

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

**APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas**

**Bentley Price, Circuit Court Judge
Case No. 2023-CP-10-01941**

Appellate Case No. 2023-001941

Meredith Logan Whitehurst,

Appellant,

versus

Town of Sullivans Island,

Respondent.

RECORD ON APPEAL

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Attorney for Appellant

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Trial Court Order of March 30, 2023

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
TOWN OF SULLIVAN'S ISLAND)
vs.)
Meredith Whitehurst,)
DEFENDANT.)
_____)

IN THE MUNICIPAL COURT
TICKET NO(S): 8102P0964359



MOTION FOR NEW TRIAL

This matter comes before the Court on the Motion of Austin Elliot, attorney for the Defendant. Based on the foregoing information, the Court finds it unreasonable to reopen this matter for a new trial.

Therefore, the motion for a new trial is denied.

AND IT IS SO ORDERED.



Frank J. Cornely
Municipal Judge

3-30-2023

SEARCHED

Appellant's Notice of Appeal to Circuit Court and Memorandum in Support

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO.: 2023-CP-10-_____
	)	
MEREDITH LOGAN WHITEHURST,	)	Sullivan's Island (Trial Court)
	)	Ticket #: 8102P0964359
Appellant/Plaintiff,	)	
vs.	)	NOTICE OF APPEAL
	)	AND MEMORANDUM IN SUPPORT
TOWN OF SULLIVAN'S ISLAND,	)	
	)	
Appellee/Defendant.	)	
	)	

The Plaintiff (Appellant), Meredith Logan Whitehurst, by and through her attorney, C. Austin Elliott, hereby gives notice of appeal from the judgment of the Town of Sullivan's Island Municipal Court to the Court of Common Pleas in Charleston County pursuant to S.C. Code Ann. § 14-25-95. This notice of appeal is made from the judgment in Municipal Court by Jury Trial Verdict on March 21, 2023. A brief statement of the case and the underlying grounds for appeal are set forth below.

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PROCEDURAL HISTORY

The Appellant was cited for Sullivan's Island Town Ordinance for Disorderly Conduct, Section 132.08 (formerly Section 14-8), on June 11, 2022. The matter came before Sullivan's

Island Municipal Court on March 20, 2023, with pretrial motions and jury selection that same day. The trial commenced the following day, March 21, 2023, and a jury rendered a guilty verdict against the Appellant. The Appellant made a written motion for a new trial on March 28, 2023, which the Court denied on March 30, 2023.

STATEMENT OF THE CASE

On June 11, 2022, the Appellant and her friend¹ hired an Uber operated by Ahmed Ghozlan (Complainant). The Complainant picked up the Appellant in downtown Charleston and began traveling to their requested destination on Sullivan's Island. At some point during the ride, the Complainant asked the Appellant and her friend to be quiet, eventually ordering them to "shut the fuck up." As the Uber neared Sullivan's Island, the Complainant made an audible 'scoff' or 'sigh' in response to the Appellant's conversation with her friend. The Appellant and her friend then asked the Complainant to pull over and allow them to exit the vehicle before arriving at their final destination on Sullivan's Island, which resulted in an escalating argument between the Complainant, the Appellant, and the Appellant's friend.

The Appellant then used profane and insulting language directed at the Complainant as she and her friend exited the vehicle. It is undisputed that the Appellant called the Complainant an "Arabic piece of shit" after he demanded the Appellant and her friend leave his vehicle, which they were already in the process of doing. The Complainant dialed 911 as the Appellant and her friend exited the vehicle, alleging that his two female Uber passengers "insulted" him during the ride.

¹ Appellant's friend is a Co-Defendant also charged with Disorderly Conduct under the Town Ordinance. This matter is not yet adjudicated.

The 911 call prompted the dispatch of Sullivan's Island Police Officers Sydney DeNett and Joseph McMullen to the location of the Complainant's vehicle. The responding officers questioned the Complainant, who explained that the Appellant shouted expletives and racial insults directed at him while exiting the vehicle. Officer DeNett verbally informed Officer McMullen and the Complainant of her intent to charge the suspects with disorderly conduct, provided they could locate the Appellant and her friend. At this point, the Complainant showed Officer DeNett a short video clip recorded by his dash camera footage depicting the Appellant's insulting and profane statements as earlier described by the Complainant. Eventually, the officers used the Uber profile data and destination the Appellant's friend entered to learn their identity and destination and proceeded to the address to investigate further.

The officers approached the residence located at the destination address and made contact with the Appellant and her friend. Officer DeNett ordered the Appellant and her friend to step out onto the porch and detained them for further questioning. The Appellant confirmed they were the Complainant's passengers and did not dispute that she made racially insulting and profane statements to the Complainant. The Appellant and her friend then provided their 'side of the story' and further context to the responding officers. Officer DeNett charged the Appellant and her friend with Disorderly Conduct pursuant to Sullivan's Island Town Ordinance Section 14-8 (the Town Ordinance) on a Uniform Traffic Ticket (UTT). The UTT issued by Officer DeNett did not specify a particular subsection of the Town Ordinance alleged against the Appellant.

On March 13, 2023, Counsel for Appellant and State met at a Pre-Trial Conference. On March 13, 2023, Counsel for the Appellant and the State met at said conference, where Counsel for the Appellant gave the State a draft copy of a motion to dismiss, arguing the charge of disorderly conduct violated Appellant's First Amendment rights. The Pre-Trial Conference took

place without the presence of the Trial Judge. On March 15, 2023, Counsel for the Appellant filed the motion to dismiss with the Court. Later that week, the State informed Defense that the trial would proceed next week as scheduled.

On the morning of Monday, March 20, 2023, a Pre-Trial Conference took place in the presence of the Trial Judge. The Appellant raised the Court's attention and argued the now-filed Motion to Dismiss pursuant to First Amendment grounds. The Court denied a hearing on the motion until the start of the trial on March 21, 2023, citing the scheduling order requiring at least ten-day notice before the time specified for the hearing in which the motion is to be proffered.

On the day of the trial, March 21, 2023, Counsel for the Appellant asked for clarification on the specific sections of the Ordinance that the Appellant was charged with, as no such specificity was ever given on the Uniform Traffic Ticket or in any subsequent summons or court document. The State chose six (6) of the eighteen (18) Ordinance subsections to proceed against the Appellant. Counsel for the Appellant raised an objection to the Trial Court, arguing that proceeding in this manner violated procedural due process rights. The Municipal Court, upon hearing the First Amendment motion to dismiss, a motion to dismiss on the basis of the vagueness of the Town Ordinance, and two motions to suppress evidence, denied all before it, and the trial continued.

At the conclusion of the State's case in chief, the Trial Court denied the Appellant's motion for Directed Verdict and other pretrial motions renewed by the Appellant. After the denial of the Appellant's Motion for Directed Verdict but prior to closing arguments, the State elected to withdraw four (4) of the six (6) subsections charged against the Appellant. Counsel for the Appellant further renewed all prior objections on the record, then the State and Appellant proceeded with their respective closing arguments.

The Trial Court then instructed the jury on the remaining two (2) subsections of the Town Ordinance. The two subsections are as follows:

(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(11) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

The jury found Appellant guilty of violating the remaining two sections of the Ordinance after deliberation.

GROUND FOR APPEAL

I. THE TRIAL COURT ERRED IN DENYING APPELLANT’S MOTIONS TO DISMISS ON FIRST AMENDMENT AND DUE PROCESS GROUNDS.

A. Guilty Verdict and Ordinance Violates First Amendment Right to Free Speech

The Trial Court erred in denying Appellant’s pretrial Motion to Dismiss on the basis that the allegations against the Appellant were clearly protected speech under the First Amendment. The Appellant’s conviction under the Town Ordinance violates both her First Amendment Right to Free Speech and Due Process protections because of the unconstitutionally vague nature of the language in the Town Ordinance. Furthermore, the statements made by the Appellant are not “Fighting Words” as defined in state and federal jurisprudence.

The United States Supreme Court has repeatedly struck down statutes and city ordinances such as Sullivan’s Island Town Ordinances as unconstitutionally vague and overbroad where their meaning is not limited to “fighting words,” or “those which by their very utterance inflict injury

or tend to incite an immediate breach of the peace.” *Gooding v. Wilson*, 405 U.S. 518 (1972); *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942). This limitation is incredibly restrictive, allowing to criminalize speech only “where there was [a] likelihood that the person addressed would make an immediate violent response.” *Id.* at 528, 92 S.Ct. 1103 (emphasis added); *See also Johnson*, 491 U.S. at 410, 109 S.Ct. 2533.” *United States v. Bartow*, 997 F.3d 203, 208 (4th Cir. 2021). Indeed, “The [Supreme] Court has so narrowed the ‘fighting words’ exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky* itself.” *Id.*

Our State’s appellate courts have placed such a limiting construction on S.C. Code § 16-17-530, and have held that, even though profanity is used in a public place, “profane language alone is insufficient to constitute a violation of the public disorderly conduct statute.” *City of Landrum v. Sarratt*, 352 S.C. 139, 141 (Ct. App. 2002). For such language to not be protected under the First Amendment, it must rise to the level of fighting words, and “[t]he fact that words are vulgar or offensive is not alone sufficient to classify them as fighting words, thereby removing them from the protection provided by the First Amendment.” *Id.* at 142, citing *Gooding*, 405 U.S. at 527.

The charge against the Appellant was based solely on her use of insulting and profane language directed at the Complainant Uber Driver. The Appellant’s words did not “by their very utterance inflict injury or tend to incite an immediate breach of the peace,” and did not arise to the level of fighting words garnering an “immediate violent response”. *United States v. Bartow*, 997 F.3d 203, 208 (4th Cir. 2021). Moreover, the requirement that the fighting words create ‘turmoil’, as outlined in the Town Ordinance, is not sufficient under the Constitution. As outlined in *Bartow*, the words by their utterance must incite an immediate “violent response”. *Id.* Their “profane

language alone is insufficient to constitute a violation of the public disorderly conduct” ordinance. *See City of Landrum v. Sarratt*, 352 S.C. 139, 141 (Ct. App. 2002).

B. The Town Ordinance is Unconstitutionally Vague and Offends Due Process

The Trial Court erred in denying the Appellant’s Motion to Dismiss on the basis that the Ordinance itself is unconstitutionally vague. The Ordinance, as written, fails to give notice as to the conduct that is truly prohibited. The subjective nature of the Ordinance offends the Constitution and was therefore misused to charge the Appellant for her Constitutionally protected conduct. The Appellant was convicted solely on the basis of offensive comments she and her Co-Defendant made to the Complainant, which were not witnessed or heard by the public or any other person.

The United States Supreme Court has repeatedly struck down statutes and city ordinances similar to the Town Ordinance in this matter. However, statutes or ordinances such as this Ordinance will withstand facial constitutional challenges where the statute, as construed by the State’s courts, “is not susceptible of application to speech, although vulgar or offensive, that is protected by the First and Fourteenth Amendments.” *Gooding*, 405 U.S., citing *Cohen v. California*, 403 U.S. 15, 18-22 (1971).

The 4th Circuit has further bolstered this perspective in their recent decision in *Carolina Youth Action Project v. Wilson*, which considered the Constitutionality of the state of South Carolina’s Disorderly Conduct Statute, specifically whether the statute could withstand the “void for vagueness” doctrine. *Manning v. Caldwell for City of Roanoke*, 930 F.3d 264, 272 (4th Cir. 2019) (en banc). That doctrine bars a State from taking away life, liberty, or property under a law that fails to “give a person of ordinary intelligence adequate notice of what conduct is prohibited” or lacks “sufficient standards to prevent arbitrary and discriminatory enforcement.” *Id.*

The 4th Circuit Court found that the State’s statute failed to withstand the “void for vagueness” doctrine as applied to school children, stating that “[the Court is] skeptical that [appellant’s] statements “fuck you” and “fuck all of you” were fighting words under modern First Amendment doctrine. See *United States v. Bartow*, 997 F.3d 203, 211 (4th Cir. 2021) (noting that the Supreme Court “has so narrowed the ‘fighting words’ exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky v. New Hampshire*, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942)] itself.”) *Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770, 785 (4th Cir. 2023). The ruling, while focusing on the application of the statute to school children, provides numerous supports for challenging other such statutes and ordinances that are vague and fail to give adequate notice to citizens.

The 4th Circuit held that the Constitution does not permit “criminal laws broadly drafted to serve as all-purpose tools of law enforcement.” See *Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (admonishing legislators against “entrusting lawmaking to the moment-to-moment judgment of the policeman on his beat’ ”) (citation omitted); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 165, 92 S.Ct. 839, 31 L.Ed.2d 110 (1972) (noting the danger associated with allowing the legislature to “set a net large enough to catch all possible offenders, and leav[ing] it to the courts to step inside and say who could be rightfully detained, and who should be set at large”) (citation omitted); *Coates*, 402 U.S. at 614, 91 S.Ct. 1686 (explaining that the city is free to prohibit certain conduct through the enactment and enforcement of ordinances directed with reasonable specificity toward the conduct to be prohibited but cannot “constitutionally do so through the enactment and enforcement of an ordinance whose violation may entirely depend upon whether or not a policeman is annoyed”); *City of Chicago v. Morales*, 527 U.S. 41, 71, 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999) (Breyer, J., concurring in part and concurring in the result) (“[The ordinance] is unconstitutional, not because a policeman applied his discretion wisely or poorly in a particular case, but rather because the policeman enjoys too much discretion in every case ... [a]nd if every application of the ordinance represents an exercise of unlimited discretion, then the ordinance is invalid in all its applications”); *Manning*, 930 F.3d at 276 (finding as unacceptable that application of the challenged phrase in an individual case would depend “entirely upon the prohibition philosophy of the particular individual enforcing the scheme at that moment”).

Ordinances and statutes by legislatures, both state and local, that restrict the 1st Amendment rights of its citizens cannot be vague and withstand due process challenges. The 4th Circuit in the *Carolina Youth Action Project v. Wilson* decision held that:

“because the [South Carolina] Disorderly Conduct Law provides no objective criteria by which to apply and enforce it, law enforcement perennially rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections. This degree of unpredictability is not compatible with the protections afforded by due process.” See *Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (holding as incurably standardless statutory language that allows policemen, prosecutors, and juries to pursue their personal predilections, stating that “[l]egislatures may not so abdicate their responsibilities for setting the standards of the criminal law”) *Kenny v. Wilson*, 566 F. Supp. 3d 447, 465 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

The 4th Circuit found that South Carolina’s Disorderly Conduct Law “is vague because of ‘the intractability of identifying the applicable legal standard.’ *Kolbe*, 849 F.3d at 149 (citing *United States v. Williams*, 553 U.S. 285, 306, 128 S.Ct. 1830, 170 L.Ed.2d 650 (2008)) (‘What renders a statute vague is not the possibility that it will sometimes be difficult to determine whether the incriminating fact it establishes has been proved; but rather the indeterminacy of precisely what that fact is’); *Kenny v. Wilson*, 566 F. Supp. 3d 447, 467 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). Worse, the South Carolina Disorderly Conduct Statute allows for the criminal prosecution of “just about any minor perceived infraction,” without providing notice as to “the type of conduct that will lead to an arrest.” *Id.*

Furthermore, South Carolina’s Disorderly Conduct statute was not saved by the inclusion of a scienter requirement. The 4th Circuit noted:

“Defendant argues that the term ‘willfully’ creates an element of knowledge and thereby provides notice of the prohibited conduct. It is true that a scienter requirement ‘may mitigate a law’s vagueness, especially with respect to the adequacy of notice to the complainant that his conduct is proscribed.’ *Village of Hoffman Estates*, 455 U.S. at 499, 102 S.Ct. 1186.10 However, the term willful is used alternatively with the term ‘unnecessary’; therefore, a student could be held in violation of the statute having acted without knowledge or intent.” *Kenny v. Wilson*, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

In this case, the charge against the Appellant is based solely on her use of loud and allegedly profane language against the Complainant. The Ordinance that supplies the description of criminal disorderly conduct is undeniably similar to the State’s Statute partially overruled by the 4th Circuit. The Town Ordinance fails to deliver an objective standard of what is indeed criminal disorderly conduct and leaves the determination in the hands of the police, who must “rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections”. *Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). The Town Ordinance also contains a scienter requirement, in which ‘willfully’ is used to impart some form of notice. Here, the terms willfully and unnecessary are not used alternatively. See *Kenny v. Wilson*, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). Furthermore, the ordinance fails to give adequate notice of the actual conduct that could earn criminal penalties.

The Appellant certainly raised her voice and made offensive and insulting comments directed at the Complainant, allegedly in violation of the law. However, the Town Ordinance in question prohibits ‘boisterous conduct’, among other things, allowing for the criminal prosecution of “just about any minor *perceived* infraction,” without providing notice as to “the type of conduct

that will lead to an arrest.” Accordingly, the Appellant’s right to due process was violated as she was incapable of knowing what kind of behavior could be deemed disorderly. *Id.*

II. THE TRIAL COURT ERRED BY ALLOWING THE STATE TO PROCEED AGAINST THE APPELLANT UNDER MULTIPLE ORDINANCE SUBSECTIONS WHICH WERE NOT SPECIFIED ON THE CHARGING DOCUMENT IN VIOLATION OF DUE PROCESS.

A. Failure To Charge with Specificity Violates Due Process

The Trial Court erred in denying the Appellant’s Request to Charge and Motion for the State to provide a more definite statement or charge a specific subsection under The Sullivan’s Island Town Ordinance for Disorderly Conduct Section 132.08 (formerly 14-8), which contains eighteen (18) subsections of various conduct prohibited.

A Defendant in a criminal case has the right to be made aware of the specific charge or charges against them, including the specifics of the allegations in support of those charges, in order to prepare a defense. Prior to opening statements, and outside the presence of the jury, Counsel for the Appellant made a motion *in limine* to dismiss the charge for lack of a definite allegation or, alternatively, direct the State to elect a specific subsection of the ordinance in which to proceed. The trial court denied this motion, but the State announced in response its intention to proceed against the Appellant by electing six (6) of the eighteen (18) subsections of the Town Ordinance.

The Trial Court permitted the State to proceed against the Appellant on the day of trial without prior notice, with a varied ‘*dealer’s choice*’ assortment of subsections under the Town Ordinance in violation of the Appellant’s due process and constitutional rights. The subsections of the Town Ordinance are significantly varied in their prohibited conduct and underlying elements as referenced *infra*.

The State elected the following six (6) subsections of the ordinance:

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely

to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(4) Interferes with another's pursuit of a lawful occupation by acts of violence;

(A)(7) Addresses abusive language or threats to any police officer, any other authorized official of the town who is engaged in the lawful performance of his or her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(9) Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his or her own safety or the safety of others;

(A)(12) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

(A)(18) Any person who shall use "fighting words or gestures" directed towards any other person who becomes outraged and thus creates turmoil.

Counsel for the Appellant made a contemporaneous objection, arguing that allowing the State to proceed in this manner violated the Appellant's Due Process Rights under the 14th Amendment of the United States Constitution. The Sullivan's Island Municipal Court overruled the Appellant's objection and allowed the State to begin opening statements with the six (6) alleged subsection violations to be factually determined by the jury.

After the conclusion of the State's case, the Appellant renewed all prior motions and objections, then moved for a directed verdict, which was summarily denied by the Trial Court. Then, prior to the start of closing arguments, the State elected to withdraw four (4) of the six (6) charged subsections, further compounding the violations of the Appellant's constitutional rights

and due process protections. The State and Appellant proceeded with closing arguments to the jury, who were then instructed by the trial court solely on the two-remaining subsections of the Town Ordinance, both of which describe the same conduct, with the only difference being the class of the public affected by the alleged conduct:

(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(12) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

The Trial Court erred in denying the Appellant's motion for the State to provide a more definite statement or charge a specific subsection under the Disorderly Conduct Town Ordinance. The Trial Court's ruling on the Appellant's various motions put the Appellant in an untenable position, unable to effectively assert her rights and defenses without the State putting forth the alleged conduct that was prohibited. Thus, the Appellant's Due Process Rights afforded to her under the 14th Amendment of the United States Constitution were violated.

CONCLUSION

Portions of the Sullivan's Island Town Ordinance for Disorderly Conduct violate the First Amendment of the United States Constitution. Furthermore, allowing the State to proceed against the Appellant, without prior notice, under a variety of Ordinance subsections and alleged prohibited conduct violates due process protections under the law. Therefore, the Appellant

requests this Court to reverse the judgment rendered by the Trial Court and overturn her conviction for Disorderly Conduct on the grounds referenced above.

RESPECTFULLY SUBMITTED,



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April 20, 2023

Respondent's Motion to Dismiss Appeal

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	Case Number: 2023-CP-10-01941
COUNTY OF CHARLESTON	)	
MEREDITH LOGAN	)	
WHITEHURST,	)	
	)	
Appellant/Plaintiff,	)	
vs.	)	MOTION TO DISMISS APPEAL
	)	
TOWN OF SULLIVAN’S ISLAND,	)	
	)	
Appellee/Defendant.	)	
_____	)	

TO: C. Austin Elliott, Esquire, Attorney for Appellant/Plaintiff:

PLEASE TAKE NOTICE that Appellee/Defendant, Town of Sullivan’s Island, by and thru its undersigned attorney, will move before the honorable Circuit Court Judge for the County of Charleston, State of South Carolina, at a date and time to be set by the Court, to dismiss the within captioned Appeal from the Municipal Court for the Town of Sullivan’s Island on the following grounds, to-wit

1) Appellant/Plaintiff was convicted by a Jury in the Municipal Court for the Town of Sullivan’s Island on March 21, 2023 and sentenced by the honorable Frances J. Cornely, Municipal Court Judge, that same day. C. Austin Elliott, Esquire, Attorney for Appellant/Plaintiff, made an oral Motion for New Trial after the Jury’s guilty verdict which was denied by Judge Cornely. Appellant/Plaintiff’s attorney filed and served a written Motion for a New Trial and Notice of Appeal with Sullivan’s Island Municipal Court on March 28, 2023, however, Appellant/Plaintiff failed to set forth the grounds for appeal as expressly required by Section 14-25-95, Code of Laws of South Carolina, 1976, as amended, and, per Section 14-25-95, Code of Laws of South Carolina, 1976, as amended, the appeal is considered waived and must be dismissed; and

2) Appellant/Plaintiff filed and served a Notice of Appeal and Memorandum In Support on April 20, 2023 setting forth the grounds for appeal, however, the Notice of Appeal and

Memorandum In Support was not timely filed within ten (10) days after sentenced is passed as required by Section 14-25-95, Code of Laws of South Carolina, 1976, as amended, and, per Section 14-25-95, Code of Laws of South Carolina, 1976, as amended, the appeal is considered waived and must be dismissed.

Respectfully Submitted,

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April 25, 2023.

Magistrate's Return

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
MEREDITH LOCAN WHITEHURST)
Appellant)
-versus-)
TOWN OF SULLIVAN’S ISLAND,)
Appellee.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2023-CP-10-1941

RETURN

FILED
2023 MAY 23 PM 3:30
JULIE J. ARMSTRONG
CLERK OF COURT

PROCEDURAL HISTORY

Appellant was cited for violating Sullivan’s Island Town Ordinance for Disorderly Conduct, Section 132.08. Jury Selection and a Pretrial Conference were held on March 20, 2023, and proceeded to trial on March 21, 2023. A jury found the Appellant guilty in her absence on March 21, 2023. Appellant made a Motion for a New Trial on March 28, 2023, that Motion was denied by the Court on March 30, 2023. The Appellant filed a Notice of Appeal on April 20, 2023. John Dodds, attorney for Appellee, filed a Motion to Dismiss Appeal pursuant to South Carolina Rules of Civil Procedure 12(b) on April 25, 2023. In the Motion to Dismiss, Mr. Dodds on behalf of the Town alleges that the Appellant did not timely file the Notice of Appeal.

Appellant cites three grounds for appeal:

- IA. That the Trial Court erred in denying the Appellant’s Motion to Dismiss on First Amendment right to free speech;
- IB. That the Trial Court erred in denying Appellant’s Motion to Dismiss based on the ordinance being unconstitutionally vague and offending due process; and
- II. That the Trial Court erred by allowing the Town to proceed against the Appellant under multiple subsections of the Disorderly Conduct ordinance.

The Appellant waived her presence for the pretrial conference, jury selection, trial and sentencing via affidavit submitted by her attorney.

In her Statement of the Case, Appellant alleges that the Complainant, in his capacity as an Uber driver, picked up the Appellant and a friend in downtown Charleston and began travelling to their requested destination on Sullivan's Island. At some point during the ride, the Complainant asked the Appellant and her friend to be quiet, eventually ordering them to "shut the fuck up." At trial, the Complainant is asked by Appellant's counsel "At any point, did you tell any one of the passengers to shut the fuck up?" The Complainant's answer is "No, no, no." (Trial Transcript, hereinafter TT, page 133, lines 20-22).

Testimony presented and the video recording of the incident shows that the Appellant and her friend were being loud and disrespectful, and that the Complainant asked the Appellant to please lower her voice at which point the Appellant and her friend became abusive, insulting and used profane language directed at the Complainant. The Complainant then stopped his vehicle and requested that the Appellant and her friend exit his vehicle. The Appellant took exception to this request and began using derogatory terms directed at the Complainant, such as "you Arabic piece of shit." The Complainant then dialed 9-1-1 and requested that the police respond because of the continuing barrage of insulting and profane language. The Appellant then attempted to pull the earbud out of Complainant's ear in order to disrupt the 9-1-1 phone call. The Appellant and her friend exited the vehicle and continued the barrage of insults and profane language in a loud and boisterous manner. They then left the scene and Sullivan's Island police officers arrived and spoke with Complainant.

Complainant shared with the officers a video clip of the incident that he had recorded from his dash camera. That video depicted the Appellant assaulting the Complainant and using insulting

and profane statements. Officers for the Town of Sullivan’s Island proceeded to the Appellant’s address and issued Appellant and her friend a Uniform Traffic Ticket for Disorderly Conduct pursuant to Town Ordinance § 132.08. The Appellant was given a scheduling order that informed her of a jury trial term of court for March 20 – 22, 2023. In the scheduling order it further indicated that all motions needed to be filed by March 12, 2023.

A Pretrial Hearing was held on March 13, 2023, and counsel for the Appellant and the Town Attorney met. The case was then scheduled for the trial to begin on March 20, 2023. The morning of March 20, 2023, counsel for the Appellant filed a Motion to Dismiss Pursuant to First Amendment grounds. The court declined to rule on the motion until such time as the Town had an opportunity to review the motion and prepare a response. The Court further noted that the scheduling order directed that all motions be filed by March 12, 2023.

ARGUMENT

I. THE TRIAL COURT ERRED IN DENYING APPELLANT’S MOTIONS TO DISMISS ON FIRST AMENDMENT AND DUE PROCESS GOUNDS.

A. Guilty Verdict and Ordinance Violates First Amendment Right to Free Speech

On the date of trial, March 21, 2023, counsel for Appellant argued that Ordinance 132.08 violated Appellant’s First Amendment Right to Free Speech. “The Appellant’s words did not ‘by their very utterance inflict injury or tend to incite an immediate breach of the peace,’ and did not arise to the level of fighting words garnering an ‘immediate violent response.’” (Page 6 of Appellant’s Memorandum in Support of Motion to Appeal). In closing statements to the jury, counsel for Appellant indicated “And I suppose it’s not in dispute that what was done or said is in a public space...” (TT, page 243). The Appellant further argued to the jury that it was up to the jury to find the defendant not guilty of the ordinance if the Town did not prove that other people

in a public place heard the comments made to the Complainant by the Appellant. It would only be a breach of peace if the neighbors heard it and woke up. (TT, pages 243-246)

The Supreme Court in *McMaster v. D.C. Bd. of Zoning Appeals*, 395 S.C. 499, 719 S.E.2d 660, 275 Ed. Law Rep. 434 (S.C. 2011), held that in reviewing substantive due process challenges to municipal ordinances, the Court must consider whether the ordinance bears any reasonable relationship to *any* legitimate interest of the government.

Sullivan's Island is primarily a residential island. The interest for the Town of Sullivan's Island and its citizens is to keep the peace. That is why the Disorderly Conduct Ordinance was enacted.

B. The Ordinance is Unconstitutionally Vague and Offends Due Process

On the date of trial, March 21, 2023, counsel for Appellant presented additional motions arguing that the ordinance for the Town of Sullivan's Island was unconstitutionally vague and overly broad where their meaning is not limited to fighting words or those which by their very utterance inflict injury or incite an immediate breach of peace. "The burden of proving the invalidity of a zoning ordinance is on the party attacking it and it is incumbent upon the challenger to show the arbitrary and capricious character of the ordinance through clear and convincing evidence." *Denene, Inc. v. City of Charleston*, 359 S.C. 85, 596 S.E.2d 917 (S.C. 2004). In *McMaster*, the Supreme Court of the State of South Carolina held that Municipal ordinances are a legislative enactment and are presumed to be constitutional. Further, the power to declare an ordinance invalid because it is so unreasonable as to impair or destroy constitutional rights is one which will be exercised as carefully and cautiously, as is not a function of the Supreme Court to pass upon the wisdom or the expediency of municipal ordinances or regulations. *Town of Scranton*

v. Willoughby, 306 S.C. 421, 412 S.E.2d 424 (S.C. 1991) and *Rush v. City of Greenville*, 246 S.C. 268, 143 S.E.2d 527 (S.C. 1965).

II. THE TRIAL COURT ERRED BY ALLOWING THE STATE TO PROCEED AGAINST THE APPELLANT UNDER MULTIPLE ORDINANCE SUBSECTIONS WHICH WERE NOT SPECIFIED ON THE CHARGING DOCUMENT IN VIOLATION OF DUE PROCESS

A. Failure to Charge with Specificity Violates Due Process

On the date of trial, March 21, 2023, counsel for Appellant made an additional motion requesting that the Appellee be more specific as to what particular subsections under the ordinance that the Appellee was proceeding against Appellant. The Court heard arguments from both parties and the Town agreed to proceed under subsections 4, 7, 8, 12 and 18 (TT, page 11). Counsel for Appellant requested that the Town further narrow the subsections under which they were proceeding. The Court ruled that without hearing evidence concerning the incident, it could not issue a decision. An in camera hearing was held, and the Complainant was called as a witness. Both parties were able to examine the Complainant. After hearing testimony, the Court ruled that the Town could proceed only under Subsections 8 and 12 of Town Ordinance 132.08 (TT, pages 69 – 107).

On Page 4 of her Memorandum in Support of Notice to Appeal, Appellant states: “At the conclusion of the State’s case in chief, the Trial Court denied the Appellant’s motion for Directed Verdict and other pretrial motions renewed by the Appellant. After the denial of the Appellant’s Motion for Directed Verdict but prior to closing arguments, the State elected to withdraw four (4) of the six (6) subsections charged against the Appellant. Counsel for the Appellant further renewed all prior objections on the record, then the State and Appellant proceeded with their respective closing arguments.” That is not accurate. As previously indicated, there was a hearing where the testimony of the Complainant was heard outside the presence of the jury, and then the Town

proceeded to trial under subsections 8 and 12. The Town called two witnesses, the Complainant and the investigating officer. The parties agreed to chain of custody of the video (TT, pages 117 – 219). Appellant’s counsel agreed that the video the Town was seeking to introduce was the entire video and that video was provided to the Appellant in discovery (TT, page 67).

Appellant moved for a new trial and indicated that, “Your Honor, any reference or testimony or evidence considered by the jury as it relates to these comments to Mr. Ghazlan are absolutely inflammatory and prejudicial when at the essence of the State’s case at the end of the day it was simply that these comments were made and heard in a public place. And what was heard is less relevant in that scenario than if anything was heard or could have been heard or was boisterous or reached some sort of volume. And the jury being able to hear the inflammatory prejudicial information at the beginning of the case, only for the State to narrow the surface at the end, we think is patently unfair, and in a violation of defendant’s constitutional rights.” (TT, pages 278 – 285). Counsel for Appellant further argued, “But, Your Honor, I guess, the point is, you know, trial strategy, cross-examination aspects were specifically relied on the wide scope in which the State elected to proceed, and then narrowed it at the close or near the close of the State’s evidence.” (TT, page 285). The jury never heard, either in the opening arguments or in direct testimony from the two witnesses presented for the Town, any reference to the six subsections of the ordinance that the Town initially indicated that they wanted to proceed under. It was not until after the in camera testimony of the Complainant that the issues were narrowed to include two subsections and then the jury heard testimony.

In conclusion, Appellant was found guilty by a jury of violating Town Ordinance 132.08. Appellee respectfully requests that the conviction be affirmed.

Respectfully Submitted,

s/ Francis J Cornely 8450
FRANCIS J. CORNELY
MUNICIPAL COURT JUDGE
TOWN OF SULLIVAN'S ISLAND

Charleston, South Carolina

May 23, 2023.

FRANCIS J. CORNELY

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May 23, 2023

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

RE: *Meredith L. Whitehurst v. Town of Sullivan's Island*
2023-CP-10-01941

Dear Julie:

Please find enclosed an original and one copy of a Return in the above referenced matter. As the Sullivan's Island Municipal Court Judge assigned to this case, I would appreciate you filing this Return on my behalf. Thank you for your assistance in this matter.

With best wishes, I remain

Sincerely,



Francis J. Cornely

FJC/amb

Enclosures

Appellant's Amended Notice of Appeal and Memorandum in Support

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	Case No.: 2023-CP-10-01941
COUNTY OF CHARLESTON	)	
	)	
Meredith Logan Whitehurst	)	
<i>Appellant,</i>	)	AMENDED NOTICE OF APPEAL
	)	AND MEMORANDUM IN SUPPORT
vs.	)	
	)	
Town Of Sullivan’s Island,	)	
<i>Appellee.</i>	)	
	)	

The Plaintiff (Appellant), Meredith Logan Whitehurst, by and through her attorney, C. Austin Elliott, hereby gives notice of appeal from the judgment of the Town of Sullivan’s Island Municipal Court to the Court of Common Pleas in Charleston County pursuant to S.C. Code Ann. § 14-25-95. This notice of appeal is made from the judgment in Municipal Court by Jury Trial Verdict on March 21, 2023. An *amended* brief statement of the case and the underlying grounds for appeal are set forth below.

SUMMARY OF GROUNDS FOR APPEAL

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PROCEDURAL HISTORY

The Appellant was cited for Sullivan's Island Town Ordinance for Disorderly Conduct, Section 132.08 (formerly Section 14-8), on June 11, 2022. The matter came before Sullivan's Island Municipal Court on March 20, 2023, with pretrial motions and jury selection that same day. The trial commenced the following day, March 21, 2023, and a jury rendered a guilty verdict against the Appellant. The Appellant made a written motion to the trial court for a new trial and notice of appeal on March 28, 2023, which the Court denied on March 30, 2023.

Appellant next filed the Original Notice of Appeal and Memo in Support with the Charleston County Court of Common Pleas on April 20th, 2023. The Appellee/State filed a motion to dismiss this appeal based on the timeliness, and the Appellant then filed a Response in Opposition to that motion to dismiss on November 15th, 2022. The Appellant now files this Amended Notice of Appeal & Memorandum in Support, clarifying all of the issues preserved and raised in this matter for appellate review. The Appellant also now files the trial court transcript and record on appeal.

STATEMENT OF THE CASE

On June 11, 2022, the Appellant and her friend¹ hired an Uber operated by Ahmed Ghozlan (Complainant). The Complainant picked up the Appellant in downtown Charleston and began traveling to their requested destination on Sullivan's Island. At some point during the ride, the Complainant asked the Appellant and her friend to be quiet, eventually ordering them to "shut the fuck up." As the Uber neared Sullivan's Island, the Complainant made an audible 'scoff' or 'sigh' in response to the Appellant's conversation with her friend. The Appellant and her friend then

¹ Appellant's friend is a Co-Defendant also charged with Disorderly Conduct under the Town Ordinance. This matter is not yet adjudicated.

asked the Complainant to pull over and allow them to exit the vehicle before arriving at their final destination on Sullivan's Island, which resulted in an escalating argument between the Complainant, the Appellant, and the Appellant's friend. The Appellant and her friend then used profane and insulting language directed at the Complainant as they exited the vehicle. It is undisputed that the Appellant called the Complainant an "Arabic piece of shit" after he demanded the Appellant and her friend leave his vehicle, which they were already in the process of doing. The Complainant dialed 911 as the Appellant and her friend exited the vehicle, alleging that his two female Uber passengers "insulted" him during the ride.

The 911 call prompted the dispatch of Sullivan's Island Police Officers Sydney DeNett and Joseph McMullen to the location of the Complainant's vehicle. The responding officers questioned the Complainant, who explained that the Appellant shouted expletives and racial insults directed at him while exiting the vehicle. Officer DeNett verbally informed Officer McMullen and the Complainant of her intent to charge the suspects with disorderly conduct, provided they could locate the Appellant and her friend. At this point, the Complainant showed Officer DeNett a short video clip recorded by his dash camera footage depicting the Appellant's insulting and profane statements as earlier described by the Complainant. Eventually, the officers used the Uber profile data and destination the Appellant's friend entered to learn their identity and destination and proceeded to the address to investigate further.

The officers approached the residence located at the destination address and made contact with the Appellant and her friend. Officer DeNett ordered the Appellant and her friend to step out onto the porch and detained them for further questioning. The Appellant confirmed they were the Complainant's passengers and did not dispute that she made racially insulting and profane statements to the Complainant. The Appellant and her friend then provided their 'side of the story'

and further context to the responding officers. Officer DeNett charged the Appellant and her friend with Disorderly Conduct pursuant to Sullivan's Island Town Ordinance Section 14-8 (the Town Ordinance) on a Uniform Traffic Ticket (UTT). The UTT issued by Officer DeNett did not specify a particular subsection of the Town Ordinance alleged against the Appellant.

On March 13, 2023, Counsel for Appellant and State met at a Pre-Trial Conference. On March 13, 2023, Counsel for the Appellant and the State met at said conference, where Counsel for the Appellant gave the State a draft copy of a motion to dismiss, arguing the charge of disorderly conduct violated Appellant's First Amendment rights. The Pre-Trial Conference took place without the presence of the Trial Judge. On March 15, 2023, Counsel for the Appellant filed the motion to dismiss with the Court. Later that week, the State informed Defense that the trial would proceed next week as scheduled.

On the morning of Monday, March 20, 2023, a Pre-Trial Conference took place in the presence of the Trial Judge. The Appellant raised the Court's attention and argued the now-filed Motion to Dismiss pursuant to First Amendment grounds. The Court denied a hearing on the motion until the start of the trial on March 21, 2023, citing the scheduling order requiring at least ten-day notice before the time specified for the hearing in which the motion is to be proffered.

On the day of the trial, March 21, 2023, Counsel for the Appellant asked for clarification on the specific sections of the Ordinance that the Appellant was charged with, as no such specificity was ever given on the Uniform Traffic Ticket or in any subsequent summons or court document. The State chose six (6) of the eighteen (18) Ordinance subsections to proceed against the Appellant. Counsel for the Appellant raised an objection to the Trial Court, arguing that proceeding in this manner violated procedural due process rights. The Municipal Court, upon hearing the First Amendment motion to dismiss, a motion to dismiss on the basis of the vagueness

of the Town Ordinance, and two motions to suppress evidence, denied all before it, and the trial continued. The Appellant then made two additional motions *in limine* relating to evidentiary matters. The first evidentiary motion raised moved for suppression of the video clip in the State's evidence referred to by the parties as the 'three-minute video clip' on the basis the clip was not the 'entire video' of the incident and, therefore, prejudicial. The Appellant then made a second evidentiary motion to suppress this same 'three-minute video clip' on the basis of deficiencies in the chain of custody related to the Complainant's delivery of the video clip to the Town of Sullivan's Island Police Department². The Trial Court denied both of the Appellant's evidentiary motions to suppress this video evidence.

