

THE STATE OF SOUTH CAROLINA
In The Supreme

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Jul 18 2024

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Hon. R. Scott Sprouse, Circuit Court Judge

Common Pleas Case No. 2022-CP-23-05979

Appellate Case No. 2021-001177

JEREMY ALAN WATSON,

v.

Petitioner,

THE STATE,

Respondent.

Appendix to Petition for *Writ of Certiorari*

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Gunflap
nucv

STATE OF SOUTH CAROLINA)

IN THE MAGISTRATE COURT
13TH JUDICIAL CIRCUIT

COUNTY/CITY OF GREENVILLE)

THE STATE OF SOUTH CAROLINA)

**ORDER OF STATE FIREARMS PROHIBITION
PURSUANT TO
SC CODE §16-25-30**

vs.)

JEREMY ALLEN WATSON)

DOB: 11/1/1982)

Warrant/Docket #: 2019A2330211226

Indictment #: 2021GS2303605

Defendant.)

NOV 10 PM 4:21
FBI WICKESBURG COCCAL SC

I find that the defendant named hereinabove was convicted of SC Code §16-25-20(D), Domestic Violence in the Third Degree, on this date, November 10th, 2021.



The defendant was represented by counsel.



The defendant knowingly and intelligently waived the right to counsel.



The defendant was tried by a jury.



The defendant knowingly and intelligently waived the right to have the case tried by a jury by pleading guilty or otherwise.

IT IS ORDERED that, pursuant to SC Code §16-25-30, the defendant is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. This prohibition shall apply for three years from the date of conviction or for three years from the date the person is released from confinement for the conviction, whichever is later.

Following this period of time, if the person has not been convicted of any other domestic violence offenses pursuant to Chapter 25, Title 16 or similar offenses in another jurisdiction, no domestic violence charges are currently pending against the person, and the person is not otherwise prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition pursuant to any other State law, the person's right to ship, transport, receive, or possess a firearm or ammunition shall be restored. If the person requests in writing to the South Carolina Law Enforcement Division, SLED shall notify the National Instant Criminal Background Check System that the State has restored the person's right to ship, transport, receive, or possess a firearm or ammunition, and shall request immediate removal of the person's name to whom the restrictions contained in this Order apply.

A person who violates this prohibition is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

This Order shall be provided to the defendant and forwarded to the State Law Enforcement Division.

IT IS SO ORDERED.


Judge

Date: NOV 10 2021

SCCA/769

NCIC

21 NOV 10 PM 4:21
PAUL WICKENBARGER, COC 601, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
DEANNA WINKLER)
DOB:)
)
COMPLAINANT(S))
vs.)
)
JEREMY ALLEN WATSON)
)
RESPONDENT(S).)

IN THE COURT OF GENERAL SESSIONS
THE 13TH JUDICIAL CIRCUIT

WARRANT No.: 2019A2330211226

INDICTMENT No.: 2021GS2303605

PERMANENT RESTRAINING ORDER

RESPONDENT IDENTIFIERS

SEX *	RACE *	DOB*	HEIGHT
M	W		5-10
WEIGHT	HAIR	EYES	STATE
155	Blonde	Blue	SC

And/or on behalf of minor family member(s) or
other protected persons: (List name)

Relationship to Complainant: Child in Common
34 Frady Rd.
Greenville, SC 29611

Respondent's Address

CAUTION:

***Indicates required information for entry into NCIC**

☐ Weapon Involved

☐ Weapon Present on Respondent's Property

☒ Access to weapons

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter.
Respondent has been provided with reasonable notice and opportunity to be heard.
Additional findings of this order are as set forth below.

THE COURT HEREBY ORDERS:

- ☒ That the above named Respondent be restrained from committing further acts of abuse or threats of abuse.
☒ That the above named Respondent be restrained from any contact with the Protected Person as set forth on the attached pages.

The terms of this order shall be effective until December 29th, 2099.

WARNINGS TO RESPONDENT:

This order shall be enforced in any county of South Carolina and by the courts of any state, District of Columbia, any U. S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

State and federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922).

Only the Court can change this order.

For Additional Information Call: (check the County that applies)

☒ Greenville County Sheriff's Office: 864-271-5210 - Greenville County Clerk of Court: 864-467-8551

☐ Pickens County Sheriff's Office: 864- 898-5500 - Pickens County Clerk of Court: 864-898-5598

The Court held a hearing on November 10th, 2021. After hearing the evidence, and examining the supporting documentation, the Court has determined that the Complainant has/ has not proved by a preponderance of evidence the need for issuance of a Permanent Restraining Order.

The Court makes the following finding of fact: (Check all that apply)

- ☒ 1. The Complainant resides in Pickens County, SC.
- ☒ 2. The Respondent lives at 34 Frady Rd. which is in Greenville County, SC.
- ☐ 3. The Respondent is employed at _____ which is located at _____.
- ☐ 4. The Respondent is a nonresident of this state or cannot be found.
- ☒ 5. The Respondent:
 - ☒ was convicted of a criminal offense (as defined in SC Code Ann. § 16-3-1900(3)) for which the victim was the subject of the crime.
 - ☐ was convicted of a criminal offense (as defined in SC Code Ann. § 16-3-1900(3)) for which the witness assisted the prosecuting entity/agency.
- ☒ 6. The conviction took place on this date November 10th, 2021 in the General Sessions court. The prosecuting entity/agency was the 13th Judicial Circuit Solicitor's Office. The qualifying conviction was: Domestic Violence 3rd Degree.
- ☐ 7. A restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order.

IT IS THEREFORE ORDERED THAT (Check all that apply):

- ☒ A. The Respondent is restrained, prohibited and forbidden from abusing, threatening to abuse, or molesting the Complainant or members of Complainant's family.
- ☒ B. The Respondent is restrained, prohibited and forbidden from entering or attempting to enter the Complainant's place of residence, employment, or education.
- ☒ C. The Respondent is restrained, prohibited and forbidden from communicating or attempting to communicate with the Complainant or members of the Complainant's family in any way that would violate Section 16-3-1910.
- ☒ D. Federal Firearms Prohibition, pursuant to 18 U.S.C § 922.
 - 1. Does this Order protect an intimate partner, a child of an intimate partner, or a child of the respondent? ☒ YES ☐ NO
 - 2. Did the person restrained have actual notice and an opportunity to participate in the hearing? ☒ YES ☐ NO
 - 3. Does the Order find the restrained person a credible threat or explicitly prohibit the use, attempted use, or threatened use of physical force? ☒ YES ☐ NO
- ☒ E. A copy of this Order shall be served on the following law enforcement agencies: Greenville County Sheriff's Office.

AND IT IS SO ORDERED.

Entered at 3:36 P.M. on November 10th, 2021.

SCCW-M De
Circuit Court Judge

VIOLATION OF THIS ORDER IS A FELONY CRIMINAL OFFENSE PUNISHABLE BY UP TO FIVE YEARS IN PRISON.

TO LAW ENFORCEMENT OFFICERS:

Pursuant to S.C. Code Ann. § 16-3-1910, notwithstanding any other provision of law, the terms of this Order are enforceable throughout this State. Law enforcement officers shall arrest a respondent who acts in violation of this Order after service and notice of the Order have been provided. A respondent who is in violation of a permanent restraining order is guilty of a felony, if the underlying conviction that was the basis for the permanent restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the permanent restraining order was a misdemeanor, a respondent who is in violation of an permanent restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

COPY GIVEN TO COMPLAINANT BY  (initials)

COPY GIVEN TO RESPONDENT BY  (initials)

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE

VS.

Jeremy Allen Watson

AKA:

Race: WHITE Sex: M Age: 38

DOB: SS#

Address: 34 Frady Rd.

City, State, Zip: Greenville, SC 29611

DL#: SID#:

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021GS2303605

A/W#: 2019A2330211226

Date of Offense: 12/13/2019

S.C. Code § : 16-25-0020(C)

CDR Code #: 3812

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Domestic / Domestic Violence 3rd Degree

in violation of § 16-25-0020(D) of the S.C. Code of Laws, bearing CDR Code # 3813

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Morgan
Page, Morgan

103008

SC Bar#

Defendant

WARDER, RICHARD
Attorney for Defendant

05827

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,

for a determinate term of 45 days/months/years/Time Served ☐ Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years/Time Served and or payment of \$ _____ ; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.
1 days/months

☐ To include time spent on monitored house arrest prior to trial and sentencing.

☐ The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE VS Jeremy Allen Watson INDICTMENT/CASE#: 2021GS2303605 JS
SPECIAL CONDITIONS: A/W#: 2019A2330211226 NCIV
Gun Flag

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning : _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment 0 _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

		\$
Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____		\$
§14-1-206 (Assessments 107.5 %)		\$
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk: Paul B. Winkler
Court Reporter: C. Smith

Presiding Judge: [Signature]
Judge Code: 2130
Sentence Date: 11-10-21

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

Jeremy Alan Watson)
)
Applicant,)
v.)
State of South Carolina,)
)
Respondent.)

Case No.: 2022-CP-23-5979

ORDER OF DISMISSAL

24 FEB 29 PM 7:05
Shirley Garrett O'Dell, SC

This matter comes before the Court by way of an application for post-conviction relief filed by Applicant Jeremy Alan Watson, through his retained counsel, on October 31, 2022. An evidentiary hearing was held January 18, 2024, in the Greenville County Courthouse. Applicant was present and represented by counsel, Howard W. Anderson, III, Esq. Senior Assistant Deputy Attorney General Melody J. Brown represented Respondent, the State. After the receipt of testimony and argument, this Court took the matter under advisement. On January 29, 2024, after consideration of the testimony and counsel's argument, and after reviewing the record and the controlling case law, the undersigned advised the parties that the Court had determined that Applicant failed to carry his burden of proof. At that same time, the Court also requested that counsel for the State prepared a proposed order.¹ This Court now DENIES relief for the specific reasons set out in this order.

¹ The proposed order was provided to counsel for Applicant prior to this Court's acceptance. Applicant's counsel was allowed sufficient time to review the proposed order while this Court made its own detailed review. *See Fishburne v. State*, 427 S.C. 505, 516, 832 S.E.2d 584, 589 (2019) (providing a "proposed order should be transmitted to opposing counsel" for review and that counsel "should ... alert preparing counsel and the PCR court as to any deficiencies in the proposed order.").

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General Procedural History

Applicant is not currently incarcerated but served a forty-five-day sentence imposed for a domestic violence, third degree, conviction.

A Greenville County grand jury indicted Applicant in June 2021 for domestic violence second degree and assault and battery third degree. (Return Attachment 1). Russell C. Sanford Esq. represented Applicant on the charges. A jury trial was held November 9-10, 2021, before the Honorable Edward W. Miller. The jury found Applicant not guilty of domestic violence second degree, but guilty of the lesser charge of domestic violence third degree. (Return Attachment 2, Tr. 196; *see also* Return Attachment 3, verdict form). The jury also returned a not guilty verdict as to the charge of assault and battery third degree. (Return Attachment 2, Tr. 196; *see also* Return Attachment 3, verdict form). Judge Miller sentenced Applicant to forty-five days confinement for the domestic violence conviction. (Return Attachment 2, Tr. 199; *see also* Return Attachment 4, sentencing sheet). Judge Miller also issued orders permanently restraining Applicant from contact with the victim Deanna Walker, or her family, (Return Attachment 5), and prohibiting Applicant from shipping, transporting, receiving, or possessing a firearm or ammunition for three years pursuant to S.C. Code Ann. § 16-25-30. (Return Attachment 6). Applicant did not appeal.

ALLEGATIONS

In his current application, Applicant alleges he received ineffective assistance of counsel as follows:

- (a) Following my conviction and sentence, my trial counsel did not discuss my motion for new trial or appellate options. I would have directed a motion for new trial and an appeal be filed had I been consulted;

(b) Trial counsel did not meet with me before trial to prepare me to testify and, as a result, examined me in an ineffective manner. Even the assistant solicitor commented in closing on the shoddy examination from trial counsel. See Trial Tr. 177. As a result of trial counsel's ineffectiveness, I was unable to fully and adequately convey what happened, including through audio and photographic exhibits that were not presented.

(c) The Allen charge, as phrased, was objectionable as unduly coercive. Among other things, the charge concluded "with the hope that you can arrive at a verdict." [Trial Tr. 195]. But see State v. Williams, 386 S.C. 503, 515 n. 7 (2010) ("[W]e take this opportunity to caution trial judges against using the following language: 'with the hope that you can arrive at a verdict.' Because jurors are not required to reach a verdict after expressing that they are deadlocked, we believe this language could potentially be construed as being coercive."). Shortly after the charge, the jury returned its verdicts.

(PCR Application at 3).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In addition to carefully considering the record and the arguments presented by counsel, this Court has also had the opportunity to consider the testimony presented at the PCR evidentiary hearings and has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. §17-27-80 (2003).

Ineffective Assistance Claims

For claims that trial counsel provided ineffective assistance, this Court is guided by the familiar test: To show a violation of the Sixth Amendment, an applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Simpson v. Moore*, 367 S.C. 587, 595-96, 627 S.E.2d 701, 706 (2006). "A reasonable probability is a probability sufficient to undermine confidence in the

outcome” of the trial. *Strickland*, at 694. Relief will not be granted on a showing of mere error—prejudice must also be shown. *Id.*

To conduct a fair review of counsel’s performance, a reviewing court must “eliminate the distorting effects of hindsight” and attempt “to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.” *Strickland*, 466 U.S. at 689. Further, it is presumed that counsel made all decisions in exercise of reasonable judgment. *Strickland*, at 689. It is the applicant’s burden to prove, by a preponderance of the evidence, that he is entitled to relief. Rule 71.1 (e), SCRCP. *See also Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) (“the burden of proof is on the applicant to prove the allegations in his application”).

Ineffective Assistance: New Trial Motion and Direct Appeal

As to Applicant’s claim counsel failed to inform and consult regarding a new trial motion or direct appeal, this Court has considered Applicant’s testimony and counsel’s testimony on this point and is more persuaded by counsel’s testimony. Because this claim speaks to two separate acts, this Court has divided its analysis.

New Trial Motion

Applicant testified that he would have wanted counsel to file a motion for a new trial had counsel informed him of that possibility. Applicant argued that counsel could have asked the trial court to reconsider the verdict as a “thirteenth juror” and preserved for appeal an objection to the *Allen* charge. Applicant’s position fails as a matter of law. There could be neither deficient performance nor prejudice under *Strickland*.²

² The matter could be denied on lack of prejudice alone, as *Strickland* provides: “The object of an ineffectiveness claim is not to grade counsel’s performance. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be

RSS

“Where there is competent evidence to sustain a jury’s verdict, the trial judge may not substitute his judgment for that of the jury and overturn that verdict.” *State v. Miller*, 287 S.C. 280, 283, 337 S.E.2d 883, 885 (1985). Our Supreme Court noted in *Miller* that, though such a motion was made, “[i]t was improper for trial counsel to move for JNOV, a civil trial motion. In a criminal trial, a motion for a new trial is the only available post-trial motion addressing the sufficiency of evidence.” *Id.*, at 282, 337 S.E.2d at 884 at n. 2. Further, our Supreme Court requires a contemporaneous objection to preserve an issue for review. *See, e.g., State v. Aldret*, 333 S.C. 307, 312, 509 S.E.2d 811, 813 (1999). Failure to contemporaneously object to an instruction results in a procedural bar to the possibility of review on the merits which cannot be saved by later post-trial motion. *State v. Davis-Kocsis*, 436 S.C. 468, 489, 872 S.E.2d 415, 426 (Ct. App. 2022) (finding challenge to jury charge “unpreserved because Kocsis did not timely state a specific objection on the record until her new trial motion”). “[I]t is improper to argue new matter in a motion for reconsideration.” *State v. Hamilton*, 333 S.C. 642, 648, 511 S.E.2d 94, 97 (Ct. App. 1999).

Given that counsel could not have accomplished what Applicant asserts counsel should have sought by way of a new trial motion, Applicant has failed to carry his burden of showing ineffective assistance. *Strickland, supra*. “Counsel is not required to engage in the filing of futile motions.” *Murray v. Maggio*, 736 F.2d 279, 283 (5th Cir. 1984); *see also Moody v. Polk*, 408 F.3d 141, 151 (4th Cir. 2005) (citing *Murray v. Maggio*). *See also Truesdale v. Moore*, 142 F.3d 749,

so, that course should be followed. Courts should strive to ensure that ineffectiveness claims not become so burdensome to defense counsel that the entire criminal justice system suffers as a result.” 466 U.S. at 697.

756 (4th Cir. 1998) (“It is certainly reasonable for counsel not to raise unmeritorious claims.”). Having failed in his burden of proof, Applicant is not entitled to any relief.

As far as faulting counsel for not seeking a new trial on “after discovered” evidence, Applicant conceded in his PCR testimony that there was no “new evidence” to support such a motion.³ As a factual matter, this claim fails. But more basically, Applicant has failed to state a cognizable claim.

A convicted defendant is “not entitled to counsel” on a motion for new trial on after-discovered evidence. *State v. Clinkscales*, 318 S.C. 513, 515, 458 S.E.2d 548, 549 (1995). Simply, the Sixth Amendment right to counsel does not extend to discretionary, collateral post-trial motions. *United States v. Williamson*, 706 F.3d 405, 417 (4th Cir. 2013). *Accord Folkes v. Nelsen*, 34 F.4th 258, 281 (4th Cir. 2022) (“Filing a petition for rehearing in the South Carolina Court of Appeals is a solely discretionary proceeding, meaning the constitutional right of counsel does not extend to it.”). It follows, then, that there could not be a finding that Applicant was “deprived of the effective assistance of counsel” in regard to a new trial motion on after-discovered evidence. *Clinkscales*. See also *Wainwright v. Torna*, 455 U.S. 586 (1982) (where there is no constitutional right to counsel there can be no finding of ineffective assistance). Thus, this portion of Applicant’s claim is not cognizable. See S.C. Code Ann. § 17-27-20 (A) (1) (recognizing claims of a violation of the Constitution may be raised). He is not entitled to any relief. All arguments to the contrary asserted on this ground are rejected.

³ At the hearing, Applicant initially claimed there was “new evidence” which he apparently interpreted as evidence (a video or other recording) that was not shown a trial. Counsel for Applicant clarified at the hearing that he chose not to raise a claim about the item Applicant was referencing, adding that defense counsel had expressed a strategic reason for not introducing the evidence.

Direct Appeal Claim

The allegations about the direct appeal advice, however, are cognizable. The Supreme Court has recognized “that counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” *Roe v. Flores-Ortega*, 528 U.S. 470, 480 (2000). The normal requirement of showing prejudice, however, does not attach. Rather, the prejudice showing required is that the applicant “must demonstrate that there is a reasonable probability that, but for counsel’s deficient failure to consult with him about an appeal, he would have timely appealed.” *Id.*, at 484. Further, our Supreme Court has instructed that “[f]ollowing a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal.” *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008).

In his PCR testimony, Applicant conceded that he did not ask counsel to file a notice of appeal. *See Roe v. Flores-Ortega*, at 477 (disregarding the direction to appeal is “professionally unreasonable”). Thus, the question comes down whether counsel made his client “aware of the right to appeal,” *Turner, supra*, or otherwise thought to further advise Applicant on a reasonable perception “that a rational defendant would want to appeal” in this particular case, *Roe v. Flores-Ortega*, at 480.

Counsel testified at the PCR hearing that he had advised Applicant of the right generally but did not discuss the right to appeal in detail and did not discuss at all any possible issues. Counsel clarified that he discussed the matter generally in advising that if Applicant should be found guilty there was an appeal process. Counsel testified that as part of the retainer agreement

for representation, counsel explained to Applicant that he would be responsible for filing a notice of appeal if he should want to appeal, but the agreement expressly did not extend to representation on appeal. The retainer agreement was offered as State's Exhibit 1. The agreement reflects Applicant signed in acknowledgement of that particular point. Counsel testified that he was aware that Applicant was not happy with being found guilty at all, but correctly noted that Applicant received a favorable result in that he was acquitted of the assault and battery charge, and only convicted of the lesser charge of domestic violence third degree, which reduced his sentencing exposure. Counsel recalled some contact with Applicant well after trial, specifically well after the ten days in which a notice could have been timely served. Counsel believed that contact to have been an inquiry into expungement of the charge.

Applicant testified that he wanted to appeal and that he wanted to be found not guilty of anything. He asserted his factual innocence, though he acknowledged that the two victims and police officers, who had immediately responded, testified for the State. He also acknowledged there were only three individuals involved in the domestic violence — the two victims who testified and Applicant. Applicant testified that he did not know about appeal at all. He testified he was not familiar with felonies and general sessions. Applicant recognized his signature on the retainer agreement but testified that he did not know what it meant to file a notice of appeal. He testified that he had to sign to obtain representation and that did not mean that he understood the provision. Applicant testified that he had contacted counsel's office well after trial and spoke to a paralegal. He denied he contacted counsel about possible expungement. When asked if perhaps the gun restriction was the reason that he reached out to counsel well after trial, he admitted that he "loved" his guns.

Counsel, of course, is presumed to have discharged his obligations professionally and reasonably. *Strickland*, at 689. It is Applicant's burden to show the representation was deficient. *Id.* See also *Speaks, supra*. Here, there are solid indications that Applicant would not wish to appeal – he was acquitted of one charge, received a guilty verdict of a lesser offense on the other, and received a sentence of days, and that was only half of the time requested by the State. Further still, the conviction rested in large measure on credibility determinations, not a contested search or statement or other evidence offered and received. The record shows no overruled objection(s) in the record that would preserve any issue and Applicant has not identified any. See *Kinard v. State*, 418 S.C. 478, 481, 795 S.E.2d 15, 16 (2016) (“The merits of any such appeal, while relevant to an allegation that counsel failed to advise a defendant of the right to appeal, are not relevant where a PCR applicant alleges counsel failed to file an appeal after being asked to do so.”) (emphasis in original). This Court credits counsel's testimony that the only contact from Applicant was well after the appeal period passed, and that it was an inquiry on expungement. This Court finds that the greater weight of the evidence supports that Applicant was aware of the right appeal, and even that counsel would file a notice of appeal if asked without further expense – that is supported by the plain terms of the retainer agreement. Thus, this Court concludes that counsel made his client aware of the essential fact that an appeal process was available. Further, this Court concludes there was no logical reason for counsel to believe his client would want to appeal a verdict of a lesser offense when he had just avoided conviction on the greater offense and secured an acquittal of another. Thus, no additional consultation was reasonably warranted.

Counsel candidly admitted that he knew that his client was “unhappy” about the conviction, but an appeal is not a new trial but, in large measure, a review of rulings and potential errors of law. As Applicant had to admit, there was evidence presented to support the verdict – the two

victims' testimony alone would support the verdict – he simply maintains the evidence against him should not have been believed. This Court finds counsel logically saw the two as distinct under the law, as the law supports that distinction. *See, e.g., State v. Herndon*, 430 S.C. 367, 373, 845 S.E.2d 499, 502 n. 6 (2020) (“As an appellate court, we must be careful not to weigh the evidence. ... Fundamental to a jury’s role as fact-finder is making credibility determinations, which lie in the sole province of the jury.”); *Melton v. Williams*, 281 S.C. 182, 186, 314 S.E.2d 612, 614–15 (Ct. App. 1984) (“Assessment of the credibility of witnesses is a question for the jury, not the court, and it is the jury that decides the weight to be afforded the testimony.”). It appears to this Court that the late phone call to counsel was more likely occasioned by the desire to challenge the gun restriction, thus more likely expungement as counsel recalled than a late concern about appeal.

Based on the totality of the circumstances, this Court finds that Applicant has failed in his burden of proof. He is not entitled to any relief. All arguments to the contrary asserted on this ground are rejected.

Ineffective Assistance: Preparation for Applicant’s Testimony

Applicant testified that counsel failed to prepare him for giving testimony at trial and that lack of preparation allowed the State to use Applicant’s testimony against him. Counsel candidly admitted not sitting down with Applicant in a proposed question and answer setting; however, counsel credibly testified that counsel was well aware of Applicant’s version of events – he had reviewed them many times with Applicant in preparation for trial. Further, counsel agreed that Applicant had been present the whole trial and heard the testimony from the State’s witnesses. Applicant’s testimony was going to be different. Further, counsel testified that Applicant was active during trial and wrote numerous notes and made multiple comments to him especially about specific testimony from the victims. Notably, counsel testified that Applicant did not complain to

counsel during the trial concerning the way Applicant's testimony was presented or express an opinion or fear that the testimony did not go as Applicant had expected.

Further, the record shows that Judge Miller directly addressed Applicant concerning Applicant's right to testify and advised that it was Applicant's decision to make. (Return Attachment 2, Tr. 122). Judge Miller also gave Applicant an opportunity to ask questions of the trial court concerning the decision, and afforded Applicant additional time to speak with counsel before making the decision. (Return Attachment 2, Tr. at 123). Counsel did not recall the exact conversation but noted that he would normally tell his clients that the choice was theirs to make. Counsel agreed that Applicant, having been present throughout the trial, would have been aware of real examples of cross-examination. There was no suggestion made at trial that Applicant was not ready to testify.

Based on the totality of the circumstances, this Court finds that Applicant has failed in his burden of proof. In particular, Applicant was aware of the testimony presented before he decided to testify and was aware his testimony would be different. It is unsurprising that the State would point that out in closing argument. That was a function of the evidence, not a deficiency by counsel. Applicant is not entitled to any relief.

Ineffective Assistance: Failure to Object to Allen Charge Language

Applicant submits that counsel was ineffective because he failed to object to the phrasing of the *Allen* charge. Counsel testified that, to him, the charge seemed fairly standard, and was not delivered in a coercive matter. He did not recall any reaction by the jury, nor did he see a reason to object. Counsel testified that had he perceived coerciveness, he would have made an objection.

