are satisfied
11 from the evidence of the defendant's guilt beyond a
12 reasonable doubt.

13 So what is reasonable doubt? A reasonable doubt is the
14 kind of doubt that would cause a reasonable person to
15 hesitate to act. The State has the burden of proving the
16 defendant guilty beyond a reasonable doubt.

17 Some of you may have served as jurors in civil cases
18 where you were told that it is only necessary to prove that a
19 fact is more likely true than not true or such by the greater
20 weight or the preponderance of the evidence. In criminal
21 cases, the State's proof must be more powerful than that. It
22 must be beyond a reasonable doubt. Proof beyond a reasonable
23 doubt is proof that leaves you firmly convinced of the
24 defendant's guilt.

25 There are very few things in this world that we know

1 with absolute certainty, and in criminal cases the law does
2 not require proof that overcomes every possible doubt. If
3 based on your consideration of the evidence you are firmly
4 convinced that the defendant is guilty of the crime charged,
5 you must find the defendant guilty. If on the other hand you
6 think there's a real possibility that the defendant is not
7 guilty, you must give the defendant the benefit of the doubt
8 and find him not guilty.

9 There's two types of evidence which are generally
10 presented during a trial: direct evidence and circumstantial
11 evidence. Direct evidence is the testimony of a person who
12 claims to have actual knowledge of a fact, such as an
13 eyewitness. Circumstantial evidence is proof of a chain of
14 facts and circumstances indicating the existence of a fact.

15 The law makes absolutely no distinction between the
16 weight or value given to either direct or circumstantial
17 evidence, nor is a greater degree of certainty required of
18 you -- required of circumstantial evidence than of direct
19 evidence. You should weigh all of the evidence in this case
20 and after weighing all of the evidence if you're not
21 convinced of the guilt of the defendant beyond a reasonable
22 doubt, you must find the defendant not guilty.

23 Necessarily, you must determine the credibility of those
24 who have testified in this case. The credibility simply
25 means the believability of the witnesses. It becomes your

1 duty as jurors to analyze and evaluate the evidence and
2 determine which evidence convinces you of its truth.

3 In determining the believability of witnesses who have
4 testified in this case, you may believe one witness over
5 several witnesses or several witnesses over one witness. You
6 may believe a part of the testimony of a witness and reject
7 the remaining part of the testimony of that same witness.
8 You may believe the testimony of a witness in its entirety or
9 reject the testimony of a witness in its entirety.

10 You may consider whether any witness has exhibited to
11 you any interest, bias or prejudice or other motive to
12 testify in this case. You may also consider the appearance
13 and manner of a witness while on the witness stand.

14 In this case, we had expert witnesses. The rules of
15 evidence ordinarily do not permit witnesses to testify to
16 opinions or conclusions. An exception to this rule exists
17 for witnesses we call expert witnesses. A witness who by
18 education and experience has become an expert in some art,
19 science, profession, or calling may state an opinion as to
20 relevant and material matter in this trial and may also state
21 the reasons for their opinions.

22 You should consider any expert opinion received into
23 evidence in this case and, like any other evidence, give it
24 the weight you think it deserves. If you think that the
25 opinion of an expert witness is not based on sufficient

1 education and experience or if you conclude that reasons
2 given in support of the opinion are not sound or that the
3 opinion is outweighed by other evidence, you may disregard
4 the opinion entirely.

5 An expert witness's testimony is to be given no greater
6 weight than that of other witnesses simply because the
7 witness is an expert. Further, you are not required to
8 accept an expert's opinion, even though it is not
9 contradicted.

10 A statement alleged to have been made by the defendant
11 has been admitted into evidence in this case. While the
12 Court has determined that the statement is admissible, I
13 instruct you that you may make the ultimate decision on
14 whether or not the defendant made the statement.

15 If the defendant did make the statement, you must
16 determine if the statement was made by the defendant
17 voluntarily and of his own free will. This means that the
18 statement was not caused by pressure, force, fear, threats,
19 coercion, or intimidation or by hope or a promise of leniency
20 or a reward of any kind.