At the conclusion of the State's case in chief, the Trial Court denied the Appellant's motion for Directed Verdict and other pretrial motions renewed by the Appellant. After the denial of the Appellant's Motion for Directed Verdict but prior to closing arguments, the State elected to withdraw four (4) of the six (6) subsections charged against the Appellant. Counsel for the Appellant further renewed all prior objections on the record, then the State and Appellant proceeded with their respective closing arguments.

The Trial Court then instructed the jury on the remaining two (2) subsections of the Town Ordinance. The two subsections are as follows:

(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public

² The Appellant did not and still does not dispute the chain of custody once the video was in the possession of the State, only the matter of the Complainant's voluntary and non-contemporaneous delivery of the video clip in the days following this incident.

highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(11) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

The jury found Appellant guilty of violating the remaining two sections of the Ordinance after deliberation.

GROUND FOR APPEAL

I. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTIONS TO DISMISS ON FIRST AMENDMENT AND DUE PROCESS GROUNDS.

A. Guilty Verdict and Ordinance Violates First Amendment Right to Free Speech

The Trial Court erred in denying Appellant's pretrial Motion to Dismiss on the basis that the allegations against the Appellant were clearly protected speech under the First Amendment. The Appellant's conviction under the Town Ordinance violates both her First Amendment Right to Free Speech and Due Process protections because of the unconstitutionally vague nature of the language in the Town Ordinance. Furthermore, the statements made by the Appellant are not "Fighting Words" as defined in state and federal jurisprudence.

The United States Supreme Court has repeatedly struck down statutes and city ordinances such as Sullivan's Island Town Ordinances as unconstitutionally vague and overbroad where their meaning is not limited to "fighting words," or "those which by their very utterance inflict injury or tend to incite an immediate breach of the peace." *Gooding v. Wilson*, 405 U.S. 518 (1972); *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942). This limitation is incredibly restrictive, allowing to criminalize speech only "where there was [a] likelihood that the person addressed would make an immediate violent response." *Id.* at 528, 92 S.Ct. 1103 (emphasis added); *See also Johnson*, 491 U.S. at 410, 109 S.Ct. 2533." *United States v. Bartow*, 997 F.3d 203, 208 (4th

Cir. 2021). Indeed, “The [Supreme] Court has so narrowed the ‘fighting words’ exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky* itself.” *Id.*

Our State’s appellate courts have placed such a limiting construction on S.C. Code § 16-17-530, and have held that, even though profanity is used in a public place, “profane language alone is insufficient to constitute a violation of the public disorderly conduct statute.” *City of Landrum v. Sarratt*, 352 S.C. 139, 141 (Ct. App. 2002). For such language to not be protected under the First Amendment, it must rise to the level of fighting words, and “[t]he fact that words are vulgar or offensive is not alone sufficient to classify them as fighting words, thereby removing them from the protection provided by the First Amendment.” *Id.* at 142, citing *Gooding*, 405 U.S. at 527.

The charge against the Appellant was based solely on her use of insulting and profane language directed at the Complainant Uber Driver. The Appellant’s words did not “by their very utterance inflict injury or tend to incite an immediate breach of the peace,” and did not arise to the level of fighting words garnering an “immediate violent response”. *United States v. Bartow*, 997 F.3d 203, 208 (4th Cir. 2021). Moreover, the requirement that the fighting words create ‘turmoil’, as outlined in the Town Ordinance, is not sufficient under the Constitution. As outlined in *Bartow*, the words by their utterance must incite an immediate “violent response”. *Id.* Their “profane language alone is insufficient to constitute a violation of the public disorderly conduct” ordinance. *See City of Landrum v. Sarratt*, 352 S.C. 139, 141 (Ct. App. 2002).

B. The Town Ordinance is Unconstitutionally Vague and Offends Due Process

The Trial Court erred in denying the Appellant’s Motion to Dismiss on the basis that the Ordinance itself is unconstitutionally vague. The Ordinance, as written, fails to give notice as to the conduct that is truly prohibited. The subjective nature of the Ordinance offends the Constitution and was therefore misused to charge the Appellant for her Constitutionally protected

conduct. The Appellant was convicted solely on the basis of offensive comments she and her Co-Defendant made to the Complainant, which were not witnessed or heard by the public or any other person.

The United States Supreme Court has repeatedly struck down statutes and city ordinances similar to the Town Ordinance in this matter. However, statutes or ordinances such as this Ordinance will withstand facial constitutional challenges where the statute, as construed by the State's courts, "is not susceptible of application to speech, although vulgar or offensive, that is protected by the First and Fourteenth Amendments." *Gooding*, 405 U.S., citing *Cohen v. California*, 403 U.S. 15, 18-22 (1971).

The 4th Circuit has further bolstered this perspective in their recent decision in *Carolina Youth Action Project v. Wilson*, which considered the Constitutionality of the state of South Carolina's Disorderly Conduct Statute, specifically whether the statute could withstand the "void for vagueness" doctrine. *Manning v. Caldwell for City of Roanoke*, 930 F.3d 264, 272 (4th Cir. 2019) (en banc). That doctrine bars a State from taking away life, liberty, or property under a law that fails to "give a person of ordinary intelligence adequate notice of what conduct is prohibited" or lacks "sufficient standards to prevent arbitrary and discriminatory enforcement." *Id.*

The 4th Circuit Court found that the State's statute failed to withstand the "void for vagueness" doctrine as applied to school children, stating that "[the Court is] skeptical that [appellant's] statements 'fuck you' and 'fuck all of you' were fighting words under modern First Amendment doctrine. See *United States v. Bartow*, 997 F.3d 203, 211 (4th Cir. 2021) (noting that the Supreme Court "has so narrowed the 'fighting words' exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky v. New Hampshire*, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942)] itself.") *Carolina Youth Action Project; D.S. by & through Ford v.*

Wilson, 60 F.4th 770, 785 (4th Cir. 2023). The ruling, while focusing on the application of the statute to school children, provides numerous supports for challenging other such statutes and ordinances that are vague and fail to give adequate notice to citizens.

The 4th Circuit held that the Constitution does not permit “criminal laws broadly drafted to serve as all-purpose tools of law enforcement.” *See Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (admonishing legislators against “entrusting lawmaking to the moment-to-moment judgment of the policeman on his beat’ ”) (citation omitted); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 165, 92 S.Ct. 839, 31 L.Ed.2d 110 (1972) (noting the danger associated with allowing the legislature to “set a net large enough to catch all possible offenders, and leav[ing] it to the courts to step inside and say who could be rightfully detained, and who should be set at large”) (citation omitted); *Coates*, 402 U.S. at 614, 91 S.Ct. 1686 (explaining that the city is free to prohibit certain conduct through the enactment and enforcement of ordinances directed with reasonable specificity toward the conduct to be prohibited but cannot “constitutionally do so through the enactment and enforcement of an ordinance whose violation may entirely depend upon whether or not a policeman is annoyed”); *City of Chicago v. Morales*, 527 U.S. 41, 71, 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999) (Breyer, J., concurring in part and concurring in the result) (“[The ordinance] is unconstitutional, not because a policeman applied his discretion wisely or poorly in a particular case, but rather because the policeman enjoys too much discretion in every case ... [a]nd if every application of the ordinance represents an exercise of unlimited discretion, then the ordinance is invalid in all its applications”); *Manning*, 930 F.3d at 276 (finding as unacceptable that application of the challenged phrase in an individual case would depend “entirely upon the prohibition philosophy of the particular individual enforcing the scheme at that moment”).

Ordinances and statutes by legislatures, both state and local, that restrict the 1st Amendment rights of its citizens cannot be vague and withstand due process challenges. The 4th Circuit in the *Carolina Youth Action Project v. Wilson* decision held that:

“because the [South Carolina] Disorderly Conduct Law provides no objective criteria by which to apply and enforce it, law enforcement perennially rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections. This degree of unpredictability is not compatible with the protections afforded by due process.” *See Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (holding as incurably standardless statutory

language that allows policemen, prosecutors, and juries to pursue their personal predilections, stating that “[l]egislatures may not so abdicate their responsibilities for setting the standards of the criminal law”) *Kenny v. Wilson*, 566 F. Supp. 3d 447, 465 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

The 4th Circuit found that South Carolina’s Disorderly Conduct Law “is vague because of ‘the intractability of identifying the applicable legal standard.’ *Kolbe*, 849 F.3d at 149 (citing *United States v. Williams*, 553 U.S. 285, 306, 128 S.Ct. 1830, 170 L.Ed.2d 650 (2008)) (‘What renders a statute vague is not the possibility that it will sometimes be difficult to determine whether the incriminating fact it establishes has been proved; but rather the indeterminacy of precisely what that fact is’); *Kenny v. Wilson*, 566 F. Supp. 3d 447, 467 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). Worse, the South Carolina Disorderly Conduct Statute allows for the criminal prosecution of “just about any minor perceived infraction,” without providing notice as to “the type of conduct that will lead to an arrest.” *Id.*

Furthermore, South Carolina’s Disorderly Conduct statute was not saved by the inclusion of a scienter requirement. The 4th Circuit noted:

“Defendant argues that the term ‘willfully’ creates an element of knowledge and thereby provides notice of the prohibited conduct. It is true that a scienter requirement ‘may mitigate a law’s vagueness, especially with respect to the adequacy of notice to the complainant that his conduct is proscribed.’ *Village of Hoffman Estates*, 455 U.S. at 499, 102 S.Ct. 1186.10 However, the term willful is used alternatively with the term ‘unnecessary’; therefore, a student could be held in violation of the statute having acted without knowledge or intent.” *Kenny v. Wilson*, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

In this case, the charge against the Appellant is based solely on her use of loud and allegedly profane language against the Complainant. The Ordinance that supplies the description of criminal

disorderly conduct is undeniably similar to the State’s Statute partially overruled by the 4th Circuit. The Town Ordinance fails to deliver an objective standard of what is indeed criminal disorderly conduct and leaves the determination in the hands of the police, who must “rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections”. *Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). The Town Ordinance also contains a scienter requirement, in which ‘willfully’ is used to impart some form of notice. Here, the terms willfully and unnecessary are not used alternatively. See *Kenny v. Wilson*, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). Furthermore, the ordinance fails to give adequate notice of the actual conduct that could earn criminal penalties.

The Appellant certainly raised her voice and made offensive and insulting comments directed at the Complainant, allegedly in violation of the law. However, the Town Ordinance in question prohibits ‘boisterous conduct’, among other things, allowing for the criminal prosecution of “just about any minor *perceived* infraction,” without providing notice as to “the type of conduct that will lead to an arrest.” Accordingly, the Appellant’s right to due process was violated as she was incapable of knowing what kind of behavior could be deemed disorderly. *Id.*

II. THE TRIAL COURT ERRED BY ALLOWING THE STATE TO PROCEED AGAINST THE APPELLANT UNDER MULTIPLE ORDINANCE SUBSECTIONS WHICH WERE NOT SPECIFIED ON THE CHARGING DOCUMENT IN VIOLATION OF DUE PROCESS.

A. Failure To Charge with Specificity Violates Due Process

The Trial Court erred in denying the Appellant’s Request to Charge and Motion for the State to provide a more definite statement or charge a specific subsection under The Sullivan’s

Island Town Ordinance for Disorderly Conduct Section 132.08 (formerly 14-8), which contains eighteen (18) subsections of various conduct prohibited.

A Defendant in a criminal case has the right to be made aware of the specific charge or charges against them, including the specifics of the allegations in support of those charges, in order to prepare a defense. Prior to opening statements, and outside the presence of the jury, Counsel for the Appellant made a motion *in limine* to dismiss the charge for lack of a definite allegation or, alternatively, direct the State to elect a specific subsection of the ordinance in which to proceed. The trial court denied this motion, but the State announced in response its intention to proceed against the Appellant by electing six (6) of the eighteen (18) subsections of the Town Ordinance.

The Trial Court permitted the State to proceed against the Appellant on the day of trial without prior notice, with a varied ‘*dealer’s choice*’ assortment of subsections under the Town Ordinance in violation of the Appellant’s due process and constitutional rights. The subsections of the Town Ordinance are significantly varied in their prohibited conduct and underlying elements as referenced *infra*.

The State elected the following six (6) subsections of the ordinance:

A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(4) Interferes with another’s pursuit of a lawful occupation by acts of violence;

(A)(7) Addresses abusive language or threats to any police officer, any other authorized official of the town who is engaged in the lawful performance of his or her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near

to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(9) Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his or her own safety or the safety of others;

(A)(12) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

(A)(18) Any person who shall use "fighting words or gestures" directed towards any other person who becomes outraged and thus creates turmoil.

Counsel for the Appellant made a contemporaneous objection, arguing that allowing the State to proceed in this manner violated the Appellant's Due Process Rights under the 14th Amendment of the United States Constitution. The Sullivan's Island Municipal Court overruled the Appellant's objection and allowed the State to begin opening statements with the six (6) alleged subsection violations to be factually determined by the jury.

After the conclusion of the State's case, the Appellant renewed all prior motions and objections, then moved for a directed verdict, which was summarily denied by the Trial Court. Then, prior to the start of closing arguments, the State elected to withdraw four (4) of the six (6) charged subsections, further compounding the violations of the Appellant's constitutional rights and due process protections. The State and Appellant proceeded with closing arguments to the jury, who were then instructed by the trial court solely on the two-remaining subsections of the Town Ordinance, both of which describe the same conduct, with the only difference being the class of the public affected by the alleged conduct:

(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

(A)(8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

(A)(12) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;

The Trial Court erred in denying the Appellant's motion for the State to provide a more definite statement or charge a specific subsection under the Disorderly Conduct Town Ordinance. The Trial Court's ruling on the Appellant's various motions put the Appellant in an untenable position, unable to effectively assert her rights and defenses without the State putting forth the alleged conduct that was prohibited. Thus, the Appellant's Due Process Rights afforded to her under the 14th Amendment of the United States Constitution were violated.

III. THE TRIAL COURT ERRED BY DENYING THE APPELLANT'S EVIDENTIARY MOTIONS TO SUPPRESS THE 'THREE-MINUTE VIDEO' CLIP.

The Trial Court erred in denying the Appellant's two evidentiary motions to suppress the 'three-minute' video clip on the basis of prejudice and chain of custody. The Trial Court erred by not granting the Appellant's first evidentiary motion for suppression of the video clip on the basis that the clip was not the 'entire video' of the incident and, therefore, prejudicial. The Trial Court further erred by not granting the Appellant's second evidentiary motion to suppress this same 'three-minute video clip' on the basis of deficiencies in the chain of custody related to the Complainant's delivery of the video clip to the Town of Sullivan's Island Police Department

CONCLUSION

Portions of the Sullivan's Island Town Ordinance for Disorderly Conduct violate the First Amendment of the United States Constitution. Furthermore, allowing the State to proceed against the Appellant, without prior notice, under a variety of Ordinance subsections and alleged

prohibited conduct violates due process protections under the law. Therefore, the Appellant requests this Court to reverse the judgment rendered by the Trial Court and overturn her conviction for Disorderly Conduct on the grounds referenced above.

RESPECTFULLY SUBMITTED,



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Charleston, South Carolina

November 15, 2023

Appellant's Reply to Town's Motion to Dismiss

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	Case No.: 2023-CP-10-01941
COUNTY OF CHARLESTON	)	
	)	
Meredith Logan Whitehurst	)	APPELLANT’S REPLY TO STATE’S
<i>Appellant,</i>	)	MOTION TO DISMISS
	)	
vs.	)	
	)	
Town Of Sullivan’s Island,	)	
<i>Appellee.</i>	)	
	)	

The Appellant, Meredith Logan Whitehurst (hereinafter Appellant/Whitehurst), by and through her attorney, now responds in opposition to the Motion to Dismiss this Appeal filed on April 27, 2023, by the Town of Sullivan’s Island Prosecutor (hereinafter Appellee/Town). This court should deny the Appellee’s Motion to Dismiss based on the following:

- 1. Appellant filed a combined Motion for a New Trial and Notice of Appeal with the Trial Court on March 28, 2023, which extended the Time for Appeal from ten (10) days to thirty (30) days pursuant to S.C. Code Ann. § 22-3-1000 (2023). Therefore, the Notice of Appeal filed in this matter on April 20th, 2023 was timely.**

ARGUMENT

The Appellant was convicted on March 21, 2023. Appellee timely filed a written Motion for a New Trial and Notice of Appeal with the Trial Court (*Town of Sullivan’s Island Municipal Court*) on March 28, 2023 (Exhibit A). The Trial Court denied the Appellee’s Motion for a New Trial by written Order on March 30, 2023 (Exhibit B), which constitutes the trial’s final judgment/order. Appellant’s Motion for a New Trial extended the Time for Appeal from ten (10) days to thirty (30) days pursuant to S.C. Code Ann. § 22-3-1000.

In criminal matters, the powers and duties of Municipal and Magistrate Courts are the same. Pursuant to S.C. Code Ann. § 14-25-45, the Court also has such powers, duties and jurisdiction in criminal cases made under state law and conferred upon magistrates. S.C. Code

Ann. § 14-25-45. Any person convicted of any offense by a municipal court may appeal the sentence to the Court of Common Pleas. S.C. Code Ann. §14-25-95. The Appellant must serve the notice of intention to appeal upon the municipal judge or the clerk of the municipal court within ten days of sentencing and state the grounds for his appeal. When a motion for a new trial is made within ten (10) days as provided in § 22-3-1000, and the motion is denied, the time for appeal is extended to thirty days. § 22-3-1000 provides: "[A] motion for a new trial may not be heard unless made within ten days from the rendering of the judgment. The right of appeal from the judgment exists for thirty days after the rendering of the judgment." S.C. Code Ann. § 22-3-1000 (2023).

CONCLUSION

The time for appeal was extended from 10 to 30 days when the Appellant's Motion for a New Trial was filed on March 28, 2023, and ruled upon on March 30th, 2023. Accordingly, the Appellant's Notice of Appeal and Memorandum in Support submitted on April 20th, 2023, was timely filed. Appellant requests this Court deny Appellee's Motion to Dismiss, rule on the substantive legal issues raised in the Appellant's memorandum, and reverse the Appellant's criminal conviction as a matter of law.

RESPECTFULLY SUBMITTED,



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Charleston, South Carolina
November 15, 2023

Appellant's Motion for a New Trial and Notice of Intent to Appeal

STATE OF SOUTH CAROLINA	)	IN THE SULLIVAN'S ISLAND
	)	MUNICIPAL COURT
COUNTY OF CHARLESTON	)	
	)	SUMMONS NOS.: 8102P0964359
	)	
STATE,	)	
	)	MOTION FOR A NEW TRIAL
v.	)	AND
	)	NOTICE OF APPEAL
MEREDITH WHITEHURST,	)	
	)	
DEFENDANT.	)	
	)	
_____	)	

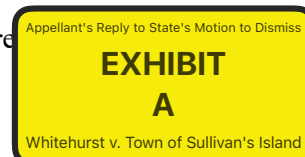
NOW COMES THE ABOVE REFERENCED DEFENDANT, by and through their undersigned counsel, and submits this written Motion for a New Trial and the Defendant's Notice of Intent to Appeal in reference to citation # 8102P0964359.

BRIEF PROCEDURAL SUMMARY

On March 21st, 2023, the Defendant was tried by jury and convicted of Disorderly Conduct (*Sullivan's Island Ordinance 14-8*). During the trial and prior to the jury's verdict, Counsel for the Defendant made numerous written and oral pre-trial motions, motions *in limine*, and a motion for directed verdict at the close of the State's case. These motions were all denied by the Hon. Francis Cornely. Counsel for the Defendant also made an *oral* Motion for a New Trial after the jury rendered a guilty verdict, which was also denied by Judge Cornely.

NOTICE OF INTENT TO APPEAL

The undersigned acknowledges that Trial Judge, Hon. Francis Cornely, verbally denied the Defendant's *oral* Motion for a New Trial after the verdict in this matter. The Defendant now respectfully submits this written Motion for a New Trial, only out of an abundance of caution and for the purposes of clarifying the timeline and re



matter. Defendant presumes this written Motion for a New Trial is summarily denied by the Court, as ruled by the trial judge in his verbal order at the conclusion of the trial. Accordingly, the Defendant now files this written Notice of Intent to File an Appeal in this matter and shall submit a formal Notice of Appeal with a statement of the grounds therein within thirty (30) days of the jury's verdict in this matter which was entered on March 21st, 2023.

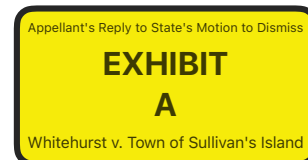
The undersigned respectfully submits this pleading not for redundancy but for purposes of clarity of the timeline in this matter and shall file the Defendant's fully briefed Notice of Appeal on or before April 20th, 2023, with a copy of the notice submitted to the Prosecutor for the State.

Respectfully submitted,



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March 28th, 2023



CERTIFICATE OF FILING

The undersigned hereby certifies that on March 28th, 2023, the original of the above and foregoing Motion was mailed, via United States Mail, postage prepaid, for the purpose of filing, to the Clerk of Court for Sullivans Island Municipal Court, P.O. Box 427 Sullivans Island, SC 29482.

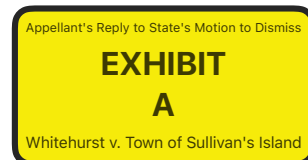
CERTIFICATE OF MAILING

The undersigned hereby certifies that on March 28th, 2023, a true and correct copy of the above and foregoing Motion was mailed, via United States Mail, postage prepaid to John Dodds, Prosecutor for the Town of Sullivans Island Municipal Court. A copy of the foregoing was also emailed to the Prosecutor as of the above-referenced date.

Respectfully submitted,

C. Austin Elliott

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
TOWN OF SULLIVAN’S ISLAND)
)
vs.)
)
Meredith Whitehurst,)
)
DEFENDANT.)
)

IN THE MUNICIPAL COURT
TICKET NO(S): 8102P0964359

MOTION FOR NEW TRIAL

This matter comes before the Court on the Motion of Austin Elliot, attorney for the Defendant. Based on the foregoing information, the Court finds it unreasonable to reopen this matter for a new trial.

Therefore, the motion for a new trial is denied.

AND IT IS SO ORDERED.

Frank J. Cornely
Municipal Judge

3-30-2023



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Appellant's Reply to State's Motion to Dismiss

EXHIBIT

B

Whitehurst v. Town of Sullivan's Island

Motion to Dismiss on the Basis of 1st Amendment Protections

STATE OF SOUTH CAROLINA	)	IN THE SULLIVAN’S ISLAND
	)	MUNICIPAL COURT
COUNTY OF CHARLESTON	)	
	)	SUMMONS NOS.: 8102P0964359
	)	
STATE,	)	
	)	MOTION TO DISMISS ON THE
v.	)	BASIS OF 1ST AMENDMENT
	)	PROTECTED SPEECH
MEREDITH WHITEHURST,	)	
	)	
DEFENDANT.	)	
	)	
_____	)	

NOW COMES THE ABOVE REFERENCED DEFENDANT, by and through their undersigned counsel, and submits this motion before the Court requesting a dismissal of the above referenced citation # 8102P0964359, on the following grounds:

Counsel for the Defendant, Meredith Whitehurst, respectfully requests that this Court dismiss the above-captioned summons because the Defendant’s alleged conduct is lawful and protected by the Defendant’s First Amendment rights under the United States Constitution.

ANALYSIS

Sullivan’s Island, S.C. Code of Ordinances § 132.08 (A)(18), Disorderly Conduct Prohibited, states:

“(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:
 ...(18) Any person who shall use ‘fighting words or gestures’ directed towards any other person who becomes outraged and thus creates turmoil.”

The United States Supreme Court has repeatedly struck down statutes and city ordinances such as Sullivan’s Island, S.C. Code of Ordinances § 132.08 (A)(18) as unconstitutionally vague and overbroad where their meaning is not limited to “fighting words,” or “those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.” *Gooding v. Wilson*, 405 U.S. 518 (1972); *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942). This limitation is incredibly restrictive, allowing to criminalize speech only “where there was [a] likelihood that the person addressed would make an immediate violent response.” *Id.* at 528, [92 S.Ct. 1103](#) (emphasis added); see also *Johnson*, [491 U.S. at 410](#), [109 S.Ct. 2533](#).” *United States v. Bartow*, 997 F.3d 203, 208 (4th Cir. 2021). Indeed, “The [Supreme] Court has so narrowed the ‘fighting words’ exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky* itself.” *Id.*

. As outlined in *Bartow*, the words by their utterance must incite an immediate “violent response”. *Id.* Their “profane language alone is insufficient to constitute a violation of the public disorderly conduct” ordinance. See *City of Landrum v. Sarratt*, 352 S.C. 139, 141 (Ct. App. 2002).

CONCLUSION

The Constitution demands strict scrutiny of any State action, law, or ordinance which limits or criminalizes any form of speech. In this case, the State alleges the Defendants’ speech was made in violation of the Sullivan’s Island town ordinance for disorderly conduct. The State’s case against the Defendants is based on alleged speech or statements made by the Defendants, which can only be characterized as merely vulgar or offensive speech. The allegations against Defendants do not aver any unlawful conduct

and do not support probable cause for disorderly conduct. Therefore, the undersigned respectfully moves this honorable court to dismiss the Defendant's charges.

Respectfully submitted,



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March 13, 2023

Motion to Dismiss Ordinance Unconstitutionally Vague

STATE OF SOUTH CAROLINA	)	IN THE SULLIVAN’S ISLAND
	)	MUNICIPAL COURT
COUNTY OF CHARLESTON	)	
	)	SUMMONS NOS.: 8102P0964359
	)	
STATE,	)	
	)	MOTION TO DISMISS –
v.	)	ORDINANCE
	)	UNCONSTITUTIONALLY
MEREDITH WHITEHURST,	)	VAGUE
	)	
DEFENDANT.	)	
	)	
_____	)	

NOW COMES THE ABOVE REFERENCED DEFENDANT, by and through their undersigned counsel, and submits this motion before the Court requesting a dismissal of the above referenced citation # 8102P0964359, on the following grounds:

Counsel for the Defendant, Meredith Whitehurst, respectfully requests that this Court dismiss the above-captioned summons because the Defendant’s alleged conduct is lawful and protected by the Defendant’s First Amendment rights under the United States Constitution. Furthermore, the recent 4th circuit opinion leads counsel to request that this Court dismiss the summons because the ordinance is Unconstitutionally vague in its inability to provide notice to Ms. Whitehurst as to the type of conduct that would lead to an arrest for disorderly conduct.

ANALYSIS

Sullivan’s Island, S.C. Code of Ordinances § 132.08 (A)(8), Disorderly Conduct Prohibited, states:

“ (A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public

view:

... (8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;

The United States Supreme Court has repeatedly struck down statutes and city ordinances such as Sullivan’s Island, S.C. Code of Ordinances § 132.08 (A)(18) as unconstitutionally vague and overbroad where their meaning is not limited to “fighting words,” or “those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.” *Gooding v. Wilson*, 405 U.S. 518 (1972); *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942). However, statutes such as this will withstand facial constitutional challenges where the statute, as construed by the State’s courts, “is not susceptible of application to speech, although vulgar or offensive, that is protected by the First and Fourteenth Amendments.” *Gooding*, 405 U.S., citing *Cohen v. California*, 403 U.S. 15, 18-22 (1971).

The 4th Circuit has further bolstered this perspective in their recent decision in *Carolina Youth Action Project v. Wilson*, which considered the Constitutionality of the state of South Carolina’s Disorderly Conduct Statute, specifically whether the statute could withstand the “void for vagueness” doctrine. *Manning v. Caldwell for City of Roanoke*, 930 F.3d 264, 272 (4th Cir. 2019) (en banc). That doctrine bars a State from taking away life, liberty, or property under a law that fails to “give a person of ordinary intelligence adequate notice of what conduct is prohibited” or lacks “sufficient standards to prevent arbitrary and discriminatory enforcement.” *Id.* The 4th Circuit Court found that the State’s statute failed to withstand the “void for vagueness” doctrine as applied to school children, stating that “[the Court is] skeptical that [appellant’s] statements “fuck you” and “fuck all

of you” were fighting words under modern First Amendment doctrine. See *United States v. Bartow*, 997 F.3d 203, 211 (4th Cir. 2021) (noting that the Supreme Court “has so narrowed the ‘fighting words’ exception that it has not upheld a criminal conviction under the doctrine since *Chaplinsky v. New Hampshire*, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942)] itself.”) *Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770, 785 (4th Cir. 2023). The ruling, while focusing on the application of the statute to school children, provides numerous supports for challenging other such statutes and ordinances that are vague and fail to give adequate notice to citizens.

The 4th Circuit held that the Constitution does not permit “criminal laws broadly drafted to serve as all-purpose tools of law enforcement.” See *Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (admonishing legislators against “entrusting lawmaking to the moment-to-moment judgment of the policeman on his beat’ ”) (citation omitted); *Papachristou v. City of Jacksonville*, 405 U.S. 156, 165, 92 S.Ct. 839, 31 L.Ed.2d 110 (1972) (noting the danger associated with allowing the legislature to “set a net large enough to catch all possible offenders, and leav[ing] it to the courts to step inside and say who could be rightfully detained, and who should be set at large”) (citation omitted); *Coates*, 402 U.S. at 614, 91 S.Ct. 1686 (explaining that the city is free to prohibit certain conduct through the enactment and enforcement of ordinances directed with reasonable specificity toward the conduct to be prohibited but cannot “constitutionally do so through the enactment and enforcement of an ordinance whose violation may entirely depend upon whether or not a policeman is annoyed”); *City of Chicago v. Morales*, 527 U.S. 41, 71, 119 S.Ct. 1849, 144 L.Ed.2d 67 (1999) (Breyer, J., concurring in part and concurring in the result) (“[The ordinance] is unconstitutional, not because a policeman applied his discretion wisely or poorly in a

particular case, but rather because the policeman enjoys too much discretion in every case ... [a]nd if every application of the ordinance represents an exercise of unlimited discretion, then the ordinance is invalid in all its applications”); *Manning*, 930 F.3d at 276 (finding as unacceptable that application of the challenged phrase in an individual case would depend “entirely upon the prohibition philosophy of the particular individual enforcing the scheme at that moment”).

Ordinances and statutes by legislatures both state and local that restrict the 1st Amendment rights of its citizens cannot be vague and withstand due process challenges. The 4th Circuit in the *Carolina Youth Action Project v. Wilson* decision held that:

“because the [South Carolina] Disorderly Conduct Law provides no objective criteria by which to apply and enforce it, law enforcement perennially rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections. This degree of unpredictability is not compatible with the protections afforded by due process.” See *Goguen*, 415 U.S. at 575, 94 S.Ct. 1242 (holding as incurably standardless statutory language that allows policemen, prosecutors, and juries to pursue their personal predilections, stating that “[l]egislatures may not so abdicate their responsibilities for setting the standards of the criminal law”)

Kenny v. Wilson, 566 F. Supp. 3d 447, 465 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project*; *D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

The 4th Circuit found that South Carolina’s Disorderly Conduct Law “is vague because of ‘the intractability of identifying the applicable legal standard.’ *Kolbe*, 849 F.3d at 149 (citing *United States v. Williams*, 553 U.S. 285, 306, 128 S.Ct. 1830, 170 L.Ed.2d 650 (2008)) (‘What renders a statute vague is not the possibility that it will sometimes be difficult to determine whether the incriminating fact it establishes has been proved; but rather the indeterminacy of precisely what that fact is’); *Kenny v. Wilson*, 566 F. Supp. 3d 447, 467 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project*; *D.S. by & through*

Ford v. Wilson, 60 F.4th 770 (4th Cir. 2023). Worse, the South Carolina Disorderly Conduct Statute allows for the criminal prosecution of “just about any minor perceived infraction,” without providing notice as to “the type of conduct that will lead to an arrest.” *Id.*

South Carolina’s Disorderly Conduct statute was not saved by the inclusion of a scienter requirement. The 4th Circuit noted:

“Defendant argues that the term ‘willfully’ creates an element of knowledge and thereby provides notice of the prohibited conduct. It is true that a scienter requirement ‘may mitigate a law’s vagueness, especially with respect to the adequacy of notice to the complainant that his conduct is proscribed.’ *Village of Hoffman Estates*, 455 U.S. at 499, 102 S.Ct. 1186.10 However, the term willful is used alternatively with the term ‘unnecessary’; therefore, a student could be held in violation of the statute having acted without knowledge or intent.”

Kenny v. Wilson, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023).

Here, the charge against Ms. Whitehurst is based solely on their use of loud and allegedly profane language against their Uber Driver. The Ordinance that supplies the description of criminal disorderly conduct is undeniably similar to the State’s Statute. It fails to deliver an objective standard of what is indeed criminal disorderly conduct. It leaves the determination in the hands of the police, who must “rely on subjective assessments of the kind of behavior that should be considered criminal, assessments based on the officers’ personal opinions and predilections”. *Carolina Youth Action Project; D.S. by & through Ford v. Wilson*, 60 F.4th 770 (4th Cir. 2023). It also contains a scienter requirement, in which ‘willfully’ is used to impart some form of notice. Here, the terms willfully and unnecessary are not used alternatively. See *Kenny v. Wilson*, 566 F. Supp. 3d 447, 470 (D.S.C. 2021), *aff’d sub nom. Carolina Youth Action Project; D.S. by &*

through Ford v. Wilson, 60 F.4th 770 (4th Cir. 2023).

However, the ordinance fails to give adequate notice of the actual conduct that could earn criminal penalties. While Ms. Whitehurst certainly raised her voice, because the ordinance in question regarding ‘boisterous conduct’ allows for the criminal prosecution of “just about any minor perceived infraction,” without providing notice as to “the type of conduct that will lead to an arrest”, Ms. Whitehurst’s right to due process was violated as she was incapable of knowing what kind of behavior could be deemed disorderly. *Id.*

CONCLUSION

The Constitution demands strict scrutiny of any State action, law, or ordinance which limits or criminalizes any form of speech. In this case, the State alleges the Defendants’ speech was made in violation of the Sullivan’s Island town ordinance for disorderly conduct. The State’s case against the Defendants is based on alleged speech or statements made by the Defendants, which can only be characterized as merely vulgar or offensive speech. The allegations against Defendants do not aver any unlawful conduct and do not support probable cause for disorderly conduct. Furthermore, the Ordinance itself unconstitutionally vague and fails to give notice to Ms. Whitehurst of the conduct that would lead to an arrest, necessitating that the decision be left to the police in the moment and depriving her of her due process. Therefore, the undersigned respectfully moves this honorable court to dismiss the Defendant’s charges.

Respectfully submitted,



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March 13, 2023

Motion to Suppress Due to Lack of Chain of Custody

STATE OF SOUTH CAROLINA	)	IN THE SULLIVAN’S ISLAND
	)	MUNICIPAL COURT
COUNTY OF CHARLESTON	)	
	)	SUMMONS NOS.: 8102P0964359
	)	
STATE,	)	
	)	MOTION TO SUPPRESS DUE TO
v.	)	LACK OF CHAIN OF CUSTODY
	)	
MEREDITH WHITEHURST,	)	
	)	
DEFENDANT.	)	
	)	
_____	)	

NOW COMES THE ABOVE REFERENCED DEFENDANT, by and through their undersigned counsel, and submits this motion before the Court requesting the suppression of the video footage captured while my client was in the Uber on the following grounds:

Counsel for the Defendant, Meredith Whitehurst, respectfully requests that this Court should suppress the Uber Driver’s video footage based upon the State’s failure to provide a chain of custody.

ANALYSIS

On July 8, 2022, Defendant sent the State and filed with this Court, a Rule 5 Motion pursuant to Brady v. Maryland, to obtain discovery in the above-mentioned case. Within Defendant’s motion, the Defendant demanded evidentiary documentation of all elements of any and all Chains of Custody for all items and exhibits of any nature intended to be offered into evidence by the Prosecution in the trial of this case.

Here, the State has offered the video footage taken while my client was in the Uber into evidence. This video was taken on June 11, 2022, the date of the incident, and

has been in the State's possession ever since. However, the State never provided the Defense with any information regarding the chain of custody of this video.

Therefore, this Court should suppress the video footage taken while my client was in the Uber and deny its admission into evidence.

Respectfully submitted,



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March 21, 2023

Motion to Suppress Video

STATE OF SOUTH CAROLINA	)	IN THE SULLIVAN’S ISLAND
	)	MUNICIPAL COURT
COUNTY OF CHARLESTON	)	
	)	SUMMONS NOS.: 8102P0964359
	)	
STATE,	)	
	)	MOTION TO SUPPRESS VIDEO
v.	)	
	)	
MEREDITH WHITEHURST,	)	
	)	
DEFENDANT.	)	
	)	
_____	)	

NOW COMES THE ABOVE REFERENCED DEFENDANT, by and through her undersigned counsel, and submits this motion to suppress before the Court hereby moves to suppress the “three-minute dash camera video” recorded by a witness in this case (Mr. Ahmed Ghozlan) which the State provided to the Defense pursuant to their Rule 5 & Brady motion for discovery filed on or about July 8th, 2022.

Furthermore, should the State attempt to enter the “three-minute dash camera video” into the evidence of the case or play any part of this video segment for the jury, and this Court not rule in favor of suppression of this partial video segment, the Defendant alternatively moves for an Order requiring the State to produce the entirety of any dash camera video recorded by Mr. Ghozlan on the date of this incident pursuant to Rule 106 SCRE. This motion to suppress is based on South Carolina law, case law, and the South Carolina Rules of evidence, including Rule 403 SCRE, and the following:

SCRE 106

Under Rule 106 SCRE, “when a writing, or recorded statement, or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be

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considered contemporaneously with it.” The South Carolina Supreme Court has explained that SCRE 106 is based on the rule of completeness and attempts to avoid the unfairness inherent in the misleading impression created by taking matters out of context. *State v. Cabrera–Pena*, 361 S.C. 372, 379, 605 S.E.2d 522, 525 (2004). The remainder of any statement which explains or clarifies the previously admitted portion should be allowed into evidence. *State v. Oglesby*, 384 S.C. 289, 294, 681 S.E.2d 620, 622 (Ct. App. 2009).

Here, the video being offered into evidence by the state is only a very small, handpicked portion of the Defendant’s Uber ride. Out of fairness to the Defendant, the full video in its entirety should be admitted into evidence to be viewed by the trier of fact. The three-minute video being offered as evidence by the State will create misleading impressions and will cause the Defendant unfair prejudice when not given the proper context. The Defendant submits that prior to the aforementioned portion of the short 3-minute being offered into evidence, Ahmed Ghozlan, the Uber driver, directed inappropriate verbal communications towards my client. These prior exchanges certainly explain and clarify the environment captured on short video being offered into evidence.

Therefore, the entire video should be admitted into evidence under SCRE 106 to prevent unfairness and because the prior exchanges between my client and Ahmed Ghozlan explain and clarify the environment captured on the video being offered into evidence.