Though Applicant makes a general claim that the charge given was "objectionable as unduly coercive," Applicant only specifies one statement in support of that claim. He alleges

counsel should have objected to the language at the conclusion of the charge were Judge Miller requested the jury “return to [their] deliberations with the hope that [the jury] can arrive at a verdict within a reasonable time.” (Application at 3, 11(c)). Applicant relies upon *State v. Williams*, 386 S.C. 503, 690 S.E.2d 62 (2010), in support of his claim that counsel should have objected to the charge. However, his reliance on *Williams* is misplaced.

In *Williams*, the Supreme Court of South Carolina found the *Allen* charge which included that exact language was not coercive, though it did caution, by footnote, that the language had the potential to be problematic. *Id.*, at 512 and n. 7, 690 S.E.2d at 66-67 and n. 7. Rather than focusing on an isolated phrase, our Supreme Court recognized that the challenged charge “must be judged in its context and under all the circumstances” under the factors outlines in *Tucker v. Catoe*, 346 S.C. 483, 490–91, 552 S.E.2d 712, 716 (2001). *Id.*, at 512, 690 S.E.2d at 66. *Tucker* requires a reviewing court to evaluate the charge in light of these considerations:

- (1) Does the charge speak specifically to the minority juror(s)?
- (2) Does the charge include any language such as “You have got to reach a decision in this case”?
- (3) Is there an inquiry into the jury’s numerical division, which is generally coercive?
- (4) Does the time between when the charge was given, and when the jury returned a verdict, demonstrate coercion?

Workman v. State, 412 S.C. 128, 131, 771 S.E.2d 636, 638 (2015) (rephrasing *Tucker*).

Here, all the listed factors favor finding the charge should not be deemed coercive. The charge does not single out a minority juror; there is no language included that a decision must be reached; though the court was aware by the jury’s volunteered information that there was

disagreement by one person on one charge, there was (properly)⁴ no inquiry to specifics as to which charge and what vote; and, the jury returned to deliberations for around thirty minutes before coming back to report a decision. (See Return Attachment 2, Tr. 193-195). It is often difficult to address the time factor, but considering the entirety of the testimony was presented in approximately two and half hours, and the jury had deliberated for nearly four hours prior to the charge and thirty minutes after, (Return Attachment 2, Tr. 195), appears to favor finding that the jury actually engaged in additional deliberations and did not perform a simple “turn around” after the charge.

Further, what is *not* included in Judge Miller’s charge is most notable: there was no “overemphasis of the resources expended and the need for a verdict” or an instruction ““you should come to a decision in this matter,”” which could propel a finding of a coercive charge. *See State v. Rampey*, 438 S.C. 519, 526, 885 S.E.2d 366, 370 (2023)(charge found coercive where “[o]n no less than three separate occasions during the brief *Allen* charge, the trial court reminded the jury of the substantial resources spent in bring the case to trial” and direction the jury “should” return a decision “skirted close to the language found coercive” in Supreme Court precedent). Again, the language from *Williams* was not found *per se* coercive in *Williams* or in any case since *Williams*; rather, a reviewing court will consider whether the charge as a whole, “conveyed to the jury the clear impression that it should reach a verdict, which is sufficient to satisfy the second *Tucker* factor.” *Rampey*, at 527, 885 S.E.2d at 370.

⁴ *See State v. Taylor*, 427 S.C. 208, 216, 829 S.E.2d 723, 728 (Ct. App. 2019) (“the trial judge wisely did not inquire further into the specifics of the split when the jury volunteered its vote tally”); *id.*, at 217, 829 S.E.2d at 728 (“It is not coercive to give an *Allen* charge simply because the jury volunteers how it is split” however, such knowledge should “make[] an already subtle task even more delicate”).

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Similarly, what is included in Judge Miller's charge is also notable. Judge Miller instructed the jury that while they should listen to each other, jurors "should not give up [their] firmly held beliefs merely to be in agreement with your fellow jurors." (Return Attachment 2, Tr. 194, lines 4-9). This caution has been deemed "one of the hallmarks of a typical *Allen* charge," tempering the charge to shield against coercion. *Rampey*, at 530, 885 S.E.2d at 371-372. When reviewed as a whole, the charge should not be deemed coercive.

Therefore, Applicant has shown no deficiency in counsel's not objecting to the charge, but even if he could, he can show no prejudice for the same reason – the charge, when considered as whole, was not unduly coercive. Applicant has failed in his burden of proof and is not entitled to any relief. All arguments to the contrary on this ground are rejected.

CONCLUSION

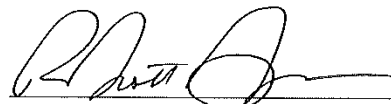
For the above stated reasons, this Court finds that Applicant failed to carry his burden of proof. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

IT IS THEREFORE ORDERED:

Applicant's application for post-conviction relief is denied and dismissed with prejudice.

AND IT IS SO ORDERED this 14 day of February, 2024.

Copy mailed to
Attorney <u>general/Howard Anderson</u>
on <u>2/29/2024</u> .


R. SCOTT SPROUSE
Presiding Judge

WITNESSES

BKD

Joshua P Campbell

Greenville County Sheriffs Office

12/13/2019

ARREST WARRANT NUMBER

2019A2330211226

ACTION OF GRAND JURY

TRUE BILL



FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-23-MDP

003605

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

June TERM 2021

THE STATE

vs.

JEREMY ALLEN WATSON

3813 ✓
~~3812~~

Indictment for

DOMESTIC VIOLENCE 2ND DEGREE

VIOLATION § 16-25-0020

ENTERED ACCT



STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DOMESTIC VIOLENCE 2ND DEGREE

At a Court of General Sessions, convened on **JUN 01 2021** the Grand Jurors of Greenville
County present upon their oath:

That JEREMY ALLEN WATSON did in Greenville County, on or about the 13th day of December,
2019, unlawfully cause physical harm or injury to DEANNA WINKLER, a household member or did
unlawfully offer or attempt to cause physical harm or injury to DEANNA WINKLER, a household
member, with apparent present ability under circumstances reasonably creating fear of imminent peril
and the offense was committed by impeding the victim's breathing or airflow. This is in violation of §
16-25-0020 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

BAR # 103008

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Jeremy Alan Watson)
Full name and prison number (if any) of Applicant.)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2022-CP-23- 05979

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Currently: none; previously: Greenville County Detention Center
2. Name and location of Court which imposed sentence General Sessions - Greenville, South Carolina
3. Name(s) of co-defendant(s) (if any) none
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2021GS2303605 - convicted of lesser included offense of CDV 3rd
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 11/10/2021 - 45 days to serve plus \$128.75 costs, plus firearms prohibition and

Revised 3/2003

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restraining order

- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) My trial counsel did not file a notice of appeal on my behalf nor consult with me about my appellate rights
- (b) _____
- (c) _____

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10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) (I have finished my term of imprisonment). After my jury trial, my trial counsel rendered ineffective assistance of counsel by failing to consult with me about an appeal or motion for new trial rights and/or by not filing a notice of appeal and/or a motion for new trial on my behalf as required by the Sixth and 14th Amendments to the U.S. Constitution and by Sections 9 & 14, Article I, S.C. Constitution

(b) Trial counsel rendered ineffective assistance of counsel in failing to adequately prepare to and then to examine me at trial. U.S. Const. Amend. V, VI, & 14. S.C. Const. Art. I, §§ 9, 14

(c) Trial counsel rendered ineffective assistance of counsel in failing to object to the Allen charge as unduly coercive. U.S. Const. Amend. V, VI, & 14. S.C. Const. Art. I, §§ 9, 14.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) Following my conviction and sentence, my trial counsel did not discuss my motion for new trial or appellate options. I would have directed a motion for new trial and an appeal be filed had I been consulted.

(b) Trial counsel did not meet with me before trial to prepare me to testify and, as a result, examined me in an ineffective manner. Even the assistant solicitor commented in closing on the shoddy examination from trial counsel. See Trial Tr. 177. As a result of trial counsel's ineffectiveness, I was unable to fully and adequately convey what happened, including through audio and photographic exhibits that were not presented.

(c) The Allen charge, as phrased, was objectionable as unduly coercive. Among other things, the charge concluded "with the hope that you can arrive at a verdict." [Trial Tr. 195]. But see State v. Williams, 386 S.C. 503, 515 n.7 (2010) ("[W]e take this opportunity to caution trial judges against using the following language: 'with the hope that you can arrive at a verdict.' Because jurors are not required to reach a verdict after expressing that they are deadlocked, we believe this language could potentially be construed as being coercive."). Shortly after the charge, the jury returned its verdicts.

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

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- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 - (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (d) the date of each such disposition:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
 - i. _____
 - ii. _____

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- iii. _____
- iv. _____
- 14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
No
- 15. If you answered "yes" to (14) identify:
 - (a) which grounds have been presented:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the proceedings in which each ground was raised:
 - i. _____
 - ii. _____
 - iii. _____
- 16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
 - (a) _____
 - (b) _____
 - (c) _____
- 17. Were you represented by an attorney at any time during the course of:
 - (a) your arraignment and plea? Yes
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? n/a
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Y
- 18. If you answered "yes" to one or more parts of (17), list:
 - (a) the name and address of each attorney who represented you:
 - i. Richard Warder (5827), PO Box 26133, Greenville SC 29616

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- ii. Russell Sanford (103467), PO Box 26133, Greenville, SC 29616
- iii. Howard W. Anderson III (100329), 3 Boyce Ave., Greenville, SC 29601
- (b) the proceedings at which each such attorney represented you:
 - i. Mr. Warder entered an appearance but did not represent me at trial.
 - ii. Mr. Sandford, from Mr. Warder's office, represented me at trial.
 - iii. In connection with this application for PCR, I am represented by Howard W. Anderson III (SC Bar #100329).

19. State clearly the relief you seek in filing this application:

I request that I be granted a new trial with the opportunity for an appeal.

20. Are you now under sentence from any other court that you have not challenged?

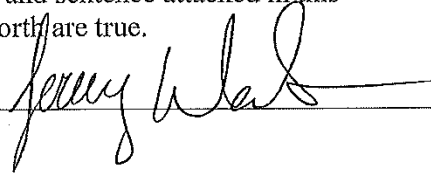
No

STATE OF SOUTH CAROLINA

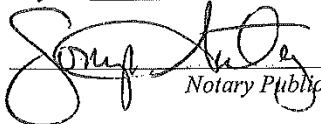
County of Greenville

VERIFICATION

I, Jeremy Alan Watson, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.



SWORN to and subscribed before me this 31st
day of October, 2022

 Sonya Autrey (L.S.)
Notary Public

My Commission Expires: 3-26-2023

Revised 3/2003

PROCEDURAL HISTORY

A Greenville County grand jury indicted Applicant in June 2021 for domestic violence second degree and assault and battery third degree. (Attachment 1). Russell Sanford Esq., represented Applicant on the charges. A jury trial was held November 9-10, 2021, before the Honorable Edward W. Miller. After lengthy deliberations, the jury found Applicant not guilty of domestic violence second degree, but guilty of the lesser charge of domestic violence third degree. (Attachment 2, Tr. 196; *see also* Attachment 3, verdict form). The jury also returned a not guilty verdict as to the charge of assault and battery third degree. (Attachment 2, Tr. 196; *see also* Attachment 3, verdict form). Judge Miller sentenced Applicant to forty-five days confinement for the domestic violence conviction. (Attachment 2, Tr. 199; *see also* Attachment 4, sentencing sheet). Judge Miller also issued orders permanently restraining Applicant from contact with the victim Deanna Walker, or her family, (Attachment 5), and prohibiting Applicant from shipping, transporting, receiving, or possessing a firearm or ammunition for three years pursuant to S.C. Code Ann. § 16-25-30. (Attachment 6). Applicant did not appeal.

As set out above, on October 31, 2022, Applicant filed the instant action. Respondent now makes this return.

ATTACHMENTS

Respondent attaches, and incorporated by reference, the following:

1. Indictments, (2021-GS-23-3605 and 3615);
2. November 9-10, 2021 Trial Transcript;
3. November 10, 2021 Verdict Form;
4. November 10, 2021 Sentencing Sheet;
5. November 10, 2021 Permanent Restraining Order;
6. November 10, 2021 Order of State Firearms Prohibition pursuant to S.C. Code Ann. § 16-25-30.

ALLEGATIONS

Applicant alleges he received ineffective assistance of counsel as follows:

(a) Following my conviction and sentence, my trial counsel did not discuss my motion for new trial or appellate options. I would have directed a motion for new trial and an appeal be filed had I been consulted;

(b) Trial counsel did not meet with me before trial to prepare me to testify and, as a result, examined me in an ineffective manner. Even the assistant solicitor commented in closing on the shoddy examination from trial counsel. See Trial Tr. 177. As a result of trial counsel's ineffectiveness, I was unable to fully and adequately convey what happened, including through audio and photographic exhibits that were not presented.

(c) The Allen charge, as phrased, was objectionable as unduly coercive. Among other things, the charge concluded "with the hope that you can arrive at a verdict." [Trial Tr. 195]. But see State v. Williams, 386 S.C. 503, 515 n. 7 (2010)("[W]e take this opportunity to caution trial judges against using the following language: 'with the hope that you can arrive at a verdict.' Because jurors are not required to reach a verdict after expressing that they are deadlocked, we believe this language could potentially be construed as being coercive."). Shortly after the charge, the jury returned its verdicts.

(Application at 3).

DISCUSSION

To establish that Sixth Amendment counsel was ineffective, a PCR applicant must show that counsel's representation fell below an objective standard of reasonableness, and but for counsel's error, there is a reasonable probability that the outcome of the trial would have been different. *Strickland v. Washington*, 466 U.S. 668, 694 (1984); *Simpson v. Moore*, 367 S.C. 587, 595–96, 627 S.E.2d 701, 706 (2006). "A reasonable probability is a probability sufficient to undermine confidence in the outcome" of the trial. *Strickland*, at 694. Relief will not be granted on a showing of mere error—prejudice must also be shown. *Id.* To conduct a fair review of counsel's performance, a reviewing court must "eliminate the distorting effects of hindsight" and

attempt “to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.” *Strickland*, 466 U.S. at 689. Further, it is presumed that counsel made all decisions in exercise of reasonable judgment. *Strickland*, at 689. It is the applicant’s burden to prove, by a preponderance of the evidence, that he is entitled to relief. Rule 71.1 (e), SCRCR. *See also Speaks v. State*, 377 S.C. 396, 399, 660 S.E.2d 512, 514 (2008) (“the burden of proof is on the applicant to prove the allegations in his application”).

Argument in Response to the Claims

Ineffective Assistance: New Trial Motion and Direct Appeal

As to Applicant’s claim counsel failed to inform and consult regarding a new trial motion or direct appeal, Respondent requests an evidentiary hearing to determine the merits of Applicant’s claim only as to advice and consultation on the right to direct appeal. The remainder of the claim is not cognizable.

The Sixth Amendment right to counsel does not extend to discretionary, collateral post-trial motions. *United States v. Williamson*, 706 F.3d 405, 417 (4th Cir. 2013). *Accord Folkes v. Nelsen*, 34 F.4th 258, 281 (4th Cir. 2022) (“Filing a petition for rehearing in the South Carolina Court of Appeals is a solely discretionary proceeding, meaning the constitutional right of counsel does not extend to it.”). It follows, then, that there could not be a finding that Applicant was “deprived of the effective assistance of counsel” in regard to a new trial motion. *See Wainwright v. Torna*, 455 U.S. 586 (1982) (where there is no constitutional right to counsel there can be no finding of ineffective assistance). Consequently, this portion of Applicant’s claim is not cognizable. *See* S.C. Code Ann. § 17-27-20 (A) (1) (recognizing claims of a violation of the Constitution may be raised).

Moreover, Applicant has not indicated any fact, circumstance or argument that would support the filing motion for a new trial. Even Sixth Amendment “[c]ounsel is not required to engage in the filing of futile motions.” *Murray v. Maggio*, 736 F.2d 279, 283 (5th Cir. 1984); *see also Moody v. Polk*, 408 F.3d 141, 151 (4th Cir. 2005) (citing *Murray v. Maggio*). Consequently, Applicant has failed to present a viable claim. *See* S.C. Code § 17-27-40 (“[f]acts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct”); S.C. Code Ann. § 17-27-50 (“[t]he application shall ... specifically set forth the grounds upon which the application is based”). If possibly cognizable, the claim, as presented, is insufficient on its face. But again, the claim should not be considered cognizable in this action for the reasons asserted above.

The allegations about the direct appeal advice, however, are cognizable. The Supreme Court has recognized “that counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” *Roe v. Flores-Ortega*, 528 U.S. 470, 480 (2000). The normal requirement of showing prejudice, however, does not attach. Rather, the prejudice showing required is that the applicant “must demonstrate that there is a reasonable probability that, but for counsel’s deficient failure to consult with him about an appeal, he would have timely appealed.” *Id.*, at 484. Further, our Supreme Court has instructed that “[f]ollowing a trial, counsel is required to make certain the defendant is made fully aware of the right to appeal.” *Turner v. State*, 380 S.C. 223, 224, 670 S.E.2d 373, 374

(2008). Thus, testimony on the advice given, if any, is required to allow the parties to adequately litigate the claim.

Respondent submits, however, that it is unlikely Applicant may meet his burden of proof. As an initial matter, Respondent underscores that Applicant does not assert that he instructed counsel to file a notice of appeal. *See Roe v. Flores-Ortega*, at 477 (disregarding the direction to appeal is “professionally unreasonable”). Thus, the question comes down whether counsel made his client “aware of the right to appeal.” *Turner, supra*. Counsel, of course, is presumed to have discharged his obligations professionally and reasonably. *Strickland*, at 689. It is Applicant’s burden to show the representation was deficient. *Id. See also Speaks, supra*. Here, there are solid indications that Applicant would not wish to appeal – he was acquitted of one charge, received a guilty verdict of a lesser offense on the other, and received a sentence of days, which was only half of that requested by the state. Further still, the conviction rested in large measure on credibility determinations, not a contested search or statement or other evidence offered and received. Respondent has not found (and Applicant has not identified) any overruled objection(s) in the record that would preserve any issue. *See Kinard v. State*, 418 S.C. 478, 481, 795 S.E.2d 15, 16 (2016) (“The merits of any such appeal, while relevant to an allegation that counsel failed to advise a defendant of the right to appeal, are not relevant where a PCR applicant alleges counsel failed to file an appeal after being asked to do so.”) (emphasis in original). Even so, as noted above, the allegation of trial counsel error likely requires a hearing to fully develop the collateral record for this specific claim. *Sharper, supra*.

Ineffective Assistance: Preparation for Applicant's Testimony

As to Applicant’s claim counsel failed to adequately prepare Applicant before his testimony at trial or properly examine Applicant at trial, again, Respondent submits that it is

unlikely that Applicant may meet his burden of proof under *Strickland*. Notably, Judge Miller directly addressed Applicant concerning Applicant's right to testify and advised that it was Applicant's decision to make. (Attachment 2, Tr. 122). Further, he gave Applicant an opportunity to ask questions of the court concerning the decision, and Judge Miller afforded Applicant additional time to speak with counsel before making the decision. (Attachment 2, Tr. at 123). There was no suggestion made at that point in time that Applicant was not ready to testify. Even so, the allegation of trial counsel error likely requires a hearing to fully develop the collateral record for this specific claim. *Sharper, supra*.

Ineffective Assistance: Failure to Object to Allen Charge Language

As to Applicant's claim counsel was ineffective because he failed to object to the phrasing of the *Allen* charge, the record shows counsel was not deficient in his representation. Applicant makes a general claim that the charge given was "objectionable as unduly coercive," but only specifies one statement in support of that claim. He alleges counsel should have objected to the language at the conclusion of the charge were Judge Miller requested the jury "return to [their] deliberations with the hope that [the jury] can arrive at a verdict within a reasonable time." (Application at 3, 11(c)) (*See also* Attachment 2, Tr. 195). He cites to *State v. Williams*, 386 S.C. 503, 690 S.E.2d 62 (2010), in support of his claim that counsel should have objected to the charge.

However, in *Williams*, the Supreme Court of South Carolina found the charge which included that exact language was not coercive, though it did caution, by footnote, that the language had the potential to be problematic. *Id.*, at 512 and n. 7, 690 S.E.2d at 66-67 and n. 7. Rather than focusing on an isolated phrase, our court recognized that the challenged charge "must be judged in its context and under all the circumstances" under the factors outlines in *Tucker v. Catoe*, 346

S.C. 483, 490–91, 552 S.E.2d 712, 716 (2001). *Id.*, at 512, 690 S.E.2d at 66. *Tucker* requires a reviewing court to evaluate the charge in light of these considerations:

- (1) Does the charge speak specifically to the minority juror(s)?
- (2) Does the charge include any language such as “You have got to reach a decision in this case”?
- (3) Is there an inquiry into the jury’s numerical division, which is generally coercive?
- (4) Does the time between when the charge was given, and when the jury returned a verdict, demonstrate coercion?

Workman v. State, 412 S.C. 128, 131, 771 S.E.2d 636, 638 (2015) (rephrasing *Tucker*).

Here, all the listed factors favor finding the charge should not be deemed coercive. The charge does not single out a minority juror; there is no language included that a decision must be reached; though the court was aware by the jury’s volunteered information that there was disagreement by one person on one charge, there was (properly)² no inquiry to specifics as to which charge and what vote; and, the jury returned to deliberations for around thirty minutes before coming back to report a decision. (*See* Attachment 2, Tr. 193-195). It is often difficult to address the time factor, but considering the entirety of the testimony was presented in approximately two and half hours, and the jury had deliberated for nearly four hours prior to the charge and thirty minutes after, (Attachment 2, Tr. 195), appears to favor finding that the jury actually engaged in additional deliberations and did not perform a simple “turn around” after the charge.

² *See State v. Taylor*, 427 S.C. 208, 216, 829 S.E.2d 723, 728 (Ct. App. 2019) (“the trial judge wisely did not inquire further into the specifics of the split when the jury volunteered its vote tally”); *id.*, at 217, 829 S.E.2d at 728 (“It is not coercive to give an *Allen* charge simply because the jury volunteers how it is split” however, such knowledge should “make[] an already subtle task even more delicate”).

Further, what is *not* included in Judge Miller's charge is most notable: there was no "overemphasis of the resources expended and the need for a verdict" or an instruction "'you should come to a decision in this matter,'" which could propel a finding of a coercive charge. *See State v. Rampey*, 438 S.C. 519, 526, 885 S.E.2d 366, 370 (2023)(charge found coercive where "[o]n no less than three separate occasions during the brief *Allen* charge, the trial court reminded the jury of the substantial resources spent in bring the case to trial" and direction the jury "should" return a decision "skirted close to the language found coercive" in Supreme Court precedent). Again, the language from *Williams* was not found *per se* coercive in *Williams* or in any case since *Williams*; rather, a reviewing court will consider whether the charge as a whole, "conveyed to the jury the clear impression that it should reach a verdict, which is sufficient to satisfy the second *Tucker* factor." *Rampey*, at 527, 885 S.E.2d at 370.

Similarly, what is included in Judge Miller's charge is also notable. Judge Miller instructed the jury that while they should listen to each other, jurors "should not give up [their] firmly held beliefs merely to be in agreement with your fellow jurors." (Attachment 2, Tr. 194, lines 4-9). This caution has been deemed "one of the hallmarks of a typical *Allen* charge," tempering the charge to shield against coercion. *Rampey*, at 530, 885 S.E.2d at 371-372. When reviewed as a whole, the charge should not be deemed coercive.

Therefore, Applicant has shown no error in counsel's failure to object to the *Allen* charge, but even if he could, he can show no prejudice for the same reason – the charge, when considered as whole, was not unduly coercive. Consequently, there appears to be no need for a hearing on this claim – it may be dismissed on the strength of the record alone.

CONCLUSION

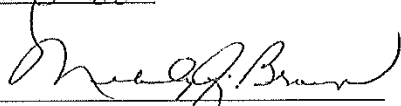
WHEREFORE, having made its Return, Respondent requests that this matter be scheduled for an evidentiary hearing on a part of claim one, and on claim two as indicated above. The remaining claim should be summarily dismissed on the record.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

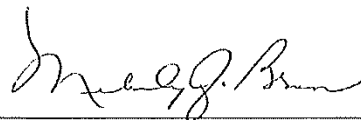
December 29, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Jeremy Alan Wilson,	)	C/A No.2022-CP-23-5979
	)	
Applicant,	)	
	)	
v.	)	AFFIDAVIT OF SERVICE
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

1. I am counsel for Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return to PCR Application, in the above-captioned matter on the following by depositing same in the United States mail, postage prepaid:

Howard W. Anderson, III, Esquire
3 Boyce Avenue
Greenville, South Carolina 29601

DATED this 29th day of December, 2023.



Melody J. Brown
Senior Assistant Deputy Attorney General

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

RECEIVED

Mar 05 2024

S.C. SUPREME COURT

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

Hon. R. Scott Sprouse, Circuit Court Judge

Common Pleas Case No. 2022-CP-23-5979

Appellate Case No. _____

JEREMY ALAN WATSON,

Appellant,

v.

STATE OF SOUTH CAR-
OLINA,

Respondent.

NOTICE OF APPEAL

Comes now Jeremy Alan Watson and provides notice that he appeals from the denial of his application for post-conviction relief. That application, attached here, was denied after an evidentiary hearing before the Honorable R. Scott Sprouse via an order stamped February 29, 2024. Undersigned counsel received the stamped order on March 5, 2024.

Other counsel of record below were the following:

Melody J. Brown (14244)
Sr. Asst. Dept. Attorney General
Office of the Attorney General
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Columbia, SC 29211

Respectfully submitted,

JEREMY ALAN WATSON

s/Howard W. Anderson III
Howard W. Anderson III
(#100329)

Dated this 5th day of March, 2024

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Counsel for Appellant

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2021-GS-23-03605
COUNTY OF GREENVILLE	)	2021-GS-23-03615
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
JEREMY ALLEN WATSON,	)	
DEFENDANT.	)	
_____	)	

November 9th and 10th, 2021
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

A P P E A R A N C E S:

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MEGHAN GASSER, ESQ.
Attorneys for the Plaintiff

RUSSELL CLAY SANFORD, ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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P R O C E E D I N G S

Tuesday, November 9, 2021

(WHEREUPON, State's Exhibit Numbers 1 through 11 were
premarked for identification; proceedings commenced at
10:15 AM.)