21 In determining whether the statement was voluntary, you
22 should consider both the characteristics of the defendant and
23 the details of the questioning. Some of the factors that you
24 may consider are the age of the defendant, the defendant's
25 education or lack of education, the defendant's mental

1 ability or capacity, the defendant's intelligence, the
2 defendant's background and environment, and the place and the
3 length of the detention, the nature of the questioning, the
4 advice or lack thereof to the defendant of his constitutional
5 rights, including but not limited to the right for him to
6 remain silent. Also, that any statement could be used
7 against him in a court of law, and the right to have a lawyer
8 present and if she could not -- if he or she could not afford
9 one that one would be appointed to represent them, and also
10 that he could stop making a statement at any time.

11 You must carefully consider all of the surrounding
12 circumstances before you give any weight to an alleged
13 statement. The State has the burden of proving beyond a
14 reasonable doubt that the alleged statement was voluntary.
15 If you determine it was, you may give the statement any
16 further consideration that you seem -- that you deem proper.
17 You must decide what weight, if any, should be given to the
18 alleged statement. If you determine the alleged statement
19 was not the free and voluntary statement of the defendant,
20 you should not consider the statement at all.

21 I instruct you and emphasize that the fact that the
22 defendant did not testify is not a factor that can be
23 considered by you in any way during your deliberations and
24 your consideration on the question of the guilt or innocence
25 of the defendant. It must not be considered by you in any

1 manner whatsoever.

2 A defendant has the constitutional right to remain
3 silent, and the assertion of this right must not be
4 considered by you in your deliberations. I repeat, under
5 your oath, you are to draw no conclusion whatsoever from the
6 fact that the defendant did not testify in this trial.

7 The fact that the defendant did not testify should not
8 even be discussed in the jury room. The burden of proof, as
9 I have stated, is on the State. The defendant is not
10 required to prove his innocence. The burden of proof remains
11 on the State to prove guilt beyond a reasonable doubt.

12 In order to establish criminal liability, criminal
13 intent is required. For example, the mental state required
14 to be proven by the State for a particular crime might be
15 purpose, intent, knowledge, recklessness, or criminal
16 negligence. Criminal intent must be proven by the State
17 beyond a reasonable doubt.

18 Criminal intent is always a matter that must be
19 determined by the jury from the circumstances surrounding the
20 situation. There is no way to prove intent to a mathematical
21 certainty. There is no way to -- there's no way medical
22 science can dissect a person's brain and determine what the
23 person had in mind. So the law says that criminal intent may
24 be inferred from the circumstances shown to have been -- to
25 have existed.

1 This is how you make a determination of whether or not
2 the element requiring intent was present. It is not
3 necessary to establish intent by direct and positive
4 evidence, but intent may be established by inference in the
5 same way as any other fact by taking into consideration the
6 acts of the parties and all the facts and circumstances of
7 the case.

8 Criminal intent is a mental state, a conscious
9 wrongdoing. It is up to you to determine what the defendant
10 intended to do based on the circumstances shown to have
11 existed.

12 Criminal intent can arise from action or a failure to
13 act. It may arise from negligence, recklessness, or an
14 indifference to duty or to consequences that is considered by
15 the law to be the equivalent of criminal intent.

16 There has been evidence presented that witnesses have
17 made prior statements which are not consistent with the
18 witness's -- which are not consistent with the witness's
19 present testimony. You may use this evidence to decide
20 whether to believe the witness. You may also use evidence of
21 the earlier contradictory statements to determine the truth
22 of those statements. It is up to you to decide whether to
23 believe the earlier statements or the testimony given at
24 trial.

25 If a witness is shown to have knowingly testified

1 untruthfully concerning any material matter, you may consider
2 this in determining whether to trust the witness's testimony
3 as to other matters. You may reject all the testimony that
4 the witness gave or give all or part of the testimony any
5 weight that you think it deserves.

6 An issue in this case is the identification of the
7 defendant as the person who committed the crime charged. The
8 State has the burden of proving identity beyond a reasonable
9 doubt. You must be satisfied beyond a reasonable doubt of
10 the accuracy of the identification of the defendant before
11 you may convict this defendant. Identification testimony is
12 an expression or belief or impression by a witness.