SCRE 403

In the alternative, under SCRE 403, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. Unfair prejudice means an undue tendency to suggest a

decision on an improper basis. *State v. Tallent*, 430 S.C. 438, 448, 845 S.E.2d 508, 513 (Ct. App. 2020).

Here, if the video in its entirety is not admitted into evidence, the short portion of the video being offered by the State should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and it is very likely to mislead the jury.

As to unfair prejudice, this short video could cause a reasonable jury to make a decision on an improper uninformed basis. The short portion of the video has low probative value as it is not the full video, but is substantially prejudicial to my client as it is not the full story and without more, could be seen as depicting my client in a negative light. To prevent my client from suffering substantial unfair prejudice, the video being offered by the State should be excluded from evidence.

As to confusing the issues and misleading the jury, the short video being offered by the State, without more, could confuse the issues and mislead the jury. My client made inappropriate, but lawful, comments on the video which could cause an inflamed response in a reasonable juror. These comments made in the videoclip, without viewing the video in its entirety, have a high probability of distracting the jurors from focusing on determining whether my client committed the alleged offense, Disorderly Conduct.

Therefore, under SCRE 403, the video being offered into evidence by the State should be excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the jury.

Respectfully submitted,



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March 21, 2023

Trial Transcript

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON
3 IN THE SULLIVAN'S ISLAND MUNICIPAL COURT
4

5 STATE : SUMMONS NO.
6 vs. 8102P0964359
7 MEREDITH WHITEHURST, :
8 Defendant

9 _____
10 BEFORE: THE HONORABLE FRANCIS J. CORNELLY, ESQ.

11 DATE: MARCH 21, 2023

12 TIME: 9:30 a.m.

13 LOCATION: SULLIVAN'S ISLAND MUNICIPAL COURT

14 2056 MIDDLE STREET

15 SULLIVAN'S ISLAND, SC

16 REPORTED BY: CAROL T. LUCIC, RPR, RMR

17

18

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20

21

22 CLARK BOLEN COURT REPORTING & VIDEO CONFERENCING

23 CHARLESTON, SC 29405

24 843-762-6294

25 WWW.CLARK-ASSOCIATES.COM

1 A P P E A R A N C E S

2

3 ON BEHALF OF THE STATE:

4 CISA & DODDS, LLP

5 BY: JOHN J. DODDS, III, ESQ.

6 858 LOWCOUNTRY BOULEVARD

7 SUITE 101

8 MOUNT PLEASANT, SC 29464

9

10 ON BEHALF OF THE DEFENDANT:

11 KULP & ELLIOTT

12 BY: C. AUSTIN ELLIOTT, ESQ.

13 116 CHURCH STREET

14 THIRD FLOOR

15 CHARLESTON, SC 29401

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1 INDEX

2

3 WITNESS DR. CR. RCR. RDR.

4 AHMED GHOZLAN 47 50

5 AHMED GHOZLAN (recalled) 78 87 104 104

6 OFFICER SYDNEY DeNETT 116 130 152 154

7

8 CERTIFICATE OF REPORTER 202

9

10 EXHIBITS

11 NO. PAGE

12 Town No. 1 Dash cam footage and

13 body-worn camera footage 111

14

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25 (Exhibits retained by the Court.)

1 THE COURT: Mr. Dodds, Mr. Elliott, are
2 you ready to go? The jurors are in the back. The
3 door is closed, so I presume they can't hear what
4 we're saying. The way we'll go is we'll do all our
5 motions that we need to do and then we'll bring the
6 jury in, and I'll give them instructions and swear
7 them in, and then we'll get started.

8 So if you have any pretrial motions, now
9 would be the time to bring them up. I understand,
10 Austin, that your client is not going to be
11 present, and you have a waiver, and that she does
12 not care to appear via Zoom.

13 MR. ELLIOTT: That's correct, Your Honor.

14 Your Honor, two of the defense motions I
15 believe need to be made to the Court prior to the
16 jury being sworn, and then should those motions not
17 be granted, the other defense motions I believe are
18 most appropriate after the jury is sworn, but not
19 in the presence of the jury for jeopardy purposes.

20 THE COURT: Go ahead. You don't have to
21 stand up there. Just wherever you are is fine.
22 Wherever you're comfortable is fine with me.

23 I know one of your motions was that you
24 made a pretrial motion that we heard yesterday in
25 reference to a motion to dismiss because it

1 violated your client's First Amendment
2 constitutional right of free speech. Mr. Dodds
3 argued that the motion was late because by order of
4 Judge Duffy the motions were supposed to be filed I
5 think by the 10th, and your motion was filed on the
6 13th or 15th, whatever it was; is that correct?

7 MR. DODDS: I think it was even more
8 recently, Your Honor.

9 THE COURT: At any rate you can tell me,
10 but go ahead.

11 MR. ELLIOTT: Just to clarify, Your Honor,
12 I believe, as you stated, that motion was denied on
13 the basis of timeliness, nothing related to the
14 substance of the underlying motion.

15 THE COURT: Yes, that's correct.

16 MR. ELLIOTT: Your Honor, I'm presenting
17 to you, the State, and the court reporter just a
18 written memorandum of the defense's motion to
19 dismiss/discharge on the basis of the defendant's
20 First Amendment right to free speech. Your Honor,
21 we believe that any allegations that even could be
22 made in this case as to the behavior, conduct, or
23 speech, that it's protected, and therefore could
24 not be criminalized by the state or local
25 government.

1 THE COURT: So the basis of your motion is
2 that the statute or the ordinance, the Town
3 ordinance, by virtue of I guess it's (A)(18) which
4 you cited is: "Any person who shall use fighting
5 words or gestures directed towards any other person
6 who becomes outraged and thus creates turmoil," and
7 you cited some case law that indicates that the
8 Supreme Court has struck down such ordinances as
9 that. That's basically your motion in a nutshell?

10 MR. ELLIOTT: That is correct, Your Honor.

11 MR. DODDS: I would like to be heard, Your
12 Honor, if it please the Court.

13 THE COURT: Yes.

14 MR. DODDS: First of all, as I stated
15 yesterday, Your Honor, this motion is late per the
16 scheduling order, and I think you were a signatory
17 to the scheduling order as well, Judge, in that it
18 was not filed as per required by the scheduling
19 order.

20 Additionally, Judge, in support of the
21 argument that this case should not be dismissed at
22 this time based upon his memorandum, if you will,
23 Judge, number one is that there is a presumption
24 under the law that the municipal ordinance is
25 constitutional, and there has been no showing by

1 defense counsel that it is unconstitutional. He
2 references a case City of Landen versus Sarratt
3 that talks about fighting words, Your Honor, and
4 the language of Section 14.8, the disorderly
5 conduct ordinance, does include a specific
6 provision with regard to fighting words, but there
7 are 18 subsections, Your Honor, to include loud,
8 boisterous, and unreasonable noise or disturbance
9 which occurs near to any public highway, road,
10 street, lane, alley, park square, or common where
11 the public peace is broken.

12 We believe that the evidence in the case
13 will substantiate that. I believe further the
14 testimony will show that the defendant unlawfully
15 touched the plaintiff in or around his ear in an
16 effort to knock out his ear bud as he was on the
17 phone with the 911 dispatcher.

18 So the language of the municipal ordinance
19 includes 18 different subsections only one of which
20 addresses the issue of fighting words. I think
21 that covers it, Judge.

22 THE COURT: Okay. Anything in response,
23 Mr. Elliott?

24 MR. ELLIOTT: Yes, Your Honor. In support
25 of the defense's motion I think it's an important

1 juncture in this case to raise the issue yet again
2 on the specificity of the State's charges against
3 the defendant, and in conjunction both in support,
4 but on its own of defense's motion to dismiss on
5 the First Amendment constitutional grounds, we
6 would make an additional motion that the State
7 provide a more definite statement or specific
8 charge under the ordinance, and I think that both
9 the state and federal constitution are very clear
10 that a defendant in a criminal case has the
11 absolute right to be made aware of the specific
12 charge against him including some specific
13 allegations.

14 That requirement doesn't mandate the State
15 go into every single detail of their case, but it
16 does require that the State provide some basis for
17 purposes of just general fairness and for the
18 defendant's opportunity to present the defense in
19 his or her case.

20 THE COURT: Go ahead.

21 MR. ELLIOTT: We would just ask the State
22 be ordered to provide or elect a specific
23 subsection of this ordinance in order to proceed.

24 THE COURT: I don't know that they have to
25 provide a specific one subsection. There could be

1 multiple subsections that apply in any case, and I
2 think -- and correct me if I'm wrong -- that
3 Mr. Dodds said yesterday that he was relying on (A)
4 (4), interferes with another person's pursuit of
5 lawful occupation by acts of violence; (A) (7),
6 abusive language or threats; (A) (8), makes or
7 causes to be loud, boisterous, unreasonable noise
8 disturbance and annoyance to any other persons
9 nearby on a public road. It has to be on a public
10 road. It can't be private. (A) (9), is in a public
11 place under the influence of intoxicating liquors.
12 That's where you see a lot of disorderly conducts
13 happen.

14 MR. DODDS: We're not going to pursue
15 9, Your Honor.

16 THE COURT: And then 12, makes or causes
17 to be made loud, boisterous, and unreasonable noise
18 and disturbance, and then 18?

19 MR. DODDS: Yes, Your Honor.

20 THE COURT: Again, the recap would be (A)
21 4, 7, 8, 12, and 18.

22 MR. DODDS: That is correct, 4, 7, 8, 12,
23 and 18.

24 THE COURT: Okay. And so go ahead and
25 respond to that.

1 MR. ELLIOTT: Well, to that end, Your
2 Honor, we would maintain our motion for the more
3 specific charge on the record, but in the event the
4 Court is not inclined to order the State to proceed
5 under a specific single or even two of the
6 subsections, the subsections that the State has
7 indicated that they intend to proceed under, we
8 would ask that as a matter of law they be precluded
9 from proceeding under Subsection 7 or 18, Your
10 Honor, as those two subsections deal specifically
11 with language that is protected by the First
12 Amendment, which is raised in the defendant's
13 motion and supported by the case law. It is
14 absolutely clear in the case law what is and is not
15 fighting words. Fighting words certainly can be
16 criminalized by the State. I think there is a law
17 of juris prudence to support that, but any
18 allegation that has been put forth or suggested or
19 that is in discovery, Your Honor, absolutely is not
20 fighting words under the case law.

21 THE COURT: Well, I don't know what
22 testimony is going to be presented, so I can't sit
23 here and say you have to pursue it only under 4 or
24 7 or 8 because I don't know what testimony is going
25 to be presented, and you certainly have the ability

1 to cross-examine them and you have the ability to
2 make a motion at the end of the State's case for a
3 directed verdict based on the fact that they have
4 not met their burden.

5 So at this time I think that the State
6 has -- the Town has narrowed down the specific
7 subsections enough that we can move forward, and
8 whether they use fighting words as is mentioned in
9 18 or whether 7 has to do with threats to any
10 police officer or any authorized Town employee, I
11 mean I don't know that that's going to be
12 applicable to be honest with you until we hear
13 testimony.

14 MR. ELLIOTT: Sure, Your Honor.

15 THE COURT: So as far as the motion to
16 dismiss based on the violating your client's First
17 Amendment right, I'll deny that motion at this
18 time, but you have the ability to bring it back up
19 after we hear testimony.

20 MR. ELLIOTT: Understood, Your Honor.

21 One more motion for the record prior to
22 the jury being sworn in. Your Honor, we would move
23 that this Court dismiss the charge against the
24 defendant for disorderly conduct on the basis that
25 the Sullivan's Island town ordinance for disorderly

1 conduct itself is unconstitutionally vague, and the
2 memorandums that I've just presented to the State
3 and to Your Honor brief that including the latest
4 juris prudence, Your Honor, from a Fourth Circuit
5 case that came down in just the last week of
6 February, just a number of weeks ago, which
7 invalidated the South Carolina state law for
8 disorderly conduct as it relates to school students
9 because there was a standing issue in that case
10 preemptively on behalf of students.

11 So to be clear, it was ruled
12 unconstitutionally vague under the state law as
13 relates to students, but the reasoning cited by the
14 Fourth Circuit, Your Honor, I think speaks directly
15 to a good deal of the subsections of the Sullivan's
16 Island town ordinance regarding disorderly conduct.
17 So we would move that those facts that relate to
18 issues or elements of the ordinance that are vague
19 to be ruled unconstitutionally vague and
20 therefore inapplicable to this case.

21 THE COURT: Okay. I haven't had a chance
22 to read this -- this is seven pages long -- and so
23 in fairness to you, I probably would like to read
24 it, but I would also like Mr. Dodds to be able to
25 respond, and I don't know that he has had a chance

1 to read it.

2 MR. DODDS: I haven't, Judge, but I would
3 cite to you the Supreme Court of South Carolina
4 case in McMaster v. Columbia Board of Zoning
5 Appeals, 719 S.E. 2d 660, a 2011 decision of the
6 South Carolina Supreme Court where the Court held:
7 "A municipal ordinance is a legislative enactment
8 and is presumed to be constitutional. Every
9 presumption will be made in favor of
10 constitutionality of the legislative enactment, and
11 a statute will be declared unconstitutional only
12 when its invalidity appears so clearly as to leave
13 no room for reasonable doubt that it violates some
14 provision of the constitution. The power to
15 declare an ordinance invalid because it is so
16 unreasonable as to impair or destroy constitutional
17 rights is one which will be exercised carefully and
18 cautiously as it is not the function of the Supreme
19 Court to pass upon the wisdom or expediency of
20 municipal ordinances or regulations."

21 So I think what that case and what our
22 Supreme Court is saying is these issues are left up
23 to the legislature, Judge, and unless you can look
24 at it and it appears so clearly to be invalid as a
25 constitutional infringement, then you must resolve

1 any doubt you have in favor of the
2 constitutionality of the ordinance.

3 THE COURT: I will reserve making a
4 decision on that until I have a chance to read
5 this. I haven't had a chance to read it.

6 MR. ELLIOTT: Your Honor, I understand.
7 This is made primarily with the intent of placing
8 this on the record for advisement under Your
9 Honor's discretion. Whenever I passed that motion
10 up, I forgot to provide you a copy of that most
11 recent Fourth Circuit case from the very end of
12 this February.

13 Your Honor, in concluding on this
14 particular issue, I think the pertinent aspect of
15 that case as it relates to the case before you
16 today are the terms boisterous, profane, aspects
17 of, what sort of conduct under the law is to be
18 considered, defined, and then therefore disorderly,
19 and I think that case deals with it, so we would
20 submit that for Your Honor to take under
21 advisement. Thank you.

22 THE COURT: I will have to read it, and
23 then I'll get back to you on that. You had some
24 other motions, but you said you wanted to reserve
25 those until after the jury is sworn. I understand

1 your reasoning I guess behind that, but I don't
2 want the jurors to have to come in and out. So are
3 these motions that need to be made pretrial?

4 MR. ELLIOTT: Your Honor, I think for
5 purposes of a record we perhaps in the interest of
6 the jurors' time and logistics of the Court and
7 this particular setup we could hear argument on
8 these motions, rule accordingly as to the various
9 motions, and then when the jury is sworn, simply
10 put a condensed or reflection of those motions on
11 the record so that it's after the jury is sworn,
12 but not taking up the jury's time.

13 THE COURT: But you wouldn't do that in
14 front of the jury, would you?

15 MR. ELLIOTT: No, Your Honor. I guess for
16 the purposes of the jury is not sworn and then
17 they're sworn and therefore jeopardy attaches we
18 could just simply put a statement on the record.

19 THE COURT: Renew your motions.

20 MR. ELLIOTT: Renew the motions perhaps,
21 and then you just issue how they were ruled upon.

22 THE COURT: Is that okay with you?

23 MR. DODDS: We don't have any objection to
24 that, Your Honor.

25 THE COURT: Well, go ahead and give me

1 your motions one at a time. I'm trying to write
2 down the motions, although I know we have a court
3 reporter and it's being recorded.

4 MR. ELLIOTT: Your Honor, first as a
5 matter of housekeeping we would move to sequester
6 all the State's witnesses.

7 THE COURT: Mr. Dodds, do you have a
8 problem with sequestering the witnesses?

9 MR. DODDS: No, Your Honor.

10 THE COURT: The way I understand that is
11 the case agent, in this case Officer DeNett would
12 be allowed to stay in the courtroom, but any
13 additional witnesses that you would have would have
14 to leave and then you would call them. I'm sorry
15 for the inconvenience that creates, but that's the
16 way we do things, and that would be when the jury
17 gets in here and when we start the trial. It's not
18 for the motions.

19 MR. ELLIOTT: Your Honor, in the way of
20 the defense's first evidentiary motion we would
21 move that this Court suppress the reference to or
22 any suggestion or entry into evidence of any
23 videos, specifically the video that is in discovery
24 of this case that is approximately three minutes
25 long that was produced and provided by one of the

1 witnesses in this case, Mr. Ghozlan, the Uber
2 driver. I want to refer to him by his name and not
3 the Uber driver, but for purposes of this motion
4 the Uber driver created a video. What the State
5 has produced in discovery, Your Honor, is a
6 three-minute long clip of that video, and we feel
7 that this Court should suppress that and preclude
8 any reference to that video or any reference to
9 that video by way of any of the officer's body
10 camera where any such video may be shown and
11 recorded on the officer's body camera under South
12 Carolina Rules of Evidence 403 and 106.

13 We think and submit to this Court that the
14 introduction of that evidence or suggestion or
15 reference to that video are highly prejudicial
16 given the fact that presumably and according to
17 statements made by the witness the video does exist
18 or contain a depiction of what happened from the
19 time the defendant was picked up in downtown
20 Charleston on King Street all the way through and
21 including the three-minute section at the end,
22 which was then produced by the State in discovery.

23 THE COURT: So if I understand, the motion
24 to suppress the video of Mr. Ghozlan -- I hope I'm
25 pronouncing that right.

1 MR. DODDS: Ghozlan.

2 THE COURT: So that would be under Rule
3 106, and the argument is it's not complete; it's
4 just a brief video, and then to suppress the video
5 or the body-worn camera of officer DeNett because
6 under Rule 403 you think it's prejudicial and its
7 danger is outweighed by its probative value.

8 MR. ELLIOTT: That's correct, Your Honor.
9 A point of clarity as it relates to the body-worn
10 camera, for purposes of this motion I was only
11 moving to suppress the sections that may be
12 recorded on the body-worn camera that record,
13 reflect, or depict the dash camera video segment
14 that we're referring to and that is the subject of
15 this motion.

16 THE COURT: So you want to suppress -- you
17 would like the video to be suppressed or at least
18 the portions of it where Mr. Ghozlan mentions what
19 happened because that's not complete and --

20 MR. ELLIOTT: Your Honor, I think the
21 State is entitled to that part of it. We would say
22 the specific -- two things. We're moving that the
23 Court suppress the three-minute video that was
24 produced in discovery that is taken from a dash cam
25 by Mr. Ghozlan. We would move to suppress that on

1 the bases that I put forth and specifically issues
2 of fairness and the fact that it does not depict
3 and we have no evidence or the jury has no ability
4 to see anything other than what the State has
5 presented in their case and nothing to provide any
6 context, and that alone creates a highly
7 prejudicial scenario for the defendant, but as it
8 relates to the body-worn camera, we're only moving
9 to suppress those small clips that the body camera
10 recorded what was shown on the dash camera.

11 THE COURT: Okay. So not what he said to
12 the officers. I haven't seen the video, so I can't
13 tell you what was on it. I guess I need to see it.
14 Go ahead.

15 MR. DODDS: Well, Judge, as you know, the
16 admission of evidence is discretionary with the
17 trial court. Absence and abuse of discretion,
18 there is no reversible error. Videos are always
19 highly prejudicial one way or the other, Judge,
20 because they tell what occurred, and in this
21 particular case Mr. Ghazlan, who was the Uber
22 driver, initiated a video which depicted the
23 behavior of the defendants in his vehicle and more
24 importantly as they exited the vehicle onto Middle
25 Street on the Town of Sullivan's Island.

1 The video is what it is, Your Honor.
2 Defense counsel has raised no issue as far as any
3 sort of manipulation or any sort of interference
4 with the actual video, which might be a basis to
5 prohibit that video from coming into evidence, but
6 he presented nothing to you today, Your Honor,
7 other than it only shows a portion of the criminal
8 conduct, and, as you know, in various and sundry
9 cases involving crimes particularly DUI crimes when
10 a dash cam video is initiated as a result of the
11 blue light being activated it only shows a portion
12 of what occurred thereafter.

13 So the fact that this is prejudicial and
14 the fact that it shows only a portion of the events
15 doesn't make it inadmissible, Your Honor. The
16 defendant has the right to be present in court and
17 has the right to get on the witness stand and
18 testify as to the events that occurred prior to the
19 initiation of that video, but has determined for
20 reasons unknown not to participate in the trial.

21 So we believe it is admissible, and we
22 certainly seek to introduce it in the trial of the
23 case. We have no objection if Your Honor wants to
24 see it.

25 THE COURT: I think probably what we

1 should do is -- we don't have to do it now; we can
2 get the jury in here and get the process started,
3 and then at a later time I can watch the video.
4 That would be the video of Mr. Ghozlan. The video
5 of the body-worn camera, if it shows the video that
6 Mr. Ghozlan took, I guess the argument would be
7 they don't need to see it because it's duplicitious.

8 MR. ELLIOTT: Your Honor, to the extent
9 the body-worn camera shows anything, it may just
10 have the audio from Mr. Ghozlan's dash cam.

11 THE COURT: We can deal with that when the
12 time comes. In other words, if they see the video
13 that the victim in this case took, then seeing it
14 again on the body worn, I don't know what impact
15 that would have, but we can deal with that. I have
16 to look at the video, to be honest with you, to see
17 if I thought it was either prejudicial or that it
18 was in violation of rule 106.

19 MR. ELLIOTT: Your Honor, briefly in
20 response to that, I think that issue the State
21 brought up bears clarifying from the defense's
22 standpoint.

23 The body-worn camera shows Mr. Ghozlan,
24 the State's witness, informing the State that he
25 has the video beginning from the time that the

1 defendant was picked up in downtown Charleston all
2 the way through and including the last three
3 minutes of that video, which the State has provided
4 in discovery, Your Honor, and I think that alone
5 shows that it exists, and, Your Honor, I think it
6 also bears mentioning that the body-worn camera and
7 evidence in this case suggests that the context of
8 what occurred or didn't occur prior to the last
9 three-minute section is relevant, and if the State
10 puts forth just a limited clip that supports their
11 allegations, the context previous to that is not
12 seen and creates a highly prejudicial situation for
13 the defendant.

14 The last thing, Your Honor, is that the
15 State has evidence and witnesses that they can put
16 forth that would support through testimony their
17 allegations of what was said alleged to be criminal
18 activity.

19 THE COURT: Well, if they did and then
20 Mr. Ghozlan got up there and testified differently
21 than was on the video, wouldn't you want to use the
22 video to cross-examine him?

23 MR. ELLIOTT: Your Honor, I think
24 Mr. Dodds brought up an analogy to a DUI case, and,
25 sure, the statute requires in DUI cases that videos

1 start when the blue light comes on, but it
2 certainly wouldn't be permissible for the State to
3 put forth as evidence in DUI case a video that
4 depicts perhaps the last two field sobriety tests
5 in support of their charge of driving under the
6 influence while leaving out the first half of the
7 video for whatever reason. Perhaps it was
8 destroyed, doesn't exist, or whatever. That would
9 be prejudicial for the exact same context as this.

10 MR. DODDS: But there is no evidence of
11 that, Judge. There is no evidence that there was
12 any portion of the video that was struck. In fact,
13 the position of the State is that the video depicts
14 from the activation of the video by Mr. Ghozlan
15 until the video ended with the defendants being
16 away from the view of the video.

17 MR. ELLIOTT: Your Honor, I don't agree
18 with that assertion. Mr. Ghozlan himself tried to
19 get the entire video and suggested that he has it
20 and provides it to law enforcement and did not.

21 MR. DODDS: I beg your pardon?

22 MR. ELLIOTT: Law enforcement told him
23 that they didn't want it.

24 THE COURT: If that's the case, when he
25 gets on the witness stand and he testifies to that,

1 that there was a complete video and he only
2 provided a portion of it, I would have to rule at
3 that time. You're asking me to rule on something
4 that I don't know. We haven't heard any evidence.

5 MR. ELLIOTT: Your Honor, I think it's an
6 important issue that bears a limited examination in
7 camera on that specific aspect.

8 THE COURT: We can do that. He can
9 proffer Mr. Ghozlan's testimony at the proper time.

10 MR. DODDS: I don't understand what he's
11 saying, Judge.

12 THE COURT: What he's saying, I think --
13 and correct me if I'm wrong -- is that Mr. Ghozlan
14 told law enforcement that night that he had the
15 complete video from when he picked these young
16 ladies up downtown until when they left his
17 vehicle, but yet he has only been provided a
18 three-minute video from inside his vehicle when he
19 I guess asked them to leave.

20 MR. DODDS: The information that I have,
21 Judge, is that the video was commenced at the time
22 he placed the vehicle in park.

23 THE COURT: If that's your information,
24 then we'll just take it up when we have testimony.

25 MR. ELLIOTT: Well, Your Honor, just in

1 relation to that, we would move to eliminate --
2 that there be no reference to the video in the
3 State's opening.

4 MR. DODDS: I don't plan to.

5 THE COURT: That's fine. Does that
6 include -- I can't control when Mr. Dodds calls
7 witnesses, but what if he calls a witness prior to
8 Mr. Ghozlan and that witness mentions a video?

9 MR. ELLIOTT: Your Honor, I think it's
10 problematic for the same reason.

11 MR. DODDS: I thought part of what we were
12 doing now was the issue about the introduction of
13 the video. We want to play the video starting with
14 our first witness, who likely will be Mr. Ghozlan.

15 THE COURT: That's not a problem then. If
16 Mr. Ghozlan is the first witness, they can play the
17 video. If you make a motion that it be done in
18 camera so that I can rule on 106 and 403, we can do
19 that. I would like to get the jury started because
20 you know how it is. They're sitting back there
21 thinking what are these people doing to us. We can
22 start with opening statements, I'll make general
23 remarks to the jury, swear the jury, appoint a
24 foreperson, and we can go from there if that's okay
25 with everybody.

1 MR. ELLIOTT: Your Honor, just a last
2 couple of matters before the Court.

3 THE COURT: Mr. Dodds, he has two other
4 motions or one other motion. He has got another
5 motion or two, I think.

6 MR. ELLIOTT: Your Honor, just for
7 purposes of the record we move to suppress the
8 video on an additional basis. Chain of custody,
9 Your Honor.

10 THE COURT: I'm assuming he's going to
11 have to prove chain of custody also for the video.

12 MR. ELLIOTT: Sure. We're just simply
13 moving at this juncture, putting it on the record.

14 THE COURT: I'm going to watch the
15 in-camera view of the video before I rule on the
16 suppression for lack of chain of custody because
17 Mr. Dodds is going to have to put up more than
18 Mr. Ghozlan as far as the chain of custody.

19 MR. DODDS: Right.

20 THE COURT: So I won't be able to rule on
21 that until after.

22 MR. ELLIOTT: I understand, and I believe
23 that as it relates to what Your Honor would need to
24 consider in making that ruling, at least some or
25 all of the body-worn camera would be necessary

1 especially the defense's assertion and the witness'
2 statement about the full video existing.

3 I forgot to hand up, Your Honor, this is
4 just the defendant's waiver.

5 THE COURT: I need to read this into the
6 record.

7 So in the case of the Town of Sullivan's
8 Island versus Meredith Logan Whitehurst. She is
9 charged with disorderly conduct, Summons No.
10 8102P0964359. Ms. Whitehurst was not here for jury
11 selection yesterday, and she's not here today for
12 the trial, which would include her ability if she
13 wanted to to testify, so she has signed a waiver,
14 and she is the defendant in the case. She is
15 represented by Austin Elliott.

16 "Pursuant to the rights of Rule 16 of the
17 Rules of Criminal Procedure I hereby voluntarily
18 waive my right to be physically present for the
19 trial set on March 21, 2023. I'm aware of the jury
20 trial of this matter which is set for today. I'm
21 not under the influence of any substance. I'm
22 signing this document of my own free will, and I
23 affirmatively acknowledge this waiver of my right
24 to personally appear at the trial. Additionally my
25 attorneys have advised me of the issues which may

1 arise as a result of my voluntary waiver. In the
2 event I'm convicted of the charges I request the
3 option to address the Court during sentencing of
4 this matter video telephone or video conference.

5 That's fine. Anything else that you would
6 want additionally on that?

7 MR. DODDS: No, Your Honor.

8 THE COURT: So it's not only her right to
9 be present for trial, her right to testify, and
10 right to be present and assist counsel during jury
11 selection because she has that constitutional right
12 also, so she's waiving those rights, and if she is
13 convicted, then hopefully she would be available
14 today to appear, and if not, we'll just do
15 sentencing on another day.

16 MR. ELLIOTT: Finally, Your Honor, we make
17 a motion in limine prohibiting the State from
18 reference in any way to the defendant not being
19 here in the presence of the jury.

20 THE COURT: What if the jury asks? I
21 would ask if I was on the jury. Well, where is the
22 defendant? I mean if he got up there and said or
23 someone said -- me even -- that, you know, a person
24 accused of a crime has the absolute right to waive
25 their appearance during court proceedings, and I

1 just said that.

2 MR. ELLIOTT: Sure. Your Honor, I think,
3 although we would prefer that no reference be made,
4 but within Your Honor's discretion I don't think
5 that's an issue provided that some sort of
6 qualifying aspect about that, the fact that the
7 defendant is not here, be taken as prejudicial --

8 THE COURT: I would just say that she has
9 the absolute right like any person accused of a
10 crime. I won't even call her a defendant. I would
11 say someone accused of a crime has the absolute
12 right to waive their appearance at a trial whether
13 it be a bench trial or a jury trial.

14 MR. ELLIOTT: Your Honor, I don't see any
15 issue if the jury were to ask that in their
16 deliberations, but what would the basis be for the
17 State or anyone to reference that ahead of time?

18 THE COURT: Mr. Dodds.

19 MR. DODDS: I think the defendant has the
20 right to remain silent whether they're here or not,
21 Judge.

22 THE COURT: But the question is if you
23 were to bring up --

24 MR. DODDS: I don't intend to bring it up.

25 MR. ELLIOTT: Your Honor, to be clear, my

1 motion in limine was simply an order to preclude
2 reference to that in any manner in opening.

3 MR. DODDS: I don't plan to do that.

4 THE COURT: The way we're leaving it so
5 I'm clear, if it's brought up, you, Mr. Dodds, and
6 Mr. Elliott and I will talk about how I would
7 instruct the jury on that issue. Okay? It's just
8 going to be a one-sentence thing.

9 So as far as the witnesses do not have to
10 be sequestered during opening, so we'll leave them
11 in here now, but at the time then the only person
12 present would be Officer DeNett, who would be
13 testifying. I see Captain Wallace is back there
14 and Mr. Ghozlan also.

15 MR. DODDS: He's here for the chain of
16 custody issue, Judge, so I would like to address
17 that. We can take just a short break. Do you plan
18 on bringing the jury back and then swearing them or
19 do you want to go ahead and resolve the issue of
20 the introduction of the video?

21 THE COURT: We can resolve the issue of
22 the introduction of the video for purposes of his
23 motion to dismiss based on chain of custody?

24 MR. DODDS: Right. In other words, I
25 would like to deal with those issues as to the

1 admissibility or inadmissibility of the exhibits.

2 THE COURT: Are you going to call
3 witnesses?

4 MR. DODDS: I can, yes. I need to take a
5 short recess if I may, though.

6 THE COURT: Why don't we do this. I hate
7 to do this to the jury, to bring them in and out.
8 I just don't want them waiting too long.

9 MR. DODDS: I think they're fine. They're
10 comfortable back there.

11 THE COURT: Just keep in mind that we
12 can't go back in the jury room. As much as I would
13 like to open the door and say, hey, we're moving
14 this case along, we're not supposed to do that, no
15 one, so we'll just have to let them use their
16 imaginations back there as to what is going on.

17 (Brief recess)

18 THE COURT: Anything else before I bring
19 the jury in?

20 MR. DODDS: Are we going to do the issue
21 about the tape before the jury comes back?

22 THE COURT: I hate for them to sit back
23 there for an hour. I thought maybe we could do
24 opening statements and just some preliminary
25 things, swear the jury, that kind of stuff, and

1 then after that we will see what time we're looking
2 at because if we're close to 12:00, we can order
3 lunch for them, and while they're eating lunch we
4 could do that.

5 MR. ELLIOTT: That makes sense.

6 (Jury called into courtroom.)

7 THE COURT: Good morning. Sorry to make
8 you wait. We tried to get some of the things done
9 before you get out here so we don't have to keep on
10 sending you out in the back. It's a lot more
11 comfortable in the back than it is sitting here.

12 Ms. O'Leary; correct? If you would take
13 that seat over there since you're the alternate,
14 and again you will be involved until the jury gets
15 the case. The six-person jury does not get the
16 case after all the testimony is presented and we
17 have closing arguments. Then I will give you some
18 instructions, and then you can go back and you can
19 deliberate, but before that time you're not to
20 discuss any of the facts or anything that happens
21 in the courtroom amongst yourselves. Okay?

22 So I'm going to appoint Ms. Moyt, Juror
23 No. 135, as the foreperson. Just for the others
24 who want to know why, she was the first one here,
25 so I said, oh, boy, that makes it easy. If two of

1 you came in at the same time, I don't know what I
2 would have done.

3 So to start out, you have filled out -- as
4 a matter of housekeeping you have filled out your
5 request for lunch, and what we'll try to do is
6 we'll try to pick a time when we have to take a
7 break to take up some evidence and then send you
8 back so you're not just sitting back there. You
9 can enjoy your lunch, and then whenever you're
10 ready, we'll bring you back in. That's just the
11 way we do it.

12 As far as a jury trial goes, we have bench
13 trials in this courtroom also, and a bench trial is
14 when I am the trier of the facts and the law, and
15 so I get to decide what the facts are in the case
16 and I get to decide what the applicable law is. It
17 makes it easy on me when we have jury trials
18 because I don't have to decide the facts. That's
19 up to you. I just decide what the applicable law
20 is, and then you guys can decide what the facts
21 are.

22 You have been given a notepad and a pen.
23 You're welcome to take notes if you like. So we
24 have to get you back in the jury room at certain
25 times when we have issues that may be some evidence

1 that's going to be presented that there is a legal
2 argument, and so if we had you out here and I
3 decided that that evidence can't come in, well,
4 it's hard to tell you disregard that evidence
5 because you've already seen it and you've already
6 heard it. So that's why we have to keep on
7 removing you from the courtroom, and I apologize
8 for that. It's just the nature of the game.

9 In a minute we are going to have opening
10 statements. The State or in this case the Town
11 attorney goes first because they have the burden of
12 proof. As you've probably all heard, you know that
13 in criminal trials the State or the Town or the
14 Government has the burden of proof. They have to
15 prove the defendant's guilt beyond a reasonable
16 doubt, and I'll explain what that means at a later
17 time. So that's why the State will go first. They
18 don't have to give an opening statement if they
19 don't want to, and then the defense has the ability
20 to give an opening statement also. They do not
21 have to give an opening statement.

22 Opening statements are not facts. A lot
23 of times it's just what they believe the facts are
24 going to be, but again when I limit the evidence
25 that comes in, it may not be facts, so don't take

1 that as evidence.

2 I need to swear the jury in, and when I do
3 that, just like every witness that will come up
4 here and sit on the witness stand, you will have to
5 stand up, raise your right hand, and after I give
6 you a little bit of information you just say either
7 I don't or don't. So if you would for me please
8 stand up and raise your right hand. Thank you.

9 Do you swear that you shall well and truly
10 try and true deliverance make between the
11 defendant, in this case Meredith Whitehurst, and
12 the Town of Sullivan's Island and return a true
13 verdict according to the laws and the evidence so
14 help you God?

15 JURORS: I do.

16 THE COURT: Thank you. Have a seat.
17 That's the last time I'll have you jump up and down
18 I promise. So at this point we're going to do
19 opening statements and then we'll proceed from
20 there.

21 Go ahead, Mr. Dodds.

22 MR. DODDS: Thank you. If it please the
23 Court --

24 MR. ELLIOTT: Sequestering?

25 THE COURT: For the opening?

1 MR. ELLIOTT: Yes, Your Honor.

2 THE COURT: In trials we sequester
3 witnesses so they can't hear what the other one is
4 saying, and that seems fair, and so that's why -- I
5 should have taken this up before -- any witnesses
6 other than the case agent need to leave.

7 MR. DODDS: Mr. Ghozlan, if you will wait
8 outside, sir.

9 THE COURT: We'll call you back in in just
10 a minute. Go ahead, Mr. Dodds.

11 MR. DODDS: Thank you.

12 Ladies and gentleman, first of all, I want
13 to thank you for taking your time to be here today.
14 The jury trial system under our constitution is a
15 fundamental right available in just a few
16 countries, and without it justice doesn't happen,
17 so thank you.

18 My name is John Dodds. I'm the
19 prosecuting attorney for the Town of Sullivan's
20 Island. We are a court of limited jurisdiction.
21 We essentially hear traffic-related offenses and
22 what is referred to as a criminal misdemeanor
23 offense. In this case the defendant, Meredith
24 Whitehurst, has been charged with disorderly
25 conduct under the municipal ordinance for the Town

1 of Sullivan's Island.

2 Under our constitution in addition to
3 trial by jury every criminal defendant is presumed
4 innocent, and the burden of proof is upon the State
5 of South Carolina to prove guilt beyond a
6 reasonable doubt. Every defendant charged with a
7 crime has the absolute right to remain silent, and
8 the burden of proof in any criminal case is upon
9 the prosecution to prove guilt beyond a reasonable
10 doubt.

11 I know that these terms to some extent may
12 be foreign to you. The good news is that at the
13 conclusion of all the evidence -- and, by the way,
14 the evidence is what you hear not from me as a
15 lawyer or from defense counsel, but what you hear
16 from the witnesses who are sworn to tell the truth
17 and any documents or other evidence that might be
18 admitted by judge Cornely.

19 What is your duty as members of the jury?
20 You're often described as a fact finder; that is,
21 to listen to the evidence and make some
22 determination as to what that evidence means.
23 Judge Cornely at the conclusion of all the evidence
24 will give you what is referred to as jury
25 instructions. Essentially what that is is he tells

1 you what the law is, and then your job as jurors is
2 to take the facts as you found them to be and to
3 apply those facts to the law as given to you by
4 Judge Cornely and to render a verdict.

5 We believe that the evidence in this case
6 will prove beyond a reasonable doubt that Meredith
7 Whitehurst engaged in disorderly conduct on June
8 11, 2022, at approximately 1:57 a.m. within the
9 town boundaries of Sullivan's Island, and at the
10 conclusion of the evidence we're going to ask you
11 to return a verdict of guilty as charged.

12 Thank you very much.

13 THE COURT: Mr. Elliott.

14 MR. ELLIOTT: Thank you.

15 Ladies and gentleman of the jury, I would
16 like to echo what Mr. Dodds said and thank you for
17 being here today. My name is Austin Elliott. I
18 represent the defendant Meredith Whitehurst.
19 Something I don't know that I've said before, but I
20 believe that I agree with most everything that
21 Mr. Dodds just told you, and I think that it bears
22 repeating that your duty under our laws is a sacred
23 one, and today you sit here as the finder of fact
24 in this case, and that empowers you to render a
25 verdict.