THE COURT: Are we ready to go?

MS. PAGE: The State's ready, Your Honor.

MR. SANFORD: Defense is ready, Your Honor.

THE COURT: Anything we need to do before we get the
jury up here?

MS. PAGE: I don't believe so.

MR. SANFORD: I don't have any motions, Your Honor.

THE COURT: Okay.

(WHEREUPON, the jury entered the courtroom at 10:21 AM.)

THE COURT: All right. Ladies and gentlemen of the
jury, welcome up to Courtroom 4. I can't remember if some
of you have been here before or not. If you have, welcome
back. If not, welcome.

You are qualified to serve generally for the week,
but now we need to qualify you to serve specifically for
this case, and so I'm going to ask you some questions and,
of course, please remember you're still under oath and
give complete and truthful answers to all the questions I
ask.

So in order for us to qualify you for this case, I

1 need to introduce the case to you. This is a two-count
2 indictment, a two-indictment case. The first indictment
3 is the State of South Carolina vs. Jeremy Allen Watson.
4 This is an indictment for domestic violence in the second
5 degree. And it alleges that Jeremy Allen Watson did in
6 Greenville County, on or about the 13th day of December
7 2019, unlawfully cause physical harm or injury to Deanna
8 Winkler, a household member, or did unlawfully offer or
9 attempt to cause physical harm or injury to Deanna
10 Winkler, a household member, with apparent present ability
11 under circumstances reasonably creating fear of imminent
12 peril, and the offense was committed by impeding the
13 victim's breathing airflow.

14 The second indictment is the State of South Carolina
15 vs. Jeremy Allen Watson, an indictment for assault and
16 battery third degree. And it alleges that Jeremy Allen
17 Watson did in Greenville County, on or about the 13th day
18 of December 2019, unlawfully injure Kristina Watson or
19 offer to injure Kristina Watson with the present ability
20 to do so.

21 Now, ladies and gentlemen, to these indictments, the
22 defendant has pled not guilty, and as such, certain rights
23 attach which belong to every person in this country
24 charged with a crime. And that is he is presumed to be
25 innocent unless and until the charging body, in this case

1 the State of South Carolina, can prove to a jury beyond
2 any reasonable doubt each and every element of each
3 offense. Please keep that in mind throughout the course
4 of these proceedings.

5 I would also tell you that the indictments contain
6 only allegations against this defendant, and you should
7 make no presumption or take any inference from the fact
8 that these indictments have issued. They are just the
9 pieces of paper or the formal documents which allow this
10 case to wind its way through our system to arrive here in
11 court for resolution. So please remember that as well.

12 Before I begin the questioning, I will ask the
13 attorneys to stand and introduce themselves and their
14 client. From the State.

15 MS. PAGE: Good morning. My name is Morgan Page.
16 I'm an assistant solicitor for the State.

17 MS. GASSER: My name is Meghan Gasser. I'm also an
18 assistant solicitor for the State.

19 With us we have Melissa Bishop, who's employed with
20 the solicitor's office.

21 And you can go ahead and introduce yourself.

22 MR. CAMPBELL: I'm Deputy Josh Campbell with the
23 Greenville County Sheriff's Office.

24 THE COURT: All right. Thank you.

25 MR. SANFORD: Good morning. My name is Russell

1 Sanford. I work for the Law Firm of Richard Warder. It
2 is my pleasure to be representing Mr. Jeremy Watson here
3 today.

4 JURY QUALIFICATION

5 THE COURT: All right. Thank you very much.

6 All right. Is any member of the jury panel related
7 by blood or marriage or have a business, personal or
8 social relationship with any of the attorneys involved in
9 this case or any member of the 13th Judicial Circuit
10 Solicitor's Office or the Law Office of Richard Warder?
11 If so, please stand.

12 (No response.)

13 THE COURT: Okay. I'm going to read a list of
14 potential witnesses, so I'll need to know the same about
15 these folks: Jeremy Allen Watson; Joshua Campbell with
16 the Greenville County Sheriff's Office; Harry McConnell
17 with the Greenville County Sheriff's Office; Jonathan Rey
18 with the Greenville County Sheriff's Office; Tirissa
19 Johnson with the Greenville County Sheriff's Office;
20 Kristina Watson; and Deanna Winkler. Is any member of the
21 jury panel related by blood or marriage or have a
22 business, personal or social relationship with any of
23 those potential witnesses whose names I have just read?
24 If so, please stand,

25 (No response.)

1 THE COURT: Okay. Does any member of the jury panel
2 have any knowledge about the events that are alleged in
3 either of these indictments? If so, please stand.

4 (No response.)

5 THE COURT: Has any member of the jury panel or
6 family member ever been a victim of or charged with this
7 type of offense? If so, please stand.

8 Okay. Yes, ma'am. Your name and number, please.

9 JUROR NUMBER 34: Margaret Lively.

10 THE COURT: What number?

11 JUROR NUMBER 34: 34.

12 THE COURT: Okay. Sir, you ---

13 JUROR NUMBER 12: Yeah. I feel compelled to mention
14 that I, as a young child, witnessed a really pretty
15 horrific domestic violence event within my family.

16 THE COURT: Okay. Your name and number, please.

17 JUROR NUMBER 12: I'm 12, Paul Ellis.

18 THE COURT: All right. Would the fact that both of
19 you have had that experience, would it limit your ability
20 to be fair and impartial in this case to either the State
21 or the defense?

22 JUROR NUMBER 34: No, Your Honor.

23 THE COURT: No? Okay.

24 JUROR NUMBER 12: Yes.

25 THE COURT: It would. Okay. You would not be able

1 to judge this case based solely on the merits of the
2 evidence presented in this courtroom and the law as I give
3 it to you?

4 JUROR NUMBER 12: It will be difficult given that it
5 was a pretty significant event in my life.

6 THE COURT: All right. Thank you very much.

7 All right. Is any member of the jury panel aware of
8 any bias or prejudice towards either the State or the
9 defense? If so, please stand.

10 (No response.)

11 THE COURT: Is there any member of the jury panel who
12 is a member of or a contributor to a group whose primary
13 concern is the promotion of law enforcement or victims'
14 rights, examples would be MADD, SADD or CAV? If so,
15 please stand.

16 (No response.)

17 THE COURT: Is there any juror who knows of any
18 reason whatsoever why you shouldn't be seated in this case
19 with particular emphasis on your ability to be fair and
20 impartial to both the State and the defense and to be able
21 to judge this case based solely on the merits of the
22 evidence presented in this courtroom and the law as I
23 would give it to you in this courtroom? If you can't do
24 that, please let me know now.

25 All right. Thank you, sir. You've already

1 responded. Thank you.

2 Okay. Let me talk to the lawyers up here briefly.

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

4 THE COURT: All right. Ladies and gentlemen, be
5 prepared. We are about to strike the jury.

6 Okay. Five and five.

7 JURY SELECTION

8 THE CLERK: When I call your name, please stand in
9 place and wait for further instructions.

10 Albert Tennes.

11 (WHEREUPON, Albert Tennes, a white male, stood.)

12 THE CLERK: What says the State?

13 MS. PAGE: Please present this juror.

14 THE CLERK: What says the defendant?

15 MR. SANFORD: Please seat this juror.

16 THE CLERK: If you'll please bring your things, come
17 have a seat in the jury box.

18 Anna Gates.

19 (WHEREUPON, Anna Gates, a white female, stood.)

20 THE CLERK: What says the State?

21 MS. PAGE: Please excuse this juror.

22 THE CLERK: You may be seated. You've been excused
23 from this case.

24 Kenneth Merrill.

25 (WHEREUPON, Kenneth Merrill, a white male, stood.)

1 THE CLERK: What says the State?
2 MS. PAGE: Please seat this juror.
3 THE CLERK: What says the defendant?
4 MR. SANFORD: Please seat this juror.
5 THE CLERK: All right. Sir, please have a seat in
6 the jury box.
7 John Witt.
8 (WHEREUPON, John Witt, a white male, stood.)
9 THE CLERK: What says the State?
10 MS. PAGE: Please seat this juror.
11 THE CLERK: What says the defendant?
12 MR. SANFORD: Please seat this juror.
13 THE CLERK: Sir, please come have a seat in the jury
14 box.
15 Ben Leberth.
16 (WHEREUPON, Ben Leberth, a white male, stood.)
17 THE CLERK: What says the State?
18 MS. PAGE: Please seat this juror.
19 THE CLERK: What says the defendant?
20 MR. SANFORD: Please seat this juror.
21 THE CLERK: All right. Sir, please come have a seat
22 in the jury box.
23 Jason Moldthan.
24 (WHEREUPON, Jason Moldthan, a white male, stood.)
25 THE CLERK: What says the State?

1 MS. PAGE: Please present this juror.
2 THE CLERK: What says the defendant?
3 MR. SANFORD: Please dismiss this juror.
4 THE CLERK: All right. You may be seated, sir. You
5 have been excused from this case.
6 Richard Feltner.
7 (WHEREUPON, Richard Feltner, a white male, stood.)
8 THE CLERK: What says the State?
9 MS. PAGE: Please excuse this juror.
10 THE CLERK: You may be seated, sir. You've been
11 excused from this case.
12 Pernita Robinson.
13 (WHEREUPON, Pernita Robinson, a black female, stood.)
14 THE CLERK: What says the State?
15 MS. PAGE: Please present this juror.
16 THE CLERK: What says the defendant?
17 MR. SANFORD: Please seat this juror.
18 THE CLERK: Ma'am, please bring your things. Come
19 have a seat in the jury box.
20 Shantor Cousar.
21 (WHEREUPON, Shantor Cousar, a black female, stood.)
22 THE CLERK: What says the State?
23 MS. PAGE: Please seat this juror.
24 THE CLERK: What says the defendant?
25 MR. SANFORD: Please seat this juror.

1 THE CLERK: All right. Ma'am, please bring your
2 things. Come have a seat in the jury box.
3 Cheryl Stouffer.
4 (WHEREUPON, Cheryl Stouffer, a white female, stood.)
5 MS. PAGE: Please seat this juror.
6 THE CLERK: Thank you.
7 What says the defendant?
8 MR. SANFORD: Please excuse this juror.
9 You may be seated. You've been excused from this
10 case.
11 Candra Tyler.
12 (WHEREUPON, Candra Tyler, a white female, stood.)
13 THE CLERK: What says the State?
14 MS. PAGE: Please seat this juror.
15 THE CLERK: What says the defendant?
16 MR. SANFORD: Please excuse this juror.
17 THE CLERK: Please be seated. You've been excused
18 from this case.
19 Ethan Maltz.
20 (WHEREUPON, Ethan Maltz, a white male, stood.)
21 THE CLERK: What says the State?
22 MS. PAGE: Please excuse this juror.
23 THE CLERK: You may be seated, sir. You've been
24 excused from this case.
25 Lara Mayers.

1 (WHEREUPON, Lara Mayers, a white female, stood.)
2 MS. PAGE: Please seat this juror.
3 THE CLERK: Thank you.
4 What says the defendant?
5 MR. SANFORD: Please excuse this juror.
6 THE CLERK: You may be seated. You've been excused
7 from this case.
8 Coreen Fortune-Culp.
9 (WHEREUPON, Coreen Fortune-Culp, a white female, stood.)
10 THE CLERK: What says the State?
11 MS. PAGE: Please seat this juror.
12 THE CLERK: What says the defendant?
13 MR. SANFORD: Please seat this juror.
14 THE CLERK: Will you please come, have a seat in the
15 jury box.
16 Alexis Fischer.
17 (WHEREUPON, Alexis Fisher, a white female, stood.)
18 THE CLERK: What says the State?
19 MS. PAGE: Please seat this juror.
20 THE CLERK: What says the defendant?
21 MR. SANFORD: Please seat this juror.
22 THE CLERK: Would you please come and have a seat in
23 the jury box.
24 Maclain Borsich.
25 (WHEREUPON, Maclain Borsich, a white female, stood.)

1 THE CLERK: What says the State?
2 MS. PAGE: I'm sorry. What was that last name again?
3 THE CLERK: Borsich, B-O-R-S-I-C-H.
4 MS. PAGE: Please seat this juror.
5 THE CLERK: What says the defendant?
6 MR. SANFORD: Please seat this juror.
7 THE CLERK: All right. Please come have a seat in
8 the jury box.
9 Kristina Grube.
10 (WHEREUPON, Kristina Grube, a white female, stood.)
11 MS. PAGE: Please seat this juror.
12 THE CLERK: Thank you.
13 What says the defendant?
14 MR. SANFORD: Please seat this juror.
15 THE CLERK: Ma'am, please come have a seat in the
16 jury box.
17 Frederick Gibson.
18 (WHEREUPON, Frederick Gibson, a black male, stood.)
19 THE CLERK: What says the State?
20 MS. PAGE: Please seat this juror.
21 THE CLERK: Thank you.
22 What says the defendant?
23 MR. SANFORD: Please seat this juror.
24 THE CLERK: Sir, please come have a seat in the jury
25 box.

1 Margaret Lively.

2 (WHEREUPON, Margaret Lively, a white female, stood.)

3 THE CLERK: What says the State?

4 MS. PAGE: Please seat this juror.

5 THE CLERK: What says the defendant?

6 MR. SANFORD: Please excuse this juror.

7 THE CLERK: You may be seated, ma'am. You've been
8 excused from this case.

9 Matthew Griffith.

10 (WHEREUPON, Matthew Griffith, a white male, stood.)

11 THE CLERK: What says the State?

12 MS. PAGE: Please excuse this juror.

13 THE CLERK: You may be seated, sir. You've been
14 excused from this case.

15 Edward Enggasser.

16 (WHEREUPON, Edward Enggasser, a white male, stood.)

17 THE CLERK: What says the State?

18 MS. PAGE: Please seat this juror.

19 THE CLERK: What says the defendant?

20 MR. SANFORD: Please seat this juror.

21 THE CLERK: Sir, please come have a seat in the jury
22 box.

23 THE COURT: One alternate, one and one.

24 THE CLERK: Michael Watson.

25 (WHEREUPON, Michael Watson, a white male, stood.)

1 THE CLERK: What says the State?

2 MS. PAGE: Please seat this juror.

3 THE CLERK: What says the defendant?

4 MR. SANFORD: Please seat this juror.

5 THE CLERK: Sir, please come have a seat in the jury
6 box.

7 THE COURT: All right. Any exception or objection to
8 the jury as impaneled pursuant to Batson or J.E.B., from
9 the State?

10 MS. PAGE: Not from the State, Your Honor.

11 THE COURT: The defense?

12 MR. SANFORD: None from the defense, Your Honor.

13 THE COURT: All right. Thank you very much.

14 All right. Well, thank y'all very much. At this
15 time we will excuse you all downstairs to -- back to the
16 jury room where they will give you further instructions.
17 Thank you.

18 (WHEREUPON, the remaining jury panel exits the courtroom
19 at 10:44 AM.)

20 JURY INSTRUCTIONS

21 THE COURT: All right. Ladies and gentlemen, I want
22 to congratulate you on getting selected and let you know
23 how much we appreciate the sacrifices you're making to be
24 here and do this important civic duty. I want to tell you
25 that we have a dispute about the facts in this case which

1 cannot be resolved in any fashion other than to ask a jury
2 to come up and listen to the evidence and the law
3 presented in this courtroom and make a decision about how
4 to resolve the dispute. And that is the job that you all
5 have, and we deeply appreciate you taking that.

6 I would remind you that every person charged in this
7 country with a crime is presumed innocent unless and until
8 the State can prove to a jury beyond any reasonable doubt
9 each and every element of each offense that that person is
10 charged with.

11 I also remind you that the indictments in this case
12 are nothing more than pieces of paper which allow the case
13 to wind its way through the Court into this -- through our
14 system to the Court for resolution. And you should make
15 no presumption or take any inference from the fact that
16 those documents issued. They only contain allegations.

17 I generally break a trial into five parts so that you
18 all have a procedural road map to know where you are in
19 the trial and what will be coming next. And the first
20 part will be the opening statements to you by the
21 attorneys, and they are brief and nonargumentative
22 statements about the case to you.

23 The second part of the trial is the meat and potatoes
24 of each and every case, and that is the presentation of
25 the evidence in the case. And the evidence will come to

1 you generally in one of three ways. The first, I think,
2 most common way is through the use of oral testimony from
3 this witness stand. The second most common way is through
4 the introduction of tangible items or documents. And the
5 third most common way is when the parties, there's some
6 fact that is so beyond dispute that the parties agree that
7 it is true, and that is what we call a stipulation of the
8 parties. I don't know how the evidence will be presented
9 to you, but generally, it will come to you in one of those
10 three ways.

11 The third part of the trial will be at the conclusion
12 of the evidence, after all of the evidence has been
13 presented to you, then the lawyers will make their closing
14 arguments to you. It is an opening statement and a
15 closing argument. And in the closing argument, the
16 attorneys will advocate for their side of the case and
17 urge you to resolve the dispute in their favor.

18 The fourth part of the trial will be when I charge
19 you as to what the law is as it applies to this case.

20 And the fifth part of the trial will be when you all
21 retire to your jury room to deliberate this case and
22 resolve this dispute.

23 So the parts are not of equal length, but at least
24 you'll have an idea about where you are in the trial and
25 what is coming next.

1 I'm sure I'll ask you to do many things throughout
2 the course of the trial. There are three main things I
3 ask you to do. The first is to keep an open mind. Don't
4 make a decision at the current time or after an opening
5 statement or after the first witness. Wait until the
6 conclusion of the case, after you've heard all the
7 evidence and all the law before you to make a decision.
8 We go through all the questioning to ensure that we have a
9 fair and impartial jury that will base its decision on the
10 evidence and the law presented in this courtroom.

11 The second thing I ask you to do is simple but very
12 important, and that is to pay attention. If you let your
13 mind wander off during the course of some testimony, you
14 may miss the answer a witness makes or the way a witness
15 answers a question which may be important in the
16 deliberations at the conclusion of the trial. And if you
17 have let your mind wander off, you would be at a
18 disadvantage when you all are discussing this case,
19 deliberating this case to make a decision.

20 The last thing I ask you to do and instruct you to do
21 is to not discuss the facts of this case with anyone until
22 you are free to deliberate. That means you can't talk
23 among yourselves about the facts of the case until
24 deliberations. We break for lunch and you go eat with a
25 family member, friend, coworker, you can't talk about the

1 case with them because even an innocent comment from
2 someone who you like and trust might impact your state of
3 mind on this case. And that would not be fair to any of
4 the parties involved in this case, it would not be fair to
5 your fellow jurors and it would not be fair to yourself to
6 allow someone who is not making the sacrifices that each
7 of you are making to have any input in the outcome of this
8 trial. We don't care what they think. We are interested
9 in what this jury deliberates on and resolves. So that
10 would include as well not doing any research. If you hear
11 about a location, you cannot go visit the location.
12 Please do not get on the Internet and do any search.
13 Don't get on any social media to discuss this. This is a
14 sacrosanct place up here, court, and we want to keep it
15 that way.

16 Ladies and gentlemen, I will tell you a couple of
17 other things. Occasionally, during the trial -- you saw
18 me ask the lawyers to come up and speak with me
19 individually. That may happen during the trial. Or it
20 could be I ask you all to retire to your jury room so that
21 we can discuss some issue. And while we may be trying to
22 keep something from you, we are not trying to deceive you
23 in any way. We may be discussing a piece of evidence
24 that's disputed that should not be admitted, and if that's
25 the case, then you can certainly understand why we would

1 not want y'all to listen. So I hope that gives you a
2 little' explanation. Quite often we'll be talking about
3 how long a witness takes, whether we should break at a
4 certain time. Those types of things.

5 So I would also tell you all that you are the sole
6 judges of the facts in this case. It is up to you to
7 determine what to believe and what not to believe. And by
8 law a trial judge is not allowed to express an opinion
9 about the facts of the case. That is up to you all to
10 decide. So please don't think by anything I might say or
11 do throughout the course of the trial that I have such an
12 opinion. You all are the sole judges of the facts.

13 That same law makes me the sole judge of the law in
14 the case. So if you have any idea as to what you think
15 the law is or what the law ought to be and it differs from
16 what I tell you the law is, you're going to swear an oath
17 in just a second to set aside your own opinion and apply
18 the law precisely as I state it to you. And that ensures
19 that everyone tried in this court is tried under the same
20 law.

21 So with that ladies and gentlemen, I will ask you to
22 stand. I will ask Ms. Troupe to place you under oath.

23 THE CLERK: Please stand and raise your right hand.
24 The proper response is "I will."

25 (WHEREUPON, the jury is duly sworn.)

1 THE CLERK: Thank you. Please be seated.

2 THE COURT: All right. We will proceed to opening
3 statements. From the State.

4 MS. PAGE: Your Honor, if we may bring the victims
5 into the courtroom.

6 THE COURT: Yeah. Please.

7 MR. SANFORD: Your Honor, do they need to elect a
8 foreman?

9 THE COURT: I'll take care of that.

10 MR. SANFORD: Okay. Thank you.

11 OPENING STATEMENTS

12 MS. GASSER: May it please the Court.

13 THE COURT: Yes, ma'am.

14 MS. GASSER: This case is about jealousy and domestic
15 violence. More specifically, it's about how one man's
16 jealousy turned to violence.

17 I'm sure that you've heard about domestic violence,
18 maybe watched movies or TV shows. You have some vision of
19 it in your head of what it looks like, of what the victim
20 looks like. I need you to forget all of that and remember
21 one thing: every domestic violence case is different. No
22 case is the same. And that's because domestic violence,
23 it's a crime that involves the people closest to one
24 another, people who are in relationships, people who share
25 children, people who live together, people that are so

1 tethered to one another in the most intimate and personal
2 ways.

3 Deanna Winkler is Kristina Watson's mom, and the
4 defendant, Jeremy Watson, is Kristina's father. He and
5 Deanna have been in a relationship for many years. They
6 share Kristina, who is an adult now, and they did share
7 two other children who have passed away previously.

8 On December 12, 2019, Deanna went to lunch with
9 Kristina, and the defendant called her asking her when she
10 was going to come down to Georgia to visit him that
11 weekend. He had been working in Georgia, but even -- and
12 so she would go and visit him on the weekends. But when
13 he was in Greenville, he did live with Deanna and
14 Kristina.

15 Deanna explained that she couldn't make it to Georgia
16 that weekend, that she was going to go to Kristina's
17 doctor's appointment because Kristina was seven months
18 pregnant. When Deanna told the defendant this, he became
19 enraged. While they were trying to eat lunch, he
20 repeatedly called. He called throughout the day. And
21 later that evening when they got home, Kristina had a
22 friend come over, a male friend. When the defendant
23 called Deanna and demanded to know who was at the house,
24 she said, "Yeah. Kristina's friend is over." He didn't
25 like that. He became very angry and accused Deanna of

1 cheating on him with this teenage boy.

2 Kristina's friend was uncomfortable and left. But at
3 that time the defendant had already gotten into his
4 vehicle and was driving the two and a half hours back from
5 Georgia.

6 He called them along the way multiple times. During
7 one of the calls he got into a wreck and he blamed the
8 victims. On another call, it was on a speakerphone so
9 they both heard it, he said they'd better be ready because
10 he was going to beat their ass. On another call he
11 demanded that Deanna go get him cigarettes and a drink.
12 Deanna did that to appease him because she was afraid of
13 what he would do if he didn't calm down.

14 When the defendant got to the house, he was jealous
15 and mad. She knew. She just didn't want to have any
16 contact with him. So she went into her bedroom, Deanna
17 did, and grabbed her iPad and tried to avoid him.

18 The defendant came into that room, slapped the iPad
19 out of her hand and said, "Come outside." Deanna was
20 scared to go outside. She was scared not to.

21 When Deanna got on the back porch, the defendant
22 grabbed her by the neck and pushed her up against the
23 railing, impeding her breathing. Kristina was inside
24 listening and immediately went to her mother's aid,
25 screaming at the defendant.

1 His rage turned towards his 19-year-old,
2 seven-months-pregnant daughter. He grabbed her by the
3 face, and that forced his finger to go into her mouth.
4 She bit down on it to try to get him to release her, and
5 he dug his fingernails into her neck. He then slammed his
6 seven-months-pregnant daughter to the ground.

7 She tried calling 9-1-1, but he wrestled with her to
8 prevent this. She was able to escape and run to her
9 bedroom where she armed herself to protect herself, her
10 mother and her unborn child from her father. She was able
11 to successfully call 9-1-1, forcing the defendant to
12 retreat into his own bedroom.

13 This case is about jealousy and domestic violence and
14 the damage it has done to Deanna and Kristina.

15 My name is Meghan Gasser and this is Morgan Page, and
16 we are assistant solicitors with the Greenville County
17 Solicitor's Office. And it is our job to present you with
18 the evidence to prove beyond a reasonable doubt that the
19 defendant committed domestic violence second degree and
20 assault and battery third degree.

21 At the end of all the evidence, the judge is going to
22 instruct you on the law. But during the course of this
23 case, I want you to pay attention to some of the key
24 elements. As to the domestic violence second degree
25 Jeremy Watson is charged with, it means that he inflicted

1 or offered or attempted to inflict physical injury upon
2 Deanna Winkler, who was his household member, and that he
3 impeded her airflow or breathing.

4 He is also charged with assault and battery third
5 degree. We have to prove that he offered or attempted or
6 actually caused injury to Kristina Watson.

7 Remember through the course of this trial to please
8 keep your eyes and ears open. The defense may try to
9 confuse or distract you. But your job, the most important
10 job is to see and hear all of the evidence and to use a
11 clear head along with some common sense to make the
12 correct verdict.