13 You must determine the accuracy of the identification of
14 the defendant. You must consider the believability of each
15 identification of the witness in the same way as any other
16 witness. You may consider whether the witness had an
17 adequate opportunity to observe the offender at the time of
18 the offense. This will be affected by things like how long
19 or short a time was available, how far or close the witness
20 was, the lighting conditions, and whether the witness had a
21 chance to see or know the person in the past.

22 Once again, I instruct you the burden of proof on the
23 State -- is on the State and it extends to every element of
24 the crime charged, and this specifically includes the burden
25 of proving beyond a reasonable doubt the identity of the

1 defendant as the person who committed the crime. If after
2 examining the testimony you have a reasonable doubt as to the
3 accuracy of the identification, you must find the defendant
4 not guilty.

5 In this case, there are allegations of spoliation or
6 destruction of evidence. The State not only has the burden
7 of proof of guilt, but also it has the burden of producing
8 evidence which could establish the innocence of the
9 defendant. When the evidence is lost or destroyed by a
10 party, you may infer that the evidence which was lost or
11 destroyed by that party would have been adverse to that
12 party.

13 If you find first that evidence was spoiled or destroyed
14 and if you further find that the evidence could help
15 establish the innocence of the defendant, you may then
16 consider those facts in deciding whether or not the State has
17 met its burden of proof.

18 All right. I will now give you the charge of the
19 elements of the offense of domestic violence of a high and
20 aggravated nature.

21 The defendant is charged with domestic violence of a
22 high and aggravated nature. The State must prove beyond a
23 reasonable doubt that the defendant caused physical harm or
24 injury to a member of the defendant's own household or that
25 the defendant offered or attempted to cause physical harm or

1 injury to a member of the defendant's own household with the
2 apparent present ability to cause harm or injury under
3 circumstances reasonably creating a fear of imminent danger.

4 A household member is a spouse, a former spouse, a
5 person with whom the defendant has a child in common, or a
6 person of the opposite sex with whom the defendant is living
7 or has lived in the past.

8 The State must also prove one of the following:

9 The defendant committed the offense under the
10 circumstances manifesting extreme indifference to the value
11 of human life and great bodily injury to the victim results;

12 The defendant committed the offense with or without
13 an accompanying battery and under circumstances manifesting
14 extreme indifference to the value of human life and would
15 reasonably cause a person to fear imminent great bodily
16 injury or death.

17 Great bodily injury means injury which causes a
18 substantial risk of death or which causes serious permanent
19 disfigurement or protracted loss or impairment of the
20 function of a bodily member or organ.

21 Circumstances which may show extreme indifference to the
22 value of human life include but are not limited to:

23 The use of a deadly weapon;

24 Knowingly and intentionally impeding the normal
25 breathing or circulation of the blood of a household member

1 by applying pressure to the throat or neck or by obstructing
2 the nose or mouth of a household member and thereby causing
3 stupor or loss of consciousness for any period of time;

4 Committing the offense in the presence of a minor;

5 Committing the offense against a person he knew or
6 should have known to be pregnant;

7 Committing the offense during the commission of a
8 robbery, burglary, kidnapping, or theft;

9 Or using physical force against another to block
10 that person's access to any cell phone, telephone, or
11 electronic communication device for the purpose of
12 preventing, obstructing, or interfering with the report of
13 any criminal offense, bodily injury, or property damage to a
14 law enforcement agency or a request for an ambulance or
15 medical -- or emergency medical assistance to any law
16 enforcement agency or emergency medical provider.

17 I'm going to also charge you on the law as to first
18 degree domestic violence.

19 With first-degree domestic violence, the State must
20 prove beyond a reasonable doubt that the defendant caused
21 physical harm or injury to a member of the defendant's own
22 household or that the defendant offered or attempted to cause
23 physical harm or injury to a member of the defendant's own
24 household with the apparent present ability to cause harm or
25 injury under circumstances reasonably creating a fear of

1 imminent danger.