1 We ask that you listen to the evidence
2 that's presented to you. We ask that you consider
3 everything that is presented both from the
4 testimony and any other sort of evidence, and we
5 ask that you keep an open mind in this case. I'll
6 explain exactly what I mean when I say that.

7 The defendant, Ms. Whitehurst -- I will
8 submit to you that there is not an issue in this
9 case, a factual dispute. It's a matter of behavior
10 that's alleged to be disorderly under the Town of
11 Sullivan's Island city ordinance, and you will sit
12 here today as the finder of fact considering
13 evidence and the testimony to render a verdict if
14 you believe that conduct was in fact disorderly or
15 not.

16 I think it's important to consider when
17 you're sitting in this role what sort of behaviors,
18 actions is the State of South Carolina, the United
19 States Government, the Town of Sullivan's Island
20 permitted to make illegal and permitted to bring
21 charges against citizens of this country. It's not
22 in dispute and we submit and admit now that
23 Ms. Whitehurst made statements and used language --
24 we'll submit to you right now that Ms. Whitehurst
25 freely admits that she said, "Fuck you, you Arabic

1 piece of shit."

2 That's a central fact in this case, and
3 it's not in dispute. I'm sorry to use those kind
4 of words and that language in this proceeding or in
5 front of you fine people, but I would like you to
6 consider that my ability to say that or your
7 ability to say that is protected under our laws,
8 specifically our First Amendment right, freedom of
9 speech, under the Constitution of the United
10 States, and the First Amendment is a sacred right
11 of this country that everyone has.

12 We think today when you hear testimony and
13 review the evidence, that you will see clearly that
14 any conduct alleged by Ms. Whitehurst is absolutely
15 protected under her rights, and we ask that you
16 will weigh these facts, weigh the testimony, and
17 render a verdict of not guilty.

18 THE COURT: Members of the jury, we're
19 going to in a minute begin the trial of this case,
20 and the prosecution, Mr. Dodds on behalf of the
21 Town of Sullivan's Island, goes first. Why?
22 Because he has the burden of proof. There is never
23 ever any burden on the defense. As a matter of
24 fact, the defense does not have to testify, and the
25 fact that the defendant does not testify, you can't

1 consider that in your deliberations.

2 So Mr. Dodds will go first. He will call
3 his witnesses. After he does direct examination,
4 in other words, I'm going to bring the witness up
5 here, I'm going to swear in the witness, and then
6 he is going to ask that witness questions. After
7 he finishes asking that witness questions then
8 Mr. Elliott has the ability to ask what we call
9 cross-examination.

10 There may be objections. Somebody might
11 say objection, and then that's where it falls on me
12 to make a decision whether I sustain that objection
13 or overrule that objection. The objection is based
14 on whether somebody believes something is about to
15 come in that shouldn't come in before the jury. So
16 that's typical. But I'll do that, and I will swear
17 the witnesses in.

18 Also we may have exhibits. We'll mark
19 exhibits, and the exhibits will go into the jury
20 room with you for your consideration when you're
21 deliberating.

22 So at this point I'm going to give you
23 another break, and I apologize for that, but we
24 have a short piece of evidence that we need to make
25 a decision on before we submit the case to you.

1 At this point in time it's a couple of
2 minutes after 11:00. I understand that it's going
3 to take about 45 minutes for your lunch. What we
4 could do is order your lunch now, and then we could
5 start the trial of the case and then take a break
6 and you can eat your lunch while we do what we need
7 to do in here outside your presence. I think
8 that's probably the best way to proceed so we don't
9 have you sitting back there for long periods of
10 time.

11 So if you would, if you would go back into
12 your jury room. You can leave your pads right on
13 the chairs if you would like and you can leave
14 anything else. If you have a jacket or something
15 like that, just leave it there, and then we will
16 call you back in when we're ready for you to hear
17 the evidence in the case. Thank you.

18 (Jury dismissed from courtroom)

19 THE COURT: Anything else of a preliminary
20 matter before we get started?

21 MR. ELLIOTT: Only, Your Honor, to put on
22 the record perhaps a summary of or just a list of
23 motions.

24 THE COURT: Sure. I can do it for you
25 because I have them written down, and you can

1 correct me.

2 MR. ELLIOTT: And any rulings, Your Honor.

3 THE COURT: Right. There is a motion to
4 dismiss based on the First Amendment, free speech.
5 That motion was denied, and again that motion can
6 be brought back up once we hear testimony.

7 The motion to dismiss based on the
8 ordinance being unconstitutionally vague, that
9 motion was denied at this time because I didn't
10 have a chance to read your motion to dismiss, and I
11 will do that when we have a break.

12 The motion to sequester witnesses, that
13 was granted. The only witness in the courtroom is
14 officer DeNett at this time. The other two
15 witnesses, Captain Wallace and Mr. Ghozlan, are
16 sequestered.

17 The motion to suppress the video of the
18 defendant and the victim's interaction based on
19 Rule 106 that the tape was not complete, again
20 we're going to watch the video in just a minute and
21 make some determination on that and maybe even take
22 testimony.

23 The motion to suppress the body-worn
24 camera of Officer DeNett because it shows the video
25 that we're talking about in question, and that

1 would be under 403, because it would be prejudicial
2 and then a motion to suppress for lack of chain of
3 custody, that motion was denied also at this time
4 until we were able to put up witnesses to either
5 warrant the dismissal for lack of chain of custody
6 or allow it in. Anything else?

7 MR. ELLIOTT: I believe that's a fair
8 summary, Your Honor. We would just put on the
9 record that we renew and will renew those motions
10 as the trial proceeds.

11 THE COURT: Okay. I guess at this time we
12 want to play that video, and I don't know whether
13 you need to put up a witness to play it or just
14 play it.

15 MR. DODDS: I have Mr. Ghozlan. I have
16 Officer DeNett. Officer DeNett received an email
17 from Mr. Ghozlan. She loaded it into what is
18 referred to as Law Track, which is the evidence
19 program for the Town of Sullivan's Island, and
20 Captain Wallace was the evidence custodian who
21 duplicated that Law Track evidence.

22 THE COURT: At the proper time Mr. Elliott
23 can make that argument for lack of chain of custody
24 after all three witnesses testify.

25 As far as the video so we can get the jury

1 back in here and start the case, that's probably
2 the best thing to do. So let's watch the video
3 real quickly.

4 (Discussion off the record)

5 THE COURT: This video we're about to
6 watch is the entire video, Mr. Dodds? Mr. Elliott,
7 this is the video that you have been provided in
8 discovery, and this is the entire video?

9 MR. DODDS: Yes.

10 MR. ELLIOTT: If it's about three minutes,
11 Your Honor, that is the video that was provided in
12 discovery.

13 THE COURT: Great.

14 (Video played as follows:

15 "Are we bothering you, Mr. Uber? You can
16 drop us off for being a nuisance. You can just
17 drop us wherever. Clearly we're annoying you, so
18 you can drop us off.

19 (inaudible)

20 "I got a complaint coming from Uber, so
21 drop us off. (inaudible) You're being an asshole.
22 Drop us off.

23 (inaudible) Get out. Thank you.

24 (inaudible)

25 "Yes, sir. I am here by -- I'm sorry --

1 by Jasper. I had like two riders, two girls. I'm
2 working for Uber, and they came and they spoke to
3 me like I'm garbage and I'm Muslim, and they
4 started cursing to me, and this is like insulting
5 to me. Yes, sir. I'm here. I'm sorry. I'm
6 sorry. I had two ladies, two girls. I give them a
7 ride to home. They started insulting me like
8 cursing me and insulting me in an (inaudible) way.
9 You're Muslim. Get out of our country. It's
10 really so bad (inaudible)

11 THE COURT: Okay. So the objection to
12 that coming in was that it was not complete?

13 MR. ELLIOTT: That's correct, Your Honor.

14 THE COURT: I think we probably have to
15 call a witness, Mr. Ghozlan, to tell us that it's
16 complete. I'm going to call him just for that
17 limited purpose -- ask that you call him so we
18 don't need to get into his testimony and then redo
19 it. So if you would get Mr. Ghozlan in here, that
20 would be great. Once I rule on that then we'll
21 bring the jury back in.

22 AHMED A. GHOZLAN,
23 having been first duly sworn, was examined and
24 testified as follows:

25 THE COURT: Thank you. You can sit down.

1 Make sure you talk into that mike because we're
2 recording everything, and then we have a court
3 reporter over here taking everything down. I can
4 tell that you're kind of a quiet speaking person.

5 At this point in time Mr. Dodds, the Town
6 attorney, is going to ask you some questions. I
7 ask that you answer them, and then Mr. Elliott may
8 have some questions for you.

9 MR. DODDS: I'm going to stand over here
10 because I want you to direct your comments and your
11 testimony to Judge Cornely. Just look at him when
12 you're responding so that he cannot only hear you,
13 but look at your lips.

14 DIRECT EXAMINATION

15 BY MR. DODDS:

16 Q. What is your full name, sir?

17 A. Ahmed Ghozlan.

18 THE COURT: Would you spell that for us?

19 A H M E D, G H O Z L A N.

20 Q. Mr. Ghozlan, you need to speak up so that
21 you can be heard. Okay?

22 A. Okay.

23 Q. Where are you from?

24 A. From Egypt.

25 Q. Egypt?

1 A. Yes.

2 Q. When did you come to the United States of
3 America?

4 A. Since 2008.

5 Q. Since 2008.

6 Are you lawfully in the United States of
7 America?

8 A. Yes.

9 Q. In the past, specifically on June 11,
10 2022, in the early morning hours at approximately
11 1:57 a.m. or so were you working for Uber?

12 A. Yes, sir.

13 Q. Did you have occasion to pick up two
14 passengers from King Street, one of whom was the
15 defendant, Meredith Whitehurst?

16 A. Yes, sir.

17 Q. Did you bring those two passengers to
18 Sullivan's Island, South Carolina?

19 A. Yes, sir.

20 Q. At some point during the trip from King
21 Street in Charleston to Sullivan's Island did
22 Ms. Whitehurst begin to speak to you directly?

23 A. Yes, sir. Since I picked her up on King
24 Street and took her there she was like being really
25 loud, and then I said to her, ma'am, just like be

1 quiet. She was speaking on her phone, and that's
2 it. Since the time we arrived until the end we
3 didn't spoke.

4 Q. But at some point as you got onto
5 Sullivan's Island did Ms. Whitehurst address you
6 specifically? Did she talk at you?

7 A. Yes. She was speaking to me at this time,
8 yes.

9 Q. Is your vehicle equipped with a video?

10 A. Yes, sir.

11 Q. At some point did you activate that video?

12 A. Yes, sir.

13 Q. Did that video take us through
14 Ms. Whitehurst and her companion exiting your
15 vehicle on Sullivan's Island?

16 A. Yes, sir.

17 Q. Did you contact 911 as a result of your
18 interaction with those two individuals?

19 A. Yes, sir.

20 Q. At some point did you meet Officer DeNett
21 of the Sullivan's Island Police Department?

22 A. Yes, sir.

23 Q. At some point did you have occasion to
24 download the video and send it to Officer DeNett?

25 A. Yes, sir.

1 Q. Have you seen the video that has been
2 presented not only in this morning's court, but in
3 the past you and I have watched that video
4 together?

5 A. Yes, sir.

6 Q. Is that a complete and accurate video of
7 what occurred in your vehicle on June 11, 2022?

8 A. Yes, sir.

9 Q. You didn't alter that video in any way or
10 extrapolate it in any way?

11 A. No, sir.

12 Q. And you sent that to Officer DeNett of the
13 Sullivan's Island police Department?

14 A. Yes, sir.

15 MR. DODDS: I don't have any further
16 questions of this witness, judge.

17 THE COURT: Thank you. Mr. Elliott. If
18 you would answer any questions that Mr. Elliott has
19 for you.

20 CROSS-EXAMINATION

21 BY MR. ELLIOTT:

22 Q. Mr. Ghozlan, I'm going to ask you a few
23 questions. For purposes of what we're doing right
24 now I'm only going to be asking you questions about
25 your camera and the video.

1 A. Yes, sir.

2 Q. There will be questions later when we're
3 in front of the jury.

4 How long have you been driving for Uber?

5 A. Three years, since 2020.

6 Q. During that time have you always used a
7 body camera -- excuse me -- a dash camera in your
8 car?

9 A. Lately Uber told us to have a dash cam.
10 Since crimes have been happening, they recommended
11 us to have like a dash cam to protect ourselves.

12 Q. Does Uber provide that to you --

13 A. No.

14 Q. -- or give you any sort of financial
15 compensation to have that?

16 A. No. They just asked us to have a dash cam
17 of our own.

18 Q. When did you first purchase a dash cam?

19 A. Like almost one year and a half, something
20 like that.

21 Q. Prior to the incident which is at trial
22 today how long had you had that dash camera
23 approximately?

24 A. Almost like one year and a half, between
25 one year and a half and two years.

1 Q. Was that dash camera always in your
2 vehicle during that time?

3 A. Yes.

4 Q. Did you ever take the dash camera out of
5 your vehicle.

6 A. Not all the time. It depends if I'm
7 cleaning or something like that.

8 Q. Let me ask it a better way.

9 When you were driving for the purposes of
10 Uber, did you have the dash camera in your car --

11 A. Yes.

12 Q. -- when you were on duty we'll call it?

13 A. Yes.

14 Q. Can you explain to me how the dash camera
15 functions? How does it record video?

16 A. Just like when you plug the lighter in the
17 car.

18 Q. What does it record on or What does it
19 record to?

20 A. It records like inside and outside the
21 car, you know.

22 Q. Let me ask it another way.

23 Does it record to a hard drive, does it
24 record to a memory stick, or does it record to an
25 intern memory storage?

1 A. On a memory card.

2 Q. So it records to a removable memory card?

3 A. Yes.

4 Q. Do you know approximately how much footage
5 or how long you can record on a single memory card?

6 A. It depends on like -- it depends on the
7 size of the card, but for us, for Uber drivers,
8 there is not that much there, but when I go in a
9 dark area or something like that, just like I have
10 to make sure it's okay to protect myself in case
11 something like this would happen in a dark area,
12 not like on a main street.

13 Q. It is your testimony today that when you
14 were driving for Uber and when you had this dash
15 camera installed in your car, it was on and it was
16 recording; is that right?

17 A. It wasn't at this time.

18 Q. At what time?

19 A. I'm sorry?

20 Q. At what time was it not on?

21 A. I plugged it in since I arrived to make
22 sure. Like, you know, at this time if it's a dark
23 area or something, I make sure it's plugged in.

24 Q. I want to make sure I have your testimony
25 about this matter very clear.

1 Is it your testimony that on the night in
2 question the dash camera was not being used until
3 you plugged in it when you arrived on Sullivan's
4 Island?

5 A. Yes.

6 Q. So prior to that it was not running?

7 A. No.

8 Q. How long had you been driving that day for
9 Uber?

10 A. It was almost like nine hours before.

11 Q. During that day at no point did you ever
12 have the dash camera running?

13 A. Sometimes I do. Like when I go into a
14 dark area or something or like strange places, I
15 check to make sure it's already on.

16 Q. You said you make sure it's already on?

17 A. Yes. When you go to a pick up a fare with
18 people around you, you're okay, so I don't need the
19 dash cam that much. Because of the size of the
20 memory card it can't record a lot.

21 Q. So would you essentially turn it on and
22 turn it off intermittently throughout --

23 A. Yes. When it's turned off, most of the
24 time -- it's almost like a new car, so the lighter
25 it's on all the time.

1 Q. So in order to turn that dash camera on
2 you would have to plug it in?

3 A. Yes.

4 Q. And it turns on automatically?

5 A. Yes.

6 Q. And if you were to unplug it, does it turn
7 off automatically?

8 A. Yes.

9 Q. So throughout that day is it your
10 testimony that you would plug it in to turn it on
11 and then unplug it to turn it off at various points
12 during your time driving for Uber that day?

13 A. Yes. You know, sometimes I leave it, but
14 sometimes it's turns off itself. The memory card,
15 when it's full, it keeps recording what happened
16 before. You know, it's keeping recording.

17 Q. So does that mean that the camera when
18 it's recording records continuously, and whenever
19 it's full, it overwrites the oldest footage and
20 continues to record?

21 A. Yes. It deletes the old and continues
22 with the new.

23 Q. Did you start this camera whenever you
24 picked up Ms. Whitehurst on King Street?

25 A. I'm sorry?

1 Q. Did you start the camera whenever you
2 picked up Ms. Whitehurst on King Street?

3 A. No. The street was full already of cops,
4 and I feel like I was protected really. They make
5 it one way on King Street, so you don't need it
6 that much. I just have it to protect myself if
7 something happens like strange people or something
8 inside the car and like in dark areas. That has
9 happened before with me. People, they tried to
10 like steal my car, and I told Uber. They were just
11 like just keep that on, and if you feel like there
12 is something that can happen to you like bad, you
13 have to call 911. I said okay.

14 Q. What compelled you to start recording that
15 video? What made you start recording the video?

16 A. Because I was like going to a dark area.
17 The place I was going to, it was like a dark area,
18 and I don't know what is about to happen, so I'm
19 just like protecting myself to plug it in.

20 Q. Let me make sure I've got it correct.

21 You're saying that you started recording
22 because the area that you were driving into was
23 dark?

24 A. It was dark, and as a driver for Uber,
25 most of the time I drive inside the city. Most of

1 the time I don't go outside, but I did it because
2 it was late at night. So I get them to drop them
3 there and keep in service.

4 Q. So you start recording because you go into
5 a dark area?

6 A. Yes.

7 Q. Did you start recording because of
8 anything that the defendant, Ms. Whitehurst, was
9 doing?

10 A. No. Actually I started before that after
11 I said to her, ma'am, please, just be quiet a
12 little bit because she was disturbing my driving.
13 She was like really loud, and I said to her, ma'am,
14 just be quiet a little bit so I can focus on my
15 driving. After that she was making fun of me
16 because I said to her just be quiet. She was
17 speaking over the phone to somebody, and she said
18 to him, "Mr. Uber is asking us to be quiet," and
19 then it was like -- I felt like they wanted to make
20 fun of me. I said okay. Just complete the trip
21 and just drive them.

22 Then after that they started cursing in
23 front of the car and they started to have like bad
24 language. I said to them just be quiet, please,
25 because like they were disturbing my driving. I

1 had been driving for like a long day, and then it
2 was like, you know, don't make me like -- I have to
3 focus on my driving. So I said to her
4 respectfully, "Ma'am, just be quiet a little bit,
5 please," and she didn't even allow me to say --
6 like to complete what I was saying, and she said to
7 the other guy, the one that she was speaking to on
8 the phone -- she said to him, "Mr. Uber wants us to
9 be quiet, so I'm just telling you that." She
10 started to like -- the other lady also started to
11 have like bad language like, you know, cursing, so
12 I had to make sure I have that plug on to connect
13 the dash cam.

14 Q. Well, Mr. Ghozlan, I think you just said
15 previously that you turned it on because you
16 entered a dark area.

17 A. Yes. That's one of the reasons.

18 Q. But are you saying now that another reason
19 was because of what was said?

20 A. Yes. She was disturbing my driving, so I
21 have to focus. Also to protect my car because if
22 there was an accident or something that happened, I
23 have to like also have evidence for me. If
24 accidents happen, you have to also like, you know,
25 protect yourself and protect the others.

1 Q. Mr. Ghozlan, you referenced comments that
2 you made to the defendant that are not on this
3 video.

4 Do you know the comments I'm referring to?
5 You said something to the defendants when they were
6 in the car, which is, as you testified, before the
7 video started?

8 A. I'm sorry?

9 Q. Did you make any comments to the
10 defendants before the video started?

11 A. No. The only thing I said to her was,
12 "Ma'am, just be quiet, please" just for myself to
13 focus on the road.

14 Q. But was that on video?

15 A. No. That was like, you know, by the
16 bridge I just said that, and since that time they
17 started to speak to each other and the cursing and
18 the bad language I said to myself just complete
19 your trip, and like they do whatever they do. Just
20 like focus on what I was doing.

21 Q. About how long would you say -- how long
22 was it from your comments to the riders until the
23 time you started the video?

24 A. Almost like five minutes, something like
25 that, five, seven minutes, something like that.

1 Q. About five minutes? Is that what you
2 said?

3 A. Yes; like five to seven minutes.

4 Q. So about five or seven minutes go by, and
5 then you start the video. Is that a fair
6 characterization?

7 A. Yes. Once they started to make fun of me
8 and like -- you know, they started to make fun of
9 me and speak bad language, I felt like I have to
10 record, especially I'm also going to a dark area.

11 Q. Do you recall when you first met the
12 officer in this case, Officer DeNett?

13 A. I'm sorry?

14 Q. Do you recall meeting Officer DeNett when
15 she responded in this case?

16 A. No, I didn't meet her before.

17 Q. After. I'm saying after you called 911 do
18 you recall meeting Officer DeNett who responded?

19 A. I called 911, and Officer DeNett, she came
20 with another officer.

21 Q. And that was the first time that you had
22 met her ever in your life?

23 A. Yes. I don't know her before.

24 Q. About how long would you say that you
25 spoke to Officer DeNett?

1 A. I spoke to her like since this started.

2 Q. Not since. During that incident how long
3 would you say the interaction was between the two
4 of you?

5 A. I had been sitting there, like I had been
6 shaking and like I haven't like, you know, felt
7 good because at this time like -- I have blood
8 pressure, and at this time I felt like -- you know,
9 like I didn't feel good because I haven't been in
10 this situation before, and I felt like, you know,
11 like why did they do that to me? I didn't do
12 anything wrong.

13 Q. Mr. Ghozlan, do you recall at some point
14 during that conversation Officer DeNett asked you
15 to provide that video to her, to give it to her
16 somehow?

17 A. Yes. I told her what happened exactly,
18 and I remember I said to her, ma'am, I have a video
19 recording of everything. She said to me, if you
20 have that video, download it. I downloaded it and
21 I sent it to her by email.

22 Q. Do you recall whenever you were having
23 this conversation with Officer DeNett and she asked
24 you for the video, which you gave to her -- do you
25 recall telling Officer DeNett that you have the

1 video from King Street all the way to the present?

2 A. No. I told her I have the video to show
3 the evidence of what happened. I don't know.
4 Sometimes the dash cam it's recording itself. It's
5 old, so --

6 Q. Mr. Ghozlan, you will have an opportunity
7 to testify. For purposes of right now we're only
8 discussing just the video and how it's recorded,
9 and I don't mean to cut you off, and you will get
10 to have your peace and say what would you like, but
11 right now we're talking about just the video.

12 My question to you is do you recall
13 telling Officer DeNett that the video that you had
14 started at King Street and asking her if she wanted
15 that?

16 A. I didn't know that before. I don't know
17 if I have that much video that's recorded or not,
18 but this is the only video I found there.

19 Q. Well, if that's the only video, why would
20 you offer to give her the video starting all the
21 way back at King Street?

22 A. Because I don't know if it's recorded or
23 not. I know sometimes like it's a technical issue.

24 Q. So is your testimony today that the video
25 may have been recording the entire time as far back

1 as when you picked up the riders?

2 A. I didn't know. When you download
3 something, this is the only -- like, you know, it's
4 usually the last video which is coming. It doesn't
5 go that much far in the beginning before.

6 Q. Based on your experience with that
7 particular dash cam how far back -- not in this
8 case, but how long would it record?

9 A. It depends on the dash cam. Sometimes
10 it's like three minutes, sometimes like two
11 minutes, sometimes one minute, sometimes four
12 minutes. It depends.

13 Q. Is that a setting that you select or not
14 select?

15 A. Yes, but when you plug it in, sometimes it
16 keeps the setting as you did it before.

17 Q. Mr. Ghozlan, I'll submit to you that when
18 you were attempting to find the clip which has been
19 produced to us in discovery, the video clip that
20 we're talking about right now -- when you were
21 attempting to get that to Officer DeNett, her
22 recording depicts you scrolling through footage.
23 Do you recall that?

24 A. I'm sorry?

25 Q. The video off Officer DeNett's body camera

1 depicts you looking through some amount of footage
2 and trying to find the video clip that we are
3 talking about right now.

4 Do you remember looking through the
5 various footage?

6 A. Yes. Sometimes, you know, like I have one
7 that I use. These videos at this time, it's not
8 like, you know, some relic from the old. It's
9 available, you know -- like the size of the video.
10 I have like some video since like I purchased the
11 dash cam. So some of the video, it keeps as a
12 saving there, and some of them it doesn't like
13 stay. It keeps like deleting and keeps going to
14 the new one.

15 At this point I have like a lot of like,
16 you know, video from some other people. So I was
17 shaking at this time. I was trying to look at what
18 I have already, and it started at which time? Is
19 that before or after like the accident which
20 happened? So at this time I don't know. Like I
21 have a bunch of different things, and there's
22 numbers and days. So I didn't like -- you know, I
23 just like choose the last one I had.

24 Q. Just for clarity here -- and remember
25 we're talking about just this clip of the video --

1 is it your testimony that you were mistaken when
2 you told officer DeNett that you had video
3 beginning when you picked up the riders on King
4 Street?

5 A. Yes, because I thought it was recording.

6 Q. But you're testifying today that you were
7 mistaken and that it was not recording?

8 A. It wasn't recording. Sometimes like, you
9 know, nothing is happening, so why do you need the
10 previous thing?

11 Q. I guess what I'm asking you is why did you
12 offer to give her the full video, and then now
13 you're testifying that --

14 A. Because I thought I had it.

15 Q. So you thought at the time you had it?

16 A. I'm sorry?

17 Q. You thought in that moment that you had
18 the full video?

19 A. I had it on before, yes.

20 Q. Had you not just looked at all of the
21 footage in the previous few minutes while you were
22 speaking to Officer DeNett?

23 A. Yes, but it was nothing between me and
24 the riders. Like, you know, sometimes it's related
25 and sometimes it's not related, but at this moment

1 I had the only thing was this video. It was like,
2 you know, it showed us what was like happening.
3 Like, you know, nothing happened before, so I
4 didn't have the ability even to look for like, you
5 know, what has happened because like, you know,
6 nothing happened between me and the riders except
7 when I said to her, ma'am, just be quiet a little
8 bit, and she started after that cursing and bad
9 language. At this time I thought that I had to
10 record that.

11 Q. So today under oath you're saying that the
12 video only began when you plugged it in, which
13 starts the three-minute clip that we have here in
14 court?

15 A. I'm sorry. Say that again.

16 Q. Is it your testimony that the only time
17 you recorded at any point during those riders -- at
18 any point from the time you picked them up on King
19 Street until the police arrived are you saying that
20 the only video started recording when the
21 three-minute clip here begins?

22 A. That's what I have, and I said --

23 Q. I'm not asking you at this time.

24 Was that video recorded continuously prior
25 to that?

1 A. I don't remember if it was like that or
2 not. This is the only thing that showed the
3 evidence, and nothing had happened before, and
4 that's when I gave it to her as evidence for what
5 happened.

6 Q. At her request?

7 A. No, she didn't request that. The dash
8 cam, it really starts from this time until this
9 time. So it wasn't my choice to choose what it is,
10 to start from what. It's like it's coming from
11 this time to this time.

12 Q. Do you recall her saying I don't need any
13 of that --

14 MR. DODDS: I'm going to object. I think
15 he has asked the question several different times
16 and ways, and he has answered the questions.

17 THE COURT: I agree. Just move on.

18 Q. Mr. Ghozlan, do you still have this dash
19 camera?

20 A. Yes, I have.

21 Q. Do you still have the same memory card
22 that you had on that night?

23 A. No. I get like something a bigger size.

24 Q. What did you do with that memory card?

25 A. The old one?

1 Q. Yes.

2 A. I don't need it. I threw it away.

3 Q. So you do not have that memory card at
4 all?

5 A. No.

6 Q. You don't know where it is?

7 A. No, because when you install this dash
8 cam, like the memory card is small in size. They
9 don't give you a big size. They give you a small
10 size.

11 Q. Just three more questions.

12 Did the dash camera have to be plugged in
13 in order to work or did it have an internal
14 battery?

15 A. The battery of the dash cam, it's not that
16 well, so the dash cam, really like, you know, it
17 has to work on the car's ignition, but sometimes
18 it's really good with the battery. It depends if
19 it's hot or cold the battery is not that well.

20 Q. But it did have a battery?

21 A. Yes. Sometimes it's recording. When the
22 battery is good, it's recording.

23 Q. But you don't believe it was recording
24 prior to you plugging it in?

25 A. I didn't get to finish it, because, you

1 know, nothing had happened before, because like
2 nothing has happened.

3 Q. How did you finally provide this
4 three-minute video clip to the police whether it be
5 Officer DeNett or someone else?

6 A. I need to have wi-fi from the dash cam to
7 the phone, and I downloaded it there to my phone,
8 and Officer DeNett, she came, and I provided it to
9 her, the video. I said to her what has happened.
10 You know, I told her I have the dash cam, and we
11 tried to download it, and she gave me a hot spot to
12 download the video because I was like, you know, I
13 haven't been in this situation before, and it was
14 like I was shaking and I didn't feel well, so she
15 helped me to download the video, and she tried to
16 make me calm down, and after that she asked me to
17 send it to her as an email, so I sent it to her by
18 email.

19 Q. She asked you to tape it? What does that
20 mean?

21 A. No. I mean to send this video to her
22 phone because like nothing transferred. I don't
23 know that much about technology.

24 Q. So it was just wirelessly transferred to
25 her phone?

1 A. It's not wireless.

2 Q. It was wirelessly transferred?

3 A. Yes.

4 Q. Do you ever recall her using her phone to
5 record, essentially record the video?

6 A. She did that at this time. She took it
7 like, you know, as a video. She was recording from
8 my phone after I downloaded it from there because,
9 you know, the size of the video was big, so we
10 tried to send it as a message and stuff like that
11 and send it as an email, but when you send it as an
12 email, it asks you to have a wi-fi to upload it.

13 Q. So that wireless transfer, that was the
14 only time that you gave the video to law
15 enforcement; it wasn't anything that happened
16 later?

17 A. Later I sent it to her by email.

18 Q. Was that the next day or the night of?

19 A. I don't remember exactly because it was
20 late that night, and I went home very late in a bad
21 situation. Even she asked me if I wanted her to
22 drive me home. I said I will be okay.

23 Q. Would you say that it was within a few
24 days of the incident?

25 A. No.

1 Q. Within a week?

2 A. It's less than that.

3 Q. So less than a few days?

4 A. I don't remember exactly because I
5 wasn't -- I didn't feel good, and the people in my
6 family, they have been worried about me.

7 Q. Let me just ask a question as simple as I
8 can.

9 When you finally were able to email the
10 video, you emailed it directly to Officer DeNett?

11 A. Yes.

12 Q. And that happened within a few days of the
13 incident; is that right?

14 A. No. I don't remember exactly.

15 Q. I'm not asking you to be specific.

16 Did it happen a month later?

17 A. No. It was before that.

18 Q. So it was within a few days or a day. Is
19 that fair?

20 A. It might be like the next day. I don't
21 know exactly.

22 THE COURT: It's okay to say yes or no.

23 Q. That email to Officer DeNett, that's the
24 only time that you gave the video to anyone in law
25 enforcement?

1 A. Yes.

2 Q. Were you ever asked at any point by any
3 other member of law enforcement for another copy of
4 the video or to look to see if there was any other
5 video that existed?

6 A. No.

7 MR. ELLIOTT: I think that's all the
8 questions I have at this time.

9 THE COURT: Thank you. Mr. Dodds,
10 anything on redirect?

11 MR. DODDS: No questions, Your Honor.

12 (Witness excused.)

13 THE COURT: If I understand his testimony
14 correctly, as a general rule he would turn the
15 video on if he went into a dark place, a dangerous
16 place. In this case he turned the video on after
17 he asked Ms. Whitehurst or one of the ladies to
18 quiet down a little bit. She was talking loud on
19 her phone, and then they started some sort of
20 verbal altercation, and he turned on the video or
21 he made sure it was plugged in.

22 MR. ELLIOTT: Your Honor, I would agree
23 that that's a fair characterization of what he just
24 testified to. We believe that statements that he
25 made that were captured on Officer DeNett's body

1 camera suggest otherwise and are paramount and the
2 basis -- a corroborating fact and the basis for the
3 motion.

4 THE COURT: Well, again, that's what his
5 testimony was. You have the ability to ask Officer
6 DeNett if he told you that, and you have the
7 ability to ask him if this is the complete video in
8 front of the jury. So I'm going to allow the video
9 in at this time, and then we can call him back up
10 to the witness stand and start with his testimony
11 if that's what you're going to do.

12 MR. ELLIOTT: Yes.

13 MR. DODDS: Can we excuse Captain Wallace?

14 THE COURT: Well, Captain Wallace is here
15 for the purposes of chain of custody. Are you
16 stipulating to chain of custody? You don't have
17 to, but...

18 MR. ELLIOTT: I understand that, Your
19 Honor. As I understood it, the video that we have
20 in discovery was emailed to Officer DeNett at some
21 point relatively soon after the incident, and then
22 from there it was uploaded into evidence by Captain
23 Wallace; is that right?

24 THE COURT: That's correct. That's what I
25 understand from the testimony.

1 MR. ELLIOTT: I think that the emails and
2 the correspondence back and forth are relevant to
3 the chain of custody matter.

4 THE COURT: So we're not going to excuse
5 Captain Wallace at this time. We're going to use
6 his testimony to complete chain of custody if
7 necessary.

8 MR. ELLIOTT: Your Honor, we wouldn't
9 challenge the chain of the video as it relates to
10 the very end of it, meaning whenever it was
11 uploaded to this system. We think that the
12 pertinent part of the chain is the email to Officer
13 DeNett and how it got to Captain Wallace.

14 THE COURT: Then we can excuse Captain
15 Wallace because he's not necessary because he came
16 in at the end. The only contention would be
17 between the witness and/or the victim in this case
18 and Officer DeNett.

19 MR. ELLIOTT: And then Officer DeNett --

20 THE COURT: Yes, we can excuse him it
21 appears. Then we're going to get your witness back
22 in here or you can call him once we get the jury
23 back in. We're going to do probably one witness,
24 and it may take a while.

25 MR. ELLIOTT: I think it would take a

1 while.

2 THE COURT: We will do that witness, and
3 if it looks like it's going to be beyond 12:30 or
4 so, then we'll wait an appropriate time to stop and
5 we'll reconvene after lunch. I haven't heard any
6 testimony except from him. So I'm clear, you are
7 challenging -- you're going to possibly be
8 challenging the video coming into evidence after
9 Officer DeNett's testimony?

10 MR. ELLIOTT: Well, possibly, Your Honor,
11 but that's a problem because we're going to get to
12 it with the witness that the State said they were
13 going to call first, so I think it's worth perhaps
14 an in-camera review of just a 30-second clip of the
15 body cam so Your Honor can make a final ruling.

16 MR. DODDS: I thought the Court has
17 already ruled that the video is coming in.

18 THE COURT: He's talking about the body
19 worn now.

20 MR. ELLIOTT: I think it goes to exactly
21 what the motion to suppress is about.

22 THE COURT: You can certainly make the
23 argument that the body worn camera video should not
24 come in.

25 MR. ELLIOTT: Right, Your Honor, and

1 that's what we're making for impeachment purposes
2 or -- I think it is pertinent right now for perhaps
3 the Court to review in camera ahead of a final
4 ruling on the motion to suppress that video.

5 THE COURT: I'm not sure how the body worn
6 camera would be evidence to suppress the video from
7 the in car --

8 MR. ELLIOTT: I think it's the witness
9 telling Officer DeNett that he has the video all
10 the way back to King Street.

11 THE COURT: But you can argue to the jury.
12 I think it may go to the weight of the evidence,
13 but not the admissibility. What I think he's
14 saying, Mr. Dodds --

15 MR. DODDS: I understand what he's saying.

16 THE COURT: So I don't think it needs to
17 be ruled on now. I just don't.

18 MR. ELLIOTT: Very well.

19 MR. DODDS: I don't think that goes to
20 admissibility, Your Honor.

21 THE COURT: I think it goes to the weight
22 of the evidence, and you certainly have the ability
23 to cross-examine the victim and Officer DeNett
24 about the video and what did he say on the video.

25 You can bring in the jury.

1 MR. ELLIOTT: Thank your, Your Honor.

2 THE COURT: You're welcome.

3 (Brief recess.)

4 (Jury returns to courtroom.)

5 THE COURT: I am so sorry, but I promise
6 you we're getting work done and streamlining things
7 so you don't have to sit through what we have to.

8 We're going to start the testimony in the
9 case, and so the Town through Mr. Dodds will call
10 its first witness.

11 MR. DODDS: Thank you, Your Honor. I'm
12 going to call Ahmed Ghozlan.

13 THE COURT: As I told you before, the
14 witnesses are sequestered, and that's a general
15 rule of the courts to keep the witnesses separated
16 until it's their turn to testify.

17 AHMED A. GHOZLAN,
18 having been first duly sworn, was examined and
19 testified as follows:

20 THE COURT: If you would, your name is
21 Ahmed, A H M E D, and it's Ghozlan, G H O Z L A N;
22 is that correct, sir?

23 THE WITNESS: Yes.

24 THE COURT: Please answer any questions
25 that the Town attorney has for you.

1 DIRECT EXAMINATION

2 BY MR. DODDS:

3 Q. Mr. Ghozlan, I want you to speak up so
4 that the gentleman and ladies of the jury can hear
5 you, so that Mr. Elliott can hear you, and so that
6 the court reporter and Judge Cornely can hear you.
7 Okay?

8 A. Okay.

9 Q. I know you're nervous, but just take your
10 time and try to talk slowly.

11 Tell me what your full name is.

12 A. Ahmed Ghozlan.

13 Q. Where were you born?

14 A. Egypt.

15 Q. When did you come over to the United
16 States of America?

17 A. 2008.

18 Q. 2008?

19 A. Yes.

20 Q. Do you have a family?

21 A. Yes.

22 Q. Where is your family?

23 A. They are back in Egypt.

24 Q. Since arriving to the United States have
25 you had occasion to work for Uber?

1 A. Yes.

2 Q. What do you do for them?

3 A. I have been driving for Uber since 2020.

4 Q. I want you to go back and recollect the
5 events of June 11, 2022, in the early morning hours
6 of June 11.

7 Do you recall picking up two passengers on
8 King Street in Charleston, South Carolina?

9 A. Yes, sir.

10 Q. One of whom was the defendant, Meredith
11 Whitehurst?

12 A. Yes.

13 Q. Were you asked to deliver those two
14 individuals from the King Street onto Sullivan's
15 Island?

16 A. Yes, sir.

17 Q. Did you do that?

18 A. Yes.

19 Q. What kind of vehicle were you driving at
20 the time? Was it your personal vehicle?

21 A. Yes.

22 Q. During the course of transporting
23 Ms. Whitehurst and her companion to Sullivan's
24 Island did Ms. Whitehurst have occasion to get on
25 the telephone, her cell phone?

1 A. Yes.

2 Q. How would you describe the volume of her
3 voice as she was talking on her cell phone?

4 A. Her volume was really high, and she was
5 like screaming and very loud on the phone with
6 somebody else, and I just like said to her, ma'am,
7 just be quiet because it's like disturbing my
8 driving.