13 You will expect to hear from the State Officer Joshua
14 Campbell of the Greenville County Sheriff's Office. He
15 was the lead officer on this case. He'll tell you how he
16 arrived on scene, how he spoke with the victims, and how
17 he came to his decision to charge the defendant with these
18 two crimes.

19 You'll also hear from Kristina Watson. She will tell
20 you how worried she was for her mom, how she listened from
21 the inside and heard her mother's assault. She will tell
22 you how she went to the defendant and tried to get him to
23 stop, and he pointed his anger and rage at her, how she
24 was seven months pregnant and slammed to the ground by her
25 own father. You will hear her 9-1-1 call and the fear in

1 her voice.

2 You will also hear from Deanna Winkler. And she will
3 tell you that she and the defendant share Kristina as a
4 child in common. She will tell you why the defendant came
5 up from Georgia making that two-and-a-half-hour drive, and
6 she will tell you how she was assaulted and how it made
7 her feel.

8 I want to thank you for your time and your patience.
9 I understand this is probably not what you thought you'd
10 be doing this week. But most of all I want to thank you
11 for your attention, because you the jury are the sole
12 finders of fact, and your job is the most important,
13 keeping your eyes and your ears open, using your common
14 sense to logically and thoughtfully examine all of the
15 evidence and come to a clear result. This case is about
16 jealousy and domestic violence and the scar it has left on
17 Deanna and Kristina, Deanna, who is here today, to tell
18 you what happened to her and to share her story.

19 Kristina, who was seven months pregnant, is also here
20 today to tell you what happened to her and her mother and
21 to tell you what her father did to her.

22 At the end of the trial and after hearing all of the
23 evidence, the State will ask that you find the defendant,
24 Jeremy Allen Watson, guilty of domestic violence second
25 degree and assault and battery third degree.

1 THE COURT: Yes, sir.

2 MR. SANFORD: Thank you, Your Honor. May it please
3 the Court.

4 Ms. Page, Ms. Gasser, ladies and gentlemen of the
5 jury, my name is Russell Sanford. I represent Mr. Watson.

6 Two sides. This story is about two sides. The State
7 is going to present their side. And they're going to tell
8 you what they want you to hear. But what I want you the
9 jury to do is to listen to the evidence, listen and see
10 what evidence is presented, listen to what the witnesses
11 say, listen to what the witnesses don't say.

12 Mr. Watson, he's a hard-working man. You'll hear
13 that he was working two and a half hours, two, two and a
14 half hours from here in Augusta, North Augusta because it
15 was more money. It was better for his family. And that's
16 what -- that's what he did.

17 He had been getting regular visits from Deanna. They
18 had been coming back and forth. She had been going down
19 there regularly as they'd been together when this incident
20 occurred around 22 or 23 years, I believe. And then she
21 just stopped coming. And, of course, this worried him
22 because him working out of town, that's a lot of time for
23 people to be apart.

24 He called, asked if she was coming, and she said no.
25 And this happened several times. And then late one night

1 he decided he was going to come home because he needed a
2 part anyway for his work. So he comes home. And he calls
3 and, yes, he hears a male figure in the background, but I
4 didn't -- there wasn't any names given. Just general idea
5 of who this was. And, of course, this raised his
6 suspicion because she hadn't been keeping her regular
7 schedule, regular visits to him.

8 And so when he got there, yeah, there was an
9 argument. It was verbal. But it was nothing that wasn't
10 normal between two married people. I'm married. I have
11 arguments with my wife. But, you know, that happens in
12 the course of a marriage.

13 And you'll see that this got out of hand, that there
14 was a gun, that Kristina was armed, that that gun was put
15 to my client's head, that she tried to bust through a door
16 where he was, that this wasn't just Mr. Watson. There was
17 violence involved on all sides here this night. And as
18 you'll see, there's not a good relationship between the
19 two represented by the State and my client and that they
20 were going to do anything that night to make sure that he
21 got charges brought against him.

22 And you'll also see that the police only saw one side
23 of the story, that they made up their mind real quick,
24 that they did not take in all the facts, that they did not
25 do much of an investigation into what actually took place,

1 that they had one side. But you're going to hear both
2 sides. And you have the opportunity here to see both
3 sides, to see that there should have been more done that
4 night and see that my client, Mr. Watson, is not guilty of
5 these crimes.

6 Thank you.

7 THE COURT: All right. Call your first witness.

8 MS. GASSER: The State calls Deanna Winkler, Your
9 Honor.

10 THE CLERK: Ms. Winkler, please come forward. If
11 you'll please stop at the end of the bench, place your
12 left hand on the Bible and raise your right hand.

13 WHEREUPON,

14 DEANNA WINKLER

15 After having been duly sworn, testified as follows:

16 THE CLERK: Thank you. Please be seated. And would
17 you please state your name for the record.

18 THE WITNESS: Deanna Winkler.

19 DIRECT EXAMINATION

20 BY MS. GASSER:

21 Q Good morning. Ms. Winkler, can you please tell the
22 jury where you're from?

23 A Where I'm from?

24 Q Yes, ma'am.

25 A I'm actually from Pickens County.

1 Q And where are you currently living?

2 A Pickens County, Central, South Carolina.

3 Q And where are you employed?

4 A I keep my sister's kids on a regular basis.

5 Q Do you have any children?

6 A I do. Kristina.

7 Q How many?

8 A I have three.

9 Q And how old is Kristina?

10 A She's 22.

11 Q And what happened to your other two children?

12 A They passed away when they were 8 and 9.

13 Q How did they pass away?

14 A A genetic disorder.

15 Q Do you know the defendant, Jeremy Allen Watson?

16 A I do.

17 Q Is he present in the courtroom today?

18 A He is.

19 Q Can you point him out?

20 A (Indicating.)

21 MS. GASSER: Let the record reflect that the victim
22 has identified the defendant, Jeremy Allen Watson.

23 BY MS. GASSER:

24 Q How do you know the defendant?

25 A We were together for 22 or almost 23 years.

1 Q Did you share any of your children with him?
2 A All three.
3 Q Did you ever live together?
4 A Since I was 17.
5 Q Where did you live on December 13, 2019?
6 A Do you need the address?
7 Q Yes, ma'am.
8 A [REDACTED], Greenville.
9 Q Was the defendant living there?
10 A Yes.
11 Q And who else lived with you there?
12 A Kristina and Kristina's boyfriend at the time.
13 Q What was the status of yours and the defendant's
14 relationship at the time?
15 A I mean, we were together, still together.
16 Q Was he staying in Georgia?
17 A Yeah. He would be in Georgia from Monday to Friday
18 and then come home on the weekends.
19 Q Did you visit him during that time?
20 A I would go down Wednesday night, and then stay until
21 Friday morning.
22 Q But when you were in Greenville or when he came to
23 Greenville, did he stay with you?
24 A Yes.
25 Q Can you tell me about your day on December 13, 2019

1 -- or December 12, 2019?

2 A Well, it was -- I'm pretty sure it was a Thursday.
3 We -- I was supposed to go to Kristina's doctor's
4 appointment. It was her ultrasound. And her -- the
5 boyfriend was out of town, so I wanted to go with her. So
6 we went to the doctor's appointment and then decided to
7 have lunch afterwards. I think it was roughly around
8 2:00, I want to say, that we had lunch, actually. And
9 then, I mean, so we had lunch, and then we went home.

10 Q Okay. And where was the defendant?

11 A In Georgia.

12 Q Did you speak with him that day?

13 A Oh, yeah. We were texting throughout the day, and
14 then he did call later on.

15 Q Did he speak with you while you were at lunch?

16 A Yes.

17 Q And what was -- what did y'all talk about?

18 A He asked if I was going to come down. And I said I
19 didn't think I was going to because it would be pointless
20 because I would have to turn around and come back home the
21 next morning and he would be home that next evening. So I
22 said I didn't think I was going to. And he kind of
23 shrugged it off like it was fine in the first few text
24 messages, and then he was like, "Well, I do need some
25 pants."

1 And I said, "Well, you don't have one pair to wear
2 tomorrow?"

3 And he's, "Well, I can make it work." And I thought
4 that was the end of it. But then he did call as we were
5 leaving the Chinese restaurant.

6 Q And how did he seem then?

7 A He just -- he -- I could tell -- I could tell he was
8 getting aggravated at that point.

9 Q Did he say whether he was going to come back or
10 whether he was going to stay in Georgia?

11 A No. He -- he just asked why I was really not coming
12 down. And I told him, you know, "I don't see the point.
13 It's Thursday. I would have to come back home Friday
14 morning."

15 And he said, "No. Tell me what you're really going
16 to do."

17 And I said, you know, "We're literally leaving the
18 restaurant right now and going home."

19 And that was the end of that first conversation.

20 Q Did he call you any other times in that afternoon?

21 A Yes. Multiple.

22 Q And when you got home, who was at the house with you?

23 A It was just me and my daughter Kristina.

24 Q And did Kristina have any visitors?

25 A Yes. Probably about an hour after we got home, her

1 friend did come over.

2 Q And who was her friend?

3 A You want his name?

4 Q Yes, ma'am.

5 A Trent.

6 Q And did the defendant call you at this time?

7 A A little bit later after we got there -- after Trent
8 was there, yes, he called me. And he was -- he was highly
9 aggravated at that point. It was -- I don't remember the
10 exact time.

11 Q Why was he highly aggravated?

12 A Because I wasn't -- I was definitely not coming down,
13 coming to see him.

14 Q Did he know Trent was there?

15 A No. Not at that point. He had asked me what I was
16 doing. And I was on my bed at the time watching TV in my
17 room. And so he said, "I'll fix that." And he calls, I
18 guess, the cable company and cuts the Wi-Fi and cable off.
19 So, you know, we didn't -- we couldn't have the Wi-Fi --
20 use the Wi-Fi. So at that point I got up and went to the
21 back porch. And that's whenever he just kept on and kept
22 on.

23 I walked back through the house and he said, "Well,
24 who all was there?"

25 And I said, "Me, my daughter and her friend."

1 And he said, "Who's her friend?"

2 I said, "Trent." I said, "The one that was over here
3 helping with the pigs the other day."

4 And he said, "There's a guy in my house?"

5 I said, "Yeah. He's literally sitting on the couch
6 with Kristina."

7 And he said, "How dare you," cussing and all that at
8 me saying, "How dare you have some other guy in my house
9 while I'm not there."

10 At this point Trent was -- he was hearing our
11 conversation so he said, you know, "I'm just going to go.
12 I'm not -- you know, I don't want to cause any -- any
13 problems between anybody. I'm just going to go." So he
14 did.

15 Q What did the defendant do once Trent left?

16 A I could hear him get in his truck, because it's a
17 diesel so I could hear it crank up. And he said, "You
18 know what? I'm on my way." And then he hung up. He did
19 hang up and probably called back two or three times later
20 -- or after that. Sorry. My mouth is getting dry.

21 So I went into the bedroom and started playing on the
22 iPad. And that's whenever he called back and said, "Let
23 me talk to Kristina." And so I put it on speaker. So he
24 said, "Y'all have a guy at my house. How dare y'all.
25 Y'all know better. Just wait till I get there." And then

1 we heard a crash. And he said, "Look what y'all made me
2 do. Y'all made me wreck my 'blank-blank' truck. Just
3 wait. I'm going to beat both of y'all's when I get there.
4 Just wait." And then he did hang up.

5 Q Did he make any requests of you on one of those phone
6 calls?

7 A Yes. The last phone call I received from him was,
8 "Go get me a pack of cigarettes and a drink. I lost my
9 cigarettes when I wrecked my 'blank-blank' truck."

10 Q Did you go to the store?

11 A Yes. I went to the store and grabbed his cigarettes
12 and a drink. And by the time I got back, he was on the
13 front porch. So I handed him his cigarettes and his
14 drink, and I walked through the front door. Our bedroom
15 door is directly behind the front door, so I walked to our
16 bedroom and I sat down on the bed with the iPad.

17 Q Okay. So backing up, why did you go get the
18 cigarettes and the drink?

19 A Because it would make him even more mad if I didn't.

20 Q And when you went and sat in your bedroom with the
21 iPad, did you speak with him while going to your bedroom?
22 Did you have any kind of contact with him ---

23 A No.

24 Q --- other than just walking by and ---

25 A Yes.

1 Q So you're in your bedroom. You're on your iPad.

2 What happened next?

3 A He walks in. Like I said, our bedroom door is
4 directly behind the front door.

5 So I'm sitting on my bed and I'm looking down at the
6 iPad. I see out the corner of my eye he's walking through
7 our bedroom door. There is a gun at our bedroom door.
8 And I specifically see him pick it up, check for ammo, put
9 it back down. So I had no eye contact at that point.

10 So he comes up beside the bed and says, "I didn't
11 drive two and a half hours home for you to sit on the bed
12 and play an iPad," knocks it out of my hands up against
13 the wall and said, "Come on the back porch."

14 I said, "Jeremy, I really don't want to go on the
15 back porch. It's cold. It's December," trying to get him
16 just to -- because I didn't want to go on the back porch.

17 Q Why didn't you want to go on the ---

18 A Because I was afraid.

19 Q Did you end up going out there?

20 A Yes, I did.

21 Q Why?

22 A Because I didn't -- I didn't want my daughter to see
23 it, so I went to the back porch.

24 Q Deanna, I know it's hard, but what happened outside?

25 A When I walked -- I walked out first. He walked out

1 behind me. He did say to -- turned to Kristina and say,
2 "If you know what's good for you, you'll stay in your
3 room."

4 I walked out onto the back porch. He's -- gets this
5 close up to my face, and I say, "Jeremy, please back up.
6 Please back up."

7 Q Where was Kristina?

8 A I don't know where she was at that point. I was on
9 the -- already on the back porch. The door was closed.

10 Q What happened after he was in your face?

11 A He said -- he said, "I'll show you none of your
12 business," because I guess I said "none of your business"
13 in one of the phone calls. He said, "I'll show you none
14 of your business," grabbed me by my throat and forcefully
15 pushed me against the railings on the back porch up
16 against the chairs and all.

17 Q And did it make it difficult to breathe?

18 A Yes.

19 Q Were you in fear?

20 A Yes.

21 Q And did he -- did he stop at any point?

22 A When Kristina -- that's whenever Kristina opened the
23 back door and said, "If you don't -- if you don't stop,
24 I'll -- I'll go call 9-1-1." She had her phone in her
25 hand already.

1 Q And what happened when Kristina came outside?

2 A He turned -- he turned on her and said, "Get back in
3 the house. Get back in the house. If you know what's
4 good, you'll get back in the house."

5 And she said, "No." She said, "I will call 9-1-1.
6 If you touch her again, I'll call 9-1-1." And she
7 literally looked at her phone. As soon as she looked at
8 her phone, he turned towards her, grabbed her by her face
9 and pushed her back into the house. They struggled a
10 little bit with the door for one. And then -- sorry. I
11 can't remember exactly because I don't remember if she
12 fell or, you know, they fell -- he fell on top of her
13 first or exactly ---

14 Q Where were you? Were you still outside?

15 A I was on the back porch, yeah. I was still on the
16 back porch. So I was to their back -- to his back.

17 Q And how did this make you feel?

18 A I was scared. She was pregnant.

19 Q Did you call 9-1-1?

20 A I had my -- I didn't have my phone.

21 Q Who called 9-1-1?

22 A My daughter.

23 Q And how was his demeanor during all of this?

24 A Angry. Very angry.

25 Q And did you have any injuries?

1 A Just the redness and stuff on my -- on my throat.

2 Q Were there photos taken of your injuries?

3 A Yes.

4 Q And who took those photos?

5 A The police.

6 MS. GASSER: So I'm going to show you what's been
7 previously marked as State's Exhibit 1 and 2.

8 Your Honor, may I approach?

9 THE COURT: Yes.

10 BY MS. GASSER:

11 Q Deanna, can you tell me what these are of?

12 A One is of my face and one is of my neck.

13 Q And how do you know what they are?

14 A How do I know what they are?

15 Q Yes.

16 A I mean, because it's me in the picture and I was --
17 you know, but the cop took it that night.

18 Q And was this a fair and accurate depiction of your
19 injuries from that night?

20 A Yes.

21 MS. GASSER: At this time the State moves to enter
22 State's Exhibits 1 and 2 into evidence.

23 THE COURT: Any objection?

24 MR. SANFORD: No objection, Your Honor.

25 THE COURT: Okay.

1 (WHEREUPON, State's Exhibit Numbers 1 and 2 were admitted
2 into evidence.)

3 BY MS. GASSER:

4 Q Deanna, what happened after officers arrived at the
5 house?

6 A After the officers arrived? I -- me and Kristina
7 went on the front porch. And the officers took one of us
8 in the room and one of us in the kitchen to get our
9 statements. And I'm not sure where Jeremy was at that
10 time. I don't know. I don't know if he went to the back
11 porch or to the front yard. I'm not sure.

12 Q And the officers took these photos of you?

13 A Yes.

14 Q And did this cause you physical pain, these injuries?

15 A To my throat, yes.

16 Q And how did this incident make you feel?

17 A Afraid.

18 MS. GASSER: Your Honor, may I publish these exhibits
19 to the jury?

20 THE COURT: Do you have any objection?

21 MR. SANFORD: No objection, Your Honor.

22 THE COURT: Okay. Go ahead.

23 BY MS. GASSER:

24 Q Deanna, after the incident date, did your injuries
25 get better? worse?

1 A I had a sore throat for about a week, but the redness
2 was gone.

3 Q And why didn't you have your phone to call 9-1-1?

4 A Because he had took it whenever he walked to the
5 bedroom and slapped the iPad out of my hands. He had took
6 the phone.

7 Q Now, had you stopped visiting the defendant in
8 Georgia in the days or weeks leading up to this?

9 A No. I'm pretty positive that's the only week that I
10 missed, because I literally took from my job the Thursday
11 and Friday off every week, that was my set schedule, just
12 so that I could go see him every Thursday and Friday.

13 MS. GASSER: All right. Deanna, I have no further
14 questions for you. Please answer any that defense counsel
15 may have.

16 CROSS EXAMINATION

17 BY MR. SANFORD:

18 Q Ms. Winkler, how are you?

19 A Well. How are you?

20 Q I'm doing well.

21 Let's talk about your timeline a little bit here.
22 When did -- what day was that lunch on that y'all ate at
23 the Chinese restaurant?

24 A I'm -- I want to say it was a Thursday, but I -- it's
25 been two years, so I don't -- I can't say specifically.

1 Q So you don't know what specific day it happened?

2 A What specifically day I ate at the Chinese
3 restaurant?

4 Q Yes, ma'am.

5 A Just the day.

6 Q Okay. You said just the day?

7 A Yeah. I'm pretty -- yeah. It was -- I was supposed
8 to go Wednesday night. I didn't go. So I went to the
9 doctor's appointment with my daughter on a Thursday.

10 Q Okay. So you think it's a Thursday, but you don't
11 know what day it was. Like, you know, if it's 13th, 14th
12 16th, you don't know? You can't give me a date on that?

13 A You're asking me for the date?

14 Q Yes.

15 A It was the 12th or -- was it -- I'm -- 12th.

16 Q Okay. And you said that after that you went back to
17 the house; is that correct?

18 A Yes, sir.

19 Q And about what time was that?

20 A I want to say about 2:00. I'm not for sure. Like I
21 said, again, it's been two years, so ---

22 Q And that -- and that's 2 p.m. in the afternoon.

23 A Yes.

24 Q And at what time did -- was it Trent? What time did
25 he come over?

- 1 A I want to say roughly 5:00 or so. He did call my
2 daughter at the restaurant because he was having problems
3 with his girlfriend. He needed somebody to talk to.
- 4 Q So he came over about 5 p.m. or so.
- 5 A Roughly.
- 6 Q Do you know Trent's last name?
- 7 A I don't.
- 8 Q How often did he come over?
- 9 A He'd only been to our house, that was his second
10 time.
- 11 Q Now, what time did you get the first call from Jeremy
12 while you were at the house?
- 13 A I cannot say for sure what time any of the calls
14 were.
- 15 Q Was it -- was it evening? Was it afternoon?
- 16 A The first call at the house, it was probably evening.
- 17 Q Late evening? early evening?
- 18 A I cannot be that specific. No, sir, I can't.
- 19 Q And what time did he get home?
- 20 A Like I said, I can't remember exact times. It was, I
21 want to say, 1:00, 2:00 in the morning.
- 22 Q 1:00, 2:00 in the morning?
- 23 A Yeah.
- 24 Q How many calls did you receive from him that day?
- 25 A I could not tell you, honestly, how many calls.

1 Q How many did you answer?

2 A Every one up until probably 12:00. I didn't answer a
3 couple after a certain point.

4 Q So let's talk about a call that he got angry and
5 heard the male in the background. Do you know what time
6 that call was?

7 A It was -- he left at 10:00, I want to say.

8 Q And that's Trent, you're saying.

9 A Yes, yes. So it was right around then. But he
10 didn't hear the -- the male in the background. He asked
11 specifically who was there, and I told him.

12 Q And you didn't say -- and -- and pardon my language,
13 but you didn't tell him that it was none of his fucking
14 business who was -- who was there?

15 A No. Not to that. I did not. I did not tell him it
16 was none of his F'ing business to that. He asked what I
17 was going to be doing Friday, and I said none of your
18 business.

19 Q Now, other than that day, how long -- when was the
20 last time you saw Jeremy before this date?

21 A Sunday night.

22 Q And you said you'd regularly gone and seen him?

23 A Yes, sir.

24 Q And how long had that been going on?

25 A I couldn't tell you exactly how long.

1 Q Do you have any estimate?

2 A I'm not even sure how long he was working there
3 before I actually started coming to see him, so I cannot
4 -- I don't know.

5 Q Now, you said that he -- you were watching TV and he
6 cut the cable and the Wi-Fi off?

7 A Uh-huh.

8 Q You were playing on your iPad later.

9 A Later on, yes.

10 Q What were you doing on your iPad?

11 A Solitaire.

12 Q You don't need Wi-Fi for that?

13 A You do not.

14 Q Now, let's talk about your interaction with the
15 police. Did you ever tell the police that you were having
16 a hard time breathing when you alleged that Mr. Watson put
17 your hands around you -- his hands around you?

18 A A hard time breathing, yes.

19 Q Which officer did you tell that to?

20 A I'm not sure. I could not recall which officer I was
21 talking to.

22 Q Did you provide them a statement?

23 A Yes.

24 Q Did you say in that statement that you had a hard
25 time breathing?

1 A I'm not for positive if I did or not. They asked me
2 and I told them. They were writing the statement, so they
3 asked me, and I told them.

4 Q So you didn't write the statement.

5 A No.

6 Q The officers wrote the statement for you.

7 A Yes, sir.

8 Q And you said that's what happened.

9 A Yes. I told them what happened, and they wrote the
10 statement themselves.

11 MR. SANFORD: Beg the Court's indulgence.

12 May I approach?

13 THE COURT: Yes.

14 BY MR. SANFORD:

15 Q Ms. Winkler, is that the statement that you gave to
16 the police?

17 A Yes.

18 Q And anywhere in there does it say anything about you
19 having a hard time breathing, just to refresh your memory?

20 A (Reviews document) No. It does not say it in the
21 statement.

22 Q And do you mention anything in that statement about
23 any of the incident with your daughter?

24 A No. Because they told me specifically tell what
25 happened to me.

1 Q You said there was a firearm in the house.

2 A Uh-huh.

3 Q Whose firearm was it?

4 A There was, I mean, some in my room, some in -- I
5 mean, they were all over the house, pretty much.

6 Q Did Kristina ever have a gun?

7 A Yes.

8 Q Did she put it to Mr. Watson's head?

9 A Not to his head, no.

10 Q But she had a gun.

11 A Yes.

12 MR. SANFORD: Beg the Court's indulgence.

13 BY MR. SANFORD:

14 Q Were you and Kristina having any arguments with this
15 -- with this situation as well the day that this happened?

16 A Arguments between me and her?

17 Q Yes.

18 A No.

19 Q Prior to this, did you have a good relationship with
20 Mr. Watson?

21 A With Mr. Watson?

22 Q Yeah.

23 A I mean, as far as any relationship, you have your up
24 and downs, but we were still together, yes.

25 Q And prior to this, did you -- have you seen

1 Mr. Watson since this incident?

2 A Since the incident?

3 Q Yeah.

4 A Yes.

5 Q How?

6 A How have I seen him?

7 Q Uh-huh.

8 A He wanted to remain friends. We have -- we had a

9 house together. Our girls are buried on the land. So,

10 yes, I would go to the house to see the girls and stuff,

11 yes.

12 Q So even though you said that you were afraid of him

13 and all that, you would still go to his house.

14 A Yes. I'm not going to -- going to deny that.

15 Uh-huh. It was for a couple months after the incident,

16 yeah.

17 Q And let's go back to the timeline just a second.

18 When -- how long -- how long was Trent there at the house?

19 A Like I said, I can't give exact times. Probably a

20 couple hours, roughly.

21 Q Okay, okay. And you said that by the time the --

22 that he left when Mr. Watson made that phone call.

23 A Which phone call?

24 Q The phone call where he was -- you said he was

25 getting angry.

1 A Oh, oh, yeah.

2 Q That's -- that's when he left.

3 A He was angry before he even knew Trent was there.

4 Q Okay. But there was a phone call that caused Trent
5 to leave, correct?

6 A Yes, yes.

7 MR. SANFORD: Thank you, Your Honor. I have no
8 further questions. I'm just going to collect my -- thank
9 you, ma'am.

10 THE COURT: Any redirect?

11 MS. GASSER: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. GASSER:

14 Q Deanna, speaking about the timeline, you had
15 previously testified that it was December 12, 2019,
16 correct?

17 A Yes.

18 Q And the 9-1-1 call, the officers all came to your
19 house December 13th in the early morning hours, right?

20 A Yes.

21 Q How long was the drive to his place in Georgia?

22 A Roughly two and a half hours.

23 Q And did your statement include every detail from that
24 night?

25 A The statement I just gave?

1 Q Your written statement.

2 A The one I just gave or the one that the cops wrote?

3 Q The one that the officers wrote.

4 A No, it did not.

5 Q And why not?

6 A Because we were -- the cop said just -- I just need
7 the meat and potatoes. I can't be here. And it's going
8 to take six pages or something to that matter if he wrote
9 every single detail down.