2 A household member is a spouse, a former spouse, a
3 person with whom the defendant has a child in common, or a
4 person of the opposite sex with whom the defendant is living
5 with or has lived with the past.

6 The State must also prove one of the following:

7 That great bodily injury to the defendant's own
8 household member results or the act is accomplished by means
9 likely to result in great bodily injury to defendant's own
10 household member.

11 Great bodily injury means bodily injury which causes a
12 substantial risk of death or which causes serious permanent
13 disfigurement or protracted loss or impairment of the
14 function of a bodily member or organ.

15 All right. The defendant can also be guilty of criminal
16 -- of domestic violence in the first degree if in the process
17 of committing domestic violence in the second degree one of
18 the following also results:

19 The offense is committed in the presence of or
20 while being perceived by a minor;

21 The offense is committed against a person known or
22 who reasonably should have known by the defendant to be
23 pregnant;

24 The offense is committed during the commission of a
25 robbery -- robbery, burglary, kidnapping, or theft;

1 The offense is committed by impeding the victim's
2 breathing or airflow;

3 Or the offense is committed using physical force or
4 threatened use of force against another to block that
5 person's access to any cell phone, telephone, or electronic
6 communication device with the purpose of preventing,
7 obstructing, or interfering with the report of any criminal
8 offense, bodily injury, or property damage to law enforcement
9 or a request for an ambulance or emergency medical assistance
10 to any law enforcement agency or emergency medical provider.

11 You may also find the defendant guilty of second-degree
12 domestic violence. The defendant is charged with second --
13 the State -- with -- with regards to second degree domestic
14 violence, the State must prove beyond a reasonable doubt the
15 defendant caused physical harm or injury to a member of the
16 defendant's own household or that the defendant offered or
17 attempted to cause physical harm or injury to a member of the
18 defendant's own household with the apparent present ability
19 to cause harm or injury under the circumstances reasonably
20 creating a fear of imminent danger.

21 A household member is a spouse, a former spouse, a
22 person with whom the defendant has a child in common, or a
23 person of the opposite sex with whom the defendant is living
24 or has lived in the past.

25 The State must also prove one of the following:

1 That moderate bodily injury to the defendant's own
2 household member results or the act is accomplished by means
3 likely to result in moderate bodily injury to defendant's own
4 household member.

5 Moderate bodily injury means physical injury that
6 involves prolonged loss of consciousness or that causes
7 temporary or moderate disfigurement or temporary loss of the
8 function of a bodily member or organ or injury that requires
9 medical treatment when the treatment requires the use of
10 regional or general anesthesia or injury that results in the
11 fracture or dislocation of moderate -- or that results in a
12 fracture or dislocation.

13 Moderate bodily injury does not include one-time
14 treatment and subsequent observation of scratches, cuts,
15 abrasions, bruises, burns, splinters, or any other minor
16 injuries that do not ordinarily require extensive medical
17 care.

18 In the process of committing -- you can also find the
19 defendant guilty of domestic violence in the second degree if
20 in the process of committing domestic violence in the third
21 degree one of the following also results:

22 The offense is committed in the presence of or
23 while being perceived by a minor;

24 The offense is committed against a person known or
25 who reasonably should have known by the defendant to be

1 pregnant;

2 The offense is committed during the commission of a
3 robbery, burglary, kidnapping, or theft;

4 The offense is committed by impeding the victim's
5 breathing or airflow;

6 Or the offense is committed using physical force or
7 threat -- or threatening use of physical force against
8 another to block that person's access to any cell phone,
9 telephone, electronic communication device with the purpose
10 of preventing, obstructing, or interfering with that person's
11 ability to report any criminal offense, bodily injury, or
12 property damage to a law enforcement agency or a request for
13 an ambulance or emergency medical assistance to any law
14 enforcement agency or emergency medical provider.

15 You may also consider third degree domestic violence.
16 The State must prove beyond a reasonable doubt that the
17 defendant caused physical harm or injury to a member of the
18 defendant's own household or that the defendant offered or
19 attempted to cause physical harm or injury to a member of the
20 defendant's own household with the apparent present ability
21 to cause harm or injury under the circumstances reasonably
22 creating a fear of imminent danger.