9 Q. I want you to slow down. I'm going to try
10 to ask you specific questions so that we can help
11 the jury to understand what occurred during this
12 drive from Charleston onto Sullivan's Island.

13 So Ms. Whitehurst was talking on her cell
14 phone?

15 A. Yes, sir.

16 Q. And the volume of her voice you described
17 as what?

18 A. It was very loud and screaming.

19 Q. Did it have an impact on your ability to
20 concentrate while you were driving?

21 A. Yes, sir.

22 Q. As a result of that did you make any
23 comment or ask Ms. Whitehurst to please talk a
24 little more softly?

25 A. Yes, sir.

1 Q. What was her reaction to that?

2 A. She was like making fun of me on the
3 phone, and she started like cursing and, you know,
4 speaking with bad language.

5 Q. Do you recall where you were as far as the
6 drive from Charleston onto Sullivan's Island when
7 that began approximately?

8 A. I'm sorry. Say that again.

9 Q. Do you recall where you were physically
10 located as you were driving when that began to
11 happen?

12 A. Yes. I was driving when she was very loud
13 and screaming.

14 Q. Did there come a point where you actually
15 entered your vehicle with Ms. Whitehurst and her
16 companion -- actually came onto the Town of
17 Sullivan's Island?

18 A. Say that again.

19 Q. Did there come a time where your vehicle,
20 you driving Ms. Whitehurst and her companion,
21 actually came onto the island of Sullivan's Island?

22 A. Yes.

23 Q. Would you describe for the gentleman and
24 ladies of the jury her conduct as you arrived on
25 the island of Sullivan's Island?

1 A. Yes.

2 Q. What was she saying to you, if anything?

3 A. She was like -- you know, since I said to
4 her that, she started like, you know, cursing, and
5 like, you know, I just said to myself just focus on
6 what you're doing and just do what you have to do.
7 Like after like five minutes or three minutes --

8 Q. Slow down a little bit. I know you're
9 excited, but slow down.

10 A. Just like after like, you know, she was
11 like overreacting and made fun of me as a driver I
12 said to myself like just complete. Don't give a
13 comment, and before we arrived she asked me to drop
14 her off. She said to me, "Mr. Uber, please drop us
15 here. You have been like making a nuisance for us
16 and" --

17 Q. Let me stop you and ask you a question.

18 So after you got on Sullivan's Island
19 Ms. Whitehurst requested that you pull your vehicle
20 to the side of the roadway and let them off?

21 A. Yes, sir.

22 Q. Did she offer you any explanation for
23 that?

24 A. She said to me like you have been -- I'm
25 sorry to say this language -- you're being like I

1 think an asshole. You are like, you know, making a
2 nuisance for us or something like that. She said
3 like, "Go back to your country. You are Muslim."

4 I said to her, "Ma'am, everything is
5 recorded, and I'm going to report that to Uber."
6 Then she said, "I have already complaints coming
7 from Uber." Then I said to her, "Okay. So I'm
8 going to call 911. Please wait outside."

9 She said like, "You are not even from this
10 country to call 911 for us." I said, "Okay. Thank
11 you." Then she started insulting me to say, "Go
12 back to your country, why are you here, you are
13 Muslim," and she kept like insulting me and cursing
14 and bad language. So I called 911 for that.

15 Q. After your vehicle had stopped did
16 Ms. Whitehurst make the statement to you -- and
17 excuse me, please -- "Fuck you, you Arabic piece of
18 shit"?

19 A. Yes, sir.

20 Q. Where were you physically located when
21 that occurred?

22 A. Inside the car.

23 Q. Outside the car?

24 A. I was inside the car, and they were
25 outside the car. They started inside the car, and

1 completely when they were out the whole way in the
2 street, they had been like cursing and like, you
3 know, saying bad things.

4 Q. So to make sure I understand you, at some
5 point Ms. Whitehurst and her companion exited your
6 vehicle? At some point Ms. Whitehurst and the
7 companion, the young lady that she was with, exited
8 your vehicle?

9 A. Yes.

10 Q. And that was on Middle Street on
11 Sullivan's Island, South Carolina?

12 A. Yes, sir.

13 Q. After Ms. Whitehurst exited the vehicle
14 did she continue to make statements about your
15 person?

16 A. Yes, sir.

17 Q. Did she use profanity?

18 A. Yes.

19 Q. What was the volume of her voice? Was it
20 low or was it loud?

21 A. It was very loud, even like, you know,
22 there was like a street there, and there was a guy,
23 and he stopped there. I felt like people would be
24 watching me. It was like dark, but it looked
25 like -- you know, her voice was really very loud.

1 Q. Was there a video taken of a portion of
2 the conduct that occurred in your vehicle?

3 A. Yes, sir.

4 MR. DODDS: Your Honor, I would at this
5 time request that the video be played for the jury.

6 MR. ELLIOTT: Your Honor, we would just
7 renew our objection.

8 THE COURT: Subject to the earlier
9 objections?

10 MR. ELLIOTT: Yes, Your Honor, regarding
11 completeness. Thank you.

12 (Video played as follows:

13 "Are we bothering you, Mr. Uber? You can
14 drop us off if we're being a nuisance.

15 (inaudible)

16 "You can just drop us wherever because
17 clearly we're a problem to you and I'm paying you,
18 so (inaudible) complaint obviously coming from
19 Uber, so thank you. You're being an asshole. Drop
20 us off. (inaudible) There is a complaint coming
21 from Uber.

22 (inaudible)

23 "Trust me. I'm going to report this to
24 Uber."

25 "I'm sorry. Take it outside, please.

1 "Say it one more fucking time (inaudible).

2 "Thank you.

3 "No. Say it again. (inaudible).

4 "I'm going to call 911 right now.

5 "Fine. (inaudible) Fucking country.

6 "Get out."

7 "You Arabic (inaudible.)

8 "Okay. Thank you.")

9 MR. DODDS: Would you stop the video,
10 please.

11 Q. Mr. Ghozlan, the incident that we just
12 witnessed on the video, was Ms. Meredith Whitehurst
13 the woman who was seated directly behind you?

14 A. Yes.

15 Q. At this point your car is stopped on
16 Middle Street on Sullivan's Island, South Carolina?

17 A. Yes, sir.

18 Q. The language of Ms. Whitehurst that we
19 heard on the video, that occurred from Middle
20 Street on Sullivan's Island into your vehicle?

21 A. Yes, sir.

22 MR. DODDS: Just go ahead and finish the
23 video, please.

24 (Video played as follows:

25 "I am here by Station 20 -- I'm sorry.

1 It's by (inaudible) Yes, sir. I had like two
2 riders, two girls. I am working for Uber, and they
3 came and they were insulting me, like, you know,
4 I'm Arabic, I'm a Muslim, and they started like
5 cursing to me, and this is like insulting to me.
6 No. I'm here. Yes, sir. I'm here. I'm sorry.
7 I'm sorry. I had like two ladies, two girls. They
8 started like insulting me like cursing and
9 insulting me with, you know, Islamic (inaudible)
10 You are Muslim, you are Arabic, get out of our
11 country. It's really so bad, and (inaudible).

12 MR. DODDS: Mr. Ghozlan, please answer any
13 questions Mr. Elliott may have of you.

14 CROSS-EXAMINATION

15 BY MR. ELLIOTT:

16 Q. Mr. Ghozlan, I realize that we had an
17 exchange earlier out of the presence of the jury,
18 so some of the things I'm going to ask you will be
19 the same questions that were asked out of the
20 presence of the jury, so I'll try to move through
21 those as quickly as possible.

22 About how long have you driven for Uber?

23 A. Three years, since 2020.

24 Q. Is that something that you would do on a
25 daily basis, weekly, on the weekends?

1 A. It's a full-time job for me, so most of
2 the time I work like weekends and weekdays and some
3 of them just weekends. It depends.

4 Q. Do you typically drive at a particular
5 time of day or do you drive at night?

6 A. Most of the time on the weekends it's like
7 from like the afternoon until like late.

8 Q. During the time that you've driven for
9 Uber have you always had a dash camera in your car?

10 A. Yes.

11 Q. The entire time?

12 A. Yes, like I said before.

13 Q. But the entire time you drove for Uber
14 you've always had a dash camera in your car?

15 A. Yes.

16 Q. On the day in question how long had you
17 been driving or taking passengers prior to this
18 incident?

19 A. It was between like eight to nine hours
20 because they don't allow for us to drive more than
21 12 hours.

22 Q. Just to clarify so I'm understanding what
23 you're saying, you had been driving for about nine
24 hours prior to this; is that right?

25 A. Yes.

1 Q. Do you recall about what time you would
2 have picked up these passengers?

3 A. When I picked them up?

4 Q. About what time did you pick them up?

5 A. I don't remember exactly, but it was like
6 after one and a half.

7 Q. 1:30? Is that what you're saying?

8 A. Yes. It was around 1:30.

9 Q. Where did you pick them up from?

10 A. From King Street.

11 Q. Do you recall exactly where on King
12 Street?

13 A. I don't remember because like we pick up a
14 bunch of people from King Street. Each could be
15 like within one block or less.

16 Q. When you picked them up, did you head
17 straight to their destination on Sullivan's Island?

18 A. Yes.

19 Q. Which route did you take?

20 A. I took 703 to Jasper Street to there.

21 Q. At any point during that ride did you say
22 anything or make any comments to either one of the
23 passengers?

24 A. Yes. She was very loud, and she was
25 disturbing my focus on driving, and I said to her,

1 "Ma'am, please keep quiet." She started to make
2 fun of me because I said that. I said okay,
3 whatever. Just like focus on what I was doing.

4 Q. At any point did you tell her to shut up?

5 A. No.

6 Q. At any point did you tell any one of the
7 passengers to shut the fuck up?

8 A. No. I can't say something like that.

9 Q. Did you say any other comment to the
10 passengers?

11 A. No, because I know like sometimes most of
12 them are drunk, and we don't know what they are
13 saying, but for us, it's customer service, so we
14 have to respect them whether he or she is drunk or
15 not, so...

16 Q. So your testimony is that you politely
17 asked them to be quiet?

18 A. Yes.

19 Q. Do you know at what point in the ride that
20 was? Was it in the beginning of the ride, after,
21 the middle?

22 A. It was in the middle of the ride.

23 Q. Did you say it more than one time?

24 A. No; just one time, but when she like
25 started, I was just like, okay, just leave them

1 alone.

2 Q. So your testimony is that you made one
3 comment politely asking these defendants to be
4 quiet?

5 A. Yes.

6 Q. Why would you say that the video we just
7 saw depicts them behaving the way that they behaved
8 on that video?

9 A. I don't understand.

10 Q. Let me clarify because that was a
11 confusing question.

12 You've testified to the jury today that
13 you only one time asked the riders politely to be
14 quiet; is that right?

15 A. Yes, sir.

16 Q. Help me understand why based on that one
17 comment and we've seen nothing else -- in your
18 opinion why did these two girls react this way?

19 A. I don't know. I was just like surprised
20 what they did. Like, you know, nothing happened,
21 and they had been like, you know, keep swearing and
22 like, you know, cursing, and like, you know, I
23 don't know. I have been focused on driving, and I
24 don't know if it was for me or for someone else,
25 but when like, you know, I said to her, "Ma'am,

1 just be quiet a little bit, please," then she
2 started to make fun of me and make reactions in a
3 bad way, so I said, okay, just focus.

4 Q. Let me clarify.

5 Who started to make fun of you?

6 A. The woman that was behind me, Whitehurst.
7 She was speaking over the phone to her boyfriend or
8 whoever she was speaking to, and she was on the
9 speaker. She said to him, "Mr. Uber, he wants us
10 to be quiet," and this is like, you know, our ride,
11 and she was like, you know, making fun of me
12 because like I said to her just be quiet a little
13 bit.

14 Q. I think you said earlier you asked her to
15 be quiet.

16 Did you say be quiet a little bit or just
17 be quiet?

18 A. I said to her just be quiet a little bit.

19 Q. And that was the only thing that you said?

20 A. Yes, this is the only thing I said to her.

21 Q. When the situation escalated to the level
22 that we've seen on the video, what was your
23 reaction to the comments that the defendant said to
24 you? Specifically -- again I'm sorry -- I believe
25 she said something to the effect of, "Fuck you, you

1 Arabic piece of shit"; is that right?

2 A. Yes.

3 Q. Did that offend you?

4 A. What?

5 Q. Did that offend you?

6 A. Of course.

7 Q. It's understandable certainly.

8 A. If I said that to you, what would your
9 reaction be? This is really so bad, especially
10 like, you know, I'm here. I live alone, and my
11 family, they are back in Egypt. My friend,
12 somebody killed him on King Street. That was
13 before. Like, you know, like I felt really so bad
14 and I felt like I shouldn't be here in this
15 country. Why? I came here to serve people.
16 Instead of like appreciating me for what I'm doing,
17 like you do that. I have been like driving all the
18 night to serve you and to give you rides, and you
19 do that to me, and especially she said you're a
20 piece of shit. I have a Ph.D., I have a master's,
21 and I have two bachelor's degrees. So to look at
22 me in this situation and to say that to me, this
23 really hurts me.

24 With this situation she tried to even slap
25 my ear to take the ear bud from my ear when I tried

1 to call 911. I'm legally here, and she said you
2 are not even from this country to call 911. So I
3 felt like why? I'm not human like you?

4 Q. Let me ask you a question about something
5 you just said.

6 I think you said something to the effect
7 of she tried to slap you; is that right?

8 A. Yes.

9 Q. Did Ms. Whitehurst or any of the
10 passengers ever hit you at any point?

11 A. Ms. Whitehurst, when I tried to put in the
12 ear bud to call 911, she tried to take it from my
13 ear there.

14 Q. So she reached for your ear? Is that what
15 you're saying?

16 A. Yes. I felt like her hand like it's
17 there. I could touch it. I was nervous, so I felt
18 her hand like, you know, in my ear.

19 Q. Like an open hand reaching?

20 A. Yes.

21 Q. I'm trying to be very, very clear about
22 part of this.

23 Did she ever touch you?

24 A. Yes. I felt her hand.

25 Q. You felt her hand touch you?

1 A. Yes.

2 Q. Touch your ear; is that right?

3 A. Yes.

4 Q. Any other part of you?

5 A. No.

6 Q. Are you certain that she touched you?

7 A. Yes. I felt her hand.

8 Q. The comments that Ms. Whitehurst made to

9 you, were they insulting to you?

10 A. When?

11 Q. I'm asking if they were offensive, and I

12 think understandably you said they were. Were they

13 insulting to you?

14 A. Yes. She was insulting me.

15 Q. At any point did you ever strike

16 Ms. Whitehurst or the other passenger?

17 A. No. I don't have any issue with her.

18 She's a customer like any other customer.

19 Q. Have you ever hit another person?

20 A. No.

21 Q. Have you ever hit a woman?

22 A. No.

23 Q. Would you say that you're a violent

24 person?

25 A. We respect a woman.

1 Q. So you would characterize yourself not as
2 a violent person; is that right?

3 A. No.

4 Q. Would you say that you've ever been
5 violent?

6 A. I'm sorry?

7 Q. Would you say that you have ever been
8 violent? Have you ever been violent?

9 A. No.

10 Q. So after you were understandably offended
11 and insulted as you have said several times did
12 that cause you to become violent with either one of
13 these passengers?

14 A. No.

15 Q. Did you want to become violent with either
16 one of these passengers?

17 A. No. I was shocked. Why are you doing
18 that? I gave you a service. Why are you doing
19 that? Most customers, they respect us. We give
20 them a service, so they respect us.

21 Q. I think we've established you were
22 offended and insulted, but at no point did you want
23 to or ever in fact become violent or hit anyone
24 because of this?

25 A. No.

1 Q. Mr. Ghozlan, the video that we've seen
2 today and the jury has seen -- I think it's about
3 three minutes long -- were you the person that
4 produced that video to the police?

5 A. I didn't produce it.

6 Q. I'm sorry. Did you give that video to the
7 police?

8 A. Yes.

9 Q. The video we saw today, is that the video
10 that you gave?

11 A. Yes.

12 Q. What did you do or does any video exist
13 that shows the footage of what happened before this
14 three-minute clip?

15 A. I'm sorry?

16 Q. Do you have any video footage that shows
17 what happened before this three-minute clip?

18 A. No.

19 Q. Was that recorded?

20 A. I'm sorry?

21 Q. Was that recorded?

22 A. This one was recorded, yes.

23 Q. Before the three-minute clip was any
24 footage recorded?

25 A. I don't know. When I got the video, as I

1 said, the memory card, it was really like short,
2 and each video, like it keeps like re-recording.
3 Like it deletes the old and gives you a new one.
4 So at this time when I was looking, I looked for
5 the last one, which was like what happened exactly.

6 Q. So does the dash camera only record three
7 minutes at a time?

8 A. At this time. Like I said, sometimes it's
9 three minutes, sometimes it's two minutes, one
10 minute. It depends on the resolution of the
11 setting on the dash cam will give you the size of
12 the video.

13 Q. Let me ask this another way.

14 Is this three minute video the only thing
15 that was recorded that night?

16 A. Yes.

17 Q. No other footage was recorded?

18 A. No.

19 Q. No other footage was recorded at any of
20 your other prior Uber rides that you had given?

21 A. No.

22 Q. This particular video clip, is that saved
23 as a separate file on the dash camera?

24 A. No. It's just one file and all the video
25 recordings keep going.

1 Q. Does it have internal storage or a memory
2 card?

3 A. It has a memory card.

4 Q. What was the size of that memory card, do
5 you know?

6 A. It was like a really small size. It was a
7 dash cam size. After what happened I thought I
8 needed to get a more bigger size.

9 Q. I know that the memory card was small. Do
10 you know the storage capacity, the amount of
11 storage, gigabits, megabytes, anything like that?

12 A. I don't know. It comes with a memory
13 card, and it's like small. It doesn't carry that
14 much.

15 Q. At this resolution it would only record
16 three minutes at a time?

17 A. Yes.

18 Q. Would there be any other clips at all on
19 that dash camera?

20 A. I don't know, but nothing happened, so I
21 don't know if it has something before or not. This
22 is the only thing that happened. Before nothing
23 happened between me and her to look for what
24 happened before. Nothing happened, so why do I
25 have to look for something that is not recorded or

1 even recorded, but there is no problem like if you
2 are riding with me where I have to record you.

3 Q. But I want to be clear. You've said you
4 had to look for this. Do you have to search back
5 through the footage or is it just recorded as a
6 three-minute clip?

7 A. It just gives me the file whether it's
8 three minutes, two minutes, one minute, whatever it
9 is.

10 Q. Just one clip?

11 A. Just one file. One file was whatever it
12 is. It might be two minutes, three minutes. I
13 don't know.

14 Q. And this particular file, it starts at the
15 point which we saw today on video?

16 A. Yes.

17 Q. Does it record anything after that?

18 A. No.

19 Q. So it stops right at the point that it
20 stopped here today?

21 A. Yes.

22 Q. When the two passengers got out of the
23 car, did you move the car at all? Did you drive
24 anywhere else?

25 A. No. I just stood there and I called 911,

1 and they said like are you in the same place? I
2 was in the middle of the street, so I just parked
3 by the side because like some cars were coming
4 behind me. When the police officers came, they
5 said just park down there to be safe.

6 Q. So when the two passengers got out, you
7 said that you just essentially got off the road.
8 Is that it?

9 A. I was in the middle, so...

10 Q. So you drove a short distance away from
11 there?

12 A. Just less than like, you know, two seconds
13 just to park.

14 Q. Around the corner or something?

15 A. No. It was by the same street.

16 Q. Mr. Ghozlan, did any member of law
17 enforcement or Officer DeNett or any person from
18 the Town of Sullivan's Island, did they ever ask
19 you for any videos other than the video that you've
20 produced?

21 A. No. This is the only thing I had at that
22 time, and I just gave it to them. I know I have
23 this video, and I said to her -- after I told her
24 what happened exactly I said to her, you know what?
25 I have the dash cam, and I might have the video to

1 go with it. At this time the signal wasn't that
2 good.

3 Q. Mr. Ghozlan, I've got just a handful of
4 more questions. I'll go through them quickly. The
5 State may have some other questions after that, but
6 I want to make a few points and ask a few questions
7 for clarity's sake.

8 Is it your testimony that the only video
9 that depicts these two passengers is this
10 three-minute video?

11 MR. DODDS: Your Honor, I'm going to
12 object. This question has been asked and answered
13 by this defendant.

14 THE COURT: I agree. Sustained.

15 Q. Mr. Ghozlan, you've testified that the
16 passengers and specifically the defendant,
17 Ms. Whitehurst, their conduct, their words to you
18 were insulting to you; is that right?

19 A. Yes, they were insulting.

20 Q. They were offensive to you; is that right?

21 A. Yes.

22 Q. Did they compel you to be violent in any
23 way?

24 MR. DODDS: Judge, asked and answered.

25 THE COURT: Sustained.

1 Q. Mr. Ghozlan, did either one of these
2 passengers ever hit you or touch you?

3 A. Yes. Ms. Whitehurst touched me.

4 Q. Did they touch you on your ear?

5 A. Yes.

6 Q. Did they touch you anywhere else?

7 A. No.

8 Q. How do you know or are you certain which
9 of the two passengers touched you?

10 A. I felt her hand like -- you know, I have a
11 blood pressure, so my body was like really nervous.
12 So I felt her hand like going behind my ear like
13 that, and after I watched the video also it shows
14 what happened.

15 Q. So your testimony is that you felt
16 something, and then you watched the video at some
17 later point to see who that person was, which of
18 the two passengers?

19 A. Exactly.

20 MR. ELLIOTT: Mr. Ghozlan, I appreciate
21 your testimony here today, and thank you for your
22 time. That's all the questions that I have for you
23 right now.

24 THE COURT: Anything on redirect?

25 MR. DODDS: Just one.

1 REDIRECT EXAMINATION

2 BY MR. DODDS:

3 Q. The video that was taken on June 11, 2022,
4 at approximately 1:57 a.m. in the morning was the
5 only video that you had from your vehicle that
6 evening?

7 A. Yes.

8 Q. And you provided that to Officer DeNett of
9 the Sullivan's Island Police Department?

10 A. Yes.

11 MR. DODDS: Thank you.

12 THE COURT: Any recross?

13 MR. ELLIOTT: I beg the Court's indulgence
14 for one moment, Your Honor.

15 RECROSS-EXAMINATION

16 BY MR. ELLIOTT:

17 Q. Briefly, Mr. Ghozlan, do you have any sort
18 of a decibel meter or any sort of microphone in
19 your vehicle?

20 A. A microphone.

21 Q. A microphone or a decibel meter, a device
22 that would measure sound.

23 A. No.

24 Q. Just the dash cam; is that right?

25 A. Yes.

1 Q. Do you recall if your windows were open
2 when you dropped the passengers off?

3 A. I don't remember if they were or not, but
4 the door was.

5 Q. The door was open?

6 A. It was open, yes. I don't remember if it
7 was up or down. I don't remember.

8 Q. Do you ever roll your windows down?

9 A. Sir?

10 Q. Do you ever roll your windows down, the
11 front windows? Do you ever roll the front windows
12 down in the vehicle? Is that something you
13 frequently do?

14 A. I don't remember. To hear what she was
15 saying like I don't have to roll my windows down.
16 I don't remember if they were down or up.

17 Q. When you made the call to 911, did you
18 call through like a headset or the phone?

19 A. When I called 911?

20 Q. When you called 911, did you have head
21 phones in or did you use the phone itself?

22 A. The signal was really bad. It was dark
23 and I don't know which street I'm on, so I had to
24 look on the phone to see where I am. The signal
25 was really weak in this place, so I don't have the

1 ability -- the officer, he wasn't hearing me good,
2 and like he had been asking me at the beginning
3 like the regular questions, are you safe and stuff
4 like that and what is your location, and I gave it
5 to him, but I was between both. I used the ear bud
6 in the beginning and then I used the cell phone.

7 Q. When you were using the cell phone, was
8 that on speakerphone?

9 A. No.

10 Q. You would use the phone up to your ear?

11 A. Yes.

12 MR. ELLIOTT: That's all. Thank you.

13 THE COURT: You may step down. Thank you,
14 sir.

15 (Witness excused)

16 THE COURT: At this time you can go back
17 into the jury room. We have lunch that's going to
18 be delivered, and you can eat your lunch at your
19 leisure. We're going to take up some matters.
20 When you're done and ready to come back, if you
21 just knock on the door, one of us will know that
22 you're ready to come out and we'll start the rest
23 of the trial. Thank you very much.

24 (Lunch recess)

25 MR. DODDS: When we go back, I'll mark the

1 victim's tape as Town Exhibit No. 1, and then when
2 you put the body cam in, if you decide to do that,
3 it will be Town's Exhibit No. 2.

4 THE COURT: Part of my charge is not going
5 to involve the statute. At this point I think
6 probably 8 and 12 are the only ones because the
7 other ones involve violence, and I don't see that
8 as an issue at this point. I'm not suggesting that
9 it may not be.

10 MR. DODDS: I think 8 and 12 would be
11 applicable.

12 THE COURT: At this point. It may change.
13 So I would read Subsection 8 and Subsection 12, and
14 then I will give them the charge on unanimous
15 verdict, burden of proof. I have my book here.
16 The burden of proof is beyond a reasonable doubt.
17 It says: "Proof beyond a reasonable doubt is proof
18 that leaves you firmly convinced. The law does not
19 require proof that overcomes every possible doubt.
20 In order to find the defendant guilty you must find
21 that the State has proven each of the elements of
22 the crime beyond a reasonable doubt," which is
23 standard.

24 MR. DODDS: How does that charge define
25 reasonable doubt?

1 THE COURT: The one I just read?

2 MR. DODDS: Yes.

3 THE COURT: It says: "In order to find
4 the defendant guilty you must find that the State
5 has proven each of the elements of the crime beyond
6 a reasonable doubt."

7 MR. DODDS: I think it was the one before
8 that.

9 THE COURT: It says: "Proof of reasonable
10 doubt is proof that leaves you firmly convinced,
11 and the law does not require that the proof
12 overcomes every possible doubt." That's kind of a
13 standard one.

14 MR. DODDS: Firmly convinced that what?

15 THE COURT: The law does not require proof
16 that overcomes every possible doubt. Another
17 reasonable doubt charge is: "Reasonable doubt is
18 the kind of doubt that would cause a reasonable
19 person to hesitate to act. It is doubt for which
20 you could give a reason."

21 MR. DODDS: I apologize. Does not require
22 truth that overcomes --

23 THE COURT: Every possible doubt.

24 MR. DODDS: Got you.

25 THE COURT: So reasonable doubt or beyond

1 a reasonable doubt and then credibility of
2 witnesses. So that's always a standard charge when
3 you have witnesses. "The credibility of witnesses
4 is a matter for you, the jury, to determine. In
5 making this determination you may consider whether
6 a particular witness has a motive to testify
7 favorably for one party versus the other. It is
8 for you to determine the weight, if any, to give
9 such testimony in light of relevant circumstances."

10 Then police officers as a witness, this is
11 always important when you have a police officer:
12 "The testimony of a police officer is not entitled
13 to more weight than that of any other witness. You
14 are the sole judges of credibility of witnesses,
15 and you are not to give more credence to a police
16 officer's testimony based solely on because he or
17 she is a police officer. Rather you should judge
18 an officer's testimony by the same standards that
19 you apply to other witnesses." So again it's just
20 a standard one.

21 Use of video testimony: They should weigh
22 evidence of video testimony like they would weigh
23 any other evidence from the witness stand. That's
24 just a standard thing.

25 MR. ELLIOTT: Your Honor, I have had no

1 issue with anything you've said anything so far. I
2 would raise or bring up the issue of the elements,
3 how they would be charged under the statute. I
4 would move to do in writing if you weren't already
5 to do so.

6 THE COURT: I was going to read 8 and I
7 was going to read -- what did I say? I think it
8 was 8 and 12 because those are the only ones --
9 see, the other one I think calls for some violence,
10 and I don't think we have that here.

11 MR. ELLIOTT: And you've touched upon
12 issues we've already raised with the Court. I
13 think if that's where the Court would be inclined
14 and the State would be inclined to move forward
15 under 8 and 12, which they're different in a very
16 measurable way --

17 THE COURT: Not much. If you just want me
18 to charge -- if you guys can agree that I charge
19 either/or, I'm fine with that, too, because they
20 are very similar. It's basically to do it in a
21 public street whereby the public peace is broken or
22 disturbed.

23 MR. ELLIOTT: If those are one of the two
24 or both, then I think we can probably stipulate and
25 not -- I don't think we would need any other

1 testimony if we're not touching on the other.

2 THE JUDGE: We're not. I think Mr. Dodds
3 also confirmed that 8 and 12 are the only
4 applicable ones at this point; is that correct?

5 MR. DODDS: Yes, Judge.

6 THE COURT: Let's bring the jury in and
7 continue with the trial. We're going to take
8 another break at the end of the State's case so you
9 can move for a directed verdict and whatever else
10 we need to do, but we do need to mark these
11 exhibits because otherwise they can't go in the
12 back.

13 (Town Exhibit Nos. 1 and 2 marked for
14 identification.)

15 MR. ELLIOTT: Judge, would you be inclined
16 to define public peace in the sense of how it's
17 written down in the statute or understood under the
18 law?

19 THE COURT: Sure. Where there would be
20 third parties present that would be offended by --

21 MR. DODDS: I think you've got to read the
22 statute.

23 THE COURT: I'm going to read the statute,
24 but he wants me to define it.

25 MR. DODDS: I don't think you're obligated

1 to do that.

2 THE COURT: Let's just see if they ask,
3 and then I guess I will do it.

4 MR. DODDS: That's the jury's
5 determination.

6 MR. ELLIOTT: I guess what I'm trying to
7 determine is if we need to in writing move under
8 Rule 20 for that first part of it to be ruled upon
9 by the Court whether they are going to define the
10 peace or not. I understand why Mr. Dodds
11 disagrees.

12 THE COURT: We can talk about that when
13 the time comes. We're going to take another break.
14 They have been sitting back there for an hour now.

15 MR. ELLIOTT: If the State is proceeding
16 under 8 through 12, then I'm not sure of the
17 relevance of the body cam video if none of the
18 issues related to acts of violence, the abusive
19 language, the intoxicating liquors --

20 THE COURT: He already said he is not
21 going to go under intoxicating liquors.

22 MR. ELLIOTT: What I mean, Your Honor, is
23 given the fact that what would be put forth to the
24 jury is Subsections 8 through and 12, I believe
25 that what the State has to be --

1 MR. DODDS: We get to make that decision.

2 THE COURT: I wasn't restricting him from
3 putting in the body worn camera if they wanted.
4 You could absolutely object to it as irrelevant and
5 say that its probative value is outweighed by its
6 prejudice if there is something in there -- I
7 haven't seen it, so I don't know.

8 MR. ELLIOTT: Only to the extent Officer
9 DeNett is a witness to the underlying allegations,
10 but responded afterwards.

11 MR. DODDS: She interviews the defendant,
12 who gives her the same story that is consistent
13 with the dash cam video and probes his credibility.

14 THE COURT: I'll let in whatever parts you
15 guys agree to.

16 MR. DODDS: I don't want to keep the jury
17 here two hours on that tape. I've looked at it. I
18 think right at 14 minutes is basically --

19 THE COURT: Is that okay with you?

20 MR. ELLIOTT: Let me just see where 14
21 minutes ends.

22 MR. DODDS: 14 minutes 20 seconds.

23 THE COURT: That's fair. He needs to see
24 what he's agreeing to.

25 As far as the exhibit goes, if you're

1 going to mark it -- if it's all on one tape, then
2 we can just mark it as Town's Exhibit No. 1 after
3 Officer DeNett testifies unless Mr. Elliott has an
4 objection to that.

5 MR. ELLIOTT: Your Honor, cutting it off
6 at 14 minutes is prejudicial, and I think you need
7 at least the first -- I'm at 37 minutes now. A lot
8 of the middle part of that especially between 14
9 minutes and into the 20s, there is not much that
10 happens, but if we're going to cut it off, I think
11 that's a prejudicial matter.

12 THE COURT: At 14 minutes?

13 MR. ELLIOTT: If we cut it off at 14
14 minutes, I think it's highly prejudicial.

15 THE COURT: That's just what he plans to
16 play. If there are other parts of the video that
17 you want the jury to see, you're welcome to.

18 MR. ELLIOTT: So Your Honor would admit
19 the entirety of the body cam, which would make it
20 available during cross-examination or the State's
21 case in chief to play any part of that video; is
22 that right?

23 THE COURT: That's correct. That's only
24 fair.

25 MR. DODDS: I don't have any problem with

1 that.

2 THE COURT: We'll tell them that the video
3 is two hours long, but when they were eating
4 lunch --

5 MR. DODDS: The video comes into evidence.

6 MR. ELLIOTT: And it will be available to
7 them in its entirety for their review, but we will
8 reference the first part.

9 THE COURT: I'll tell them that. When you
10 go to watch the video, I'll stop them and say that.
11 Can we bring them in?

12 MR. DODDS: That's okay with me.

13 (Jury returns to courtroom)

14 THE COURT: Welcome back. I know I said
15 1:30, but we ran over. We're doing stuff in here I
16 promise you. You probably can hear us back there.
17 So we are getting stuff done. We're going to
18 resume the town's case at this point.

19 Mr. Dodds, whenever you're ready.

20 MR. DODDS: Thank you, Your Honor. If it
21 would please the Court, I would call officer Sydney
22 DeNett to the stand.

23 OFFICER SYDNEY DeNETT,
24 having been first duly sworn, was examined and
25 testified as follows:

1 DIRECT EXAMINATION

2 BY MR. DODDS:

3 Q. Would you please state your full name.

4 A. Sydney DeNett.

5 Q. How old are you, ma'am?

6 A. I have been employed with the Town since
7 2017.

8 Q. How old are you?

9 A. I'm 27 years old.

10 Q. Are you employed?

11 A. I'm sorry?

12 Q. Are you employed?

13 A. Yes, sir.

14 Q. Where are you so employed?

15 A. The Town of Sullivan's Island.

16 Q. How long have you been employed by the
17 Town of Sullivan's Island?

18 A. Since 2017.

19 Q. Since 2017.

20 Would you tell the gentleman and the
21 ladies of the jury what your training is in law
22 enforcement?

23 A. To enforce state law and town ordinances.

24 Q. What is your training, though, in terms
25 of -- for example, did you attend the South

1 Carolina Law Enforcement Academy?

2 A. Yes, sir. I hold my Class 1
3 certification.

4 Q. When did you graduate?

5 A. May 4, 2018.

6 Q. Do you have any particular certifications?

7 A. Yes, sir.

8 Q. What are those?

9 A. I'm a NARCAN instructor, specific skills
10 instructor, and a DUI assessment instructor.

11 Q. Were you employed by Sullivan's Island
12 Police Department on June 11, 2022?

13 A. Yes, sir.

14 Q. Are you familiar with the case of State of
15 South Carolina versus Meredith Whitehurst --

16 A. Yes, sir.

17 Q. -- the charge of disorderly conduct?

18 A. Yes.

19 Q. Did you issue that charge as the arresting
20 officer?

21 A. I did.

22 Q. Would you explain to the ladies and
23 gentleman of the jury how it is that you became
24 involved in the pending matter of State of South
25 Carolina versus Meredith Whitehurst?

1 THE WITNESS: Would the Court have any
2 objection to me referencing the incident case
3 report?

4 THE COURT: I don't have any objection,
5 but it's not me.

6 MR. ELLIOTT: For recollection purposes
7 only.

8 THE COURT: What she's referring to is
9 there is a police report. Typically they're not
10 supposed to read the police report from the witness
11 stand; they're just supposed to use it to refresh
12 their recollection, and that's what we are allowing
13 her to do today.

14 A. I responded area of Station 24 and Jasper
15 in regard to an assault of an Uber driver.

16 Q. When you got there, who did you meet and
17 what did you do?

18 A. I met with Mr. Ghazlan. He was inside a
19 mini van in the area of Station 24.

20 Q. At some point did you activate your body
21 cam?

22 A. Yes, sir.

23 Q. When did you do that?

24 A. I do not recall exactly when, but upon
25 arrival at some point.

1 Q. And that body cam would have remained
2 active throughout your investigation?

3 A. Yes, sir.

4 Q. You indicated that you had interaction
5 with Mr. Ghozlan?

6 A. Yes.

7 Q. What did he tell you?

8 A. He appeared to be very distraught and
9 upset. There was a language barrier while I was
10 gathering information from him. He stated that
11 there were two female subjects that he was driving
12 home to a residence somewhere on Sullivan's Island.
13 During that course of that ride they became
14 verbally assaultive towards him and using profane
15 language. I asked him if it occurred inside the
16 mini van or outside on the public roadway. He said
17 both.

18 Q. Where specifically on Sullivan's Island
19 did you have your contact with Mr. Ghozlan?

20 A. In the area of Station 24 in between
21 Middle and Jasper.

22 Q. Had Mr. Ghozlan indicated to you whether
23 or not he had remained in that location since the
24 defendant exited the vehicle?

25 A. I don't recall him exactly saying he only

1 remained there. He did pull up towards the stop
2 sign before being directed by a police officer to
3 pull over.

4 Q. I interrupted you. Please tell the
5 gentleman and the ladies of the jury what
6 Mr. Ghozlan told you.

7 A. The female subjects that he was giving a
8 ride home became verbally assaultive towards him.
9 They used profane language, specifically saying,
10 "Fuck you, you Arabic piece of shit." They
11 referenced Islam, that he was not from this
12 country. They alluded to the fact that you can't
13 call 911; you're not from this country, something
14 to that effect.

15 Q. Did he indicate whether or not those
16 comments occurred inside his vehicle or outside on
17 Middle Street?

18 A. He indicated that the profane language and
19 the shouting occurred inside the vehicle and out in
20 the roadway.

21 Q. You've seen the dash cam video that
22 Mr. Ghozlan presented to the Court and to the jury?

23 A. Ultimately I did, yes.

24 Q. Were his statements to you consistent with
25 that dash cam video?

1 A. Yes, I believe so.

2 Q. What did you do as a result of your
3 interaction with Mr. Ghozlan?

4 A. I tried to get some type of ID of who the
5 female subjects were, the address that they lived
6 at, the point of direction that they traveled,
7 which then led me to that residence address, and
8 that's where we made contact with two females.

9 Q. As a result of your interaction with the
10 two females did you have occasion to issue a
11 disorderly conduct citation to Meredith Whitehurst?

12 A. Yes.

13 Q. Was she taken to jail?

14 A. No, sir.

15 Q. Your body cam video was activated through
16 the time of arrest?

17 A. Yes, I believe so.

18 Q. What was issued to her was a uniform
19 traffic ticket?

20 A. A State citation, yes, sir.

21 MR. DODDS: Your Honor, at this time I
22 would request the opportunity to play to the jury
23 the dash cam video of Officer DeNett.

24 THE COURT: Her dash cam or body cam?

25 MR. DODDS: I apologize. Body cam.

1 Excuse me.

2 THE COURT: That's fine. Any objection,
3 Mr. Elliott?

4 MR. ELLIOTT: No objection, Your Honor.

5 THE COURT: Okay. Go ahead. Thank you.

6 MR. DODDS: Just for the record, Judge, I
7 think we talked about it's a two-hour video, and
8 I'm sure these folks don't want to listen to a
9 two-hour video, so we've looked at it. We're
10 satisfied to play 14 minutes 20 seconds of the
11 video.