10 Q So how long was the statement?

11 A Like how much time did it take me to take -- to make
12 the statement?

13 Q How many pages?

14 A One. Half a -- it was half of the paragraph.

15 Q And did Kristina actually point the gun at anyone
16 that you saw?

17 A No.

18 Q On that evening you stated that you were afraid of
19 the defendant?

20 A Yes.

21 Q Because -- because of what happened on the back
22 porch?

23 A Yes, ma'am.

24 MS. GASSER: I have no further questions.

25 THE COURT: All right. You may step down. Thank

1 you, ma'am.

2 All right. Call your next witness.

3 MS. GASSER: The State calls Tirissa Johnson.

4 THE CLERK: Ms. Johnson, please, if you'll pause at
5 the end of the bench, place your left hand on the Bible
6 and raise your right hand.

7 WHEREUPON,

8 TIRISSA JOHNSON

9 After having been duly sworn, testified as follows:

10 THE CLERK: Thank you. Please be seated, and please
11 state your name for the record.

12 THE WITNESS: Tirissa Johnson.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MS. GASSER:

16 Q Ms. Johnson, where do you work?

17 A The Greenville County Sheriff's Office within the
18 Communications Division.

19 Q And what are your duties there?

20 A My primary duties are pulling recordings of 9-1-1
21 phone calls, nonemergency phone calls, radio traffic,
22 reports from the computer system for all calls dispatched.

23 Q Can you describe to the jury the process of how the
24 9-1-1 calls are handled?

25 A Sure. So the calls, when the calls come in, they're

1 answered in the sheriff's office for any location within
2 the county. And it is our duty to determine what type of
3 incident has taken place, whether it's a response for
4 sheriff's office, EMS, fire department, who might be
5 involved, the location, whether there are weapons
6 involved, what type of incident, and then that information
7 is relayed to officers.

8 Q And how are these calls preserved?

9 A So they are electronically, digitally stored,
10 simultaneously recorded.

11 Q And are they preserved in the regular course of
12 business operations?

13 A They are.

14 Q And are you the custodian of those calls?

15 A I am.

16 Q And how do you -- how do you -- how did you keep this
17 recording?

18 A So they are stored electronically and backed up.

19 Q And when investigators or prosecutors need a copy of
20 a call, how would we receive a copy?

21 A So it's done on a CD, burned onto a CD.

22 Q And you brought the CD with you?

23 A I did.

24 Q Is this a call from this incident?

25 A It is.

1 MS. GASSER: At this time, Your Honor, may we mark
2 this as State's Exhibit 12?

3 THE COURT: I'm sorry?

4 MS. GASSER: Can we go ahead and mark this as State's
5 Exhibit 12 just for identification purposes?

6 THE COURT: Yeah.

7 MR. SANFORD: I have no objection to that, Your
8 Honor.

9 (WHEREUPON, State's Exhibit Number 12 was marked for
10 identification.)

11 BY MS. GASSER:

12 Q Have you reviewed this call?

13 A I have.

14 Q And was this recording a fair and accurate recording
15 of the 9-1-1 emergency call made in this case?

16 A It is.

17 Q And who placed the call?

18 A I believe the name on there was a Kristina Watson, I
19 believe was the last name.

20 Q And when were the calls made?

21 A About 2:30 in the morning on December 13th of 2019.

22 MS. GASSER: And at this time, Your Honor, the State
23 does move that Exhibit 12 be entered into evidence.

24 MR. SANFORD: No objection, Your Honor.

25 THE COURT: Okay.

1 (WHEREUPON, State's Exhibit Number 12 was admitted into
2 evidence.)

3 MS. GASSER: And may we have permission to publish
4 this to the jury?

5 THE COURT: Yes.

6 MS. GASSER: May I approach the witness, Your Honor?

7 THE COURT: Uh-huh.

8 MS. GASSER: At this time I have no further questions
9 for this witness, Your Honor.

10 THE COURT: Okay. Cross.

11 CROSS EXAMINATION

12 BY MR. SANFORD:

13 Q Ms. Johnson, just a couple questions. Would you
14 repeat again what time this call came in?

15 A About 2:30 in the morning.

16 MR. SANFORD: Thank you, Your Honor. I have no
17 further questions.

18 THE COURT: All right. You can step down. Thank
19 you.

20 MS. PAGE: Your Honor, may this witness be released
21 from her subpoena?

22 THE COURT: Any objection?

23 MR. SANFORD: No objections.

24 THE COURT: Yes, ma'am. You are released.

25 How are you all doing over there? Anybody need a

1 break? Okay.

2 MS. PAGE: May I proceed, Your Honor?

3 THE COURT: Yeah. Call your next witness.

4 MS. PAGE: The State would call Kristina Watson to
5 the stand.

6 THE CLERK: Ma'am, if you'll please pause at the end
7 of the bench, place your left hand on the Bible and raise
8 your right hand.

9 WHEREUPON,

10 KRISTINA WATSON

11 After having been duly sworn, testified as follows:

12 THE CLERK: Please be seated. And would you please
13 state your name for the record.

14 THE WITNESS: Kristina Watson.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MS. PAGE:

18 Q Good morning, Kristina. Can you tell me how old you
19 are?

20 A I'm 22.

21 Q And where are you from?

22 A Greenville, South Carolina.

23 Q Did you go to high school around here?

24 A Yes, ma'am.

25 Q Where did you go?

1 A Carolina High School.

2 Q Are you employed currently?

3 A Yes, ma'am. I work at Reliable in Liberty.

4 Q How long have you worked there?

5 A A month and a couple -- or a year and a couple

6 months.

7 Q Do you have any children?

8 A Yes, ma'am. I have one daughter.

9 Q How old is she?

10 A She's -- she'll be 2 in February.

11 Q And do you know the defendant, Jeremy Allen Watson?

12 A Yes, ma'am, I do.

13 Q How do you know him?

14 A He's my father.

15 Q Is he in the courtroom today?

16 A Yes, ma'am.

17 Q Would you mind pointing him out?

18 A (Indicating.)

19 MS. PAGE: Let the record reflect that this victim

20 has identified the defendant.

21 BY MS. PAGE:

22 Q On December 12th and December 13th, 2019, were you

23 living with the defendant?

24 A Yes, ma'am, I was.

25 Q Where was that at?

1 A [REDACTED] Road.

2 Q Was that within Greenville County?

3 A Yes, ma'am, it was.

4 Q Who all was living in the house with you at that
5 time?

6 A It was me, my mom, my dad and my boyfriend at the
7 time, which is my daughter's father.

8 Q What was his name?

9 A Preston.

10 Q Will you tell me about your day on December 12th?
11 What happened?

12 A I had an ultrasound. This was my last ultrasound
13 before I gave birth so I really wanted somebody there. So
14 my mom decided to go with me.

15 After the ultrasound, it was kind of early in the
16 morning, so we decided to get lunch. So we went to the
17 China buffet in Easley.

18 Am I supposed to tell like everything that happened?

19 Q Just walk me through your day.

20 A Okay. Well, we ate lunch. While I was at lunch, my
21 friend Trent had called me. I've known him since high
22 school. He was a really good friend. My daughter's
23 father knows him. We're all friends. He had some trouble
24 with his girlfriend, so he asked if he could just come
25 over, hang out, talk, which I asked my mom. She said that

1 was perfectly fine.

2 After lunch we went home. I was just sitting there,
3 watching TV, and Trent had came over, I would say, around
4 5:00 or 6:00. So we were just hanging out, watching TV.
5 And my mom was in the bedroom, and she was on the phone
6 with my dad. I had knew -- we had -- me and her had
7 talked about it. He -- I knew he was upset that she
8 wasn't coming down, so they kind of was arguing. I could
9 tell they had -- you know, he was upset. She went on the
10 back porch to smoke a cigarette. And when she came back
11 in, you know, he was on the speaker at that time so I
12 could hear. He was like, you know, "Who's all in the
13 house?"

14 And she's like, "It's me, Kristi and Trent."

15 And he was like, "Who's Trent?"

16 And she was like, you know, "He's been over here
17 before."

18 Well, he was upset. My dad was upset, cussing and
19 stuff. So Trent was like, you know -- because at that
20 time we couldn't watch TV because of the Wi-Fi and stuff.
21 So he was like, you know, the situation, he didn't want to
22 be in this situation. He was uncomfortable with it. He
23 didn't want to cause no more problems, so he went ahead
24 and left. And I would say that was around ten-ish or
25 11:00.

1 And then the whole time my mom was getting calls from
2 my dad. And the last few calls that I heard was when he
3 was in the truck driving down back to the house in
4 Greenville, he was cussing, he was really upset. He -- he
5 was like, you know, "Y'all know you're not supposed to
6 have guys in the house," da, da, da.

7 And then he -- at one point he wrecked his truck.

8 Q How do you know he wrecked his truck?

9 A Well, on -- on the phone we could hear like there was
10 a big crash or bang. And he was like, "Look at what y'all
11 made me do. I wrecked this" -- am I -- am I supposed to
12 cuss? Am I supposed to say everything that he said?

13 Q You can say what he said.

14 A He was like, "Look at what y'all made me do. Y'all
15 made me wreck my fucking truck. Oh, y'all are really
16 going to get it now." Just upset in general.

17 So I -- when he called -- when he had called my mom
18 to go get cigarettes and drinks from the store, I went
19 into my bedroom and she had left. And I heard him pull
20 up, but I stayed in my room. And I didn't know if he had
21 came inside or not, but I heard my mom come back. And I
22 heard the door open. And I'm assuming that's when she
23 went to her room. And he -- I heard the door open again,
24 and that's when I heard him talking to her.

25 And I get that we live -- well, we live in a trailer

1 so the house is -- the walls are pretty thin so you could
2 kind of hear if the doors were open. And you could hear
3 that they were arguing. He was wanting her to go outside,
4 and she didn't want to. And then she eventually got up
5 and walked outside. And he did stop by -- he stopped --
6 because my room is here, the hallway is here and then the
7 back door is right here, so if you're standing at the back
8 door, you can see into my room. And before he went
9 outside, he stopped and he was like -- I can't remember
10 exactly what he said, but he did say something to me along
11 the facts of stay in my room and there's no guys at the
12 house when he's not there.

13 So I said, "Okay." That's all I said. And he walked
14 outside with my mom.

15 Q I'm going to pause you. Did you -- did you make any
16 recordings during any of this?

17 A Yes, ma'am. After he -- after I could tell that he
18 was upset when they walked out onto the back porch, I
19 started recording on my phone. And I could hear them
20 arguing. And I heard some rustling around and some chairs
21 moving, so that's when I decided to get up and go to the
22 back porch. And when I did, that's when I seen he had
23 grabbed her by the neck. And I opened the door, and I
24 told him I was -- I told him, I said, "If you do not -- if
25 you do not stop putting your hands on her, I will call the

1 cops."

2 And that's when he told me, "Get back in the -- get
3 back in the fucking house." And he was like, you know,
4 "Mind your business. Close the door. Stay in your room."

5 And I just kept telling him like, you know, "No. I'm
6 going to make sure my mom's safe. I'm just letting you
7 know right now if you put your hands on her again, I'm
8 calling the cops."

9 And so he got upset. Me and him said some words. We
10 had an argument.

11 I was standing at the back door, and he had came
12 towards the back door. We were both standing in the door
13 frame of the back door. And the argument escalated very
14 quickly. He -- I can't remember what I was doing at the
15 time, but he had grabbed my face. And his thumb ended up
16 in my mouth, and I bit down very hard. And when I did, he
17 grabbed my neck with his nails and he threw me down on the
18 back porch.

19 Q And where was your phone when all this was happening?

20 A I had tried to keep my phone in my hand. It kind of
21 fell out. I grabbed it. And I was trying to call 9-1-1
22 when I got up, but he was grabbing my back, pulling my
23 hair, pulling my clothes, trying to get me to stop.

24 And when I finally got 9-1-1 on the phone, I was just
25 screaming the address trying to see if they could hear me.

1 And when I finally got the address out, he had let go and
2 I ran to my room. And at that time he was following me
3 and still yelling at me, so I had my -- my daughter's
4 father kept a gun in the side drawer beside the bed, and I
5 picked it up and I held it up.

6 Q How far away was he from you when you got this gun in
7 your hands?

8 A So my room is right here, there's a little space for
9 the bathroom, there's two washers and dryers. And he was
10 kind of between the washer and dryer in my room. So if I
11 had to give an estimate of like feet, I would say ten-ish,
12 15 feet at the most.

13 Q And what did he do once you grabbed this gun?

14 A He turned around and went to his room.

15 Q Do you know if this gun was loaded?

16 A There was bullets in it, but it wasn't cocked.

17 Q Okay. Did you follow him once he went to his room
18 with this gun?

19 A No. I didn't follow him, but I did step out of my
20 room. And my mom seen me, and she's like, "Put the gun
21 up."

22 He went to his room. He closed the door. I put the
23 gun up, and that's when -- because I was still on the
24 phone with 9-1-1.

25 Q So you were already on the phone with 9-1-1 when this

1 happened?

2 A Yes, ma'am.

3 Q Okay.

4 A And she told me to go into the bathroom and lock
5 myself in, and I did.

6 Q Where was the defendant in the house while you -- did
7 he remain in the bedroom?

8 A No. During the 9-1-1 call, you can hear that he came
9 back towards the bathroom and was telling me to tell the
10 cops that there was a gun, which I did tell them there was
11 a gun.

12 Q Now, let's back up to when he grabbed your face. Did
13 this cause you any physical pain at all?

14 A Yes, ma'am. It busted my lip, and I had scratches on
15 my neck.

16 MS. PAGE: May I approach the witness, Your Honor?

17 THE COURT: Yes.

18 BY MS. PAGE:

19 Q I'm showing you what was previously marked as State's
20 Exhibits 3 through 9. If you would, tell me who that is
21 in those photos.

22 A That's me.

23 Q Go ahead. I'll let you look through them real quick.

24 A (Reviews exhibits.)

25 Q And do these photos accurately depict how you looked

1 the night of -- the morning hours of December 13, 2019?

2 A Yes, ma'am, it does.

3 MS. PAGE: The State would move to admit Exhibits 3
4 through 9 into evidence at this time.

5 MR. SANFORD: No objection, Your Honor.

6 THE COURT: Without objection.

7 (WHEREUPON, State's Exhibit Numbers 3 through 9 were
8 admitted into evidence.)

9 MS. PAGE: Permission to publish to the jury.

10 THE COURT: Yes.

11 BY MS. PAGE:

12 Q Can you talk to me a little bit about what we're
13 looking at in this photo?

14 A This was when the cops were taking my picture. They
15 just wanted to get an overall view of my face.

16 That was the scratches from his fingers when his
17 mouth -- when his hand was in my mouth.

18 Q Now, who took this photo?

19 A I took it while I was in the bathroom with the 9-1-1
20 lady. It shows the time stamp on it.

21 Q Tell me what we're looking at in here.

22 A This is when he grabbed me by my face. It -- it
23 wasn't a smack, but he did forcefully grab my face. And
24 when his thumb entered my mouth, it busted my lip.

25 Q What about this one?

1 A Those were from while I was trying to make the 9-1-1
2 call and he was trying to stop me, he was pulling on my
3 shirt and stuff like that.

4 Q Would you say that all of these injuries in these
5 photos were caused by Jeremy Watson?

6 A Yes, ma'am.

7 Q When you made the 9-1-1 call, can you tell me
8 emotions-wise how were you feeling in that moment?

9 A I was upset. I at first tried to resolve the
10 situation by, you know, telling him just to stop, you
11 know. That way there wouldn't be all this. But I was
12 upset that all that happened. I was seven months pregnant
13 at the time, so I was kind of scared for my daughter.
14 There was just a lot of emotions.

15 MS. PAGE: Your Honor, at this time I am going to
16 publish to the jury what's previously been admitted as
17 State's Exhibit 12.

18 THE COURT: Okay.

19 BY MS. PAGE:

20 Q While we're waiting on that to load, I'll ask you
21 some questions. You heard some conversations between the
22 defendant and your mom on the phone. Did you hear him
23 make any threats before he got to the house over the
24 phone? Were you able to hear any of that?

25 A Yeah. He -- he said a couple of things like, "Y'all

1 better be ready when I get there." He talked about
2 beating our ass. He -- and he was like, "I'll show you
3 'none of your business.'" And I don't remember everything
4 he said, but he did make some. So . . .

5 (WHEREUPON, State's Exhibit 12, an audio recording, was
6 played in open court.)

7 BY MS. PAGE:

8 Q Okay. Kristina, that was a little bit of a lengthy
9 call, correct? Why did you want to stay on the line with
10 9-1-1 until law enforcement got there?

11 A Because I knew it wouldn't go no further if somebody
12 else was on the phone.

13 Q You sound pretty angry in the beginning of that phone
14 call.

15 A Yes, ma'am.

16 Q Talk to me a little bit about your emotions and what
17 was going on when you made that call.

18 A I was angry. I mean, you know, I -- just all the --
19 all of the stuff that just happened, I just -- I couldn't
20 believe it, honestly.

21 Q Was this traumatic for you?

22 A Yes, ma'am, it was.

23 Q Did you go get checked out after this happened for
24 the baby?

25 A Yes, ma'am. I had an OB/GYN appointment the next

1 day. And because I was going to go to the hospital that
2 night, but the officers there -- were there for a little
3 while, and I was trying to get ahold of my daughter's
4 father.

5 Q Where is he at?

6 A He drives trucks, 18 wheelers, so he was gone most
7 during the week, and he would always come back on the
8 weekends.

9 Q And why did you want to call him? I heard in that
10 phone call several times you stated to call Preston. Why
11 was that?

12 A I just needed him.

13 Q In this phone call that we just listened to, you can
14 hear the defendant say about telling them that there was a
15 gun.

16 A Uh-huh.

17 Q At that point had you put the gun back up?

18 A Yes, ma'am. The point I pulled the gun out is when
19 he -- in that 9-1-1 call, you can hear me tell him to
20 leave me alone, and you can hear him talking after the
21 rustling has stopped. And I went to my room, and he came
22 towards my room. That's when I took the gun out of the
23 drawer.

24 Q And I believe the 9-1-1 operator did ask you about
25 the gun, and you had stated it was in the bedside table.

1 Had you placed it there at that point?

2 A Yes, ma'am, it was.

3 Q Now, I'm backtracking to something totally about what
4 we're talking about here, but two things that I wanted to
5 ask you was had the defendant met Trent before?

6 A Yes, ma'am. I had two pet pigs. At the time when I
7 first found out I was pregnant, I lived in Easley with my
8 boyfriend at the time. And like I said before, he was a
9 good friend so, you know, I -- we called him to help move
10 the pigs from the house in Easley to my parents' house at
11 the time. And he was there, and he helped, and he helped
12 put the fence up and stuff for them.

13 Q And one other unrelated was we talked about the
14 defendant wrecking his truck. Did you actually see any
15 damage to his truck?

16 A Yes, ma'am, I did.

17 Q Can you tell me about that?

18 A It was on -- I'm pretty sure it was on the side with
19 the gas tank. I'm not -- I didn't really go out there and
20 check his truck so I'm not very sure, but when I did
21 leave, there was damage to the truck.

22 Q Was damage that was not there before when he left the
23 last time you saw him in the truck?

24 A Yes, ma'am.

25 MS. PAGE: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 BY MS. PAGE:

3 Q I'm approaching you with State's Exhibits 10 and 11.
4 This is 10 and this is 11. Talk only about State's
5 Exhibit 10.

6 Can you tell me what that is?

7 A This?

8 Q Uh-huh.

9 A Yeah. It's a flash drive.

10 Q Do you know what's on it?

11 A Yes, ma'am. It's a video that I took.

12 Q Okay. Was it of this incident?

13 A Yes, ma'am, it was.

14 Q And how do you know that that is what's on that USB
15 drive?

16 A I watched it.

17 Q How do you know that that's the same USB drive that
18 you watched?

19 A Because I signed my initials and the date on it.

20 Q And what's the date on that?

21 A Today's date.

22 MS. PAGE: And the State would ask to move that video
23 into evidence at this point. That's State's Exhibit 10.

24 MR. SANFORD: No objection, Your Honor.

25 THE COURT: All right. Without objection.

1 (WHEREUPON, State's Exhibit Number 10 was admitted into
2 evidence.)

4 Q We are not going to publish this one to the jury.
5 However, this is the full vision, correct?

7 Q Can you talk to me about State's Exhibit Number 11?

8 What is that?

10 Q Okay. And what's the difference of that from ---

14 Q Can you see anything in the beginning of the video?

19 Q You need to ---

23 Q So how do you know that that is the same disk that
24 contains the video on it?

1 Q Did you initial and date that video as well?

2 A Yes, ma'am, I did.

3 MS. PAGE: The State would ask to move Exhibit 11
4 into evidence at this point and publish to the jury.

5 THE COURT: Any objection?

6 MR. SANFORD: No objection, Your Honor.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Number 11 was admitted into
9 evidence.)

10 MS. PAGE: Beg the Court's indulgence.

11 THE COURT: I'll tell you what. Ladies and
12 gentlemen, we're going to take a short break, try and get
13 the technical difficulties figured out.

14 I'm going to excuse you back to your jury room.
15 While you're there, I'm going to ask you to see if you can
16 decide who among the first 12 would like to serve as the
17 foreperson of the jury. The foreperson is the moderator
18 of the discussions during your deliberation and the
19 spokesperson here in the courtroom should that become
20 necessary.

21 So with that, ladies and gentlemen, we'll excuse you
22 back to the jury room. Please don't discuss the case.

23 (WHEREUPON, the jury exits the courtroom at 12:17 PM.)

24 THE COURT: All right. Ms. Watson, you can stand
25 down, but don't discuss your testimony with anybody.

1 THE WITNESS: Yes, sir.

2 THE COURT: We'll just take about a five- or
3 ten-minute break.

4 (WHEREUPON, a recess is taken at 12:17 PM; the jury
5 entered the courtroom at 12:32 PM.)

6 THE COURT: If y'all are comfortable in the jury box
7 and you want to pull your mask down, you may certainly do
8 so. Thank you. All right.

9 MS. PAGE: May it please the Court, Your Honor.

10 BY MS. PAGE:

11 Q We were talking about, was it State's Exhibit 11?
12 This video, you said, was the cut conversion. So can you
13 tell me a little bit about before I hit "play" where you
14 were when you started recording this video?

15 A When I first started recording the video, I was in my
16 bedroom, and my parents were out on the back porch.

17 Q Okay. So we're going to play the video and then
18 we'll talk about it a little bit.

19 (WHEREUPON, State's Exhibit 11, a video recording, was
20 played in open court.)

21 BY MS. PAGE:

22 Q And what was that that you said?

23 A That was when they were walking on the back porch and
24 he stopped -- when I mentioned that he had stopped and
25 said something before he went outside, that's what he

1 said.

2 Q Can you tell me what it was that he just said?

3 A I couldn't really hear it. He said something about
4 no bringing boys in the house or something like that.

5 (WHEREUPON, State's Exhibit Number 11, a video recording,
6 continued to play in open court.)

7 BY MS. PAGE:

8 Q During the silence, where are you at?

9 A I was on my bed. And this is when I -- after he said
10 that, he walked outside. And this is when I was recording
11 just to have it. And that's during this I hear the
12 arguing and the commotion.

13 Q So you can hear arguing right now.

14 A Yes. And when I get up is when I go to the back
15 door.

16 (WHEREUPON, State's Exhibit Number 11, a video recording,
17 continues to play in open court.)

18 BY MS. PAGE:

19 Q Can you tell me what you're doing right now in the
20 video?

21 A So on the back porch are doors. They have blinds on
22 them. After we said those few words, he closed the door.
23 And I had opened the blinds so I could watch them outside.
24 And I was just standing there, right here.

25 (WHEREUPON, State's Exhibit Number 11, a video recording,

1 continued to play in open court.)

2 BY MS. PAGE:

3 Q Can you tell me why that ended abruptly the way it
4 did?

5 A Because he knocked my phone out of my hand.

6 Q Now, you can be heard in that video saying "hit me."
7 Why were you saying that?

8 A Because when we were arguing, he kept acting like he
9 was going to hit me. And I told him, I was like, "If
10 you're going to hit me, hit me. I'm calling the cops."

11 Q What do you mean by act like he's going to hit you?
12 Was he ---

13 A Raising his hand up, getting in my face, like, you
14 know, trying to push me away and stuff like that.

15 Q Now, he's telling you to get away from him in that
16 video. Can you explain to me your positioning, like what
17 was exactly happening?

18 A I was just standing at the door, and the whole time I
19 was standing at the door, he kept getting pissed because
20 he seen me at the door. And he opened the door, and I
21 told him, I was like, "I could still hear y'all."

22 And I literally was standing in one spot. I did not
23 move the entire time. He kept coming back to the door.

24 Q As soon as the video cuts off, walk me through what
25 happened and exactly what you did next.

1 A So when the video cut off, that's when he had grabbed
2 my face. And it happened very fast, so I don't know
3 exact, you know, the time period. But that's when he
4 grabbed my face, and that's when I bit his finger and he
5 threw me to the ground. And that's when I -- my phone,
6 that's when it cut off was when the phone fell.

7 Q Were you worried about your mom when she was on the
8 porch?

9 A Yes.

10 Q Why exactly did you get up to go to the back door?
11 Like why did you get up and go back there and insert
12 yourself?