23 A household member is a spouse, a former spouse, a
24 person with whom the defendant has a child in common, or a
25 person of the opposite sex with whom the defendant is living

1 or has lived in the past.

2 All right. So, ladies and gentlemen, they are -- there
3 are four questions on the jury verdict form.

4 There is -- and, Ms. Sims, this is important for you to
5 understand as well, but for everybody.

6 The very first question comes with some instructions.
7 So it says please begin with question number one, and that is
8 to the charge of domestic violence high and aggravated
9 nature. Now, these offenses are not listed in any particular
10 order. They just have -- one has to come first and the rest
11 have to follow.

12 But the way you would fill this verdict form out is you
13 can either find the defendant guilty or not guilty of
14 domestic violence of a high and aggravated nature. If you
15 find him guilty, then you would sign the verdict form and end
16 your deliberations. If not guilty, then you just follow the
17 instructions on this verdict form and you answer question two
18 as to domestic violence in the first degree. Okay?

19 And then if guilty, you would sign the form, end
20 deliberations. If not guilty, then you go on to question
21 three and the same thing. If you find him guilty of question
22 number three, then you would sign the form and end your
23 deliberations. If you find him not guilty, then you would go
24 on to question four. And at the end of question four, then
25 you would indicate your findings and sign the verdict form.

1 Okay?

2 Now, all twelve of you have to agree. In other words,
3 your verdict has to be unanimous. Okay? Until all twelve of
4 the members of the jury that are deliberating in this case
5 come up with the same verdict, then you haven't reached a
6 verdict. Do you understand what I'm saying? All twelve of
7 you have to agree.

8 All right. At this time, I'll ask are there any
9 objections to the charge from the State?

10 MS. MCGILL: No, Your Honor.

11 THE COURT: Any from the defense?

12 MS. NEYLE: No, Your Honor.

13 THE COURT: All right.

14 All right. Mr. Burgess? Are you Mr. Burgess? All
15 right. It looks as if the rest of the jury is going to make
16 it. Okay? Everybody looks well and able to continue, but
17 your service here as an alternate this week has been
18 extremely important, and we appreciate your service and we
19 appreciate your attention and your time and being on time and
20 everything that you've done to make yourself available to
21 serve as a jury this -- as a juror this week. Okay?

22 We do have your lunch coming, but it's important that
23 you not -- that we release you before the deliberations
24 begin. Okay?

25 Now, Ms. Sims and the rest of the jury, you're going to

1 MS. MCGILL: We're just waiting on -- one moment.

2 THE COURT: Okay.

3 MS. MCGILL: Yes, Your Honor.

4 THE COURT: Are y'all ready for the defense?

5 MS. NEYLE: Yes, Your Honor.

6 THE COURT: All right. All right. I'll just warn
7 everybody that whenever the verdict is read there is to be no
8 -- no outbursts or expression or emotions. Okay?

9 All right. Mr. Willie, if you'll bring us the jury.

10 THE BAILIFF: Yes, sir.

11 (WHEREUPON, the jury entered the courtroom at 1:21 p.m.)

12 THE CLERK: Madam Forelady, have you reached a verdict?

13 THE FOREPERSON: Yes, ma'am.

14 THE COURT: All right. Madam Clerk, if you'll publish
15 the jury -- the verdict.

16 VERDICT

17 THE CLERK: State of South Carolina, County of Florence,
18 in the Court of General Sessions in the Twelfth Judicial
19 Circuit, Case Number 2017-GS-21-1049, State of South Carolina
20 versus Samuel Lee McNeil.

21 As to the charge of domestic violence of a high and
22 aggravated nature, we, the jury, unanimously find the
23 defendant guilty.

24 Signed Haley -- Haley Sims, forelady. Dated January
25 12th, 2022.

1 Members of the jury, if this is your verdict, please
2 raise your right hand.

3 (WHEREUPON, the jurors complied.)