12 THE COURT: Well, we can't restrict --

13 MR. DODDS: I'm just saying from our
14 perspective.

15 THE COURT: We agree, and that was one of
16 the things we did in the room is that we narrowed
17 it down, so you will watch the first 14 minutes,
18 and then there may be other selected portions of
19 the video that you are able to watch also, but you
20 will have this video and the in-car video back in
21 the jury room, and that you can view as evidence as
22 you see fit when you're deliberating.

23 (Video played as follows:

24 "Hey there, sir." (inaudible)

25 "She was like so rude to me, (inaudible)

1 and then she was like screaming on the phone and
2 stuff, crying, and doing other stuff. Then, you
3 know, I said to her, just please quiet down.

4 "I get it.

5 "Then she said (inaudible) and get the
6 fuck away. I said to her, ma'am, this
7 is (inaudible) just like you keep calm. Then she
8 said to me you are Islamic. You are Arabic. You
9 get the fuck away from our country. Everything is
10 recorded here. I have the memory card. It's
11 really so bad. Why do you act like this way? I
12 have been here in this country since ten years, so
13 why are you insulting me like this? It's really
14 unbelievable. (inaudible) trying to speak and the
15 phone, (inaudible) and they went this way, and I
16 don't want to follow them. I said I'm going to
17 call 911. They said -- I'm sorry, ma'am.

18 "You're fine.

19 "They were really insulting saying you're
20 Islamic, you're a Muslim, you're Arabic. This is
21 not your country.

22 "First let me say I'm very sorry for what
23 happened.

24 "I'm trying to serve you guys. I have a
25 family. I have kids, too. Why are you doing stuff

1 like this to me?

2 "I got you. Did you see where they walked

3 towards?

4 (inaudible)

5 "So the ride was completed?

6 "No. It was canceled.

7 "When did this happen?

8 "It just happened right now. It doesn't

9 matter for me. (inaudible)

10 "What was the address?

11 "We'll just ask the dispatcher. You're

12 fine. I just wanted to (inaudible) she didn't hit

13 you or anything, though; right?

14 "No, but she was really like, you know --

15 "Was she saying it out here on the street

16 and stuff or was she only saying -- (inaudible)

17 "She said it to me in the car, and when

18 she went outside, she started to do it, and --

19 "Hold on one second, sir. Did you pick up

20 from the Windjammer?

21 "Negative. They were picked up on King

22 Street.

23 "I'm sorry. Another officer thought that

24 you picked them up from Isle of Palms, and they

25 thought maybe they had footage of you. You're

1 saying she was yelling also when she got out of the
2 car as well?

3 "Yes. Get the fuck away. You are the one
4 doing that. Get out of our country. It's really
5 so bad.

6 "You're fine. If you have footage, that's
7 even better for us to look at. That's not them
8 calling; right?

9 "No. (inaudible) I don't know how I would
10 play it right here. I don't have a computer in my
11 phone. I'm sorry.

12 "Let me see if I can give you my hot spot
13 real fast.

14 "All right. It should be like wi-fi
15 through the camera. The camera needs wi-fi.

16 "I can turn my hot spot on for a second if
17 you think that would help.

18 "Before you get to the camera is there a
19 way to see what the final address for the trip was
20 going to be? Is there a way to pull it up again?

21 "Dispatch, what was the ending address for
22 the drop off?

23 "The only information they gave was 2430
24 (inaudible) and (inaudible) Avenue.

25 "Do you think he was trying to say Ion

1 Avenue?

2 "Possibly.

3 "Do you think it was Ion Avenue? Does
4 that ring any bells?

5 "No. It's Middle Street.

6 "I'm sorry. I don't want to take away
7 from your night.

8 "Do whatever you want. (inaudible) I
9 said, okay, I'm going to call 911, and she said, I
10 don't fucking care, and she went -- (inaudible)

11 "You know what? I just read recently I
12 think if you report to Uber for like any slurs or
13 racist remarks, I think Uber will actually suspend
14 them or ban them. What I'm getting at is if it was
15 out on the street and she was yelling and cursing
16 and causing a ruckus out here towards you, the most
17 we could do would be public disorderly conduct, but
18 we need a written statement from you, and then we
19 have to go and find her, and both of you will have
20 to come to court because it didn't happen in our
21 presence. Is that something you want to do?

22 "I'm just trying to (inaudible) --

23 "Right now the main thing we need is the
24 exact address of what the destination was. That's
25 Step 1 right now because if we can confirm that

1 address, we can drive by and see if there are any
2 lights on.

3 "I'll make sure I pull the right one up on
4 my phone.

5 "Well, what was the girl that was yelling?
6 What did she look like?

7 "Her name was (inaudible) and the other
8 one, her name was (inaudible.)

9 "I'm trying to track them down right now.

10 "Were they both going that way or just one
11 of them?

12 "Both of them.

13 "Hey, McMullen, so both girls
14 were (inaudible) I don't know what happened,
15 but (inaudible) What was the dispatch number?

16 "2430.

17 "It's Middle Street.

18 "2430 Ion -- it does it in like segments?
19 2430 down there is like more pushing towards Ion,
20 but it's somewhat in Middle because I just pulled
21 it up on the map to make sure I know what road
22 we're on. They told me Lion.

23 "Yes.

24 "That was an L, but I think it's actually
25 Ion.

1 "(inaudible) It doesn't show up.

2 "That's okay. It's okay.

3 "(inaudible) I have been here ten years or
4 more since 2008. Nobody like, you know, spoke like
5 that to me. Just like, you know, to do that for
6 me, why? I have business with you. I take you to
7 this place to make sure you are safe at your home.
8 Why are you doing stuff like that? This is my
9 work.

10 "I can go over there. I'm just trying to
11 see what they look like so in case they come to the
12 window or they don't answer, at least I know which
13 house to go to. If not, I can find it by
14 (inaudible) if it's not a rental. I would say it's
15 probably around 158 or so or one --

16 "This one, I think, yes. I'm sorry.

17 "You're fine. I just want to lay eyes and
18 kind of also hear what they're saying, too, before
19 I write tickets and stuff if I'm able to find
20 them.")

21 MR. DODDS: Thank you.

22 Q. Officer DeNett, why did you determine to
23 issue a ticket to Meredith Whitehurst for
24 disorderly conduct?

25 A. Ultimately I was able to view the footage.

1 I wasn't able to retrieve it at that time. I was
2 able to view it from his phone. I observed both
3 females, and they behaved in a loud and boisterous
4 manner inside the van, and then it bled out into
5 the roadway as well, profane language.

6 Q. Did it have to do anything with the volume
7 of their language outside on the public roadway?

8 A. Yes, sir.

9 Q. Did Mr. Ghozlan send to you the video from
10 his Uber vehicle dash cam?

11 A. Yes; by email.

12 Q. Is that the same video that was presented
13 to the jury earlier today?

14 A. Yes, sir.

15 MR. DODDS: Your Honor, I would seek to
16 introduce the dash cam video from Mr. Ghozlan's
17 vehicle and then the body cam from Officer DeNett
18 into evidence. It's all a part of Exhibit 1, Your
19 Honor.

20 THE COURT: Okay. Any objection?

21 MR. ELLIOTT: No objection.

22 THE COURT: The jury will have the ability
23 to view the whole two hours of the video if they
24 want to, but counsel decided to only play the first
25 14 minutes.

1 Any other questions?

2 MR. DODDS: No, Your Honor. Please answer
3 any questions Mr. Elliott has.

4 MR. ELLIOTT: A point of clarity. No
5 objection as to the State's request, but also
6 renewing my previous pretrial objections.

7 THE COURT: Yes, sir. Thank you. No more
8 questions.

9 CROSS-EXAMINATION

10 BY MR. ELLIOTT:

11 Q. Officer DeNett, can you tell us for the
12 record on the evening in question when you began
13 your shift?

14 A. Normally our shifts begin at 5:00 p.m. for
15 night shift.

16 Q. When did they end?

17 A. Hopefully around 5:00 a.m.

18 Q. On this particular day you were working
19 that night shift, 5:00 p.m. to 5:00 a.m.?

20 A. I was working that night shift. I don't
21 know the exact time that I was on and off.

22 Q. Do you recall about what time you
23 responded?

24 A. Somewhere around 1:50 to 2:00 a.m.

25 Q. Tell me briefly the method or way that you

1 or any officer would have been notified to respond
2 to any given situation.

3 A. We're dispatched via radio.

4 Q. That's like a dispatch from a 911 call?

5 A. It's dispatches from the center.

6 Q. So you receive some sort of call on your
7 radio ordering you or requesting you that go to
8 some address; is that right?

9 A. Yes.

10 Q. I believe you've already said this, but
11 just to make sure I've got it for my purposes, what
12 were you dispatched for on this particular evening?

13 A. Dispatch advised to respond to Area 24 in
14 regard to an assault on an Uber driver.

15 Q. As we've seen it in the first part of the
16 video, when you did respond and you spoke to
17 Mr. Ghozlan, did he make any comment to you or
18 statement that you found confusing in the way of
19 his pronunciation or issues with language barrier?

20 A. Specifically with the street name, yes.

21 Q. I'm sorry. Particularly with what?

22 A. The street name.

23 Q. Did you hear Mr. Ghozlan make reference to
24 any sort of insult or use the word "insult"?

25 A. I don't know the exact terminology.

1 Q. Did you hear at any point when you were
2 discussing this incident with Mr. Ghozlan him use
3 the word assault versus insult?

4 A. I don't recall exactly which one he used.
5 I would have to refer back to the footage.

6 MR. ELLIOTT: Judge, just for the purposes
7 of the Court is there any instruction on how we
8 would play back portions of that?

9 THE COURT: No. You just mark where you
10 want it played.

11 MR. ELLIOTT: We can come back to that.
12 For purposes of the jury we're not going to take
13 the time.

14 Q. Do you have any sort of recollection on
15 how Mr. Ghozlan pronounced the word assault versus
16 insult?

17 A. No, I don't have any recollection. I
18 would have to refer back to the footage.

19 Q. Well, since we just watched the footage,
20 did you have occasion just now to see or hear him
21 say the word insult or assault?

22 A. That did not stick out to me. Only
23 specifically the street name.

24 Q. At any time did you personally observe or
25 hear any of the allegations against the defendant

1 Ms. Whitehurst?

2 A. I'm not following your question.

3 Q. At any point did you personally observe
4 Ms. Whitehurst's actions or comments?

5 A. I did not respond to the scene where the
6 two females subjects were actively there where the
7 alleged incident occurred; however, I did make
8 contact with them at a residence separate from the
9 victim.

10 Q. After your contact with Mr. Ghozlan?

11 A. Yes.

12 Q. So you have no personal knowledge of the
13 behavior, comments, or actions of Ms. Whitehurst at
14 the time of this alleged incident; is that right?

15 A. Yes, but that is common.

16 Q. Is it a common occurrence for you in your
17 duties as an officer here out on Sullivan's Island
18 to respond to calls for disorderly conduct?

19 A. I wouldn't know off the top of my head the
20 common occurrence of it, but that is one of the
21 calls that we respond to.

22 Q. What would you say is the usual or typical
23 manner in which that sort of call comes in which
24 you respond to?

25 A. In my experience here on the island it is

1 a variety. We have had instances with taxi
2 drivers, Uber drivers with intoxicated or drunk
3 passengers and then also responding to the business
4 district as well or on the beach.

5 Q. Do you ever have occasion to respond to
6 calls or issue citations for noise ordinance
7 violations?

8 A. In the past I have.

9 Q. How are those sorts of calls or citations
10 issued? What is the typical background or
11 circumstances leading up to that?

12 A. For example, if it was loud music -- I
13 don't know off the top of my head the time frame
14 for the ordinance. I would have to reference that;
15 however, after a certain point in time -- it's
16 usually around 10:00 p.m. to 11:00 p.m. -- if it's
17 within earshot from the roadway, so if it's being
18 heard into the public areas from the residence.

19 Q. Would you respond in that sort of a
20 situation at your own volition or at the direction
21 of concerned citizens? What usually happens?

22 Let me clarify. In your personal
23 experience as an officer when you respond to a
24 noise ordinance call or violation, is that usually
25 generated by something you personally observe or is

1 it generated by some sort of call from a neighbor
2 or someone in the public?

3 A. Most of the time it's usually generated by
4 a call; however, I don't want to say that I've
5 never responded to something that I've heard on my
6 own.

7 Q. When you respond, is there any bearing on
8 your decision to issue a citation or not based on
9 what you can personally observe or hear in terms of
10 the alleged noise violation?

11 A. I will weigh out all the facts of the
12 case.

13 Q. In your personal experience in the times
14 that you have issued a noise ordinance ticket were
15 you able to personally hear the noise?

16 A. There have been a variety of instances
17 like that, yes.

18 Q. What would you do in a situation
19 responding to a noise ordinance violation where
20 when you arrive, you could neither see nor hear any
21 noise or activity?

22 A. There are a variety of different responses
23 you can have. Sometimes we'll pull away and see if
24 the disruption occurs again, if it's music or a
25 party.

1 Q. But absent your personal observation or
2 being able to hear the noise ordinance would you
3 take any action?

4 A. If I heard the noise?

5 Q. If you did not, would you be able to take
6 any action or would you take any action?

7 A. Would I take any action? It depends on if
8 I have common knowledge that this is a recurring
9 issue and I've heard it in the past and I was just
10 like, hey, everyone keep it down.

11 Q. But what about a situation where you
12 personally heard nothing and you had no prior
13 knowledge?

14 A. If I personally heard nothing, I would
15 hang out usually and see if anything started once
16 law enforcement has left the area.

17 Q. Of course, if you did hear something, you
18 would then make a decision whether or not to take
19 action?

20 A. Yes, if it's deemed being a nuisance.

21 Q. Would you ever bring or write a ticket or
22 a city ordinance for a noise violation when you had
23 no prior personal knowledge and you did not
24 personally hear or observe any noise?

25 A. I'm not following. Are you saying that

1 there is no evidence?

2 Q. Would you write a city ordinance for a
3 noise violation if you had no prior knowledge about
4 that residence or that person and you had no
5 personal knowledge there in the moment of hearing
6 or seeing anything and after you waited as you said
7 that you would, you continued to not hear or
8 observe anything personally, would you then bring a
9 noise ordinance violation ticket?

10 A. If there is no nuisance and there is no
11 sound, then there is no violation.

12 Q. Would you say that the nuisance as you've
13 referred to it in that scenario refers to nuisance
14 of some member of the public?

15 A. Which instance? Are we referring back
16 To --

17 Q. The noise ordinance scenario that I've
18 given you, the nuisance that you referenced, that
19 nuisance would be some nuisance reported by a
20 member of the public or observed by yourself
21 personally?

22 A. I think it's any time anyone is creating a
23 loud and boisterous noise to where it's within
24 earshot of the public or in a public area.

25 Q. Do you or do you have any knowledge in the

1 department ever make use of any sort of decibel
2 meter or any sort of device that measures sound
3 level?

4 A. No, I do not operate one.

5 Q. And that's not a requirement as you
6 understand it to the noise ordinance violation?

7 A. Correct.

8 Q. After you responded in this case and you
9 spoke to Mr. Ghozlan at what point specifically did
10 you make a decision to bring these charges against
11 the defendant, Ms. Whitehurst?

12 A. With also the cooperation of the victim
13 since he was the primary one that was listening to
14 this as well.

15 Q. Did you make that determination before you
16 observed or spoke to the defendant, Ms. Whitehurst,
17 personally?

18 A. Did I make the decision to cut tickets?

19 Q. Yes.

20 A. I wanted to hear their side as well before
21 I cut tickets.

22 Q. So I guess what you're saying -- and
23 correct me if I'm wrong -- you made a determination
24 to issue these tickets after you spoke to the
25 defendant; is that right?

1 A. I don't think I know in my head when I'm
2 going to write someone a ticket. My job is there
3 to investigate, hear all the evidence, and
4 ultimately usually tickets are the last thing that
5 we do on scene, which in this case I believe
6 tickets were very close to the last thing I did on
7 scene.

8 Q. Do you have any knowledge of any sort of
9 911 call or any sort of other communication from
10 any person other than Mr. Ghozlan regarding this
11 incident?

12 A. I do not recall, no.

13 Q. Do you have any knowledge or are you aware
14 of any sort of members of the public dialing 911
15 regarding this incident?

16 A. I do not recall, no.

17 Q. Do you have any evidence or knowledge of
18 any sort of incident report, statement from any
19 other person other than Mr. Ghozlan regarding this
20 incident?

21 A. I did not see any other report stemming
22 from this incident.

23 Q. And you have no knowledge of any other
24 witnesses' testimony or evidence other than what
25 you received from Mr. Ghozlan?

1 A. Correct.

2 Q. Do you have any other knowledge or
3 information that anyone other than Mr. Ghozlan was
4 disturbed by this incident?

5 A. I believe both female subjects were picked
6 up by -- initially they told me that the victim had
7 followed them home; however, on scene the female
8 subjects changed their story to a male passerby by
9 the name of Graham was the only thing I was given,
10 and that male subject had allegedly walked them
11 home.

12 Q. Didn't the defendant, Ms. Whitehurst, and
13 her friend indicate to you that Graham was their
14 neighbor a few houses down?

15 A. I cannot remember exactly what they said,
16 but that does sound somewhat --

17 Q. I'll report to you that that's what they
18 said, and at this point we'll save the jury the
19 time of pulling it up on the video, but do you have
20 any recollection of that, reference to a neighbor?

21 A. I believe that's the reference they gave
22 to Graham. I think one specifically knew the
23 Graham subject.

24 Q. Presumably because she lived there and he
25 had been for neighbor for some period of time?

1 A. I'm not sure how long she had been a
2 resident.

3 Q. Did they make any sort of indication as to
4 why they asked Graham to walk them home?

5 A. I do not recall.

6 Q. Do you recall them making any reference to
7 any sort of fear they may have had with their
8 personal safety?

9 A. I don't remember word for word what they
10 said.

11 Q. Generally.

12 A. I'm trying to think which one. One of
13 them I think said something to that effect.

14 Q. Did you find that credible?

15 A. Did I find that credible? In my personal
16 opinion, no.

17 Q. Why not?

18 A. Because of how close and intimate
19 Ms. Whitehurst had gotten towards the victim and
20 kept projecting verbally at him and then continued
21 to do so outside of the vehicle instead of fleeing
22 as I would if I were in fear.

23 Q. Do you have any recollection of the
24 defendant or her companion making any reference to
25 Mr. Ghozlan's statements to them during the ride?

1 A. Come again?

2 Q. Do you have any recollection about the
3 defendant, Ms. Whitehurst's, statements to you that
4 the witness, Mr. Ghozlan, told them to shut the
5 fuck up on the ride home?

6 A. I believe one of them had stated something
7 that he was cursing at well or that he had told
8 them to be quiet.

9 Q. Do you have any recollection of your own
10 statement -- I believe it was to Mr. Ghozlan --
11 about did anything else happen? Why did these
12 girls react in this way after your review of the
13 video?

14 A. Did I ask him that? I don't remember
15 specifically my question.

16 Q. Do you have any recollection of your
17 thoughts when making this determination to move
18 forward on the case as to why this situation may
19 have escalated based on the video you had reviewed?

20 A. Given my experience in law enforcement and
21 also being in Charleston for quite a while, most
22 subjects who are taking an Uber at that hour and
23 from that location are usually under the influence
24 of alcoholic beverages, so I would think that maybe
25 having too many drinks contributed to that

1 behavior.

2 Q. But do you have any personal knowledge
3 that Ms. Whitehurst was under the influence while
4 she was in the vehicle?

5 A. There was some indication of alcohol usage
6 while we were conversing with them at the house,
7 yes.

8 Q. But you don't have any personal knowledge
9 about any impairment or use of alcohol before or
10 during the ride with Mr. Ghozlan?

11 A. Of them discussing that? With Mr. Ghozlan
12 and the subjects discussing alcoholic beverages?
13 No.

14 Q. Officer DeNett, did you have any change or
15 pivot, if you will, in the nature of your
16 investigation when you responded to this call and
17 first made contact with Mr. Ghozlan? I believe you
18 said in your report you responded to an assault.

19 Would your behavior or would your I guess
20 manner of investigation change based on an
21 allegation of a physical assault or allegations of
22 disorderly conduct?

23 A. Assault doesn't mean you have to actually
24 physically touch someone. It can be implied or
25 have the present ability to, and threatening

1 language or behavior, I can't change what dispatch
2 has given to me. I can only report the initial
3 report starts with an assault.

4 Q. You responded because dispatch told you an
5 assault had occurred?

6 A. Correct.

7 Q. Based on your personal knowledge did the
8 defendant, Ms. Whitehurst, ever touch Mr. Ghozlan
9 on the ear or anywhere else?

10 A. I could not 100 percent say that he was
11 not touched on the ear area; however, she does
12 lunge towards that area. The video footage is
13 difficult to see. I would have to examine it again
14 this time and check.

15 Q. But do you recall your statements that are
16 on your body cam footage explaining to the
17 defendant, Ms. Whitehurst, that she was lucky
18 because she did not touch Mr. Ghozlan?

19 A. Yes.

20 Q. So would you say that you do have a
21 recollection that Ms. Whitehurst did not touch
22 Mr. Ghozlan?

23 A. Correct. I was zooming in at the time;
24 however, quite some time has passed, and I would
25 have to refresh. I have had many cases since.

1 Q. Sure, but as you sit here today based on
2 your knowledge do you have any knowledge that
3 Ms. Whitehurst touched Mr. Ghozlan in any way?

4 A. Before I make another remark I would have
5 to firmly look back at the video again.

6 Q. Just a few more questions for you, Officer
7 DeNett.

8 As you sit here today is it your testimony
9 that you brought this charge of disorderly conduct
10 against the defendant, Ms. Whitehurst, on the basis
11 of anything in particular that was said to
12 Mr. Ghozlan?

13 A. It was the manner, the boisterous manner,
14 the profane language in public into a public
15 roadway as well.

16 Q. How would you define boisterous?

17 A. The volume, excited tone.

18 Q. What forms your opinion on the volume of
19 these statements since you didn't personally
20 observe them?

21 A. In my observation of the video to be heard
22 from outside of the vehicle and catching it on a
23 dash camera that does not appear to be of high
24 quality, that speaks volumes.

25 Q. Did you at any point have any chance to

1 hold or manipulate the dash camera in any way,
2 turning the volume up or down? Did you do that at
3 any point?

4 A. I did not touch the dash camera.

5 Q. Do you know if the dash camera has the
6 ability to turn the volume on that speaker of the
7 dash camera up or down?

8 A. I do not have any knowledge of the
9 workings of that dash camera.

10 Q. Would you agree that any sort of volume
11 that you heard could have been a result of the
12 audio level on the playback of the dash camera?

13 A. You're saying that the audio was captured?

14 Q. I'm asking you is it possible that the
15 volume that you observed watching the dash camera
16 video that we've seen --

17 MR. DODDS: Your Honor, I'm going to
18 object. The question calls for speculation on the
19 part of the witness, and speculative evidence is
20 not evidence, Judge.

21 THE COURT: Overruled. I think he can ask
22 her if she has any knowledge of whether the volume
23 that she observed on the dash cam was a result of
24 the volume on the instrument itself being turned up
25 or whether it was the volume from the defendant.

1 Is that what you're trying to ask her?

2 MR. DODDS: I think she has already
3 testified that she didn't manipulate the dash
4 camera.

5 THE COURT: I know. Not her. It could
6 have been somebody else. It could have been
7 anyone. Go ahead.

8 MR. ELLIOTT: I'll ask that question in a
9 different way.

10 Q. Officer DeNett, is it fair to characterize
11 your prior testimony today that one of the aspects
12 that informed your decision to eventually bring
13 this charge was the volume of statements that you
14 heard while watching this dash camera video?

15 A. Yes; and the words that were used, the
16 profane language and the volume.

17 Q. Both in conjunction; is that right?

18 A. I would say so in this case.

19 Q. Would you have made a different
20 determination if no profane language or reference
21 to any race was used?

22 A. I would have to take that on a case by
23 case.

24 Q. Would you say that any sort of profane
25 language or remarks regarding race are a

1 requirement to bring this charge in your opinion?

2 A. No.

3 Q. So they could be brought based on volume
4 alone perhaps?

5 A. I would say so.

6 Q. In saying that is it your testimony today
7 that the volume that you observed on this dash
8 camera video was at a level that led you to bring
9 this charge and that could not have been turned up
10 or down?

11 MR. DODDS: Objection; asked and answered.

12 MR. ELLIOTT: I don't believe she has
13 answered.

14 THE COURT: I don't know that she has
15 answered. Ask the question again.

16 Q. The volume that you referenced as a major
17 part or perhaps part of your decision to bring this
18 charge was your perception of the volume of these
19 statements in addition to the content of the
20 statements; is that right?

21 A. I would say both played a part.

22 Q. My question is what sort of personal
23 knowledge do you have as to the level that the
24 speaker was at during the playback of the body cam
25 video?

1 A. Are you asking what volume setting that he
2 had it at?

3 Q. Sure.

4 A. I'm not sure. I have no knowledge of the
5 workings of it.

6 Q. Would you agree with me that if it is
7 possible to turn this dash camera playback up or
8 down, could someone turn the video down as to make
9 any sort of comments barely audible? Is that
10 possible?

11 A. Again, I have no knowledge on the workings
12 of the dash camera.

13 Q. Based on your personal knowledge of
14 playback of any video is it possible to turn the
15 volume down on something as to make it hard to
16 hear?

17 A. To use volume, just a simple control to
18 turn something up or down?

19 Q. Yes.

20 A. I would say in general, yes, if are
21 playing music or other audios.

22 Q. So what I'm driving at is you've testified
23 that your basis in large part to bring these
24 charges was the content of what was alleged to have
25 been said, which has been admitted to being said,

1 by the way, but also the audible level of these
2 comments made outside your presence, and you said
3 the volume alone in conjunction with the statements
4 led you to bring these charges.

5 Could that not have been manipulated by
6 the playback volume on the device itself?

7 A. Also the placement of where the subjects
8 were in the public roadway.

9 Q. Well, you wouldn't bring a charge if
10 citizens were whispering on the sidewalk about
11 anything, would you?

12 A. No, but you were saying the totality of
13 things that I referenced. I just didn't want you
14 to leave that one out.

15 Q. Do you believe there is a basis for
16 bringing a charge for disorderly conduct for a
17 citizen yelling on the sidewalk?

18 A. Are they disturbing others or is it a
19 quick, hey, how are you doing? It depends on the
20 context of what nature you're saying they're
21 yelling. That's very vague.

22 Q. Would you say it is a crucial component in
23 your determination to bring charges if they were
24 disturbing another person?

25 A. Would it make or break if I brought

1 charges if they were disturbing another person?

2 Q. Yes.

3 A. Did it happen in my presence?

4 Q. No.

5 A. Well then, yes, as long as the victim is
6 willing to cooperate.

7 Q. But you would need testimony from that
8 person that they were being disturbed on the
9 sidewalk?

10 A. Unless I observed it in person.

11 Q. In all of your testimony here today,
12 Officer DeNett, can you say and tell this jury that
13 you know beyond a reasonable doubt the level, the
14 audible level of the statements that have been
15 admitted to being said to Mr. Ghozlan -- can you
16 say beyond a reasonable doubt what sort of level
17 those statements were made at, could have been
18 heard by anyone at?

19 A. In my opinion those were loud.

20 Q. But you didn't personally hear them?

21 A. No, as I answered before.

22 MR. ELLIOTT: Your Honor, that's all the
23 questions I have. Thank you, Officer DeNett.

24 THE COURT: Redirect?

25 REDIRECT EXAMINATION

1 BY MR. DODDS:

2 Q. Officer DeNett, you haven't charged

3 Ms. Whitehurst with assault, have you?

4 A. No. I've only charged her with disorderly
5 conduct.

6 Q. Did they teach you at South Carolina
7 Criminal Justice Academy when you receive a
8 dispatch call for an alleged crime that has
9 occurred and the alleged perpetrator has left the
10 scene to conduct an investigation?

11 A. Correct.

12 Q. And did you conduct an investigation?

13 A. Yes, sir.

14 Q. Did that investigation involve you taking
15 the statement of the victim, Mr. Ghozlan?

16 A. Yes.

17 Q. Did you find Mr. Ghozlan to be credible?

18 A. Yes, sir.

19 Q. Did you subsequently have an interaction
20 with the defendant, Meredith Whitehurst?

21 A. I did.

22 Q. As I understand, you inquired of
23 Ms. Whitehurst as to whether or not Mr. Ghozlan
24 followed them to the residence?

25 A. We did have a discussion about that. They

1 changed it later to the male subject, Graham, who
2 was brought up, and that's who escorted them home.

3 Q. My point is did Ms. Whitehurst initially
4 tell you as a result of a direct question from you
5 as to whether Mr. Ghozlan followed the two of them
6 home to the Middle Street address?

7 A. Correct.

8 Q. Did she later admit that that was not
9 true, that that was a false statement that she made
10 to a law enforcement officer?

11 A. Yes, sir.

12 MR. ELLIOTT: Objection, Your Honor.

13 Q. Did you find Ms. Whitehurst to be
14 credible?

15 MR. ELLIOTT: I'm going to object on the
16 record. That's a mischaracterization of what is on
17 the body cam.

18 MR. DODDS: That's exactly what she just
19 testified to, Your Honor.

20 THE COURT: The jury gets to determine
21 what they heard on the body cam, so when they
22 deliberate --

23 MR. DODDS: I understand. Thank you.

24 Q. Based on your investigation did you
25 determine to issue a uniform traffic ticket to

1 Ms. Whitehurst on violation of the disorderly
2 conduct ordinance in South Carolina?

3 A. Yes.

4 MR. DODDS: Thank you. No further
5 questions.

6 THE COURT: Anything on recross?

7 MR. ELLIOTT: One question regarding the
8 latest line of questioning on the statement.

9 RECROSS-EXAMINATION

10 BY MR. ELLIOTT:

11 Q. Officer DeNett, is it possible that the
12 defendant, Ms. Whitehurst, was under the impression
13 they were being followed as a result of Mr. Ghozlan
14 pulling off the road and driving some distance
15 after they got out of the car?

16 A. No.

17 Q. Do you think that any person may think it
18 would be a reasonable assumption that a car you
19 just got out of that Follows you for some distance,
20 that they could be following you? Is that not a
21 reasonable assumption?

22 A. Not in this case given the description of
23 where he said he was parked at to where the stop
24 sign was. From the Station 24 block to where the
25 residence was it was too far.

1 Q. How far was that position from where you
2 responded and first made contact with Mr. Ghozlan?

3 A. The residence to him? You would have to
4 cross over Middle Street, go left at the
5 intersection of Station 24 and Ion, and go down a
6 few houses.

7 Q. But as you understand it that was not
8 where the defendant and her friend got out of the
9 vehicle?

10 A. Correct. They didn't get out at the
11 residence.

12 Q. I'm sorry. Where you first made contact
13 with Mr. Ghozlan, that was not in the same location
14 as the defendant, Ms. Whitehurst -- where they got
15 out of the vehicle initially?

16 A. From what I understand they got out at the
17 Station 24 block of Jasper. He went up the Station
18 24 Street between Jasper and Middle. If you have
19 ever been to that intersection, Station 24 Street
20 between those roadways is very short.

21 Q. So isn't it possible that Ms. Whitehurst's
22 perception that she was being followed for some
23 distance could be a simple mistake?

24 MR. DODDS: I'm going to object, Your
25 Honor. There is no possible way that this officer

1 can determine the perception of a third party.

2 THE COURT: I think you've already asked
3 that question, and she answered in the affirmative.

4 MR. ELLIOTT: That's all I have.

5 THE COURT: Thank you very much.

6 MR. DODDS: Nothing further.

7 (Witness excused)

8 THE COURT: Any other witnesses?

9 MR. DODDS: No. That will conclude the
10 prosecution's case.

11 THE COURT: So the Town rests at this
12 time?

13 MR. DODDS: That's correct.

14 THE COURT: Ladies and gentleman of the
15 jury, this is the juncture in the trial where --
16 it's just a policy or procedure -- once one side or
17 the other rests, then we have to take up certain
18 things outside your presence. We won't be long I
19 promise this time. If you want anything, water,
20 coffee, or anything like that, please let
21 Ms. Williams or someone know, and we're happy to
22 get it for you. We'll bring you back here in just
23 a couple of minutes. You're not ready to
24 deliberate, though, because I haven't given you the
25 case. Thank you.

1 As soon as Mr. Elliott comes back in we'll
2 hear the motions and move forward to the next
3 phase.

4 (Brief recess.)

5 THE COURT: Mr. Elliott, do you have any
6 motions at this time? I'm assuming you want to
7 renew your motions, and I'm going to read them out
8 for you. Maybe that's just quicker.

9 Motion to dismiss ordinance -
10 unconstitutionally vague. At this point I still
11 would deny that motion. Motion to dismiss based on
12 the basis of the First Amendment protected speech.
13 I will deny that motion. There was some testimony
14 about loud, boisterous in addition to cursing,
15 which vulgar language is protected as you know
16 under the First Amendment. Fighting words are not,
17 but vulgar language is protected, but when it's
18 repeated and when it's done in public, it's not
19 protected, and that would be my understanding of
20 the exception today. Motion to dismiss for lack of
21 chain of custody, I guess we're not hearing that.
22 Motion to suppress the video, we played the video,
23 so I guess that's not an issue, and then last I
24 think is the motion --

25 MR. ELLIOTT: Your Honor, can we get a

1 ruling on the motion to suppress?

2 THE COURT: Yes, but I guess I should ask
3 what video are we talking about?

4 MR. ELLIOTT: Mr. Ghozlan's dash cam video
5 just for purposes of the record, Judge.

6 THE COURT: For purposes of the record I
7 would find first of all that the video was
8 complete. His testimony was that he turned it on
9 when he turned it on, and I believe he testified at
10 some point on the island when the defendant's
11 language -- voice got boisterous and she was on her
12 phone, he wanted to record it.

13 Then as far as Rule 403 under the motion
14 to suppress the video, I don't think that there is
15 evidence that that video was prejudicial. I think
16 it is relevant evidence, and any danger to
17 prejudice would be outweighed by the relevance of
18 it. I don't think it's misleading to the jury, and
19 I don't think it confuses the issues, so that's my
20 ruling on that.

21 Then lastly the motion to dismiss -- and I
22 think this is the motion that has to do with the
23 statute -- the ordinance criminalizes a form of
24 speech that's protected by the First Amendment,
25 which I've already ruled on that.

1 Is there anything else that I need to rule
2 on or is there anything else that I missed?

3 MR. ELLIOTT: One aspect, Your Honor. I
4 believe the motion that you referred to last just
5 now is our motion to dismiss on the constitutional
6 grounds of vagueness as it was applied in the
7 Fourth Circuit case we passed up to Your Honor.
8 Specifically in terms of the State statutes I think
9 the terms are boisterous, but it's actually the
10 lack of definition for specific terms within the
11 State statutes. For the same reasons we would say
12 that the City ordinance is unconstitutionally
13 vague.

14 THE COURT: The issue there being that
15 profane language alone is not sufficient to
16 constitute a violation of the public disorderly
17 conduct statute, but there was some testimony about
18 it being repeated, abusive language and profane
19 language, and also there was some evidence of the
20 volume at which the language was used.

21 MR. DODDS: And the aggressive behavior of
22 the defendant, Your Honor, in reaching up and
23 trying to slap the ear bud out of Mr. Ghozlan's
24 ear.

25 THE COURT: Are we clear on those? If

1 there is anything else, I'm happy to talk about it.

2 MR. ELLIOTT: Your Honor, the defense
3 would move for a directed verdict in this matter.
4 As the State has narrowed this case and it appears
5 we're moving forward on the subsections of the
6 disorderly conduct ordinance, Subsections 8 and 12,
7 both of those, Your Honor, don't have anything to
8 do with the specifics -- as it relates to this case
9 nothing to do with what was specifically said. It
10 has to do only and the analysis only would be for
11 any testimony of loud, boisterous, unreasonable
12 noise whereby the public peace is broken,
13 disturbed, and we have no testimony that anyone
14 from the public called this in, reported it,
15 otherwise heard it at all, and beyond that I think
16 there is also the willful aspect in Section A that
17 defines and controls all of the subsections.

18 We've heard and admitted to conduct that
19 was certainly insulting to Mr. Ghozlan. It was
20 racially motivated, ill advised, any other sort of
21 negative connotation or adjective that you can
22 ascribe to this, but the State's case apparently
23 now is that these comments were made in a loud and
24 boisterous way without any other testimony because
25 they happened outside the presence of the officer

1 and to the annoyance or breach of the public peace,
2 and there is frankly just nothing in the record at
3 this point that suggests in any way or could be
4 construed anyhow that the public peace was broken
5 or that any member of the public heard it.

6 THE COURT: I think it's and/or. I think
7 it says: "Make or causes to be made any loud,
8 boisterous, and unreasonable noise or disturbance
9 to the annoyance of any other persons nearby or
10 near to any public highway."

11 MR. ELLIOTT: Whereby the public peace is
12 broken. I think that's the controlling clause.

13 THE COURT: And/or public annoyed. Are
14 you finished? I'm sorry.

15 MR. ELLIOTT: Your Honor, I think that
16 Subsections 8 and 12, I've looked at them very
17 closely now. The only distinction that I can see
18 is Subsection 12 has the additional element of
19 traveling public annoyed.

20 THE COURT: I saw that.

21 MR. ELLIOTT: And for the very same reason
22 it controls whether the traveling public or the
23 public in general -- if the public peace is broken.
24 I think that is the controlling issue in this
25 matter, and there is just no evidence that any

1 member of the public heard this at all.

2 THE COURT: Well, when ruling on a
3 directed verdict motion, I'm not concerned with --
4 I'm concerned with any evidence, not necessarily
5 the weight of evidence. I think that there is a
6 some evidence, but I don't know that the weight of
7 evidence is going to be enough to carry the day for
8 the jury. You certainly can make that argument and
9 Mr. Dodds can make the counter-argument.

10 MR. DODDS: You're absolutely right,
11 Judge. Under the rule the issue is whether there
12 is any competent evidence tending to prove the
13 charge, and in ruling on the motion you as the
14 trial judge should consider only the existence or
15 nonexistence of the evidence and not its weight.

16 THE COURT: That's what I said.

17 MR. DODDS: The statute doesn't require
18 that people be present. It talks about the public
19 peace. At 2:00 in the morning the public peace is
20 disrupted when somebody is screaming at the top of
21 their lungs profanities, and that occurred on
22 Middle Street.

23 THE COURT: I think it's an issue for the
24 jury, not for me to decide. The jury gets to
25 decide whether they feel like the public was

1 disturbed because it could be, as Mr. Dodds
2 indicated, the public in general. You don't have
3 to bring somebody in to say I was offended. I was
4 disturbed. The statute also doesn't address
5 racially motivated language, which it could have,
6 and then she would have been guilty of that clearly
7 because she admitted --

8 MR. ELLIOTT: As I understand it -- and we
9 can talk about this when you charge the jury -- by
10 the way, we don't intend to bring any evidence or
11 call any witnesses, so the defense will rest after
12 this.

13 THE COURT: And you did not put up any
14 parts of the video, so it's my understanding that
15 you have to open and close. In other words, when
16 you're closing, you get two bites of the apple if
17 he puts up any evidence, and he didn't put up any
18 evidence. Had he said I want to introduce any part
19 of the tape -- I wrote that down.