13 A Because I knew if somebody didn't stand in the middle
14 of it, it would have got bad.

15 MS. PAGE: All right. Kristina, if you'll answer any
16 questions the defense has for you at this time.

17 THE WITNESS: Yes, ma'am.

18 CROSS EXAMINATION

19 BY MR. SANFORD:

20 Q Hi, Ms. Watson. How are you?

21 A How are you?

22 Q I'm doing well. Thank you.

23 At the time of this incident, how long had you been
24 living with your father?

25 A Only like a month. It was not very long at all.

1 Q What caused you to move there?

2 A Because when I was pregnant, I had a nerve in my back
3 that I was unable to work because it made my daughter lose
4 blood flow, so I was on medical leave. And at the time my
5 daughter's father was the only one paying the bills. And
6 my dad actually had offered for us to move back. But I
7 didn't want to, but my daughter's father was the one
8 paying the bills, so he had made that decision.

9 Q But you didn't want to be there.

10 A No, sir, I did not.

11 Q Did you and your dad have a decent relationship
12 before this?

13 A We didn't get along very much, no.

14 Q So did you see him a lot or not really?

15 A I mean, yeah. My parents were still together through
16 this all. So, I mean, I love my mom dearly, so I would go
17 over there all the time. At the time I had told them I
18 was pregnant, you know. They kept up with all that. So,
19 yeah, I did see them pretty almost once or twice a week,
20 yes.

21 Q Now, let's talk a little bit about timeline. You
22 said you and your mom went to eat lunch that day.

23 A Yes.

24 Q Do you know about what time that was?

25 A I'm not sure. I know my ultrasound appointment was

1 early in the morning, probably around nine-ish or so, and
2 it lasted for an hour or so. So I would say we went to
3 lunch between -- roughly between 12:00 and 2:00.

4 Q Okay. And then about what time did you go home?

5 A Well, we ate at a buffet so it wasn't -- it didn't
6 take that long. So I would say we probably got home -- we
7 were home probably around three-ish, 4:00.

8 Q Okay. And then your friend Trent came over.

9 A Yes.

10 Q What time did he call you?

11 A He called me while we were at the Chinese restaurant.
12 I'm not sure for what time just because I'm not sure at
13 what time specifically we were at the restaurant. But he
14 did call me while I was at the restaurant. And that's
15 when I told him -- I asked my mom if it's okay if he came
16 over. And he said he would be over later on, though. But
17 he didn't come over till around five-ish or 6:00.

18 Q Okay. Do you know Trent's last time?

19 A Yes. Wright, W-R-I-G-H-T.

20 Q And then you said you had known Trent for a long
21 time.

22 A Yes. We went to high school together.

23 Q And did you -- I believe you mentioned -- said that
24 he was pretty much like family to you?

25 A Yes. His -- well, it's not like blood family, but

1 his aunt was married to one of my uncles like down the
2 line, so we just call each other cousins.

3 Q But you heard your mom testify that he had only been
4 over to the house once or twice.

5 A Yes.

6 Q And that's all -- you know, he was like family, but
7 he had only been over there a couple times?

8 A He was family to me.

9 Q But he didn't come over to the house that often?

10 A No. Because I lived -- he didn't come over to my
11 parents' house often because I lived in Easley with my
12 boyfriend at the time, and he'd come over there.

13 Q Now, what time did Trent leave?

14 A He left about 10:30, 10:00 to 10:30-ish.

15 Q And was that because of the phone call that your
16 mother received?

17 A Yes. We were watching a movie. We were sitting on
18 the couch. And when the Wi-Fi and stuff went off --
19 because he kind of knew some of the stuff that was going
20 on. So -- and when my mom walked in on speaker and she
21 heard my dad upset, well, he heard my dad upset. He was
22 just like, you know, "I think I'll just go home," you
23 know, because he didn't want to make the situation worse.

24 Q Okay. Do you know when that phone call was made if
25 your father had left at that point or he was driving

1 or ---

2 A No. After he found out that there was a guy in the
3 house, that's when he decided -- that's when he left from
4 his job to the house.

5 Q Okay. So he wasn't -- he wasn't on the way there at
6 that point when he called, or was he?

7 A No. Not that I think of.

8 Q Okay. But you're not 100 percent sure.

9 A I'm not 100 percent sure, no.

10 Q All right. And when exactly did the Wi-Fi go out?

11 A Like timewise?

12 Q Yeah.

13 A So I'm pretty sure we started a movie around
14 eight-ish, so between 9:00 and 10:00. Because as soon as
15 the movie went off, like not even 30 minutes later is when
16 he left.

17 Q Okay. Now, let's get into the altercation a little
18 bit. Did you see the altercation with your mom?

19 A Yes. When I heard them arguing and some wrestling
20 and some chairs, I walked -- I got off my bed and I walked
21 to the back porch. And that's when I seen her was -- he
22 was up against her with his hands, and then he backed up.
23 And that's when I opened the door and I said, you know,
24 "You need to stop."

25 Q Let me back up a little bit. What time did your

1 father arrive at the house?

2 A I would say like 1:00, one-ish, 1:30, almost 2:00.

3 Because everything that happened didn't happen -- it
4 didn't take very long. And I know the pictures were taken
5 at 2:40, so it had to be maybe an hour before that.

6 Q Okay. So he got -- he got there about 1:30, 1:40; is
7 that what you're saying?

8 A Yes.

9 Q Okay. Which would have put him -- you said he worked
10 about -- or he worked about two and a half hours away?

11 A Uh-huh.

12 Q So that would have put him leaving about 11:00 --
13 11:00 or so?

14 A Yes.

15 Q Okay. And you said that you thought he left -- he
16 could have left right after the phone call at 10:30?

17 A Like what do you mean? I'm sorry.

18 Q Because we had just discussed the phone call ---

19 A Yes.

20 Q --- saying that he was -- he was either leaving or
21 just had left at that point?

22 A Yes.

23 Q And so you're saying he left at 10:30, but ---

24 A Trent left at 10:30.

25 Q Okay.

1 A But all I said, I wasn't for sure what time he left
2 after that.

3 Q "He" being your father.

4 A Yes. I'm sorry.

5 Q Okay. Now, you saw -- you did -- you said you heard
6 the altercation first?

7 A Yes.

8 Q And then you went to the -- I guess the door?

9 A Back porch, yes.

10 Q And could you -- could you clearly see what was
11 happening or ---

12 A Yeah. The -- the blinds, we have blinds, and they
13 were up. Yes.

14 Q Okay. And that was -- that was through a window
15 that's beside the door?

16 A No. That's the door. The door itself is a window.

17 Q Okay. So it's a ---

18 A It's just glass.

19 Q Okay. And it's not any type of decorative glass or
20 anything.

21 A No. It's just like this glass right here
22 (indicating).

23 Q Okay. Now, at what point after that did you call
24 9-1-1?

25 A After I hit the ground, after I was on the ground, I

1 got up and I went to get my phone. And that's when I
2 dialed 9-1-1.

3 Q Okay. And did you and your mom -- were you and your
4 mom having any arguments this day?

5 A No. Actually, we were pretty excited. I just had my
6 ultrasound for my daughter. We just had grabbed lunch.
7 You know, it was a pretty good day.

8 Q Okay. And when you were talking to the 9-1-1
9 operator, she told you to go and lock yourself in a room?

10 A Yes.

11 Q Where did you go?

12 A The bathroom.

13 Q You didn't go to your bedroom?

14 A I went to the bedroom before she said that.

15 Q Okay. So you were in your bedroom and then you went
16 to the bathroom.

17 A Yes.

18 Q Why did you go to the bedroom?

19 A Because my bedroom is a safe place to me.

20 Q Did you lock the door to your bedroom?

21 A No. Actually, when I got up and I called 9-1-1 and
22 to go to my bedroom, he was following me at the same time.
23 So as soon as I seen him coming at me cussing, that's when
24 I grabbed the gun.

25 Q Okay. So you went in the bedroom and you grabbed the

1 gun at that point.

2 A Yes.

3 Q Did you grab the gun while you were on the phone with
4 9-1-1?

5 A Yes, I did.

6 Q And you put the -- you said you later put the gun
7 back in the -- back in the drawer -- bedside drawer?

8 A Yes. Once he -- once I held the gun up and he seen
9 the gun, he turned around and went to the room. And I put
10 the gun in the side table, and then I went into the
11 bathroom.

12 Q So you did point the gun at him.

13 A Not generally in him. Just to let him know that I
14 did have a gun.

15 Q But you held the gun up.

16 A Yes.

17 Q Okay. To at least show him what it was if you did
18 not point it at him.

19 A Yes.

20 Q And how long did you have the gun in your hand?

21 A I wouldn't even say two minutes.

22 Q Did you put it to his head?

23 A No, sir, I did not.

24 Q When were -- when were those phone photos taken?

25 A Actually, the first couple were 2:40 when I was on

1 the phone with the 9-1-1 lady, and then the other ones
2 were after -- I think were 5:00. I took a shower, and
3 that's when the officers had just left.

4 Q So you were taking photos of yourself before the cops
5 showed up.

6 A Yes.

7 Q While you were on the phone with 9-1-1.

8 A Yes.

9 Q Is that what was happening in that silent period in
10 the end of the call?

11 A Yes. And I also were trying to get ahold of my
12 daughter's father.

13 Q Okay. Now, you did say in the 9-1-1 call that there
14 were no weapons in the house, but later you did have a
15 gun.

16 A When she asked if there were -- I'm confused. What
17 do you mean?

18 Q So initially, they asked if there were weapons in the
19 house, and you stated, "No," and then later you said,
20 "Yes. There is a gun"; is that correct?

21 A I'm sure. I assumed she asked if we had any weapons,
22 and I said no. And then when he had came up to the door
23 and the lady had heard that there were guns, because I
24 thought she was asking like are we waving guns around.
25 And, I mean, at that time I was not. I was in the

1 bathroom.

2 Q Okay. But there were weapons in the house.

3 A Yes. There were, yes.

4 Q Okay. Now, on the 9-1-1 call you also say she was
5 going to try to hurt your mom -- he was going to try to
6 hurt your mom.

7 A Yes.

8 Q So he hadn't hurt your mom?

9 A He -- I mean, that's not the worst thing he's done
10 before. So yes. Just that is not to me that bad.

11 Q But he was going to try to hurt your mom, not he had
12 hurt your mom.

13 A Yes. And on the 9-1-1 call, it also says that he was
14 trying to choke her.

15 Q Well, you said that he was going to try and choke her
16 out, not that he had; is that correct?

17 A Yes. That's what I said.

18 Q Now, what color -- what car was he driving?

19 A He had two different cars. He had a Ford Explorer
20 and he had a F350, I'm assuming. It's a white truck.

21 Q If I said it was a white F450, would that -- would
22 that be also -- if it was an F450 as opposed to an F350?

23 A It's a white truck. That's all I ---

24 Q It's a white Ford truck, correct?

25 A Yes.

1 Q And which car was he driving?

2 A The car that he drove to -- from Georgia to the house
3 was his white truck. And on the 9-1-1 call when I said
4 that I thought he was leaving, I assumed he was going to
5 take the Jeep.

6 Q Okay. But you told them the Explorer on the 9-1-1?

7 A The Ford Explorer, yes.

8 Q Right.

9 Now, was there any -- any time that you had tried to
10 -- he was in a bedroom and you tried to break a door down?

11 A Oh, no, sir.

12 Q You didn't try -- you didn't put your shoulder to a
13 door trying to get to him?

14 A No, sir. I was seven months pregnant.

15 Q And have you had the baby?

16 A Yes. I've had her now, yes.

17 Q And the baby is healthy?

18 A Yes. She's perfectly fine.

19 Q When did you have the baby?

20 A In February.

21 Q And that would be 2020?

22 A Yes.

23 Q And I'm -- I don't want to -- you know, I'm going to
24 be very delicate about what I'm about to ask you. You
25 know, you said that he hit you in the face, correct?

1 A I didn't say he hit me.

2 Q But he had his hand on your face.

3 A Yes.

4 Q How did he have your [sic] hand on your face, if you
5 wouldn't mind demonstrating?

6 A So if I was standing at the door like this and he was
7 standing like this, his hand grabbed my mouth like this.
8 And his finger was in my mouth and his finger -- or his
9 thumb was in my mouth and his fingers were on my neck.
10 And when his finger went into my mouth, I bit down
11 (demonstrating throughout).

12 Q Okay. And which hand was it?

13 A His left hand.

14 Q Now, he had opened and closed the door a lot right
15 before then, correct?

16 A Uh-huh.

17 Q Had you opened and closed the door at all?

18 A I opened the door the first time when he -- when I
19 told him to stop.

20 Q Okay. And when he closed the door one time, were you
21 falling down at that point?

22 A Falling down as in make like myself fell [sic]?

23 Q Yeah.

24 A No.

25 Q So you hadn't fallen down based on the opening and

1 closing of the door?

2 A No, sir.

3 I'm confused on the question you're asking.

4 Q I'm just asking if you happened to fall while ---

5 A Opening the door?

6 Q Yes.

7 A No, sir, I did not.

8 Q Or closing the door?

9 A No, sir, I did not.

10 Q And he wasn't trying to help you up because you had

11 fallen?

12 A No, sir, he was not.

13 Q Now let's talk about the video a little bit. You

14 know, you said -- there was a long portion -- or sorry.

15 Let's talk about the 9-1-1 call a little bit more. There

16 was a long portion at the end where there was a lot of

17 calm and quiet and nothing going on. You didn't really

18 hear a whole lot. What was going on during that?

19 A I was in the bathroom. I was just trying to take a

20 moment to -- you know, I mean, a lot of stuff had just

21 happened, so I was trying to take a breath. I don't

22 really know where he or my mom were, so I was just in the

23 bathroom. My mom had walked up to the door and asked me

24 if I was okay. And at that time I was trying to get ahold

25 of my daughter's father. So I was just trying to stay in

1 the bathroom. The 9-1-1 lady told me to lock myself in a
2 room and wait until officers got there, so that's what I
3 was doing.

4 Q So you said you didn't know where your mom and your
5 father were at that point.

6 A No.

7 Q You don't know if they were inside the house or
8 outside the house?

9 A Not that I'm sure of. I did hear somebody go out to
10 the car, though. I could hear there was doors opening in
11 the car.

12 Q But you didn't hear any further arguing between them
13 or anything during that point, did you?

14 A Not that I'm sure of.

15 Q Now, you had said prior in your testimony that you
16 had thought about going to the hospital?

17 A Yes.

18 Q But you told the 9-1-1 call operator that you didn't
19 need EMS.

20 A Yes.

21 Q So when did you feel like you needed the hospital?

22 A Well, I went to the hospital after -- or the -- my
23 OB/GYN after the fact just to, you know, check the baby
24 and everything. I didn't feel comfortable with, you know,
25 everything that just happened. I was trying to take, you

1 know, a minute to get everything together. The officers
2 had came, so we were talking to the officers. I was
3 trying to get my daughter's father on the phone. So there
4 was just a lot of stuff going on. I wasn't bleeding. I
5 could still feel my daughter kicking, so I knew she was
6 still alive.

7 So after I took my shower around 5:30, I made an
8 appointment to my OB/GYN, and I went. And she checked
9 her, made sure everything was fine. So . . .

10 Q So you didn't -- so you never really considered going
11 to the hospital.

12 A Yes, I did. On the police officer's video, you can
13 see I told him I'm going to the doctor after this.

14 Q Okay. But you didn't feel like you needed to go to
15 the hospital that evening.

16 A Right then and there, no.

17 Q Let's talk about that video for a second. You had it
18 on record for a long time before you started recording.

19 A Yes.

20 Q Or could see any motion or anything.

21 A Uh-huh.

22 Q Why did you have that phone recording for that long
23 without showing anything?

24 A Because I was just afraid of what was going to
25 happen.

1 Q Now, when you say "afraid of what was going to
2 happen," what do you mean?

3 A He has been abusive to my mom in the past, and
4 usually when things -- when he gets upset, it's like this.
5 So -- and I was pregnant, and I knew -- you know, I was
6 tired of him putting his hands on my mom. So I knew that
7 if he -- if he was going to start acting like this, I was
8 going to show him. I was going to record and make sure
9 that . . .

10 Q But right after you start grabbing the phone and
11 going towards the door ---

12 A Uh-huh.

13 Q --- you tell him before you even see anything that
14 you said he's going to jail?

15 A Yeah. Because he was putting his hands on my mother.

16 Q Right. But you said that you're going to make sure
17 that he goes to jail.

18 A Yes. Because he was putting his hands on my mother.

19 Q And then you also -- you took those photos before --
20 of your mouth and your face before the cops got there?

21 A The cops also have the same exact photos.

22 Q Now, also on the video you said you can hear your dad
23 saying no boys there after 12:00 or something to that
24 effect?

25 A Yeah. Something like that, yes.

1 Q Was Trent there after 12:00?

2 A No, he was not.

3 Q How loud was the argument outside?

4 A It was -- like I said, we live in a trailer, so the
5 walls are not that thin -- or the walls are not that
6 thick. So if you're outside having just a normal
7 conversation without even yelling, you can hear some of
8 it. So, I mean, they were arguing. You could hear it.

9 Q Now, in your testimony you said that you were telling
10 him to go ahead and hit you on the video?

11 A Yes. On the video, yes.

12 Q Why were you telling him to go ahead and hit you and
13 trying to egg him on versus, you know, pulling back and
14 calling 9-1-1 immediately?

15 A Because, I mean, I was just surprised in general. I
16 was like -- because he was putting his hands up like he
17 was going to hit me, you know, acting like he was going to
18 hit me. And I was just surprised. I was like, "Wow. Are
19 you really going to hit me? You're going to hit your
20 pregnant daughter?"

21 Q But he was also telling you to get out of there,
22 correct?

23 A Yes.

24 Q So why didn't you get out of there and call 9-1-1?

25 A Because I didn't move. I stayed in the same spot the

1 whole time. He came back to me every single time and said
2 something to me. So -- and I was inside the house. He
3 was outside the house.

4 Q Were you getting up in his face as well?

5 A No. Not that I can think of. I mean, we did have an
6 argument, yes.

7 Q So, once again, you haven't really answered my
8 question. Why not get out of that situation and
9 automatically call the police?

10 A Because if I just walked away, he would have put his
11 hands on my mom again.

12 Q And, you know, I'm just going to go back to it, but
13 you had plenty of time to call 9-1-1, correct?

14 A Yes.

15 MR. SANFORD: Beg the Court's indulgence.

16 BY MR. SANFORD:

17 Q When you called 9-1-1 initially, where were you?

18 A On the back porch. When I started -- when I -- the
19 first -- phone first started ringing and I started
20 screaming, I was on the back porch.

21 Q Okay. So you had -- and this was after the cell
22 phone video?

23 A Yes.

24 Q Okay. And so you had gotten from inside the house to
25 the back porch?

1 A Yes.

2 Q And where was your dad at that point?

3 A On top of me trying to get my phone.

4 Q While you're calling 9-1-1.

5 A 9-1-1, yes.

6 Q So you were able to dial 9-1-1 while you were
7 tussling with him?

8 A Yes. That's why I was screaming. You can hear the
9 phone flipping around and doing everything.

10 MR. SANFORD: No further questions, Your Honor.

11 THE COURT: Any redirect?

12 MS. PAGE: Very quick, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. PAGE:

15 Q Kristina, you just testified that your dad has abused
16 your mother previously in the past, correct?

17 A Yes, ma'am, I have.

18 Q And did you feel the need to protect your mother in
19 that moment?

20 A Yes, ma'am, I did.

21 MS. PAGE: Nothing further.

22 THE COURT: All right. Thank you. You may step
23 down.

24 THE WITNESS: Thank you.

25 THE COURT: All right. Ladies and gentlemen -- and,

1 Mr. Leberth, thank you for agreeing to serve as
2 foreperson. We're going to break for lunch, and we're on
3 schedule, believe it or not. 1:00. We'll see you at
4 2:30. Thank you.

5 (WHEREUPON, the jury exits the courtroom at 1:02 PM;
6 Court's Exhibit Number 1 was marked for identification.)

7 THE COURT: All right. Anything before we break for
8 lunch?

9 MS. PAGE: Nothing from the State.

10 MR. SANFORD: Nothing from the defense, Your Honor.

11 THE COURT: All right. See you all at 2:30. If you
12 have proposed jury charges, see if you can't bring them
13 with you.

14 (WHEREUPON, a recess is taken at 1:03 PM; Defendant's
15 Exhibit Numbers 1 through 4 were marked for
16 identification.)

17 THE COURT: All right. Are y'all ready to go?

18 MS. PAGE: The State's ready, Your Honor.

19 THE COURT: Defense?

20 MR. SANFORD: Ready, Your Honor.

21 THE COURT: Okay.

22 (WHEREUPON, the jury entered the courtroom at 2:45 PM.)

23 THE COURT: All right. Ladies and gentlemen, welcome
24 back.

25 Call your next witness.

1 MS. GASSER: The State calls Master Deputy Jonathan
2 Rey.

3 THE CLERK: Sir, if you'll please pause at the end of
4 the bench, place your left hand on the Bible and raise
5 your right hand.

6 WHEREUPON,

7 JONATHAN REY

8 After having been duly sworn, testified as follows:

9 THE CLERK: Thank you. Please be seated. And, sir,
10 would you please state your name for the record.

11 THE WITNESS: My name is Master Deputy Jonathan Rey.

12 THE CLERK: Thank you, sir.

13 DIRECT EXAMINATION

14 BY MS. GASSER:

15 Q Deputy Rey, where are you from?

16 A Chicago, Illinois.

17 Q And after high school, what did you do?

18 A I was in the military for eight years.

19 Q And who are you currently employed with?

20 A The Greenville County Sheriff's Office.

21 Q When did you begin working for Greenville County?

22 A It was by May 2018.

23 Q And what is your current position or title?

24 A Master deputy.

25 Q And what was your position at Greenville County on

1 December 13, 2019?

2 A I was a deputy II on uniform patrol.

3 Q What were your duties and responsibilities on uniform
4 patrol?

5 A What they are currently, which is respond to 9-1-1
6 calls, respond to anything of an emergency.

7 Q Were you working the night of December 13, 2019?

8 A Yes, ma'am, I was.

9 Q Did you answer a call for service at [REDACTED] Road
10 that night?

11 A Yes, ma'am, I did.

12 Q Was that within Greenville County?

13 A Yes, ma'am.

14 Q What time was this around?

15 A Approximately 2:30. I think that's when the call had
16 came out.

17 Q What was the reason for the call?

18 A It was a 9-1-1 call. Dispatcher said that there's a
19 disturbance at the residence. There's an open line.
20 Sounds like there's a struggle. And it stated that there
21 is a -- that the complainant advised that their father had
22 assaulted them. They also said there were -- there were
23 firearms or weapons inside the home at the time.

24 Q When you arrived on scene, what did you do?

25 A I arrived as an assisting deputy. When I got there,

1 the investigation had already been -- had already been
2 conducted with interviews by my beat partners. I was just
3 there assisting, so whatever paperwork they need, officer
4 safety, things of that nature.

5 Q Did you speak with the victims?

6 A I spoke with the, I guess, wife at the time of the --
7 the defendant towards the end of that when I went to go
8 ahead and obtain her written statement. When I first got
9 there, I also spoke very, very briefly with the -- with
10 the other victim who is the daughter at the time; however,
11 she was in the middle of those interviews with
12 investigating deputies, so I didn't want to intervene. I
13 went and conducted some officer safety procedure.

14 Q And what was the victims' demeanor when you
15 interacted with them?

16 A They were very distraught. You could tell that their
17 mental health at the time was -- was abnormal. You could
18 tell that they were very frantic, very scared.

19 Q Is this normal in these types of calls?

20 A They did show behavior of what a typical individual
21 who has experienced some sort of trauma, in my experience
22 in law enforcement, what I've experienced.

23 Q Now, you said you spoke with -- you said you believed
24 it was his wife. Was that Deanna Winkler?

25 A Who I received the written statement from?

1 Q Yes.

2 A Yes.

3 Q And during the written statement, did you tell Deanna
4 you just needed the meat and potatoes?

5 A Yeah. So I also further advised her that the report
6 was going to be a lot more detailed than the written
7 report would -- or that the actual written statement would
8 be. The reason behind that, we don't -- I do the -- me as
9 a law-enforcement officer, she had already been
10 interviewed about the incident by the investigating
11 officer, so at that point what I'm doing as an assisting
12 officer, just obtaining physical evidence in reference to
13 just placing it on paper. It's -- I try to preserve the
14 fact that now she has to relive that moment of that
15 incident twice by reiterating what she's stating to me as
16 well.

17 MS. GASSER: Beg the Court's indulgence.

18 BY MS. GASSER:

19 Q Did the written statement that you received from
20 Deanna Winkler include all of the details that she gave
21 you on scene?

22 A No, it did not. The written statement did not have
23 when her daughter came in and intervened. That written
24 statement only showed that the assault did occur -- or
25 from her statement that the assault did occur amongst her

1 and her -- and her household member.

2 Q Did you speak with the defendant at all?

3 A I did speak to him very briefly. When I went into
4 the home after running into -- or after speaking to the --
5 or after encountering the two -- the victims, I went in
6 there because they did say there was a firearm inside the
7 home during the time. And obviously, at the time we're
8 investigating an alleged assault, so I went in there for
9 officer safety reasons, ensure that -- keep the scene
10 protected.

11 As I'm walking there, I walked in towards like a
12 little bit of half of the conversation of the end of the
13 conversation with the defendant where he was advising that
14 he was bit by one of the victims, and that was to the
15 extent of the conversation. Then after that point I just
16 kept -- I kept him engaged in conversation while the
17 investigation was continued by the investigating officer.

18 Q And do you remember the defendant's demeanor at the
19 time?

20 A The defendant was -- he appeared to be nervous. He
21 had the -- he had like some sort of cloth on his -- on his
22 hand. He was covering up his finger where blood was
23 coming from. He did offer to demonstrate where the
24 incident had occurred within the home, within the
25 residence specifically. And where he was walking to was

1 actually around the same -- was actually in the same area
2 of where the victim later down -- later down that night
3 had actually showed me the incident had occurred. So they
4 both confirmed whatever -- whatever had occurred was
5 within that same area.