4 THE CLERK: That's everyone, Judge.

5 THE COURT: All right. Anything from the State?

6 MS. MCGILL: Nothing from the State, Your Honor.

7 THE COURT: All right. Anything from the defense?

8 MS. NEYLE: No, Your Honor.

9 THE COURT: All right. Ladies and gentlemen, that
10 concludes your service for jury duty this week. We
11 appreciate your time, your patience, and your attention. I
12 completely understand that I'm sure just about all of us or
13 at least you would rather be doing other things and hearing
14 other facts this week, but it's important that you served as
15 a juror and that you've finished your service now and we
16 appreciate that.

17 When you get your check in the mail, don't blame it on
18 me. I don't have anything to do with that part. But you'll
19 -- you'll have earned your exemption. You don't have to do
20 this again for another three years. Okay? But if you want
21 to and you get chosen again, then you can certainly
22 participate, but that would be up to you.

23 But again, at this point in time you can go tell anybody
24 you want to what you've been doing this week or you don't
25 have to tell anybody anything. If you do choose to talk to

1 anybody about this case, if at any time you choose that you
2 don't want to talk to them anymore, then that's your right.
3 If you have any trouble with that, you can let the Court know
4 and we'll deal with it accordingly. Okay?

5 In a few minutes we'll sentence the defendant. You are
6 welcome to stay here for that or you're welcome and you're
7 free to go, whatever you'd like to do, but I'm going to ask
8 that you retire to the jury room, gather your belongings. If
9 you did want to come back, you can come back around the front
10 side. Okay?

11 Thank you very much.

12 THE CLERK: And I have their excuses. I'll bring them
13 back.

14 (WHEREUPON, the jury was released and exited the
15 courtroom at 1:24 p.m.)

16 THE COURT: Ms. McGill, do you have the sentencing
17 sheets?

18 MS. MCGILL: Yes, Your Honor.

19 THE COURT: Or the sentencing sheet?

20 MS. MCGILL: Judge? May I hand it up, Judge?

21 THE COURT: Sure.

22 MS. NEYLE: Judge, when would you like to entertain
23 post-trial motions?

24 THE COURT: I can hear it. We can hear the motions now,
25 I mean if you want to.

1 MS. NEYLE: Okay. Thank you, Judge.

2 THE COURT: All right.

3 MS. NEYLE: Just at this time I would like to renew all
4 my prior motions and objections, Your Honor.

5 I would also respectfully make a motion for a new trial,
6 specifically in regards to the decision to allow Ms.
7 Cunningham to remove her eye and put that in front of the
8 jury. Your Honor, I think that was purely designed to elicit
9 sympathy, Judge, and played to the jury's emotions and it was
10 so prejudicial it couldn't be overcome, Your Honor, and for
11 that reason, I would ask for a new trial.

12 THE COURT: All right. Do we think that got on the
13 record?

14 THE COURT REPORTER: I could hear her.

15 THE COURT: Okay. All right. I understand your
16 objections and your -- and your motion, and I deny your
17 motion. Okay?

18 MS. NEYLE: Thank you.

19 THE COURT: All right. Is the defense ready to proceed
20 with sentencing?

21 MS. NEYLE: Yes, Your Honor.

22 THE COURT: All right. And the State?

23 MS. MCGILL: Yes, Your Honor.

24 THE COURT: All right.

25 MS. NEYLE: Would you like us to --

1 MS. MCGILL: We have no issue with the State.

2 THE COURT: All right. Mr. McNeil, is there anything
3 you wish to address the Court?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right.

6 (WHEREUPON, there was a pause in the proceedings, after
7 which the proceedings resumed as follows.)

8 THE COURT: All right. First of all, I just want to
9 just put on the record that, you know, I never have believed
10 in and still don't believe in punishing anybody for
11 exercising their right to a trial. Okay?

12 So this sentence comes from the evidence and the
13 testimony that I've heard in this case and also the verdict
14 that was returned by the jury and your criminal history.
15 Okay? You've got quite a long criminal history and it's got
16 some violent crimes that you've spent time in the Department
17 of Corrections for and, certainly, this is a violent crime
18 that you been convicted of here today.