20 So, yes, you both will get -- Mr. Dodds
21 will go first and then you would go, and then I
22 will charge the jury, and after I charge the jury I
23 will then put the jury back in the jury room and
24 ask them not to deliberate until you guys have an
25 opportunity to make any suggestions on the charges

1 themselves. Okay?

2 MR. ELLIOTT: Your Honor, your ruling on
3 the defense's motion for a directed verdict?

4 THE COURT: On the motion for a directed
5 verdict, again, I'm not concerned with the weight
6 of the evidence; it's just is there any evidence to
7 support the charge of disorderly conduct here. In
8 my ruling, yes, I believe that there is some
9 evidence to indicate that, but my ruling is only
10 for the purposes of the directed verdict.

11 MR. ELLIOTT: Very well.

12 THE COURT: Are you ready to go into
13 closing?

14 MR. DODDS: Yes, sir.

15 THE COURT: I'm going to bring the jury
16 back and instruct them that these are closing
17 arguments. This is not evidence. They are not
18 hearing any more evidence. It says in the
19 information that it's reasonable to assume that the
20 close arguments could take up to two hours. I
21 don't think I'm going to give you two hours.

22 (Jury returns to the courtroom)

23 THE COURT: At this point in time all the
24 evidence in the case has been presented, but it's
25 still not time to deliberate.

1 At this point each side will be given an
2 opportunity to give closing argument. It's usually
3 called a summation. In other words, this is what
4 you heard, and then I will charge you on the law.
5 They may also touch on the law in their closing
6 arguments, but I will charge you on the law, and
7 then I'll send you back to the jury room not to
8 deliberate yet because I have to make sure that I
9 have concluded everything and I haven't screwed up
10 something in charging you, and that's for these
11 lawyers to point out to me. If I have, then I'll
12 bring you back out and fix it. Otherwise I'll just
13 knock on the door, we'll remove the alternate, and
14 you guys can get started.

15 At this point in time we're going to do
16 closing arguments, and the State again because they
17 have the burden of proof goes first.

18 MR. DODDS: Thank you, Your Honor. If it
19 please the Court, ladies and gentleman of the jury,
20 I want to thank you for the time that you have
21 spent with us today. I know being in a courtroom
22 and being secluded in a room by yourselves is like
23 me being at the dentist. I had a cracked tooth and
24 went to see the dentist. I actually had two, and
25 by the time he finished with the first tooth he

1 asked me whether I wanted to come back next week
2 and have the second one done, and I think that was
3 about eight months ago, and I still haven't been
4 back. The experience to me was so overwhelmingly
5 bad that I'm not sure if I'll ever go back, but I
6 suspect what will happen is I will begin
7 experiencing pain on the left side of the mouth
8 that I had on the right that I couldn't take
9 anymore, and so I finally went.

10 As I mentioned in opening statement, we
11 can't do this without you. If you're charged with
12 a crime whether it be disorderly conduct in
13 Sullivan's Island Municipal Court or if you're
14 charged with two counts of murder in Colleton
15 County like we all watched over the course of
16 several weeks, you have the right to a jury trial.
17 I will tell you that this case is equally important
18 to the State as it is to the defendant, and we
19 appreciate your time being here.

20 The State's case is pretty simple. Our
21 position is that the behavior of Meredith
22 Whitehurst in the early morning hours of June 11,
23 2022 constituted a violation of the disorderly
24 conduct statute for the town of Sullivan's Island,
25 and I'm going to take a moment and read to you the

1 relevant parts, and the judge will similarly charge
2 you once these closing arguments are over.

3 So this is Section 14(a) disorderly
4 conduct prohibited: "A person shall be guilty of
5 disorderly conduct if with the purpose of causing
6 public danger, alarm, disorder, nuisance, or if his
7 conduct is likely to cause public danger, alarm,
8 disorder, or nuisance he willingly does any of the
9 following acts in a public place or within public
10 view: Makes or causes to be made any loud,
11 boisterous, and unreasonable noise or disturbance
12 to the annoyance of any other persons nearby or
13 near to any public highway, road, street, lane,
14 alley, park, square, or common whereby the public
15 peace is broken or disturbed or the public
16 annoyed." That's one part of the statute.

17 The second is: "Makes or causes to be
18 made any loud, boisterous, or unreasonable noise or
19 disturbance to annoy other persons nearby or near
20 to any public highway, road, street, lane, alley,
21 park, square, or common where the public peace is
22 broken or disturbed or the traveling public
23 annoyed."

24 There is no question that part of the
25 behavior that occurred by Ms. Whitehurst in

1 screaming at the top of her lungs profanities to
2 Mr. Ghozlan occurred on Middle Street. That is
3 undisputed. In fact, in opening argument counsel
4 stated that they acknowledged that the statement
5 that was made by Ms. Whitehurst to Mr. Ghozlan to
6 the effect that -- again, excuse this language --
7 "Fuck you, you Arabic piece of shit," that occurred
8 while she was standing on the street on Middle
9 Street on Sullivan's Island at almost 2 o'clock in
10 the morning.

11 So it's up to you as the jurors and the
12 triers of fact to determine whether or not that
13 conduct falls within the parameters of the
14 disorderly conduct statute.

15 The other thing -- and I'm anticipating
16 this from defense counsel -- is that we didn't
17 bring anybody in to testify that the public peace
18 was somehow disturbed or broken by that conduct
19 which occurred at almost 2 o'clock in the morning
20 on June 11, 2022, and my position is we don't have
21 to bring in anybody to establish that. At 2
22 o'clock in the morning on June 11, 2022, on the
23 public roadway of Middle Street this defendant is
24 yelling profanities at this individual in his car,
25 and the evidence before you is that the statements

1 that were made to him were completely, completely
2 unprovoked. There is no evidence before you that
3 suggests that Mr. Ghozlan did anything wrong other
4 than perhaps the fact that he was born in Egypt,
5 and I suggest to you that in 2023 that is entirely
6 inappropriate for someone to go off the way she did
7 on Mr. Ghozlan because he asked her to please
8 soften her voice as he was carrying them from the
9 City of Charleston to Sullivan's Island.

10 Judge Cornely is going to instruct you,
11 and one of the things he is going to tell you is
12 he's going to give you the definition of reasonable
13 doubt. He's going to tell you that reasonable
14 doubt is proof that leaves you firmly convinced,
15 but that the law does not require proof that
16 overcomes every possible doubt. There is no way we
17 can do that, but we can I hope through the
18 presentation of evidence today prove to you that we
19 have left you firmly convinced that the conduct of
20 the defendant that night, June 11, 2022, at almost
21 2 o'clock in the morning constituted disorderly
22 conduct under our statute and that that behavior
23 was a breach of the peace.

24 Again, I appreciate your patience
25 throughout this process, and I would respectfully

1 ask that you enter a verdict of guilty as charged.

2 Thank you very much.

3 MR. ELLIOTT: Well, we are at the end of
4 the proceeding today, and I want to thank you just
5 as Mr. Dodds did for your time and attention today.
6 As you've heard several times, it's a crucial part
7 of our system. It's what makes the wheels of
8 justice turn in this country.

9 There are plenty of lawyer jokes I'm sure
10 you've all heard, but there are jokes among
11 lawyers, and one of the ones that's pertinent to
12 this situation, many lawyers will make a comment in
13 opening or closing to the effect that this case is
14 simple, and I suppose the joke is if the case is so
15 simple it wouldn't be here today taking up a
16 beautiful day of your fine people's time. This
17 case isn't simple, but it is straightforward, and
18 through the course of this trial I'll submit to you
19 that it has become more straightforward.

20 As we admitted in our opening, it's not in
21 dispute what was said to Mr. Ghazlan, and I believe
22 that what was said to him was wrong, insulting. He
23 has got every right to be offended, insulted. It's
24 frankly very sad to hear any sort of comment like
25 that made to someone, especially someone who is an

1 immigrant and working hard to make ends meet and do
2 the right thing.

3 As this case has gone forward what has
4 become clear and what is submitted to you and will
5 be submitted as a jury instruction when we conclude
6 shortly is that the conduct of the defendant,
7 Ms. Whitehurst, or anything that she said directly
8 to Mr. Ghozlan is not the driving factor or the
9 real subject of what you as the jury need to
10 deliberate about.

11 What the State has alleged now is that the
12 words said to Mr. Ghozlan were made in public,
13 willfully and with the purpose of disturbing or
14 annoying or creating any sort of nuisance to the
15 public peace. I suppose it's not in dispute that
16 what was done or said is in a public space, but
17 what is in dispute and what the jury will need to
18 determine beyond a reasonable doubt is the intent,
19 the ways that testimony and other pieces of
20 evidence that you've heard today and that are in
21 the record can be deduced and can they be deduced
22 and the facts be applied to the law that you will
23 be charged with to support a conviction beyond a
24 reasonable doubt.

25 I won't reread the section, the statute

1 Mr. Dodds read to you accurately and I believe the
2 judge will charge you that and you will have it in
3 front of you, but I would like to draw a few points
4 to your close attention when you deliberate, and
5 that is the aspect that this alleged conduct --
6 keep in mind it's not about what was said, although
7 we've all said and agreed that it's very terrible
8 that these things were said to Mr. Ghozlan; it's
9 that the public peace is broken, disturbed, or the
10 public annoyed.

11 I would like you to think about and draw a
12 distinction of a scenario of why a loud and
13 boisterous child's birthday party that your
14 neighbor may have could very well cause you as
15 their neighbor annoyance, disturbance, whatever,
16 but in that set of facts that I've presented to
17 you, that hypothetical, the public peace, is it
18 breached; is it not. I'll say in that scenario the
19 public peace is not breached; you're just annoyed,
20 and this law does not protect your own annoyance,
21 and the jury instruction that you will get
22 specifically requires you to make an analysis and a
23 finding of fact beyond a reasonable doubt for just
24 this subsection, was the public peace broken or
25 disturbed, was the public annoyed, not was

1 Mr. Ghozlan annoyed because I'll submit to you that
2 he was and he had every right to be annoyed, but
3 that's not what is in question before you today.

4 The State has provided zero evidence, zero
5 testimony that any member of the public heard, knew
6 about this at all, not to mention the fact that no
7 one has testified, said, or alluded to any member
8 of the public even if they heard it being annoyed
9 or was the public peace breached. There is zero
10 evidence of that. There is zero testimony to that
11 effect. In fact, the State's witness, the
12 responding officer this case, Officer DeNett,
13 responded after being called by dispatch and didn't
14 personally observe or hear any of these statements.

15 So in wrapping things up I would like you
16 to consider what the State is really asking you to
17 do in their request to find the defendant,
18 Ms. Whitehurst, guilty. They're saying that no
19 matter what conduct may happen, anything that is
20 loud, boisterous, unreasonably noisy, any sort of
21 disturbance to the annoyance of any person nearby,
22 if that happens in a public place, then someone
23 could be found guilty of disorderly conduct, and I
24 want you to think about the absurdity of that sort
25 of reasoning.

1 It's not a question in this case of
2 neighbors or passersby hearing Ms. Whitehurst and
3 her friend making these comments to Mr. Ghozlan.
4 You didn't hear that at all because it didn't
5 happen. This isn't a situation where an Uber cab
6 pulls up in front of a house and the neighbors hear
7 all sorts of ruckus going on outside their bedroom
8 and it wakes them up. That would be a breach of
9 the public peace. That's not what we have in this
10 case, and the State's argument to you would support
11 convictions for any sort of private argument
12 between spouses, friends, parents, children so long
13 as it happened outside. Is the State really trying
14 to ask you to support a conviction in a scenario
15 where a married couple gets into an argument on the
16 beach and no one else hears it? Foul language is
17 used back and forth. Someone is terribly and
18 perhaps even legitimately annoyed, feelings hurt,
19 but no member of the public heard it. The peace of
20 the public is not breached, and there is no
21 nuisance that the State can show that affects any
22 member or resident of the Town of Sullivan's
23 Island.

24 Laws like this do have their place, and in
25 many situations it's a blessing for residents. No

1 one wants to have a fist fight in their neighbor's
2 backyard, a private fist fight, but it still annoys
3 you. That's a breach of the public peace. What
4 the State has presented today and is alleged
5 against my client, Ms. Whitehurst, is absolutely
6 not disorderly conduct. There has been no evidence
7 that the public peace was breached, and while we
8 all hate what was said, I hate it, I think that
9 Ms. Whitehurst hates it, and I feel sorry and I
10 apologize to Mr. Ghozlan because he has got every
11 right to be terribly offended in this case and he
12 did nothing wrong, but that's not what is before
13 you today, and we would ask that you find the
14 defendant, Ms. Whitehurst, not guilty because no
15 evidence has been shown that the public peace was
16 breached. I thank you for your time.

17 THE COURT: Madam Foreperson and Members
18 on of the jury, it's now my time to give you
19 instructions that will hopefully help you come to a
20 decision. So you will weigh the facts and then the
21 instructions I give you as far as the law, and then
22 come back with a verdict that you feel is just.

23 First of all, your verdict must be
24 unanimous, so all six people in there must agree to
25 either not guilty or guilty. It has to be

1 unanimous. We will give you a verdict form, so all
2 you have to do is check yes or no, guilty or not
3 guilty. It's pretty straightforward. You put your
4 name on there and we will publish it.

5 The burden of proof. Both parties alluded
6 to the burden of proof. In criminal cases it's
7 beyond a reasonable doubt, and this is a criminal
8 case. Beyond a reasonable doubt, I have two
9 definitions because it's one of those terms that a
10 lot of people have a hard time with, what is
11 reasonable doubt.

12 So proof beyond a reasonable doubt is
13 proof that leaves you firmly convinced and that the
14 law does not require proof that overcomes every
15 possible doubt. Reasonable doubt is a kind of
16 doubt that would cause a reasonable person to
17 hesitate to act. It is a doubt for which you could
18 give a reason.

19 In the event that you get back there and
20 you're still not sure on what reasonable doubt
21 means to you, then you come out, and I'll try to do
22 a better job on that.

23 You've heard testimony from the witness
24 stand, and then you saw testimony from two
25 different videos. Use of video testimony, you

1 weigh that evidence the same as you do from the
2 witness stand. Whether you believe it or not
3 believe it, you believe all of it or some of it,
4 that's up to you.

5 You have credibility of witnesses. You're
6 the sole judges of the credibility of a witness.
7 The credibility of a witness may be attacked by any
8 party including the party calling the witness, and
9 you get to judge whether you believe all or a part
10 of the witness' testimony.

11 At some point or another almost in every
12 criminal case you're going to hear from a police
13 officer, so it's incumbent upon me to give you this
14 charge: The testimony of police officer is not
15 entitled to more weight than that of any other
16 witness. You're the sole judges of the credibility
17 of a witness, and you are not to give more credence
18 to a police officer's testimony solely because he
19 or she is a police officer. Rather, you should
20 judge an officer's testimony by the same standards
21 that you apply to other witnesses.

22 Remember that the Town has the burden of
23 proof from the start, the beginning. The defendant
24 is always presumed innocent. That's our system.
25 So it never shifts. There is never a period of

1 time until you go back in the jury room to
2 deliberate whether the person is guilty or not
3 guilty.

4 The elements of the crime, disorderly
5 conduct, you heard both parties in their closing
6 arguments tell you what the law was, and I'm going
7 to read it to you from the statute. There are
8 multiple subsections to this statute, but I am only
9 going to read you the ones that are applicable. "A
10 person shall be guilty of disorderly conduct if
11 with the purpose of causing public danger, alarm,
12 disorder, nuisance, or if his conduct is likely to
13 cause public danger, alarm, disorder, or nuisance
14 he willfully does any of the following acts in a
15 public place or within public view: Makes or
16 causes to be made any loud, boisterous, or
17 unreasonable noise or disturbance to the annoyance
18 of other persons nearby or near to any public
19 highway, road, street, lane, alley, park, square,
20 or common" -- I assume that's common area --
21 "whereby the public peace is broken or disturbed or
22 the public annoyed. Also makes or causes to be
23 made any loud, boisterous, unreasonable noise, or
24 disturbance to annoy other persons nearby near to
25 any public highway, road, street, lane, alley,

1 park, square, or common area whereby the public
2 peace is broken or disturbed or the traveling
3 public annoyed." The difference between that, as we
4 talked about before, is the traveling public is
5 annoyed. Both of those subsections seem to mirror
6 each other.

7 So I'm going to send you back there back
8 to the jury room now, and it will just be a second.
9 You won't even have to come back out. We'll knock
10 on the door and we'll remove the alternate and tell
11 you to begin your deliberations. There is evidence
12 in this case -- there was one evidence, and that is
13 the video. We can send the video back there or you
14 can knock on the door if you would like to view the
15 video, and I think probably we'll do the latter.
16 It's already set up. If you want, the video is
17 back there, so if you want to view the evidence as
18 part of your deliberations, you're entitled to do
19 that, and if you have any problems with it, I
20 wouldn't be the one to ask. It would be someone
21 else in the Town to tell you how to work that.

22 So at this point if you would go back to
23 the jury room. You're welcome to bring all your
24 belongings with you. I'll make sure there are no
25 exceptions or additions to the charges, and then

1 you can begin your deliberations. Thank you.

2 (Jury excused.)

3 THE COURT: Any exceptions or additions or
4 clarifications to the jury charges that I gave?

5 MR. ELLIOTT: I don't think so, Your
6 Honor, other than whatever the Court's opinion is
7 on providing them the statute in writing. Are you
8 going to do that unless they ask for it?

9 THE COURT: A good point. I meant to
10 bring that up to you guys. If they ask for it,
11 we'll provide them with a copy of it only if they
12 ask, and they may not. They may have heard it from
13 Mr. Dodds, yourself, and me, and they've heard it
14 enough.

15 MR. DODDS: No exceptions, Your Honor.

16 THE COURT: So I think we can knock on the
17 door and ask the alternate to please come out.
18 We'll thank her for her service, and she can go
19 home or she can wait to see what happens. While
20 they're deliberating we can be in recess. I think
21 you both did a great job for your respective
22 clients.

23 (Alternate juror returns to courtroom.)

24 THE COURT: Thank you for your service
25 today. You have a choice of staying around if you

1 want to see what happens for the jury to reach
2 their verdict -- I don't know how long it will be
3 though -- or you can go. You can call back and we
4 can let you know, whatever you want. Thank you so
5 much for your service today. I know you didn't get
6 to participate in the deliberations, but your role
7 is important because if somebody took sick -- I
8 have had it happen where a child or something like
9 that has to be picked up from school, and all of a
10 sudden we have to go to the alternate.

11 MR. DODDS: She's excused for a year,
12 right, from any sort of jury duty in the county?

13 THE COURT: I don't know that we can
14 restrict Circuit Court, but you're excused from
15 Sullivan's Island for sure. Do you want to stay or
16 do you want to go?

17 ALTERNATE JUROR: I'm going to rejoin my
18 life and other responsibilities that I have.

19 THE COURT: We can be in recess as long as
20 you can kind of stay within shouting distance, if
21 you need to go to the bathroom, get a drink, do
22 whatever, you know, and then obviously if they find
23 not guilty, that's end. If they find guilty, then
24 we need to talk about sentencing. Do you want to
25 do that today or do you want to try to do it

1 another day?

2 MR. ELLIOTT: We can do it today, Your
3 Honor. My client is on standby, but I want to I
4 guess carve out the ability if I can't get her on
5 the phone in a few seconds -- she knows she's on
6 standby.

7 THE COURT: If you can't get her, we can
8 come back tomorrow morning during a time that's
9 convenient to everybody.

10 MR. ELLIOTT: Your Honor, I think that
11 maybe following the State's hypothetical
12 recommendation for sentencing that --

13 MR. DODDS: I thought she waived her right
14 to be here, Judge.

15 THE COURT: I would have to look. I think
16 in her waiver she asked to be at least present.

17 MR. ELLIOTT: In the alternative, Your
18 Honor, if the State doesn't have any objection, in
19 the event she's convicted from a sentencing
20 standpoint I could give you a personal statement
21 that she wrote for consideration in lieu of her
22 getting on the speakerphone or something.

23 MR. DODDS: I understand she wants to be
24 here, but I think it's an inconvenience to the
25 State to bring us back after we're here today.

1 THE COURT: We may not have to.

2 MR. ELLIOTT: I would agree with that,
3 Your Honor, and I would ask in lieu of that we be
4 allowed to just present to Your Honor for purposes
5 of sentencing a written personal statement.

6 THE COURT: I don't think anybody would
7 object to that, a personal statement from her.
8 Certainly that may or may not make a difference.
9 It may be that he wants to hear from her if she
10 does in fact apologize.

11 (Brief recess.)

12 THE COURT: Madam Foreperson, have you
13 reached a verdict?

14 MADAM FOREPERSON: Yes.

15 THE COURT: Is that verdict unanimous?

16 MADAM FOREPERSON: Yes.

17 THE COURT: I'll read the verdict. In the
18 matter of the Town of Sullivan's Island versus
19 Meredith Whitehurst charge of disorderly conduct it
20 is guilty. The verdict form is signed. It's
21 checked by each individual juror, and they have
22 signed it on the left-hand line. The reason I say
23 that is because in some cases -- and you probably
24 saw if you watched as Mr. Dodds referred to the
25 Murdaugh case, after he was found guilty they asked

1 to poll the jury, so they would say, for instance
2 Madam Foreperson, is this your verdict? If so, say
3 yes, and they go down right down the line. This is
4 a much better.

5 Anyway thank you for your service. We
6 asked the alternate if she wanted to stay around,
7 and she said no; I need to get back to my life.
8 Thank you so much for your service today. The good
9 news is you can't be called on Sullivan's Island.
10 The bad news is you might get called in Charleston
11 or somewhere else, but we really appreciate it. As
12 both lawyers indicated, we could not handle this
13 case and resolve this case without your help, and
14 if you have any questions, we're happy to answer
15 them. If not, you can go on your way.

16 JUROR: Can you tell us what happened to
17 the other person in the car, the defendant?

18 THE COURT: Their case has not been
19 reached yet. When you have two people together,
20 sometimes the Court has to sever them because --
21 there could be a number of different reasons -- if
22 somebody gave a statement about the other person or
23 the levels of culpability. There could be any
24 number of reasons, so sometimes it's just safer to
25 sever the two cases. Are you volunteering to come

1 back for the second half? I'm just kidding. You
2 wouldn't be picked, but that's what happened, and
3 that's a good question. Thank you again for your
4 help.

5 So I will be glad to hear from both of
6 you. If you want to talk about it amongst
7 yourselves --

8 MR. DODDS: Mr. Ghozlan, do you want to
9 address the judge? You have the ability to address
10 the judge regarding what you believe to be the
11 appropriate punishment for Ms. Whitehurst. She was
12 found guilty. You can come on up here.

13 MR. GHOZLAN: Sir, it's like she should
14 have fines. She destroyed my family. She called
15 Uber and she told them to deactivate my account.
16 This is my full-time job.

17 THE COURT: Did they deactivate your
18 account?

19 MR. GHOZLAN: Yes; for three months. I
20 have been struggling. I have been sitting at home.
21 My kids have been crying all the time when I left.
22 I stayed with them two months. This is my family.
23 They have asked me to return back. I said no; I
24 have to work. I am not weak. I didn't do anything
25 that's wrong.

1 My wife, she's a civil engineer. I have
2 been working there as a professor at the university
3 back in Egypt, and all of this time since June
4 until now each customer, I'm afraid to take him
5 because it's like no trusting hurting my feelings.
6 It's hurting my family, too, hurting my income.
7 This is my only full-time job.

8 I have applied for several jobs, and most
9 of them they say no. You need like some
10 connections, you're overqualified, all these
11 things, but I'm trying to work hard in this
12 country. I'm just like doing what I have to do to
13 support my family and stay here. I have been here
14 since 2008. As I said, nothing has happened like
15 that before to me, but, you know, I'm serving you
16 guys, giving a service for them. I lifted them in
17 the street at 2:00 a.m. to take them home safe. If
18 you're doing that and not appreciating me, you do
19 that to me why?

20 THE COURT: I can't answer that question.
21 I don't under any circumstances -- even if I had
22 had a lot of alcohol, I don't think I would have
23 acted like that, but I'm older. I'm not
24 apologizing for them. You asked me a question.
25 I'm sorry for the burden this has put on you and

1 your family. Believe it or not, June to March is a
2 short time in court. Most of our cases in court
3 take up to two years to get resolved, so
4 fortunately we were able to resolve your case
5 quickly thanks to both parties agreeing to have it
6 heard and so you didn't have to suffer any more.

7 She was found guilty. She will be
8 stigmatized with this guilty verdict. She will
9 have it on her record, so it will then impact her.
10 We are sorry. I would never do that to an Uber
11 driver, and I'm sure no one else in this room would
12 either.

13 MR. GHOZLAN: Of course, but my friend --
14 even for my family, I moved for my family. I moved
15 for him from New York to South Carolina. He said
16 to me it's really an amazing state. I lived in
17 Wisconsin, I lived in New York, I lived here. When
18 I moved from there to here, he's the one who
19 supported me. He said to me this is a really nice
20 state. You will come to love it and the people are
21 really good, but after he had been killed I'm
22 supporting his family, too. So I have been
23 supporting my family and his family.

24 To sit at home for three months without
25 any income just like trying to save whatever I

1 saved to just support both of them, it's so hard.

2 THE COURT: I'm sorry that you had to go
3 through that. I'm very sorry. Hopefully what
4 happens today will give you some relief from that,
5 and knowing that six and probably seven people all
6 heard the testimony and they decided that you were
7 telling the truth and that the young lady was out
8 of line when she said what she said to you because
9 nobody should say that to you. Thank you for
10 coming, thanks for staying here, and thanks for
11 talking to us about how this has impacted you.

12 MR. GHOZLAN: Thank you, sir.

13 THE COURT: You're welcome.

14 Mr. Dodds, anything else that you want to
15 tell me? The fine on this is I think somebody said
16 500, but I thought the ticket said 1,047.

17 COURT OFFICER: It's 1,00040.

18 Ms. Williams can see the bond amount that I put in
19 there.

20 MR. ELLIOTT: The ordinance statutory cap,
21 is that the State code they're referencing?

22 COURT OFFICER: 1,040.

23 MR. DODDS: Becky has got that Law Track.

24 THE COURT: I would want to see it to make
25 sure that we're doing the right thing here --

1 MR. DODDS: Absolutely.

2 THE COURT: -- because that seems like a
3 lot for an ordinance.

4 MR. DODDS: The maximum ordinance is
5 1,040.

6 COURT OFFICER: The tickets can be written
7 260 to 1,040.

8 THE COURT: Okay. I will be glad to hear
9 from you.

10 MR. DODDS: Judge, we have been here since
11 about I guess about 9:30. The Town has incurred
12 the expense associated with presenting this case to
13 the jury. The jury came back in relatively quick
14 order. I would ask for the maximum fine of \$1,040.

15 THE COURT: All right. No jail time,
16 though.

17 MR. DODDS: We are not seeking jail time.

18 MR. ELLIOTT: Your Honor, in response to
19 that I would say that, as Your Honor knows, it's
20 highly inappropriate for an argument of any sort of
21 trial tax based on a conviction. It's purely
22 whether or not the Court wants to issue a fine and
23 how much. We would ask that the Court implement a
24 lower fine amount than that. The ordinance
25 suggests \$500.

1 THE COURT: I thought it said anything
2 from 260 to 1,000. I'm inclined to go with 1,040,
3 and it has nothing to do with you. It has
4 everything to do with your client. I think her
5 behavior, if it meets the statute or the
6 ordinance -- and I'm sure that's a matter for
7 another day -- was inappropriate, and, as we heard
8 from the victim, caused him not only the trouble
9 that night of having to disrupt his service because
10 he's working that night, and instead of going home
11 he had to fill out police reports and meet with the
12 police, and then he has had to come here two days.
13 I believe he was here yesterday for jury selection.
14 He has had to come here today, and then he was out
15 of work because your client decided to call Uber
16 and complain about him.

17 MR. ELLIOTT: To that point, Your Honor, I
18 believe the ride that night was for Ms. Virginia
19 Galbraith. I understand that's neither here nor
20 there for this context, but I'm not sure it was
21 Ms. Whitehurst.

22 THE COURT: I am not opposed if
23 Ms. Whitehurst needs some time pay the 1,040.

24 MR. ELLIOTT: We would ask for the maximum
25 length of time. She's self-employed. She owns a

1 small boutique.

2 THE COURT: The fine is 1,040. I'm not
3 opposed to time to pay it. What that means,
4 Mr. Ghozlan, is we're going to give her time to pay
5 it. She's not excused from the fine. It's going
6 to be the maximum fine, but if she needs a couple
7 of days, two weeks or a month or something like
8 that, we'll allow it, but there is a 3 percent
9 assessment any time someone requests a time
10 payment. So she's going to pay extra if she wants
11 to pay over time.

12 What do we normally give, Ms. Williams?
13 60 days, 90 days?

14 MS. WILLIAMS: It's usually seven days,
15 three weeks, a month, and occasionally three
16 months, very occasionally.

17 MR. ELLIOTT: Your Honor, we would ask for
18 the maximum.

19 THE COURT: Right. I don't care.

20 MR. ELLIOTT: And it may be important or
21 we can address it when we do post trial matters.
22 We ask that you give the maximum possible time.

23 THE COURT: I don't have any problem
24 giving the maximum possible time, so we'll give
25 them three months I think is what she said, and

1 then as far as post trial motions, motion for a new
2 trial, motion to set aside the verdict from the
3 jury, that kind of stuff, I get that that has to be
4 done. So whenever you're ready, and if he doesn't
5 want to stay around, he doesn't have to say around.
6 If he wants to stay around, he's welcome to stay
7 just so he knows.

8 So this part of the trial is post verdict,
9 and there are certain motions that -- Madam Clerk
10 was asking did I explain it comes with a 3 percent
11 assessment, and I did say that.

12 So at this point since the trial is
13 resolved and the jury has come back with a verdict,
14 this is the appropriate time to make post trial
15 motions like a motion for a new trial based on
16 whatever or a motion to set aside the verdict of
17 the jury. In civil cases they do remittiturs and
18 additurs. You're familiar with that. Go ahead.

19 MR. ELLIOTT: Your Honor, the defense
20 would move for a new trial on the matter. We would
21 renew our motions already heard by this Court and
22 ruled upon for the record, but for purposes of our
23 motion for a new trial, we believe the basis of
24 that would be the Court's ruling on the State's
25 election to proceed at the outset of the case on a

1 wide range of the subsections of the statute, which
2 some of those subsections that they initially
3 proceeded on touched on aspects of testimony and
4 other evidence that was made a part of the record
5 of the case and then therefore considered by the
6 jury, which has an absolutely prejudicial effect on
7 the outcome of the case, prejudicial against the
8 defendant.

9 Your Honor, the comments which we've all
10 heard and we agree were made and all agree are
11 terrible cannot be considered anything other than
12 inflammatory, as they should be, but as the State
13 proceeded on these two subsections of the statute
14 at the end of the case dealing only with the public
15 peace being breached for boisterous or noisy
16 conduct, Your Honor, any reference or testimony or
17 evidence considered by the jury as it relates to
18 these comments to Mr. Ghozlan are absolutely
19 inflammatory and prejudicial when at the essence of
20 the State's case at the end of the day it was
21 simply that these comments were made and heard in a
22 public place, and what was heard is less relevant
23 in that scenario than if anything was heard, could
24 have been heard, or was boisterous or reached some
25 sort of volume, and the jury being able to hear

1 inflammatory, prejudicial information at the
2 beginning of the case only for the State to narrow
3 the parameters at the end we think is patently
4 unfair and a violation of the defendant's
5 constitutional rights.

6 THE COURT: What inflammatory statements
7 are you referring to that they heard at the
8 beginning of the case?

9 MR. ELLIOTT: Your Honor, I think we were
10 proceeding under maybe six subsections at the
11 beginning, some of those being fighting words,
12 allegations of fighting words, some of those being
13 allegations of the specific kind of communication
14 from the defendant, what was actually said
15 essentially, not what was said in a public place
16 that could have breached the public peace, and the
17 State essentially gets to have their cake and eat
18 it, too, by starting with a wide set of subsections
19 they can proceed under only to narrow them later.
20 Again, we would renew our motion to that very
21 effect, which is what we did at the outset of this
22 case.

23 THE COURT: Okay.

24 MR. ELLIOTT: For that reason we would
25 move that this Court grant a new trial and issue

1 pertinent rulings as to what sort of evidentiary
2 issues could either be heard or presented depending
3 on which subsections of the statute that the State
4 would proceed under.

5 THE COURT: I think -- and I'm pretty sure
6 that the record will reflect this -- that I didn't
7 rule on that particular motion as far as electing
8 to proceed under certain subsection because I said
9 I don't know what the evidence presented will be,
10 so I can't say that it's going to be fighting words
11 and violence, but once the evidence was presented
12 it was pretty clear that there wasn't violence, and
13 we all know that fighting words alone are exempt
14 from ordinances like that because of the First
15 Amendment. So I'm not sure that I agree with your
16 assessment that the jury heard inflammatory
17 statements that never were presented to them in the
18 jury charge because the only thing I charged them
19 for was the ordinance and the Subsections 8 and 12
20 because those are the ones that we I think agreed
21 applied in this case because that's all the
22 evidence showed.

23 MR. DODDS: There was no comment made in
24 opening argument other than that she has been
25 charged with disorderly conduct. Before the

1 evidence was heard we told you what we believed
2 would be the specific sections. Once the evidence
3 was heard we agreed with you, Judge, that there are
4 really just two primary parts of Section 14.8 which
5 we believe were supported beyond a reasonable doubt
6 by the evidence.

7 There weren't any comments made
8 specifically as to any other aspect of the
9 disorderly conduct, but rather the jury heard the
10 evidence, and when the evidence was concluded, the
11 prosecution in compliance with his request
12 specifically said this is what we are hedging our
13 case on, and in arguing that's exclusively what the
14 argument was made to the jury, and that's what the
15 jury determined to have been violated and convicted
16 the defendant on.

17 THE COURT: I believe the defense asked
18 the victim and you even asked Officer DeNett about
19 assault versus insult and whether he was touched on
20 the ear, and the Town agreed that they were not
21 going to proceed on that subsection that led to
22 acts of violence or likely led to acts of violence,
23 so we don't think that was the case here.

24 MR. ELLIOTT: But, Your Honor, I guess the
25 point is trial strategy, cross-examination aspects

1 specifically relied on the wide scope in which the
2 State elected to proceed and then narrowed it at
3 the close or near the close of the State's
4 evidence.

5 THE COURT: I don't see how that
6 prejudices you or your client because you were
7 allowed to ask questions about violence or allowed
8 to ask questions about other things, and it was
9 clear from the arguments and from the charge and
10 the evidence presented that they were only asked --
11 the jury was only asked to consider whether there
12 was hostile, boisterous language that was exposed
13 to the public, and the jury decided I guess based
14 on the testimony and the video that clearly the
15 language that they used was offensive, and I'm
16 assuming because it carried on outside the vehicle
17 in the public street, that it met the elements of
18 that particular subsection.

19 MR. ELLIOTT: Sure, and I think the nature
20 of the testimony the jury heard was a direct result
21 of the wide scope at the beginning. I mean there
22 would have been other evidentiary challenges,
23 questions by myself, perhaps questions by the State
24 if they had proceeded from the beginning with 8 and
25 12. What I'm saying is the jury can't unhear

1 things even if they're instructed to disregard
2 those things as it relates to an application of
3 those subsections.

4 THE COURT: I don't remember the jury ever
5 being told to disregard it. I think it was pretty
6 clear from the very beginning that it was not a
7 case of anything but Subsection 8 and Subsection
8 12. I mean the other subsections didn't apply.
9 They just didn't apply, and the jury wasn't
10 instructed -- well, they first heard about the
11 subsections in Mr. Dodds' closing, and then they
12 were instructed by me that this is what you
13 consider. They were never given any instructions
14 in the beginning that she's charged under this
15 statute that has 18 subsections. I don't think
16 they were. I don't think any mention was made in
17 the opening statement, and clearly Officer DeNett
18 and the victim didn't mention other subsections.

19 MR. ELLIOTT: Sure, but, Your Honor, the
20 direct examination by the State elicited things
21 such as whether or not the witness' ear was touched
22 or not touched or what was specifically said and
23 how bad it was. That stuff comes in because it
24 presumably at that point may have been pertinent to
25 the State's case under the panoply of subsections

1 that they were proceeding under, whereas if they
2 had proceeded under the subsections that were
3 eventually only charged to the jury, my
4 cross-examination is completely different because
5 aspects of was the witness touched, what was said
6 to the witness, what was not said to the witness
7 becomes not as relevant, and the focus is then kind
8 of primarily placed on what occurred that could
9 have breached the public peace, not exactly what
10 was said or done inside the car, and I think those
11 are the two distinctions.

12 MR. DODDS: So is counsel arguing that
13 your client could take a swipe at Mr. Ghozlan's ear
14 in an effort to knock his ear bud out so that he
15 wouldn't be able to communicate with the 911
16 operator is not a breach of the public peace? Is
17 that what you're telling the Court?

18 MR. ELLIOTT: I dispute those facts, but I
19 think that what you're alleging would be possibly
20 an assault or an attempted assault, but again that
21 illustrates exactly my point. Those sort of issues
22 are dealt with from an evidentiary level and a
23 gatekeeping level and a cross-examination level.

24 THE COURT: If the jury had heard anything
25 like that -- I mean you asked the victim do you

1 believe you were assaulted, and the jury and I saw
2 the video. I don't know whether they watched it in
3 the back there or not, but it's clear that she
4 reached up there, but I don't think she touched his
5 ear from what I saw.

6 MR. ELLIOTT: That's my point, Your Honor.
7 Would those questions have even been asked? Would
8 anyone ask those questions if it were not plausibly
9 touched by one of the subsections that the State
10 was proceeding under at that time.

11 THE COURT: Everybody agreed that the
12 video was coming in. Once the video came in the
13 jury can form their own opinion. They can form
14 their own opinion as to what happened, and I don't
15 know that they were given any charges that would
16 have led them to believe something else. So I'm
17 going to deny your motion based on that ground,
18 your motion for a new trial.

19 MR. ELLIOTT: Thank you, Your Honor, and
20 we'll just put on the record just an oral notice of
21 an intent to file an appeal and, of course, follow
22 it up in writing.

23 THE COURT: The way I understand it you
24 have 30 days --

25 MR. ELLIOTT: I think it becomes 30 days

1 based on the motion hearing.

2 THE COURT: So you don't have to be
3 specific. Just file a notice of appeal. I'll have
4 to do a return, and then you can be more specific
5 when you file your actual appeal.

6 MR. ELLIOTT: Sure. Thank you, Your
7 Honor. I appreciate it. I can check the code. I
8 know the code says payment of any fine doesn't have
9 any effect on the voracity of the appeal itself.
10 Does the Court have an opinion on suspension of the
11 fine or time of payment pending the return from the
12 Circuit Court?

13 THE COURT: I know that in some cases
14 people get appellate bonds, but I've never had it,
15 so what that means is that they're actually put in
16 jail, given a jail sentence, and then once they
17 file their appeal the judge can consider an
18 appellate bond that allows them out of jail pending
19 an appeal. I've never had that come up, so I would
20 have to research that, to be honest with you.

21 MR. ELLIOTT: Your Honor, the defense will
22 look into it, and if it's an issue, we'll bring it
23 to the Court's attention.