6 But like I said, we -- a lot of the conversation was
7 engaging him, just keeping him -- keeping him engaged in
8 conversation during my portion of the -- of the incident.

9 Q And other than coming here to testify today, did you
10 have any further involvement in this case?

11 A No. Ma'am.

12 MS. GASSER: I have no further questions. Please
13 answer any that defense counsel may have.

14 CROSS EXAMINATION

15 BY MR. SANFORD:

16 Q Master Deputy Rey, how are you?

17 A Good. How are you, sir?

18 Q I'm doing well. Thank you.

19 Can you tell me a little bit about the procedure that
20 happens when you hear that there's a firearm in the house
21 with these kind of situations?

22 A That's -- that's a little bit of a difficult
23 question, because we deal with the totality of the
24 circumstances, what's kind of presented. So, I mean,
25 that's -- it's a very difficult question to ask -- to

1 answer to you because a lot of circumstances. For
2 example, is it inside? Is it outside? How many people
3 are there? Where are the firearms located? What are we
4 responding to? Is it an alleged -- when we get there, are
5 there, you know, injuries? Are there children inside the
6 home? Are there dogs? It would be a little difficult for
7 me to kind of tell you that.

8 But I guess in a broader spectrum and just general
9 officer safety, just to kind of answer that question in a
10 general sense, we definitely don't want anybody going into
11 unknown rooms where we don't know where there potentially
12 may be a firearm, things of that nature, try to keep them
13 engaged in conversation, you know. Definitely de-escalate
14 the situation. That's the majority while we conduct a
15 thorough investigation.

16 Q Now, do you normally sweep for firearms when you
17 come in if you know that there's one in the house?

18 A If there's -- there's potential for additional
19 victims, we'll conduct a protective sweep. That's
20 absolutely something we will do.

21 Q But did you do that in this case?

22 A When I went into that home, there was already
23 additional officers there. So I'm not sure if they
24 conducted one or not. I know that wherever that --
25 wherever the defendant wanted to go within that room, he

1 was accompanied, again, just to ensure that there's nobody
2 trying to obtain a weapon or anything like that while
3 officers conduct the investigation.

4 Q Did you personally ever see a firearm in that house?

5 A Not that I recall. Again, my role was just kind of
6 keeping him engaged while they conducted the
7 investigation.

8 Q Do you know about the time that you arrived at the
9 house?

10 A I couldn't tell you without looking at the call net,
11 sir.

12 Q But it was sometime after 2:30?

13 A When that call came out, we responded.

14 Q So when the call came out and you got to the house,
15 the investigation was already complete?

16 A It wasn't complete. It was ongoing.

17 Q And then how long after you arrived did you -- did
18 you take the statement?

19 A To -- I got there -- we got there relatively quick
20 when that -- almost one after the other when we went to
21 that call. When I got there, interviews were already
22 being conducted during the process of -- with the victims,
23 and then defendants -- or the remaining deputies were
24 going inside the home with the defendant to ensure that
25 there wasn't additional victims or there wasn't additional

1 weapons or anything like that or nobody was actually armed
2 on there. So once that was all conducted and I was
3 advised that there was probable cause, I went ahead and,
4 again, started continuing my assisting role, which was
5 obtaining a written statement of what she had already
6 advised other deputies at the scene. I'm just writing it
7 on paper.

8 Q Now, you wrote the statement for Ms. Winkler,
9 correct?

10 A Absolutely.

11 Q And she signed off on it.

12 A Yep. I read it to her, and she knew what was on
13 there, and that's what -- yes, sir.

14 Q And you didn't -- there wasn't anything in that
15 statement about her having trouble breathing, was there?

16 A No, there wasn't. She did advise that while we were
17 on scene. Again, what I advised to her was -- at the time
18 was her -- the report is going to be a lot more detailed
19 than what her actual written statement's going to be.
20 Because her statements were documented on body-worn camera
21 along with the report.

22 Q And did you write that report?

23 A I did not write that report.

24 Q Now, when you were taking the statement, was -- at
25 that point was Mr. Watson under arrest?

1 A From my understanding he was already transported. If
2 I -- it was two years ago. I would venture to say he was
3 already transported.

4 Q So he was no longer at the house when that statement
5 was given, from your recollection?

6 A From my recollection, correct. Yes. But she had
7 already -- she had already been interviewed in reference
8 to that prior.

9 Q And you said you did speak to the defendant.

10 A Yeah. About his TV.

11 Q And did Mr. Watson say anything else?

12 A So when I walked in, he was already talking to
13 another -- other deputies. He had made a comment, said
14 that somewhere along the lines of someone had fallen, he
15 tried to pick them up and he got bit. So, you know, given
16 the call notes, stuff like that, he had confirmed that
17 there was some sort of physical altercation that had
18 occurred at some given point, and in the process he was
19 bit -- bit in the hand. And then after that, we just
20 started -- we just started to -- we started to just engage
21 in conversation, spoke on his television, what kind of
22 deal he got on it.

23 Q So it was mostly chit-chat ---

24 A Correct, yes.

25 Q --- and not about the actual investigation.

1 A Yep.

2 Q Did he ever mention anything about somebody pointing
3 a gun at him or somebody having a gun, threatening him?

4 A Not that -- not from what I heard.

5 MR. SANFORD: No further questions, Your Honor.

6 THE COURT: Any redirect?

7 MS. GASSER: No, Your Honor.

8 THE COURT: All right. Thanks, sir. You can step
9 down.

10 MS. GASSER: Your Honor, we ask that this witness be
11 released from his subpoena.

12 THE COURT: Any objection?

13 MR. SANFORD: No objection.

14 THE COURT: All right.

15 MS. PAGE: Next, Your Honor, the State would call
16 Deputy Joshua Campbell.

17 THE CLERK: Sir, if you'll please place your left
18 hand on the Bible and raise your right hand.

19 WHEREUPON,

20 JOSHUA CAMPBELL

21 After having been duly sworn, testified as follows:

22 THE CLERK: Thank you. Please be seated. And, sir,
23 please state your name for the record.

24 THE WITNESS: Joshua Campbell.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MS. PAGE:

Q Deputy Campbell, where are you originally from?

A Greenville, South Carolina.

Q Did you go to high school here?

A Yes, ma'am, I did.

Q Where at?

A Berea High School.

Q Did you go to school after high school at all?

A I went to a technical school for a semester or two and then stopped going.

Q Where did you work before going into law enforcement?

A The Department of Transportation.

Q And where are you currently employed?

A The Greenville County Sheriff's Office.

Q How long have you worked with Greenville County Sheriff's Office?

A A little over three years.

Q What is your title and position?

A I'm a deputy II on uniform patrol.

Q Was that your position on December 12th, 13th of 2019?

A Yes, ma'am, it was.

Q Can you tell me what your duties and responsibilities in that position are?

1 A Answer emergency and nonemergency calls for service,
2 and deter criminal activity.

3 Q Were you working the early morning hours of
4 December 13, 2019?

5 A Yes, ma'am, I was.

6 Q And during the course of your shift, did you
7 encounter this defendant, Jeremy Watson?

8 A Yes, ma'am, I did.

9 Q Where did you meet him at?

10 A [REDACTED] Road, which is in the county of Greenville,
11 South Carolina.

12 Q And why did you respond to that location?

13 A In reference to a disturbance.

14 Q Was anyone else with you?

15 A Yes, ma'am. There were multiple other deputies that
16 responded to that scene.

17 Q And is that typical for multiple units to respond to
18 a call?

19 A Yes, ma'am. Usually, we all kind of hang around
20 together in the middle of the night when nothing else is
21 going on, so if something happens and we usually all go to
22 it just to see what's going on because nothing else.

23 Q Do you remember around what time you responded to
24 this call?

25 A On or around 2:30 in the morning.

1 Q Who all was at the home when you arrived, not
2 including law enforcement?

3 A The defendant Mr. Watson, Kristina, and Deanna were
4 at the house.

5 Q How did Deanna appear when you first saw her?

6 A Distraught, and she was crying, I believe, when I
7 first walked up.

8 Q Did she appear to be injured?

9 A Yes, ma'am. I think she was like just kind of
10 standing by herself away from her daughter and just ---

11 Q Did you see an injury on her?

12 A Yes, ma'am. I saw Deanna had redness around her
13 neck, if I recall correctly.

14 Q And without saying what the victim said, Deanna, did
15 she tell you what happened that night?

16 A She did after we talked to her daughter, I believe.
17 Because since the -- usually we try to find the person
18 that called first to talk to them as the first person that
19 we talk to when we arrive on scene, if we can.

20 Q So you did speak with Kristina?

21 A Yes, ma'am.

22 Q How did Kristina appear when you first saw her?

23 A Angry and scared that everything was happening. And
24 she clearly had injuries herself that was visible when we
25 walked up.

1 Q Can you describe those injuries for me?

2 A Yes, ma'am. She had a busted lip, like a cut or a
3 small laceration on the inside of the middle part of her
4 lip, and then she had -- she had redness on her face that
5 looked like scratches around the side of her cheek/neck.

6 Q Without saying what Kristina actually said, did she
7 tell you what happened to her that night?

8 A Yes, ma'am.

9 Q Did you have an opportunity to encounter the
10 defendant when you arrived on scene?

11 A I believe I bypassed him and went and talked to the
12 victims, which is usually kind of what we do. I don't
13 recall going back and talking to him because there was --
14 like I said, there were three or four other deputies on
15 scene that we just kind of divided and took care of what
16 we needed to.

17 Q Did you have any conversations with him once you were
18 placing him under arrest?

19 A I did. After probable cause was established, I
20 talked to him on the way to the back of the car.

21 Q Did you notice any injuries on the defendant?

22 A I did. His thumb. I don't remember which hand it
23 was on.

24 Q And what was the injury? Can you describe it for me?

25 A He was bleeding. It was wrapped up when I saw it. I

1 never actually saw his physical thumb. I just saw he was
2 bleeding from his hand somewhere.

3 Q How was his demeanor?

4 A Calm. We didn't say very much on the walk to the
5 car. He just kind of came with us after he knew he was
6 under arrest, from what I recall.

7 Q And did he tell you what happened that night at all?

8 A Not that I can remember specifically. No, ma'am.

9 Q And to your knowledge were there any other witnesses
10 in the home that night other than Kristina and Deanna and
11 this defendant?

12 A No, ma'am.

13 Q When you entered the home, did you notice anything
14 that you would -- out of place or anything that was odd to
15 you at all?

16 A Not that I recall.

17 Q After speaking to the victims, what, if anything, did
18 you do next?

19 A We corroborated their statements with their injuries,
20 and it was determined that we had probable cause of the
21 crimes that occurred. And Mr. Watson was placed under
22 arrest.

23 Q At any point were you informed that there was a
24 firearm involved in the incident?

25 A So not on scene. We were advised by dispatcher that

1 there were firearms in the home, but not that there had
2 been any in play with any kind of anything that happened.
3 I mean, our dispatch asked if there's firearms in the
4 home, and most people have firearms in their home. That's
5 not something out of the ordinary that we respond to, so
6 we didn't really think too much of it. People can have
7 guns in their house.

8 Q Did the defendant at any point tell you about the
9 firearms?

10 A Yes, ma'am. So I believe, when we were in the car
11 already on the way to the jail, he said something about
12 him getting a firearm pointed at him, but that was only --
13 the only thing that -- that ---

14 Q So that was after the fact he was under arrest.
15 Okay.

16 A Yeah. That was after the fact.

17 Q Had you known that information before he was under
18 arrest, would that have changed the decision -- the
19 charging decision that you made as to the officer in this
20 case that charged?

21 A No, ma'am. Not at all.

22 Q And tell me why not.

23 A Because if you're in fear for your safety after
24 already had been assaulted by somebody and you're in fear
25 for your safety or the safety of your household members,

1 you have the right to defend yourself, i.e., pointing a
2 gun at somebody and/or using that force if you feel like
3 your life is in jeopardy.

4 Q And during this incident were you able to determine
5 who was the primary aggressor during the assault?

6 A Yes, sir.

7 Q And who was that?

8 A Mr. Watson. I advised him of that.

9 Q How did you make that determination?

10 A Based off of the injuries and the statements that
11 corroborated to each other. And, in fact, that was our
12 determination. The injuries and the statement
13 corroborated to play the same story that actually
14 happened, yes, ma'am.

15 Q And now this defendant is charged with domestic
16 violence in the second degree, what was your basis for
17 making that particular charge?

18 A Because the assault had occurred, and then second
19 degree enhanced it since she had her airflow impeded.

20 Q And how did you know that he had done that? Can you
21 describe to me a little bit about what information you had
22 to believe that?

23 A Uh-huh. The way -- Deanna, the redness around her
24 neck. And she stated that he grabbed her by her neck and
25 she stated that he impeded her airflow.

1 Q Did you actually see any firearms out in the open in
2 the home at all that night?

3 A Not that I recall.

4 MS. PAGE: Please answer any questions the defense
5 has for you.

6 CROSS EXAMINATION

7 BY MR. SANFORD:

8 Q How are you doing, Deputy Campbell?

9 A Good, sir. How are you?

10 Q I'm doing well. Thank you.

11 You took no statement from Mr. Watson.

12 A I did not.

13 Q Did any other law enforcement take a statement from
14 Mr. Watson?

15 A Not that I'm aware of.

16 Q And you didn't speak to him other than what you just
17 testified to?

18 A From what I recall, yes, sir.

19 Q Did Kristina tell you there was a gun in the house?

20 A I -- I don't recall. I believe she said there was
21 one in the house, but like I said, we were advised of that
22 from dispatch.

23 Q And dispatch told you that there is one.

24 A From what I remember, yes, sir.

25 Q Did you write the report for this incident?

1 A I did.

2 Q And did you put in there that Ms. Winkler's airway
3 was impeded?

4 A I believe I did, yes, sir.

5 MR. SANFORD: Beg the Court's indulgence, Your Honor.

6 May I approach, Your Honor?

7 THE COURT: Yes.

8 BY MR. SANFORD:

9 Q Deputy Campbell, not reading directly from your
10 report, but can you refresh your memory with that and tell
11 me exactly where you wrote that her airway was impeded?

12 A (Reviews document) No, sir, I did not.

13 Q Okay. So it's not in the report?

14 A No, sir. My report states that he grabbed her by the
15 throat and pulled her against the wall while yelling.

16 Q And you said that by seeing that her throat was red,
17 that's how you knew that her airflow was impeded?

18 A Based off of her verbal statement, we did.

19 Q Which you didn't write in the report, correct?

20 A I wrote the report. I just didn't ---

21 Q Right. But you didn't write that her airflow ---

22 A Yes, yes.

23 Q And about how long were you at the residence?

24 A I don't recall.

25 Q More than an hour? Less than an hour?

1 A I honestly don't recall. I can refer back to my
2 report and see how long I was on the call if I need to do
3 that.

4 MR. SANFORD: That's fine.

5 Your Honor, may I approach to retrieve my report?

6 THE COURT: Yeah.

7 BY MR. SANFORD:

8 Q Do you know if there was a sweep done for any
9 firearms?

10 A Not to my knowledge.

11 Q Do you know -- when Mr. Watson said that a gun was
12 pointed at him, do you know if that happened before or
13 after the altercation or during?

14 A By I believe what he stated, I assumed it was after
15 the altercation.

16 Q But you're not sure of it.

17 A I didn't clarify.

18 MR. SANFORD: Thank you, Your Honor. No further
19 questions.

20 THE COURT: Any redirect?

21 MS. PAGE: Brief redirect.

22 REDIRECT EXAMINATION

23 BY MS. PAGE:

24 Q Did you write the warrant in this case?

25 A I believe I did, yes, ma'am.

1 MR. SANFORD: Your Honor, objection. I don't believe
2 that that's admissible to be read into evidence.

3 THE COURT: No, it's not.

4 MS. PAGE: May we approach, Your Honor? I wasn't
5 going to read it into evidence, but may we approach?

6 THE COURT: All right. Come up here.

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

8 BY MS. PAGE:

9 Q You just stated that you did put in your report what
10 about him grabbing her by the neck?

11 A In my report?

12 Q Yeah. In the incident report.

13 A That she stated that she was grabbed by her throat
14 and pushed against -- or pushed against the wall, or
15 something to that nature.

16 Q Was that sufficient in your experience to take note
17 of the fact that her breathing could have been impeded?

18 A Yes, ma'am.

19 MS. PAGE: No further questions.

20 THE COURT: All right. Thank you, Officer. You can
21 stand down.

22 MS. PAGE: Your Honor, the State has no further
23 witnesses and would close at this time.

24 THE COURT: Okay. All right. Ladies and gentlemen,
25 this is a time when I have to speak about some legal

1 matters with the lawyers, so at this time I'll excuse you
2 all back to your jury room. Don't talk about it.

3 (WHEREUPON, the jury exits the courtroom at 3:14 PM.)

4 THE COURT: Any motions?

5 MR. SANFORD: Your Honor, we'd make a motion for a
6 directed verdict. I don't believe that the State has
7 provided sufficient evidence to -- that any reasonable
8 juror could find my client guilty of domestic violence
9 second or an assault and battery third, and we would ask
10 for a directed verdict at this time.

11 THE COURT: I would disagree with you on that. I
12 think it's a decision for the jury to make.

13 All right. Mr. Watson, if you would, stand for me.
14 Raise your right hand.

15 (WHEREUPON, JEREMY ALLEN WATSON, is duly sworn.)

16 THE COURT: You can put your hand down.

17 I want to explain to you that you have an absolute
18 constitutional right to testify in your own defense. You
19 have an equal absolute constitutional right not to
20 testify, and it cannot be held against you. Whether or
21 not you testify is something quite often goes to strategy
22 behind the case, and I always recommend that a client
23 listen to the advice of their counsel. But in the end, it
24 is your constitutional right, and only you can give it up.
25 Okay. Do you understand that?

1 DEFENDANT WATSON: Yes, sir.

2 THE COURT: Do you have any questions you want to ask
3 me about that?

4 DEFENDANT WATSON: No, sir.

5 THE COURT: Okay. Do you have any impeachable
6 offenses?

7 MS. PAGE: No, Your Honor.

8 THE COURT: Okay. Do you need some time to talk
9 about it?

10 MR. SANFORD: Yes, Your Honor. If we could have just
11 five or ten minutes.

12 THE COURT: Okay. Let's take a break.

13 (WHEREUPON, a recess is taken at 3:16 PM.)

14 THE COURT: What's your decision?

15 MR. SANFORD: He's going to testify, Your Honor.

16 THE COURT: Okay. Well, we'll just take another five
17 minutes or so, let the jury take care of whatever they're
18 doing.

19 (WHEREUPON, a recess is taken at 3:18 PM; the jury entered
20 the courtroom at 3:24 PM.)

21 THE COURT: All right. Welcome back.

22 Call your witness.

23 MR. SANFORD: Thank you, Your Honor. The defense
24 calls Jeremy Watson to the stand.

25 THE CLERK: Mr. Watson, if you'll please pause at the

1 bench, place your left hand on the Bible and raise your
2 right hand. Left hand on the Bible, raise your right
3 hand. Thank you.

4 WHEREUPON,

5 JEREMY ALLEN WATSON

6 After having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please be seated. And would
8 you please state your name for the record.

9 THE WITNESS: Jeremy Allen Watson.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. SANFORD:

13 Q Hi, Mr. Watson. How are you?

14 A I'm good. How about yourself?

15 Q I'm doing good.

16 Mr. Watson, how old are you?

17 A 39.

18 Q And where were you born?

19 A Greenville.

20 Q And you've lived here your whole life?

21 A Yes.

22 Q Where do you currently work?

23 A Big Marco, Laurens Road.

24 Q What do you do there?

25 A I build any structures they make Section 8 housing

1 out of.

2 Q And how do you know Kristina Watson and Deanna
3 Winkler?

4 A Daughter and girlfriend.

5 Q And at the time of this incident, where were you
6 working?

7 A Central Contractors down in North Augusta.

8 Q So that was in North Augusta, South Carolina?

9 A Yes, sir.

10 Q And how far away was that from here?

11 A It was two and a half hours normally, but you can
12 usually do it -- at night if you're speeding, about two
13 hours.

14 Q So tell me a little bit about your schedule when you
15 were working down there. How did your week normally go?

16 A My week, well, I'd go down there Monday morning. I'd
17 leave the house Monday morning. We just -- I'd be down
18 there all week until Friday afternoon until I get off work
19 and then come home and go to work again.

20 Q Okay. So you were only here in Greenville for a
21 couple of days usually on the weekend?

22 A Yeah. The weekend, yeah.

23 Q Did Ms. Winkler come and visit you regularly?

24 A Yes.

25 Q How often did she come and visit you?

1 A Every Wednesday, leave on Friday morning.

2 Q And at some point did she stop coming visiting you?

3 A Yeah. Two weeks prior to this, the incident.

4 Q Okay. And how did that make you feel?

5 A Well, I was sad about it.

6 Q Now, do you remember the day of December 12th into
7 the evening of December -- or into the early morning of
8 December 13th?

9 A Oh, yeah.

10 Q So did you call Ms. Winkler that day?

11 A Yes.

12 Q About what time?

13 A Well, we texted every day. And it was probably 50
14 different calls a day.

15 Q Okay. And was she supposed to come visit you
16 during ---

17 A She was supposed to be down there Wednesday, but she
18 kind of like backed down on it like the prior week. She
19 did it two weeks in a row. With that -- with that
20 Wednesday, she was supposed to come down, and she said she
21 was going to hang out with Kristi because she was having
22 an ultrasound. Well, Thursday she was supposed to come
23 down, but like she was supposed to have been at the camper
24 Thursday, but she didn't even show up. And then when I
25 called her, she said, "I'm sitting on the couch with

1 Kristi."

2 Q Did you call her a bunch of times that day?

3 A Yeah. Every day.

4 Q So that was normal for you.

5 A Yeah. Normal, yeah. Texting and talking.

6 Q Now, let's talk about the Wi-Fi and the cable. They
7 said that you -- you cut off the Wi-Fi and cable?

8 A No. I downgraded from them because I was paying the
9 bills. So, I mean, you know, and she just moved in, too.
10 So, I mean, I just downgraded. And they was doing the
11 switch over, and they just happened to be that day.

12 Q And why did you downgrade?

13 A Because there was more bills coming in.

14 Q So to save money.

15 A Yeah.

16 Q And were they paying any rent or cable while they
17 were there?

18 A No. I wasn't charging them anything.

19 Q Now, there was a specific phone call that happened on
20 the 12th through 13th, somewhere in there, where you
21 called. And did you hear somebody in the background of a
22 call?

23 A I heard a guy on the phone, yeah. He was talking.
24 That's why I asked.

25 Q Did you know -- did you ask who that person was?

1 A I did. I said, "Who's at my house?" First Deanna
2 said it's her and Kristi. And I said, "Who else?"

3 And she said, "Kristi's friend."

4 And I said, "Well, who's that? What's he doing in my
5 house?"

6 And she goes, "It's none of your goddammed business."

7 Q Do you know Trent?

8 A I don't know Trent.

9 Q Have you ever seen Trent?

10 A I don't know.

11 Q You wouldn't be able to pick him out of a lineup?

12 A No.

13 Q About what time was that call made where you heard
14 that person in the background?

15 A The call that I heard? 1:30 in the morning.

16 Q And where were you when you made that call?

17 A Already on my way home.

18 Q Okay. And why were you going home at that point?

19 A Because she lied to me for two weeks in a row what
20 she was doing and I caught her at it. So I was going to
21 catch her in it that night because she lied to me two days
22 in a row there. Thursday was the second night.

23 So I left there at North Augusta at 12:00, and an
24 hour and a half into the drive, I called her and that's
25 when he was on the phone.

1 Q And did you have to go home for another reason?

2 A Did I have to go home?

3 Q Yeah.

4 A Yeah. I was already going home to get some tools for
5 work anyway. That's why I waited till 12:00, though, see
6 if somebody was at my house.

7 Q Okay. And you started about 12:00 to drive back to
8 your house, correct?

9 A Yes.

10 Q And when did you get to your house?

11 A It was probably about 2:05, 2:10.

12 Q Okay. And what happened when you got there?

13 A Well, when I got there, I told Kristi straight out, I
14 said, "Ain't no guys going to be in my house without me or
15 Preston here." And ---

16 Q And that was what we heard on the video, correct?

17 A Yes.

18 And then I told Deanna, because I -- I was -- my
19 blood pressure was high, I was hot, and I was going on the
20 back porch. I said, "Well, come on the back porch." She
21 was just -- you know how somebody just does something to
22 nag you? That's what she was doing. And I said, "Just
23 get -- bring your ass on the back porch."

24 So we got on the back porch and we sat down to
25 talking. And then Kristi comes up to the door and just

1 kept messing with the blinds in the door. And I told her,
2 "Just go away. It is what it is."

3 And she just kept getting in my face. When I come to
4 the door to shut it, she's right there. "What you going
5 to do? What you going to do?" and then pointing her
6 finger in my face.

7 When I -- the last time I shut the door, she started
8 kicking the door like she was doing the rest of the house.
9 And then when I swung the door open and she got right
10 there in my face again. So I picked her up under her arms
11 to get her outside because I was just going to be done
12 with it and close the door and lock it. Well, she started
13 coming back towards the door. And when her foot hit that
14 ledge, she kind of fell back because I was pushing on the
15 door because she's trying to come back in. And when she
16 fell on her butt, I opened the door back up to help her
17 up, and she grabbed my wrist right here, started biting my
18 finger. Yeah. I was jerking, whatever I had to do
19 because she was biting my finger off.

20 MR. SANFORD: Beg the Court's indulgence.

21 May I approach?

22 THE COURT: Yes.

23 BY MR. SANFORD:

24 Q Mr. Watson, can you tell me what you're looking at
25 there?

1 A My finger a week after.

2 Q And how do you know that's your finger?

3 A Oh, it was my finger, because that was her tooth.
4 Because when the lady at the county jail, when she gave me
5 two shots, she peeled the skin off of it.