19 SENTENCE OF THE COURT

20 THE COURT: And as a result of what I've heard here this
21 week and the verdict of the jury, I hereby sentence you to
22 the State Department of Corrections for a term of 20 years.
23 I'm giving you credit for 99 days.

24 Good luck to you.

25 MS. MCGILL: Thank you, Your Honor.

1 THE COURT: All right.

2 (WHEREUPON, the proceedings ended at 1:41 p.m.)

3

4 --- END REQUESTED TRANSCRIPT ---

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WITNESSES

Sheldon Shelley

Florence Police Department

DOCKET NO. 2017-GS-21-01049

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

AUGUST

TERM

2017

THE STATE

vs.

SAMUEL LEE MCNEIL

Susan C. McGill

ARREST WARRANT NUMBER

2017GS2101049

2017GS21101049A

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date: 8-24-17

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

**DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE
AND
ATTEMPTED MURDER**

RECEIVED

JAN 25 2022

SC Court of Appeals

FILED
JAN 24 PM 3:27
DORIS PAULOS CHESN
CLERK OF COURT
CLERK OF COURT

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF FLORENCE)

DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE
AND
ATTEMPTED MURDER

At a Court of General Sessions, convened on AUGUST 24, 2017 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE

CDR: 3814 16-25-0065(A)

That SAMUEL LEE MCNEIL did in Florence County on or about December 8, 2016, cause physical harm or injury or offered or attempted to cause physical harm or injury to his own household member, TANISIA CUNNINGHAM, with apparent present ability under circumstances reasonably creating fear of imminent peril, and under circumstances manifesting extreme indifference to the value of human life causing great bodily injury or which would reasonably cause a person to fear great bodily injury or death to wit: by striking her about her head, face, and body with a glass bottle causing numerous lacerations and injuries, requiring her to seek emergency medical attention, in violation of Section 16-25-0065(A), S.C. Code of Laws, 1976, as amended.

COUNT TWO- ATTEMPTED MURDER

CDR: 3410 16-03-0029

That SAMUEL LEE MCNEIL did in Florence County on or about December 8, 2016, with intent to kill, with malice aforethought, either expressed or implied, attempt to murder one TANISIA CUNNINGHAM, by striking her about her head, face, and body with a glass bottle causing numerous lacerations and injuries, requiring her to seek emergency medical attention, causing great bodily injury and/or substantial risk of death; in violation of Section 16-3-0029, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Florence

STATE

VS.

Samuel Lee Mcneil

AKA:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Domestic / Domestic violence of a high and aggravated nature

In violation of § 16-25-0065(A) of the S.C. Code of Laws, bearing CDR Code # 3814

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s Initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]

101807

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,

for a determinate term of 20 days/months/Years/Time Served ☐ Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/Years/Time Served and or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/Years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.

99 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 It is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-21-01049

AW#: 2017GS2101049

Date of Offense: 12/8/2016

S.C. Code §: 16-25-0065(A)

CDR Code #: 3814

SENTENCE SHEET

SC Court of Appeals

JAN 25 2022

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STATE VS. Samuel Lee Mcneil INDICTMENT/CASE#: 2017-GS-21-01049**SPECIAL CONDITIONS:**☐ **PTUP** after _____ months/years**And Other Terms Listed Below:**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-206 (Assessments 107.5%)		\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$	
§56-5-2995 (DUI Assessment)	\$12	\$	
§56-1-286 (DUI Breath Test)	\$25	\$	
§14-1-212 (Law Enforce. Funding)	\$25	\$	25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$	
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$	
§50-21-114 (BUI Breath Test Fee)	\$50	\$	
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	
3% to County (if paid in installments)	TBD	\$	3.75
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$	
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$	
TOTAL		\$	128.75

Clerk of Court/Deputy Clerk: [Signature]
Court Reporter: [Signature]Presiding Judge: [Signature]
Judge Code: 2771
Sentence Date: 1-12-2022

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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Respectfully Submitted,



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 23rd day of June, 2023.