24 (The trial concluded at 4:25 p.m.)

25

1 CERTIFICATE OF REPORTER
STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON

3

4 I, Carol T. Lucic, Registered Professional
Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify that the
foregoing trial was taken at the time and location
6 therein stated; that the testimony of the witnesses
and all objections made at the time of the trial
7 were recorded stenographically by me and were
thereafter transcribed by computer-aided
8 transcription; that the foregoing is a full,
complete, and true record of the testimony of the
9 witnesses and of all objections made at the time of
the trial.

10

11 I further certify that I am neither
related to nor counsel for any party to the cause
12 pending or interested in the events thereof.

13

Witness my hand, I have hereunto affixed
14 my official seal on April 4, 2023, at Charleston,
Charleston County, South Carolina.

15

16 Carol T. Lucic
NCRA MERIT REPORTER
17 REGISTERED PROFESSIONAL REPORTER

18

19 My Commission expires: November 27, 2027

20

21

22

23

24

25

Citation #8102P0964359

Form S-438
Rev. 06/2014

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA
VERSUS

FIRST NAME VIRGINIA MIDDLE NAME RHODES LAST NAME GALBRATH

STREET 2430 10th AVE

CITY SULLIVAN ISLAND STATE SC ZIP CODE 29482

DL STATE SC DRIVER'S LICENSE NO. 104353753 CLASS D COL NO

RACE W SEX F BIRTH DATE 10-18-97 HGT. 5'7 WGT. 132 HAIR BLN EYES HAB

VEH. LIC. NO. --- STATE --- MAKE OF VEH. --- YEAR --- MOTOR VEH. --- AUTO --- BICYCLE --- COMM. VEH. --- OTHER ---

VEHICLE OWNER FIRST NAME --- MIDDLE NAME --- LAST NAME ---

OWNER STREET --- CITY --- STATE --- ZIP CODE ---

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT DUTY STREET 2056 Middle Street

DATE OF TRIAL 7-12-22 TIME OF TRIAL 3pm CITY Sullivan Island STATE SC ZIP CODE 29482

VIOLATION SECTION NO. 14-8 VIOLATION DISORDERLY CONDUCT COURT APPEARANCE REQUIRED YES NO

DATE OF VIOLATION 6-11-22 TIME OF VIOL. 0157 SC POINTS --- B.A. LEVEL ---

VIOLATION LOCATION STA 24 ST COUNTY CHAR

LAT --- LONG --- CITY SI

NAME AND RANK OF ARRESTING OFFICER Denett / PFC SCCJA OFFICER NUMBER 515

BAIL DEPOSITED CIS DATE OF ARREST 6-11-22 BOND AMOUNT REQUESTED 1,040

PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

BE SURE YOU UNDERSTAND FROM THE ARRESTING OFFICER THE EXACT TIME AND BEFORE WHOM YOU ARE TO APPEAR. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. POINTS FOR OUT OF STATE VIOLATOR WILL BE ASSESSED BY YOUR HOME STATE LICENSING AUTHORITY AND MAY DIFFER FROM STATE TO STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVER'S LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET.

VIOLATOR'S COPY TICKET# **8102P 0964357**

CITY/COUNTY OF

SULLIVAN ISLAND

INCIDENT NO. 22-00134

AGENCY/TROOP: SFD 16

Form S-438
Rev. 06/2014

UNIFORM TRAFFIC TICKET

STATE OF SOUTH CAROLINA
VERSUS

FIRST NAME MEREDITH		MIDDLE NAME LOGAN		LAST NAME WHITEHURST	
STREET 802 Recycling Ln					
CITY Greenville NC				STATE SC	ZIP CODE 27834
DL STATE NC	DRIVER'S LICENSE NO. 000038383312			CLASS C	CDL ☐ YES ☒ NO
RACE W	SEX F	BIRTH DATE 9/5/98	HGT 53	WGT.	HAIR BRN
VEH. LIC. NO.		STATE	MAKE OF VEH.	YEAR	HAZ MT
VEHICLE OWNER FIRST NAME		MIDDLE NAME		LAST NAME	

OWNER STREET	CITY	STATE	ZIP CODE

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT DUTY		STREET 2056 Middle Street			
DATE OF TRIAL 7/12/22	TIME OF TRIAL 3pm	CITY Sullivan's Island	STATE SC	ZIP CODE 29482	
VIOLATION SECTION NO. hwp ord. 14-8		VIOLATION - COURT APPEARANCE REQUIRED YES NO DISORDERLY CONDUCT			
DATE OF VIOLATION 6/11/22	TIME OF VIOL. 0157	SC POINTS -		B.A. LEVEL -	
VIOLATION LOCATION STA 24 ST		COUNTY CHAR			
LAT	LONG	CITY SI			

NAME AND RANK OF ARRESTING OFFICER Denett / Pfc		SCCJA OFFICER NUMBER 515	
BAIL DEPOSITED C/S	DATE OF ARREST 6/11/22	BOND AMOUNT REQUESTED 1,040	

PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

BE SURE YOU UNDERSTAND FROM THE ARRESTING OFFICER THE EXACT TIME AND BEFORE WHOM YOU ARE TO APPEAR. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. POINTS FOR OUT OF STATE VIOLATOR WILL BE ASSESSED BY YOUR HOME STATE LICENSING AUTHORITY AND MAY DIFFER FROM STATE TO STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVER'S LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET.

VIOLATOR'S COPY

TICKET# 8102P 0964359

CITY/COUNTY OF:

Sullivan's Island / Charleston

202-00137

AGENCY/TROOP:

SIAD 16

Sullivan’s Island Town Code §132.08

(A) A person shall be guilty of disorderly conduct if, with the purpose of causing public danger, alarm, disorder or nuisance, or if his or her conduct is likely to cause public danger, alarm, disorder or nuisance, he or she willfully does any of the following acts in a public place or within public view:

- (1) Commits an act in a violent and tumultuous manner toward another whereby that other is placed in danger of his or her life, limb or health;
- (2) Commits an act in violent and tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
- (3) Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;
- (4) Interferes with another's pursuit of a lawful occupation by acts of violence;
- (5) Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by police or other lawful authority known to be such;
- (6) Incites, attempts to incite or is involved in attempting to incite a riot;
- (7) Addresses abusive language or threats to any police officer, any other authorized official of the town who is engaged in the lawful performance of his or her duties, or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;
- (8) Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the public annoyed;
- (9) Is in a public place under the influence of an intoxicating liquor or drug in such a condition as to be unable to exercise care for his or her own safety or the safety of others;
- (10) Resists or obstructs the performance of duties by any police officer or any other authorized official of the town, when known to be such an official;
- (11) Damages, befouls or disturbs public property or the property of another so as to create a hazardous, unhealthy or physically offensive condition;
- (12) Makes or causes to be made any loud, boisterous or unreasonable noise or disturbance to annoy other persons nearby, or near to any public highway, road, street, lane, alley, park, square, or common, whereby the public peace is broken or disturbed or the traveling public annoyed;
- (13) Assembles or congregates with another or others for the purpose of or with the intent to engage in gaming;
- (14) Frequents any public place with intent to obtain money from other persons by illegal and fraudulent schemes, tricks and artifices or devices;
- (15) Assembles with any person for the purpose of engaging in any fraudulent scheme, device or trick to obtain any valuable thing in any place or from any person in the town, or who shall aid or abet therein;
- (16) Is at any place where gaming or the illegal or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated;
- (17) Fails to obey a lawful order to disperse by a police officer, when known to be such an official, where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is imminently threatened; and/or
- (18) Any person who shall use "fighting words or gestures" directed towards any other person who becomes outraged and thus creates turmoil.

(B) It shall be unlawful for any person to urinate or excrete in a public place or within public view and any person so doing shall be guilty of disorderly conduct.

(C) This section shall not be construed to suppress the right to lawful assembly, picketing, public speaking or other lawful means of expressing public opinion not in contravention of other laws.

(D) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

INCITE A RIOT. Includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written advocacy of ideas or expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

RIOT. A public disturbance involving an act or acts of violence by one or more persons, part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person a threat or threats of the commission of an act or acts of violence by one or more persons part

or an assemblage of three or more persons having, intentionally or recklessly, the ability of immediate execution of such threat or threats, when the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.
(Prior Code, § 14-8) (Ord. passed 8-17-2010) Penalty, see § 132.99

Incident Detail Report

Incident Detail Report

Incident Status Closed
Incident Number 202200360779
Incident Date 6/11/2022 01:57:11

Incident Information

Incident Type:	113C	Alarm Level:	
Priority:	LP3_Charlie	Problem:	*Disturbance/Nuisance-Just Occ
Determinant:		Agency:	Law Enforcement
Base Response #:	06112022-0001394	Jurisdiction:	Sullivans Island PD_SIPD
Confirmation #:		Division:	SID2
Taken By:	Bailey, Horace V	Battalion:	SID2
Response Area:	SIPD 105	Response Plan:	LL03
Disposition:	LCCR_Call Comp/ Report Taken	Command Ch:	
Cancel Reason:		Primary TAC:	
Incident Status:	Closed	Alternate TAC:	
Certification:		Delay Reason:	
Longitude:	79831622	Latitude:	32764497
MGRS:	17SPS0943725783	UTM:	17S 609437 3625783

Incident Location

Location Name:		County:	CHARLESTON
Address:	2430 ION AV	Location Type:	
Apartment:		Cross Street:	MIDDLE ST/ION AV
Building:		Tow Provider Area:	SPA SIPD DIS 5
City, State, Zip:	SULLIVANS ISLAND, SC 29482	Map Reference:	

Call Receipt

Caller Name:	AHMAD	Call Back Phone:	715-551-3887
Method Received:	Emergency Rule 2	Caller Location:	
Caller Type:		Caller Apt/Bldg:	/
Caller Address:		Caller County:	
Caller City, State, Zip:			

Time Stamps

Description	Date	Time	User
Phone Pickup	6/11/2022	01:57:10	
1st Key Stroke	6/11/2022	01:57:11	
In Pending Queue	6/11/2022	01:57:39	
Call Taking Complete	6/11/2022	01:57:39	Bailey, Horace V
1st Unit Assigned	6/11/2022	01:58:36	
1st Unit Enroute	6/11/2022	02:00:32	
1st Unit Arrived	6/11/2022	02:02:10	
Incident Under Control			
Time Sent to Other CAD			
Incident Closed	6/11/2022	04:14:16	Hancock, April X

Elapsed Times

Description	Time
Received to In Queue	00:00:28
Call Taking	
In Queue To 1st Assign	00:00:57.0
Call Received to 1st Assign	00:01:26.0
Assigned to 1st Enroute	00:01:56.0
Enroute to 1st Arrived	00:01:38.1
Incident Duration	02:17:06

ANI/ALI Calls

Time Received	Phone Number	Address	City
6/11/2022 1:57 AM	715-551-3887		

Units Assigned

Unit	Assigned	Disposition	Enroute	Staged	Arrived	At Patient	Delay Avail	Complete	Odm. Enroute	Odm. Arrived	Cancel Reason
SI9	6/11/2022 01:58:36		6/11/2022 2 02:00:36		6/11/2022 02:02:10			6/11/2022 03:39:32			
SI5	6/11/2022 01:58:59	LCCR_Call Comp/ Report Taken	6/11/2022 2 02:00:32		6/11/2022 02:02:12			6/11/2022 04:14:16			

Personnel Assigned

No Personnel Assigned

Pre-Scheduled Information

No Pre-Scheduled Information

Special Equipment

No Special Equipment

Transports

No Transports

Transport Legs

No Transport Legs

Comments

Date	Time	User	Type	Confidential	Comment
6/11/2022	01:57:10	SYS	Response		[1] WIRELESS CALL OP FIRE-QUERY FOR LOC COU TY EMS

6/11/2022	01:57:10	SYS	Response		[2] additional info
6/11/2022	01:57:32	SYS	Response		[3] additional info
6/11/2022	01:57:32	SYS	Response		[4] WIRELESS CALL OP FIRE-QUERY FOR LOC COUNTRY EMS
6/11/2022	01:57:32	SYS	Response		[5] A cellular re-bid has occurred, check the ANI/ALI Viewer for details
6/11/2022	01:58:13	HVB	Response		[6] 2 FEMALES ASSAULTED ME
6/11/2022	01:58:27	HVB	Response		[7] ADV D THEY WERE USING RACIAL SLURS
6/11/2022	01:58:42	HVB	Response		[8] [Notification] [Law Enforcement]-Problem changed from 911 Open Line to *Disturbance/Nuisance-Just Occ by Law Enforcement
6/11/2022	01:58:52	HVB	Response		[9] CALLER IS UBER DRIVER
6/11/2022	01:59:01	HVB	Response		[10] ADV D HES BY STATION 24 ST
6/11/2022	01:59:21	HVB	Response		[11] SUBJ STILL IN AREA
6/11/2022	01:59:36	AXH	Response		[12] WHAT TYPE OF VEH IS HE IN
6/11/2022	01:59:51	HVB	Response		[13] ADV D THE SUBJ ARE AT 2430 LOAN AVE
6/11/2022	02:00:07	HVB	Response		[14] COMPL-BLACK TOYOTA SIENNA
6/11/2022	02:01:29	HVB	Response		[15] CALLER REQ TO MEET AT STATION 24 ST/MIDDLE ST
6/11/2022	02:14:50	AXH	Response		[16] SC OK
6/11/2022	02:17:36	AXH	Response	Yes	[17] [Query] , Vehicle: 1,SC,3646QK,SC,2022,PC
6/11/2022	02:25:33	AXH	Response		[18] SC OK
6/11/2022	02:28:13	AXH	Response		[19] Secondary Location for SI5: 2230 ION AV, 2230 ION AV,SULLIVANS ISLAND, SC 29482.
6/11/2022	02:28:32	AXH	Response		[20] Secondary Location for SI9: 2230 ION AV, 2230 ION AV,SULLIVANS ISLAND, SC 29482.
6/11/2022	02:38:28	ASM	Response		[21] SI5 104353753 NC 000038383312
6/11/2022	03:09:57	AXH	Response		[22] Requested Case Number(s) issued for Incident #[202200360779], Jurisdiction: Sullivans Island PD_SIPD. Case Number(s): 2022-0000134..
6/11/2022	03:23:52	AXH	Response		[23] Multi-Agency Emergency Fire Rescue Incident #: 22-0047396
6/11/2022	03:23:52	AXH	Response		[24] PANIC ATTACK SCENE IS SECURE [Shared]
6/11/2022	03:24:06	AXH	Response		[25] FML SUBJECT [Shared]
6/11/2022	03:24:29	JEV	Response		[26] [Page] Problem changed from *Psych_Abn Behavior_Suicide to Sick Person B 01 by Emergency Fire Rescue [Shared]
6/11/2022	03:24:48	AXH	Response		[27] UPDATED LOCATION 2430 ION [Shared]
6/11/2022	03:24:57	Automatic by System	Response		[28] [Geographic Area: 2430 ION AV] [Medium] [Dispatch Info] IF THE INCIDENT IS OCCURRING IN THE WATER, MAKE SURE TO ADD EITHER MU1 OR MU2 SO THE DISPATCH GOES OUT OVER THE HARBOR CHANNEL [Shared]
6/11/2022	03:26:04	MJJ	Response		[29] Backed up sif2 with E1201 [Shared]
6/11/2022	03:26:43	AXH	Response		[30] REQUESTING NO LIGHTS AND SIRENS [Shared]
6/11/2022	03:26:52	AXH	Response		[31] [Page] [30] REQUESTING NO LIGHTS AND SIRENS [Shared] [Shared]
6/11/2022	03:30:17	AXH	Response		[32] WHATS THE ETA [Shared]
6/11/2022	03:30:39	AXH	Response		[33] PT IS STABLE TINGLING IN HANDS AND FEET [Shared]
6/11/2022	03:30:49	AXH	Response		[34] PD RQ ETA [Shared]
6/11/2022	03:35:20	AXH	Response		[35] SI9 ADV FIRE ON SCENE [Shared]
6/11/2022	03:35:32	AXH	Response		[36] SI9 RESPONDING TO MEET WITH CALLER ST 24 [Shared]
6/11/2022	03:39:27	AXH	Response		[37] SI5 ADV EMS ON SCENE [Shared]
6/11/2022	03:39:42	M28	Response		[38] M28 At Scene at 06/11/2022 03:39:42, Latitude: 32.7641258333333, Longitude: -79.831579 , Speed= 0.15 [Shared]

6/11/2022	03:55:18	MJJ	Response	[39] M28 ok, working disposition [Shared]
6/11/2022	04:00:59	AXH	Response	[40] SC SI5 OK [Shared]
6/11/2022	04:14:16	AXH	Response	[41] SI5 ,PT REFUSED TRANSPORT CLR [Shared]
6/11/2022	04:18:18	MJJ	Response	[42] [Emergency Fire Rescue] has closed their incident [22-0047396]
6/11/2022	04:18:18	MJJ	Response	[43] M28 pt refusal, ama [Shared]
6/11/2022	04:20:05	AXH	Response	[44] AV [Shared]

Address Changes

Date	Time	Location/Address/Apt/Bldg City, State, Zip	User
6/11/2022	01:57:57	/ 2300-2330 Jasper Blvd / , 29482	Bailey, Horace V
6/11/2022	03:24:28	/ 2300 - 2330 JASPER BLVD / SULLIVANS ISLAND, SC 29482	Hancock, April X
6/11/2022	03:24:39	/ 2230 ION AV / SULLIVANS ISLAND, SC 29482	Hancock, April X

Priority Changes

Date	Time	Changed from Priority	Reason	User
6/11/2022	01:58:42	LP6_Omega 6	Additional Information	Bailey, Horace V

Transport Changes

No Transport Changes

Transport Priority Changes

No Transport Priority Changes

Alarm Level Changes

No Alarm Level Changes

Activity Log

Date	Time	Unit	Activity	Location	Log Entry	User
6/11/2022	01:57:11		Read Comment		Comment for Incident 003 was marked as read.	HVB
6/11/2022	01:57:11		RapidSOS		No location records found	RSOS
6/11/2022	01:57:39		Incident in Waiting Queue			
6/11/2022	01:57:39		ANI/ALI Statistics		INT Insert:Jun 11 2022 01:57:10 / INT SendNP:Jun 11 2022 01:57:09 / WS RecvNP:Jun 11 2022 01:57:09 / WS Process:Jun 11 2022 01:57:39	HVB

6/11/2022	01:57:39		Waiting Pending Incident Time Warning		Waiting Pending Incident Time Warning timer expired	
6/11/2022	01:57:39		Problem Nature	2300-2330 Jasper Blvd	Incident problem nature changed from <Blank> to 911 Open Line	HVB
6/11/2022	01:57:44		Remove Waiting Pending Incident Warning		Removing Waiting Pending Incident Time Warning timer expired	
6/11/2022	01:57:44		Incident in Waiting Queue Timer Clear			
6/11/2022	01:57:58		Address Update		Address Update, Incident ID Assigned: 7762003	HVB
6/11/2022	01:58:25		Read Incident		Incident 003 was Marked as Read.	AXH
6/11/2022	01:58:36	SI9	Dispatched	Jasper Blvd / Middle St	2300 - 2330 JASPER BLVD; Response Number: 06112022-0001394;	AXH
6/11/2022	01:58:42	SI9	Change Unit Priority		Change Unit Priority from LP6_Omega to LP3_Charlie	HVB
6/11/2022	01:58:42		Incident Priority Change		Incident priority changed from LP6_Omega to LP3_Charlie due to Additional Information	HVB
6/11/2022	01:58:42		Problem Nature	2300 - 2330 JASPER BLVD	Incident problem nature changed from 911 Open Line to *Disturbance/Nuisance-Just Occ	HVB
6/11/2022	01:58:59	SI5	Dispatched	Jasper Blvd / Middle St	2300 - 2330 JASPER BLVD; Response Number: 06112022-0001395;	AXH
6/11/2022	02:00:32	SI5	Responding	2300 - 2330 JASPER BLVD	Responding From = Jasper Blvd / Middle St.	AXH
6/11/2022	02:00:36	SI9	Responding	2300 - 2330 JASPER BLVD	Responding From = Jasper Blvd / Middle St.	AXH
6/11/2022	02:02:10	SI9	At Scene	2300 - 2330 JASPER BLVD		AXH
6/11/2022	02:02:12	SI5	At Scene	2300 - 2330 JASPER BLVD		AXH
6/11/2022	02:17:36		[Query]		[Query] Vehicle: 1,SC,3646QK,SC,2022,PC	AXH
6/11/2022	02:17:36		Supplemental Information	2300 - 2330 JASPER BLVD	Supplemental Vehicle record 1989907 was added for license plate 3646QK	AXH
6/11/2022	02:17:36		License Plate	2300 - 2330 JASPER BLVD	Plate Number 3646QK has been added.	AXH
6/11/2022	02:28:13	SI5	Responding 2nd Loc	2230 ION AV	Incident ID = 7762003, 32762032, 79836355,	AXH
6/11/2022	02:28:33	SI9	Responding 2nd Loc	2230 ION AV	Incident ID = 7762003, 32762032, 79836355,	AXH
6/11/2022	02:29:24	SI5	At Scene 2nd Location	2230 ION AV	Incident ID = 7762003, 32.762032, -79.836355, ,	AXH

6/11/2022	02:29:26	SI9	At Scene 2nd Location	2230 ION AV	Incident ID = 7762003, 32.762032, -79.836355, ,	AXH
6/11/2022	03:09:57		Requested Case Number	2300 - 2330 JASPER BLVD	Requested Case Number(s) issued for Incident #[202200360779], Jurisdiction: Sullivans Island PD_SIPD. Case Number(s): 2022-0000134.	AXH
6/11/2022	03:23:52		MultiAgencyResponse		Generated Inc: Emergency Fire Rescue Inc#: 22-0047396	AXH
6/11/2022	03:26:52		Notify Comment		(Response Viewer)	
6/11/2022	03:39:32	SI9	Available	2430 ION AV	Unit Cleared From Incident 202200360779	AXH
6/11/2022	04:14:16	SI5	Disposition	2430 ION AV	LCCR_Call Comp/ Report Taken	AXH
6/11/2022	04:14:16	SI5	Available	2430 ION AV	Unit Cleared From Incident 202200360779	AXH
6/11/2022	04:14:16	SI5	Response Closed	2430 ION AV	Response Disposition: LCCR_Call Comp/ Report Taken	AXH
6/11/2022	04:14:16	SI5	Available	2430 ION AV	,PT REFUSED TRANSPORT CLR	AXH

Edit Log

Date	Time	Field	Changed		Reason	Table	Workstation	User
			From	To				
6/11/2022	01:57:10	Call_Back_Phone		715-551-3887	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:10	Agency Name		Law Enforcement	(Response Viewer)	Incident	911DSP19	HVB
6/11/2022	01:57:10	Call Back Phone		715-551-3887	(Response Viewer)	Incident	911DSP19	HVB
6/11/2022	01:57:11	Longitude	0	79834663	Entry Selected/Returned from GeoLocator	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Latitude	0	32764362	Entry Selected/Returned from GeoLocator	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	City		SULLIVANS ISLAND	Updated City	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Address	32° 45'51.7"N / 079° 50'04.79"W	2300-2330 JASPER BLVD	Entry Selected/Returned from GeoLocator	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	ResponsePlanType	0	0	(Response Viewer)	Response_Master_Incident	911DSP19	HVB

6/11/2022	01:57:11	Response_Area		SIPD 105	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Battalion		SID2	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Division		SID2	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Jurisdiction		Sullivans Island PD_SIPD	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Address	(Blank)	32° 45'51.7"N / 079° 50'04.79"W	New Entry	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:11	Unread Comment	False	True	(Response Viewer)	Incident	911DSP19	HVB
6/11/2022	01:57:39	Problem		911 Open Line	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	ResponsePlanType	0	1	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Address	2300-2330 Jasper Blvd	2300 - 2330 JASPER BLVD	Update Address Form	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Longitude	79834663	79835258	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Latitude	32764362	32764106	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	House_Number_Suffix	-		Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Post_Directional	-		Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Street_Type	-BLVD	BLVD	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Name_Component	-JASPER	JASPER	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Prefix_Directional	-		Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	House_Number	-0	0	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:57:57	Address	2300-2330 Jasper Blvd	2300 - 2330 JASPER BLVD	Powerline Command	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:25	Read Call	False	True	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	01:58:42	Current_UnitRespPriorityDesc	SI9: LP6_Omega	LP3_Charlie	Additional Information	Response_Vehicles_Assigned	911DSP19	HVB
6/11/2022	01:58:42	Problem	911 Open Line	*Disturbance /Nuisance-Just Occ	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:42	Response_Plan		LL03	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:42	DispatchLevel		Normal	(Response Viewer)	Response_Master_Incident	911DSP19	HVB

6/11/2022	01:58:42	ResponsePlanType	0	1	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:42	Priority_Description	LP6_Omega	LP3_Charlie	Additional Information	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:42	Priority_Number	6	3	Additional Information	Response_Master_Incident	911DSP19	HVB
6/11/2022	01:58:42	Incident_Type	911 Open Line	113C	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	02:00:13	MethodOfCallRcvd		Emergency Rule 2	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	02:00:30	Caller_Name	AT&T MOBILITY	AHMAD	(Response Viewer)	Response_Master_Incident	911DSP19	HVB
6/11/2022	03:24:24	Address	2300 - 2330 JASPER BLVD	2230 ION	Address Change	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Response_Area	SIPD 105	SIPD 114	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Address	2300 - 2330 JASPER BLVD	2230 ION AV	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Latitude	32764106	32762032	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Longitude	79835258	79836355	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Street_Id	78835	77488	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Cross_Street	STATION 23RD ST/STATION 24TH ST	STATION 22ND ST/STATION 22 1/2 ST	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:28	Address	2230 ION	2230 ION AV	Change Verified	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:37	Address	2230 ION AV	2430 ION AV	Address Change	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Response_Area	SIPD 114	SIPD 105	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Address	2230 ION AV	2430 ION AV	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Latitude	32762032	32764497	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Longitude	79836355	79831622	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Street_Id	77488	371474	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Cross_Street	STATION 22ND ST/STATION 22 1/2 ST	MIDDLE ST/ION AV	(Response Viewer)	Response_Master_Incident	911DSP14	AXH
6/11/2022	03:24:39	Address	2430 ION AV	2430 ION AV	Change Verified	Response_Master_Incident	911DSP14	AXH

Custom Time Stamps

No Custom Time Stamps

Custom Data Fields

No Custom Data Fields

Case Number

Case Number	Method	Radio Name
2022-0000134	Request	

Attachments

No Attachments

Dispositions

Date	Time	Unit	Disposition	User
6/11/2022	04:14:16		LCCR_Call Comp/ Report Taken	AXH

Supplemental Person

No Supplemental Persons

Supplemental Property

No Supplemental Property

Supplement Vehicle

	License	License Plate	License	License	Vehicle	Vehicle	Vehicle	Vehicle	Vehicle	Vehicle	
Vin	Plate	Plate Type	Plate State	Plate Year	Make	Model	Year	Style	Color1	Color2	Towed by
	3646QK	PC:Passenger Car	SC	2022			0				
Characteristics						Comments					

Supplemental Weapon

No Supplemental Weapons

Sullivan's Island Police Department Incident Report

AGENCY I.D.:
SC0100700

SULLIVAN'S ISLAND POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

2 2 - 0 0 1 3 4

NCIC

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E V E N T	INCIDENT TYPE				COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM ☒ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☒ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
	1. NRP - DISORDERLY CONDUCT (14-8)				☒ YES ☐ NO	☐ YES ☐ NO	13		
	2.				☐ YES ☐ NO	☐ YES ☐ NO			
	3.				☐ YES ☐ NO	☐ YES ☐ NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)								ZIP CODE	WEAPON TYPE
STATION 24 STREET & MIDDLE STREET, SULLIVAN'S ISLAND SC								29482	
V I C T I M	INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.	
	06/11/2022	0157		06/11/2022	0412	DISP. DATE	DISP. TIME		
					06/11/2022	0158	0202	0413	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	
GHOZLAN, AHMED A				#1	#2	J	S	O	
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	
VICTIM'S NAME (LAST, FIRST, MIDDLE)				RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	
SOCIETY				#1	#2	J	S	O	
HEIGHT				WEIGHT		HAIR	EYES		
FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC									
ADDRESS				CITY		STATE	ZIP CODE	LOCATION NO.	
# 1	VISIBLE INJURY (VICT. 1) ☐ YES ☒ NO EXPLAIN --								
	VICTIM (NO. 1) USING: ALCOHOL: ☐ YES ☒ NO ☐ UNK DRUGS: ☐ YES ☒ NO ☐ UNK								
	☐ TWO-MAN VEH. ☐ ONE-MAN VEH. ☐ DETECTIVE/SPL ASMT. ☐ OTHER ☐ ALONE ☐ ASSISTED								
	J - This Jurisdiction S - State O - Out of State U - Unknown								
S U B J E C T	SUBJECT NAME (LAST, FIRST, MIDDLE)				RACE	SEX	AGE	ETH	
	WHITEHURST, MEREDITH LOGAN				F		23		
	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC								
	ADDRESS				CITY	STATE	ZIP CODE	LOCATION NO.	
# 1	SUBJECT (NO. 1) USING ALCOHOL: ☒ YES ☐ NO ☐ UNK				ARRESTED NEAR OFFENSE SCENE ☒ YES ☐ NO		DATE/TIME OF OFFENSE		
	DRUGS ☐ YES ☐ NO ☒ UNK TYPE				TOTAL # ARRESTED 2		06/11/2022 0157		
							06/11/2022		

Offenses:
DISORDERLY CONDUCT (14-8)

Sullivan's Island, SC

On the above date and approximate time, Pfc De Nett and Ofc McMullen were dispatched to the area of Station 24 Street and Jasper Boulevard in regards to an assault with an Uber driver. Dispatch advised that the Complainant was in a Toyota Sienna minivan.

Upon arrival, Pfc De Nett observed a dark in color minivan bearing SC tag- 3646QK at the stop sign of Station 24 Street and Middle Street. Pfc De Nett made contact with the driver / Complainant who was identified as, Ahmed Ghozlan. Mr. Ghozlan appeared to be upset and shaken. Ofc McMullen arrived on scene to assist. Mr. Ghozlan briefed the Officers on the recent incident and advised that there was dash camera footage recorded of the incident. Mr. Ghozlan stated that the Uber ride had not been completed and when the female subjects did leave the area they walked towards I'on Avenue with an unknown male passerby.

Mr. Ghozlan was able to download the dash camera footage from the Uber ride for Officers on scene to view. Pfc De Nett observed the footage to be to the effect; two white females in the back passenger seats of Mr. Ghozlan's minivan. The female subjects were conversing about personal business. The female subjects were ultimately identified as, Meredith Logan WHITEHURST and Virginia GALBRAITH. Mr. Ghozlan appeared to take a deep breath and then the female subjects began conversing with Mr. Ghozlan. WHITEHURST asked, "Sorry are we bothering you Mr. Uber?" and GALBRAITH stated,

Print Date: 06/21/2022 11:57:27 AM				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY			
P	TYPE (GROUP)										TOTAL VALUE
R	Burned										
O	Count./Forged										
P	Dest./Damaged										
E	Recovered										
R	Seized										
T	Stolen										
Y	Unknown										
A D M I N I S T	SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18		
					☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER		
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY										
	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER
PFC. SYDNEY DE NETT		06/11/2022		5		CAPT CHRISTOPHER WALLACE		06/22/2022		119	
FOLLOW-UP INVESTIGATION OFFICER											

AGENCY I.D.
SCQ100700

SULLIVAN'S ISLAND POLICE DEPARTMENT
INCIDENT REPORT

CASE NUMBER

2 2 - 0 0 1 3 4

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"You can drop us off if we are being a nuisance." Mr. Ghozlan then stated, "I'm sorry[?]" GALBRAITH stated to the effect to Mr. Ghozlan that he could just drop them where ever, that GALBRAITH would file a complaint with Uber, and also stated to Mr. Ghozlan, "You're being an asshole drop us off." Mr. Ghozlan ultimately pulled the car over to allow the GALBRAITH and WHITEHURST to exit. Mr. Ghozlan advised the subjects to get out of the vehicle. WHITEHURST began to point her cell phone at Mr. Ghozlan and continued to argue with him. Mr. Ghozlan stated that he would call 911, to which WHITEHURST then stated to the effect, "Call 911, get us arrested you're not even from the fucking country you fucking Arabic piece of shit" WHITEHURST and GALBRAITH exit the vehicle and stand in the roadway next to the vehicle while the van door was opened and both female subjects continued to curse and shout at Mr. Ghozlan. WHITEHURST in the video stated to the effect, "you Arabic piece of shit" numerous times, used profanity loudly in the streets, stated to the effect, "Go back to Islam or where ever the fuck you are from and put your ear plugs in over there buddy" The video continued and showed Mr. Ghozlan on the phone with Dispatch. While Mr. Ghozlan was on the telephone with Dispatch, WHITEHURST and GALBRAITH could be heard still screaming and using profanity in the streets.

Officers requested that Mr. Ghozlan remain on scene while Officers went down the road to 2430 l'on Avenue in an attempt to identify and locate the female subjects. Officers arrived on scene to the aforementioned address. Pfc De Nett observed two white females coming to the glass front door, one [WHITEHURST] with a steak knife in hand. Pfc De Nett directed WHITEHURST through the door to put the knife down and that it was the police, to which WHITEHURST complied. Pfc De Nett and Ofc McMullen identified the female subjects by NC DL and SC DL. While on scene, WHITEHURST stated that Mr. Ghozlan followed the female subjects home after they exited the Uber ride. Pfc De Nett advised WHITEHURST that if Mr. Ghozlan followed the females home then Mr. Ghozlan would have been outside the residence at that time. Ultimately, WHITEHURST then changed it to down the road and was escorted home by a male subject passerby, only identified as, Graham. Pfc De Nett showed WHITEHURST and GALBRAITH the video recording of inside the van.

WHITEHURST and GALBRAITH were cited and summoned for 'Disorderly Conduct' ticket #'s- 8102P0964359 and 8102P0964357. Upon GALBRAITH receiving her citation, GALBRAITH became very distraught, hyperventilating, pacing, and crying. Pfc De Nett observed GALBRAITH not being able to catch her breath and summoned the Sullivan's Island Fire Department and Charleston County EMS to the scene. A short time later, medic units arrived on scene and began treating GALBRAITH. Ultimately, GALBRAITH declined transport by EMS to the hospital. GALBRAITH entered her residence and all units cleared the scene without incident.

Ofc McMullen met with Mr. Ghozlan to provide him with a business card, case number, and the court date of 07/12/2022.

Nothing further at this time...

Print Date: 06/21/2022 11:57:27 AM				JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY		JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY	
P	TYPE (GROUP)						TOTAL VALUE
R	Burned						
O	Count/Forged						
P	Dest./Damaged						
E	Recovered						
R	Seized						
T	Stolen						
Y	Unknown						
A	SUBJECT IDENTIFIED	SUBJECT LOCATED	☐ ACTIVE ☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18		
D	☒ YES ☐ NO	☒ YES ☐ NO	☐ UNFOUNDED	☒ ARRESTED 18 AND OVER	☐ EX-CLEAR 18 AND OVER		
M	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY						
I	REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER	DATE	UNIT NUMBER	
N	PFC. SYDNEY DE NETT	06/11/2022	5	CAPT CHRISTOPHER WALLACE	06/22/2022	119	
S	FOLLOW-UP INVESTIGATION OFFICER						
T							

AGENCY I.D.
SC0100700

SULLIVAN'S ISLAND POLICE DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

22 - 00134

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☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☒ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

V I C T I M S U B J O V E R F L	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B	ETH
	☐ VICTIM #	GALBRAITH, VIRGINIA RHODES			#1	#2	#3	J	S	O	U		
	☒ SUBJECT # 02	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ RUNAWAY	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EB	EVENING PHONE	HB	
	☐ WANTED												
	☐ WARRANT												
☒ ARREST	☐ VICTIM NO. _____ VISIBLE INJURY: ☐ NO ☐ YES			☐ VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK.			☐ TWO-MAN VEH. ☐ DETECTIVE/SPLASMT ☐ ALONE						
☐ JAIL	EXPLAIN:			DRUGS: ☐ NO ☐ YES TYPE: _____			☐ UNK. ☐ ONE-MAN VEH. ☐ OTHER			☐ ASSISTED			
☒ SUMMONS	☒ SUBJECT NO. 02 USING ALCOHOL: ☐ NO ☒ YES												
☐	USING DRUGS: ☐ NO ☐ YES TYPE: _____						☒ UNKNOWN						

A D M I N I S T	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER	
	REASON FOR EXCEPTIONAL CLEARANCE. 1 ☐ OFFENDER DEATH 2 ☐ NO PROSECUTION 3 ☐ EXTRADITION DENIED 4 ☐ VICTIM DECLINES COOPERATION 5 ☐ JUVENILE - NO CUSTODY									
	REPORTING OFFICER(S)		DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER		
	PFC. SYDNEY DE NETT		06/11/2022	5	CAPT CHRISTOPHER WALLACE		06/22/2022	119		
PTL JOSEPH MCMULLEN		06/11/2022	9	FOLLOW-UP INVESTIGATION OFFICER						
				☐ YES ☒ NO						

AGENCY I.D.
SC0100700

SULLIVAN'S ISLAND POLICE DEPARTMENT
SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

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☐ ORIGINAL REPORT	☐ SUPPLEMENTAL REPORT	☒ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

V I C T I M S U B J O V E R F L	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH	
	☒ VICTIM # 002	GHOZLAN, AHMED A			#1	#2	#3	J	S	O	U	M	00	
	☐ SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.								
	☐ RUNAWAY	ADDRESS			CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE	EVENING PHONE				
	☐ WANTED									H	B			
	☐ WARRANT													
	☐ ARREST	☒ VICTIM NO. 002 VISIBLE INJURY: ☒ NO ☐ YES			VICTIM USING ALCOHOL: ☒ NO ☐ YES ☐ UNK			☐ TWO-MAN VEH. ☐ DETECTIVE/SPLASMT ☐ ALONE						
	☐ JAIL	EXPLAIN:			DRUGS: ☒ NO ☐ YES TYPE:			☐ UNK ☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED						
	☐ SUMMONS	☐ SUBJECT NO. _____ USING ALCOHOL: ☐ NO ☐ YES												
	☐	USING DRUGS: ☐ NO ☐ YES TYPE:						☐ UNKNOWN						

N A R R A T I V E												

			JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY			JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY		

A D M I N I S T	SUBJECT IDENTIFIED		SUBJECT LOCATED		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18			
	☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☒ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER			
	REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY											
	REPORTING OFFICER(S)			DATE		UNIT NUMBER		APPROVING OFFICER			DATE	
	PFC. SYDNEY DE NETT			06/11/2022		5		CAPT CHRISTOPHER WALLACE			06/22/2022	

PTL JOSEPH MCMULLEN			06/11/2022		9		FOLLOW-UP INVESTIGATION OFFICER				
							☐ YES ☒ NO				

RECEIVED

May 23 2024

Certificate of Counsel

S.C. SUPREME COURT

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 21, 2024

s/ C. Austin Elliott

C. Austin Elliott, Esq.

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Charleston, SC 29403

SC Bar Number: 100072

Attorney for Appellant