6 Q And is that a fair and accurate representation of
7 your finger?

8 A Yes.

9 MR. SANFORD: Your Honor, I would move to submit
10 Defense's Exhibit 3 and 4 into evidence and publish to the
11 jury.

12 MS. PAGE: No objection.

13 THE COURT: Okay. Without objection. Go ahead.

14 (WHEREUPON, Defendant's Exhibit Numbers 3 and 4 were
15 admitted into evidence.)

16 THE COURT: Are they marked?

17 MR. SANFORD: Yeah. They are marked, yes, sir.

18 BY MR. SANFORD:

19 Q Now, in those photos, Mr. Watson, your nails are
20 short. Is that how you normally keep your nails?

21 A Yeah. I bite my nails bad.

22 Q And so would that be hard to -- is it hard to scratch
23 with those when you get an itch?

24 A You ain't scratching nothing.

25 Q So it'd be hard to scratch somebody in a -- in some

1 sort of altercation, correct?

2 A Yes, sir.

3 Q And how did that feel? Did it hurt? Did it bleed a
4 lot?

5 A Oh, it poured blood.

6 Q Now, let's go back to that. After they bit your
7 finger, what happened then?

8 A Well, we was out there. She was calling the police.
9 And I said, "You need to stop, Kristi." I said, "We're
10 all going to go to jail." And so she starts hitting me in
11 the head. So I walked inside by myself. Well, I was
12 looking for a rag to stop the bleeding because it was
13 still just pouring blood.

14 And Kristi and Deanna both came in the house. Kristi
15 came into the kitchen. Kristi went to her room. She went
16 and got her gun, and you can hear it cock all the way
17 through the house. And then she came all the way through
18 there, just, "I'm going to blow your fucking brain out.
19 I'm going to blow your fucking head off," and stuck it
20 right to my head right there at the couch.

21 And then Deanna got right in front of her and tried
22 to stop her. And she was pushing her all over the place.

23 I went to the bedroom and locked the door. And then
24 she come, used her whole body beating against the door to
25 break it in. She bowed it in so she could get in, put the

1 gun to my head again.

2 MR. SANFORD: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY MR. SANFORD:

5 Q Mr. Watson, can you tell me what you're looking at
6 there?

7 A This is my bedroom door.

8 Q And how do you know that's your bedroom door?

9 A Because that's my -- my house.

10 Q And is that a fair and accurate representation of the
11 door the day around when this time happened -- around when
12 this incident happened?

13 A That's -- yeah. Everything's the same except for the
14 paint. I haven't fixed the door or the holes in the wall
15 where she made them.

16 Q So you took -- when did you take that photo?

17 A I took it last week.

18 Q Okay. But you have done nothing to the door?

19 A I have done nothing to the door or the other rooms
20 where she busted holes in the walls.

21 MR. SANFORD: Your Honor, I would ask to submit
22 Defense Exhibit 1 into evidence.

23 MS. PAGE: Your Honor, the State would object. This
24 photo was taken years after this incident, and the victims
25 moved out of this home. This defendant has been living in

1 that home that amount of time. He testified that the room
2 does not look the same. The paint's different,
3 everything.

4 MR. SANFORD: Your Honor, I would just say that it's
5 for the jury to believe the truth or not.

6 THE COURT: Yeah. It's up to -- they'll make the
7 determination about the credibility of it. Over your
8 objection.

9 (WHEREUPON, Defendant's Exhibit Number 1 was admitted into
10 evidence.)

11 MR. SANFORD: Can I publish, Your Honor?

12 THE COURT: Yes.

13 MR. SANFORD: Thank you.

14 BY MR. SANFORD:

15 Q And please continue, Mr. Watson. After you were in
16 that room, what happened?

17 A Yeah. Well, after she came in the room, put the gun
18 to my head again, I walked out onto the porch because
19 Deanna was standing right there at the bedroom door still
20 hollering at her. And as I walked onto the porch and she
21 was on the phone with the police already or 9-1-1, whoever
22 she was on the phone with, and she went to her bedroom and
23 was sitting there. She didn't close the door or anything.
24 But I walked right there to the washer and dryer in the
25 hallway, and I told them, it's even on the recording, that

1 you need to tell them you're pointing -- you're presenting
2 a loaded weapon.

3 Q And then when did the police get there after that?
4 How long?

5 A It was probably ten, 15 minutes.

6 Q And did they ever ask you for your side of the story?

7 A No. That one cop asked me, "What's going on
8 tonight?"

9 And I said, "These two are acting stupid."

10 And then five of them surrounded me in my living room
11 while the other one was talking to Kristina. And then he
12 come in and said, "You're under arrest." That was it.

13 Q How long do you think they were there before you were
14 arrested?

15 A Before I was arrested? Three to five minutes.

16 Q Did they ever take a statement from you?

17 A No.

18 Q Did you tell them about having a gun pointed at you?

19 A I did. And he just said, "You're the aggressor. You
20 can't do anything."

21 Q Did they do much of an investigation?

22 A Didn't do nothing. But somebody swepted my room,
23 took the guns out from under my bed and out of my truck.
24 But they didn't touch her stuff.

25 Q Did you commit either of these offenses that you've

1 been charged with?

2 A No, sir.

3 MR. SANFORD: Thank you. Your Honor, I have no
4 further questions.

5 THE COURT: All right. Cross-examination.

6 CROSS EXAMINATION

7 BY MS. PAGE:

8 Q Good afternoon, Mr. Watson. You talked in the
9 beginning here about how Deanna was coming to see you
10 every week and then she stopped the last two weeks ---

11 A Prior.

12 Q --- two weeks prior. Okay. And your testimony was
13 that that made you sad, correct?

14 A Yeah. I mean, we ain't done nothing separate from
15 each other ever.

16 Q All right. That actually made you mad, did it not?
17 It made you angry.

18 A No. I'd be out of my house. Made me mad.

19 Q You weren't angry at all about that.

20 A Yeah. I would ---

21 Q You had no anger. You weren't angry at all about her
22 not coming to visit you.

23 A No.

24 Q And you testified that you called her 50 times a day?

25 A We talked a lot.

1 Q That's normal behavior.

2 A Okay.

3 Q I'm asking you, is that normal behavior?

4 A Yeah.

5 Q And your testimony is that you -- the cable was cut
6 off because you downgraded it.

7 A Yeah.

8 Q At 10 p.m. at night randomly.

9 A It wasn't 10 p.m. It was that morning.

10 Q Okay. And it cut off randomly just conveniently at
11 the same time?

12 A It cut off before that.

13 Q I'm saying at the same time this incident was
14 occurring that they were watching television that you were
15 in ---

16 A No. That's probably the time they got home from all
17 their running around or whatever they was doing.

18 Q Now, you heard their testimony today, correct?

19 A Yes.

20 Q You heard that they were watching a movie.

21 A Yeah. That's -- yeah.

22 Q Okay. Now, you suspected Deanna was cheating on you,
23 didn't you?

24 A I did. Still do.

25 Q And you said you were going to catch her in it.

1 A Yeah.

2 Q And you were angry. You were mad and you were fired
3 up when you were driving?

4 A Yeah.

5 Q And you actually wrecked your truck, you were so mad.

6 A I did because Kristina was cussing me out on the
7 phone.

8 Q And you weren't cussing at all in return.

9 A Oh, yes, I was.

10 Q In fact, you told them that you were going to beat
11 their asses when you got home.

12 A No, I didn't. No, ma'am.

13 Q Now, you decided to go home at midnight to get tools
14 for work the very next morning, that you were going to
15 have to turn round and drive back to Georgia, correct?

16 A I drive all over the place. Driving ain't nothing.

17 Q What time do you go to work in the mornings?

18 A 6:00.

19 Q 6 a.m.

20 A Uh-huh.

21 Q So you drove at midnight, two-and-a-half-hour drive
22 to get your tools to go drive two and a half hours back to
23 go to work at 6 a.m.?

24 A Yes, ma'am.

25 Q Now, you admittedly told Deanna to bring her ass to

1 the back porch, correct?

2 A Yeah.

3 Q Now, you just testified that Kristina was kicking the
4 door. Can you tell me, you said she was up against the
5 blinds looking at you guys and that she opened the door,
6 you shut it, and then she started kicking the door,
7 correct?

8 A Yeah. You've got the video.

9 Q That's your testimony.

10 A You've got the video.

11 Q Well, let's play it.

12 (Pause in proceedings.)

13 THE WITNESS: I mean, it's right at the end where you
14 cut it off.

15 THE COURT: Hey.

16 THE WITNESS: Sorry.

17 (WHEREUPON, a portion of State's Exhibit Number 11, a
18 video, was played in open court.)

19 BY MS. PAGE:

20 Q All right. Now, you heard one thud, correct?

21 A No. I heard three.

22 Q Okay. Well, you hear one thud in the video at the
23 end. And you said, "Kick my F'ing door again," correct?

24 A I heard three.

25 Q Now, the photos that you just talked about with the

1 door, you took those, you said, when?

2 A Last week.

3 Q Who's been living with you in that house since 2019?

4 A A lot of people.

5 Q Okay. So a lot of different people. How many would
6 you say?

7 A How many would I say?

8 Q Yeah. How many would you say have lived there?

9 A Three.

10 Q Okay. Now, it's true that that door did not look
11 damaged on the night of this incident, isn't it?

12 A What?

13 Q The door that you were saying that she damaged on the
14 night of the ---

15 A Am I able to answer that?

16 THE COURT: Yeah. She asked you a question. Answer
17 the question.

18 THE WITNESS: Actually, I've got -- I've actually got
19 the pictures from the day after I got out on the phone.

20 If you can get them off, you're more than welcome to them
21 because it's got the date on them.

22 BY MS. PAGE:

23 Q Well, that was the day after, correct? So it's
24 possible they could have happened after this incident
25 occurred, then, correct?

1 A The officers did it.

2 Q It's possible, correct? Please answer my question.

3 A No. There's no way. She ---

4 Q There's no way it could have happened after this
5 incident.

6 THE COURT: Wait, wait, wait. One person at a time.
7 Don't interrupt.

8 BY MS. PAGE:

9 Q There's no way that that damage -- if you're alleging
10 -- which these are photos none of us have seen. You're
11 alleging these photos exist. There's no way since you
12 took them the day after you got out of jail that that
13 could have happened while you were in jail.

14 A No. I was against the door when she ran into it.

15 MS. PAGE: May I approach the witness, Your Honor?

16 THE COURT: Yes.

17 MS. PAGE: Mark this as State's Exhibit 13.

18 (WHEREUPON, State's Exhibit Number 13 was marked for
19 identification.)

20 BY MS. PAGE:

21 Q I'm handing you State's Exhibit 13. Can you tell me
22 what that is?

23 A That's the door to my room.

24 Q Do you see any damage on that door at all?

25 A You're not looking at the side of it.

1 Q Okay. Do you see any dents in the door at all? any
2 marks on that door at all?

3 A No. It's too far away to.

4 Q Okay. Just answer the question yes or no. Can you
5 see ---

6 A No, I cannot.

7 Q Okay. Does that room look exactly the same as the
8 photos that you previously admitted into evidence and
9 looked at? Does the room look the same?

10 A The room -- the outside room or my room?

11 Q All the rooms. The entire photo of the home.

12 A Yeah. The only thing that's different is the paint
13 on the living room wall.

14 Q Okay.

15 A Everything else is the exact same.

16 Q Now, you said something about you have to paint
17 because you had to cover up some holes or something?

18 A No. I haven't covered up the holes yet.

19 Q Okay. Where were those?

20 A In her bedroom.

21 MS. PAGE: Okay. Permission to publish -- admit and
22 publish this to the jury, Your Honor.

23 THE COURT: Any objection?

24 MR. SANFORD: No, Your Honor.

25 THE COURT: Okay.

1 (WHEREUPON, State's Exhibit Number 13 was admitted into
2 evidence.)

3 BY MS. PAGE:

4 Q Now, this was the door and room the night that this
5 occurred, correct?

6 A Yes.

7 Q Now, you said that Kristina, while she was out there
8 calling the police, was also hitting you in the head.

9 A Once she -- I guess whoever she had on the phone,
10 yeah. That's what her mom said when she was at the house.
11 She was on the phone with the police, yeah, when I was
12 putting her out the door, yeah.

13 Q Okay. And you've said that law enforcement got on
14 the scene, nobody talked to you. In fact, they were quite
15 rude to you and didn't even ---

16 A No. They talked about my TV.

17 Q Okay. And they didn't -- you said you might have
18 spoke to law enforcement for maybe two minutes total
19 before you were arrested?

20 A Yeah, yeah. Because they -- all of them surrounded
21 me talking about the TV. And the one cop talked to Kristi
22 while Deanna was standing at our bedroom door. And then
23 he come in because I said, "I've got to find something to
24 stop the bleeding," because I still hadn't found anything
25 yet. And I said, "I've got to find something to stop the

1 bleeding."

2 And the one followed me to my washing room. And I
3 got a sock to stop it. And he came in and said, "You're
4 under arrest. Put your hands behind your back."

5 Q Isn't it true that happened after you had been on
6 scene speaking to law enforcement for probably 15 minutes
7 at that point?

8 A No. Because I stood there in the living room.
9 Because when -- I was on the porch when they arrived
10 smoking a cigarette.

11 Q Isn't it true that you spoke to law enforcement
12 outside and then additionally spoke to them inside the
13 house as well, different officers, several different
14 officers?

15 A No, ma'am. Yeah. The only one I spoke to outside
16 was him when I was getting put in the car.

17 MS. PAGE: Beg the Court's indulgence.

18 BY MS. PAGE:

19 Q On the night of December -- well, early morning hours
20 of December 13, 2019, you suspected Deanna Winkler was
21 cheating on you, correct?

22 A I did.

23 Q And you angrily drove home in the middle of the night
24 to find out, correct?

25 A Yes.

1 Q And when you got home, you were mad, and there was an
2 altercation between the two of you, wasn't there?

3 A No.

4 Q There was no altercation between the two of you.

5 A Nope.

6 Q You didn't even raise your voice at her. No
7 altercation.

8 A I mean, we was hollering at each other. That's not
9 an altercation.

10 Q So you're alleging there was no physical assault.
11 You never laid hands on Deanna.

12 A Me and Deanna, no.

13 Q How did she get the marks on her neck?

14 A Her struggling with Kristi to get the gun from her to
15 get her to stop.

16 Q So you're alleging an entire another incident that
17 she fought Kristi for this gun now?

18 A That's how it was. Yes, ma'am.

19 MS. PAGE: Nothing further, Your Honor.

20 THE COURT: Any redirect?

21 MR. SANFORD: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. SANFORD:

24 Q Mr. Watson, did any of those people that lived with
25 you after this incident break that door?

1 A No. No, sir.

2 Q Who broke the door?

3 A Kristina.

4 MR. SANFORD: Thank you, Your Honor. No further
5 questions.

6 THE COURT: All right. Thank you. You can step
7 down.

8 Okay. Call your next witness.

9 MR. SANFORD: Your Honor, at this time the defense
10 has no other witnesses, and we rest.

11 THE COURT: All right. So any reply from the State?

12 MS. PAGE: There might be, Your Honor. May we have
13 just a minute?

14 THE COURT: All right. Ladies and gentlemen, we'll
15 take another short break. Retire to your jury room, and
16 we'll get back with you in just a minute.

17 (WHEREUPON, the jury exits the courtroom at 3:53 PM; pause
18 in proceedings.)

19 MS. PAGE: No reply, Your Honor.

20 THE COURT: I'm sorry. What?

21 MS. PAGE: There's going to be no reply, Your Honor.

22 THE COURT: All right. Let's bring them back.

23 (WHEREUPON, the jury entered the courtroom at 3:59 PM.)

24 THE COURT: All right. Welcome back, ladies and
25 gentlemen. I'm not going to ask you if there are any

1 Episcopalians on the jury. I'll just tell you I'm an
2 Episcopalian. At our church services, it's up and down,
3 up and down. And that's what we're doing to you now.

4 We all -- if you'll remember my little procedural
5 road map, the first part was the opening statements, the
6 second part was the presentation of the evidence. We have
7 completed the first two parts. So all of the evidence
8 that you're going to hear is now before you. Coming along
9 as a young lawyer, I was taught by some of the judges that
10 I looked up to and revered, you don't argue and charge
11 after 3:30. So -- and I think that's proven to be a very
12 accurate way to deal with it.

13 So we're going to break for the evening, ask you all
14 to be back at 10:00 in the morning. And if you'll
15 remember that important thing I asked you not to do,
16 you've sworn an oath to not do, and that is to talk about
17 the case with anybody. It's human nature to want to do
18 it, particularly if you're going to be with your family,
19 people who you can't decide what to eat for dinner without
20 discussing it. They're going to want to talk to you. But
21 you can't do it. And by protecting the right in this
22 case, you protect the right for our whole justice system.

23 So you all have a pleasant night tonight, and we'll
24 see you back in the morning at 10:00. Thank you.

25 (WHEREUPON, the jury exits the courtroom at 4:01 PM.)

JURY CHARGE CONFERENCE

THE COURT: All right. Let's talk about the jury charge. What do we have? Okay. I'll tell you what I'm planning on: duties of the jury and the judge, the arrest and all are not evidence, multiple charges, credibility of the witnesses, presumption of innocence, reasonable doubt.

Do you want a circumstantial evidence charge?

MR. SANFORD: I would ask for it, Your Honor.

MS. PAGE: No objection. I don't particularly -- I wouldn't ask for it.

MR. SANFORD: I'd rather it be in there than not.

THE COURT: That's because you don't have to read it.

MR. SANFORD: You are correct, Your Honor.

THE COURT: Yeah. There's circumstantial evidence. All right. Then the DV second.

MR. SANFORD: Your Honor, there's a bunch of, I believe, criteria that the State can choose one of in there. I believe it's G is the one with the impeded airway. We would ask for that to be the only one listed.

MS. PAGE: I have no objection to that.

THE COURT: Sure it's not D?

MR. SANFORD: Must be. It could be.

MS. PAGE: It's the impeding, obstructing airflow one.

THE COURT: There's nothing about the phone or

1 anything like that.

2 MS. PAGE: No.

3 MR. SANFORD: No, Your Honor.

4 THE COURT: Okay. All right. Any lesser included?

5 MR. SANFORD: Your Honor, we would ask for a domestic
6 violence third lesser included.

7 THE COURT: State?

8 MS. PAGE: No objection.

9 THE COURT: Okay. All right. And assault and
10 battery third degree. Anything else?

11 MS. PAGE: Nothing further from the State.

12 MR. SANFORD: Nothing from the defense, Your Honor.

13 THE COURT: All right. Well, the jury's going to
14 have it. We're going to provide Mr. Watson with a cot for
15 the night. Okay. All right.

16 We'll see you all back at 10:00 in the morning.

17 MS. PAGE: Your Honor, I'm sorry, before we break ---

18 THE COURT: What?

19 MS. PAGE: --- do we need to address the issue of a
20 jury instruction on self-defense? Because he did make
21 some allegations.

22 MR. SANFORD: I would not be opposed to a
23 self-defense jury instruction. There was some allegations
24 to that. That wasn't necessarily my strategy, but I would
25 not oppose -- I would not oppose a self-defense jury

1 instruction.

2 THE COURT: It's very unusual the State asks for a
3 self-defense instruction.

4 All right. We'll go through this and find the
5 relevant parts. Y'all have a good night.

6 (WHEREUPON, proceedings recessed at 4:07 PM.)

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1 Wednesday, November 10, 2021

2 (WHEREUPON, proceedings commenced at 10:08 AM.)

3 THE COURT: Is everybody ready?

4 MS. PAGE: The State's ready, Your Honor.

5 THE COURT: How do you want to do your closings?

6 MS. PAGE: I prefer to open in full, and then I do

7 believe the State gets the last word.

8 THE COURT: Yep.

9 MR. SANFORD: And that would -- I would be fine with

10 that, Your Honor.

11 THE COURT: Okay.

12 MR. SANFORD: And, Your Honor, I just want to --

13 yesterday I did not renew my directed verdict motion. I

14 would just like to do that right now.

15 THE COURT: Absolutely, for the record. And the same

16 ruling.

17 MR. SANFORD: Thank you, Your Honor.

18 THE COURT: Okay. Anything else?

19 MS. PAGE: Nothing further from the State.

20 MR. SANFORD: Nothing from the defense.

21 THE COURT: Okay.

22 (WHEREUPON, the jury entered the courtroom at 10:11 AM.)

23 THE COURT: All right. Ladies and gentlemen,

24 welcome back. Hope everyone had a good evening.

25 As we discussed yesterday, we completed the first two

1 parts of the trial. And so opening statements are done.
2 All of the evidence that's going to be admitted is now
3 admitted and before you, and we move now to the closing
4 arguments of the attorneys. Y'all paid great attention
5 throughout the course of the trial, and I ask you to
6 continue to do that through these arguments. All right.

7 CLOSING ARGUMENTS

8 MS. PAGE: May it please the Court, Your Honor. Good
9 morning, everyone.

10 A good liar will always give you a little bit of
11 truth. That's exactly what Jeremy Watson did yesterday.
12 He gave you bits and pieces of truth mixed in with a whole
13 lot of lies.

14 I'm going to start by recapping what you heard last,
15 which was Mr. Watson's testimony and his version of events
16 so we can go through, quite frankly, how they simply don't
17 make sense, this ridiculous version of events.

18 Ms. Gasser asked you all in the beginning to use your
19 common sense, and I think that that has become extremely
20 relevant through the testimony that was given.

21 Let's talk about some of the things the defendant
22 said that just do not make sense and how he contradicted
23 himself. And it is very easy to contradict yourself when
24 you're telling a lot of lies that you can't keep straight.

25 He began by telling me when I was asking him

1 questions on the stand he was not mad at all. He
2 reiterated that several times. I'm not mad, just sad. He
3 wasn't mad when he drove home at midnight to take a
4 two-and-a-half-hour drive one way, so five-hour round trip
5 at midnight to get some tools was his testimony, then turn
6 around and drive back when he had to be at work at 6 a.m.
7 In that same breath while saying he's not mad taking a
8 five-hour round-trip at night, he admitted that he thought
9 Deanna was cheating on him, and he was waiting until
10 midnight, and these were his words, because he was going
11 to catch her in it. Remember, he wasn't mad. Yet a few
12 minutes later he then admits he was mad. He was so mad he
13 actually wrecked his truck driving home. That's pretty
14 angry.

15 During his direct testimony when his attorney was
16 questioning him, he told his attorney that he heard a male
17 voice in the background when he called Deanna, and he
18 testified that was around 1:30 a.m., yet he then testified
19 that he left the house at 12 a.m. He's continued to
20 contradict his own timeline.

21 He says he caught Deanna in a lie, but he never told
22 you guys what that lie was. He never elaborated on that
23 whatsoever, even the context of what that lie was. What
24 did she lie about? Wanting to go to the ultrasound with
25 her daughter for her first grandchild, a mother who's

1 tragically lost two children previously?

2 The defendant testified that his fingernails were too
3 short to cause scratches on someone. No one's fingernails
4 are too short to cause scratches on someone. I think
5 anyone who has played sports can probably attest to that.
6 You can see these scratches are not deep scratches;
7 however, you can see scratches in this photo and redness
8 to her face. Not only that, but it was the victim's
9 testimony that he grabbed her by the face and he dug his
10 nails into the side of her neck.

11 The defendant testified that while Kristina was out
12 calling the police, she was also hitting him in the head
13 repeatedly. Now, we all listened to the 9-1-1 call. You
14 hear her struggling at the beginning of that call, but you
15 hear Kristina frantically and panicked trying to get the
16 address out, screaming, clearly in distress. Then we hear
17 her move to another room. You do not hear anything after
18 that. It's a long call of pretty much radio silence from
19 when Kristina went and locked herself in another room to
20 get away from this defendant. It's abundantly clear in
21 that call that she is not actively pursuing and attacking
22 this defendant as he wants everyone to believe.

23 If you notice in the video, there's a brief second
24 where it's really unclear because in that video she's
25 upset, a lot is going on, she's kind of panicked and is

1 tussling around. You do see parts of the room. There is
2 a second in that video where you see her bare feet. She
3 was not wearing shoes. That is in the video. But this
4 defendant is claiming that she was repeatedly kicking this
5 door in without shoes on. You heard it in the video. You
6 do hear a thud in the video and she's screaming because
7 she is mad. This man is out choking her mom on the porch,
8 and she is mad. She's saying she's going to call the
9 police. What she's not doing is, in a violent rage,
10 coming after, pursuing this defendant, beating doors down
11 at seven months pregnant.

12 The picture of the door that he presented to you
13 guys, this picture was taken very recently. Deanna and
14 Kristina moved out of this home after this incident
15 happened. That was December 2019. We have no idea what
16 has happened in this house since then. He's claiming, at
17 some point in this altercation, that Kristina was trying
18 to bust that door down to get in to attack him with a gun.

19 Now, mind you, it is not contested that she
20 immediately called 9-1-1 and was on 9-1-1 the entire time.
21 So we didn't hear any of this. When did this happen? Not
22 only that, but here's a photo that was presented to you
23 yesterday from the body camera of the night of this
24 incident. Now let's put these side-by-side. This is a
25 different angle. This is the door (indicating), because

1 we didn't have the angle from inside, but as you can see,
2 there is no damage, the walls are a different color, the
3 decor is different. It's completely different than this
4 photo. No one knows how that little crack happened in
5 that door, but it didn't happen from Kristina on the night
6 of December 13th.

7 The defendant talked about how law enforcement didn't
8 take his side of the story. It's just simply not true.
9 They were on scene quite a long time that night. He
10 testified to you that they talked to him nonchalant,
11 casual conversation about his television. He had a nice
12 TV. Talking about where he got the television, just
13 having this casual conversation. Now, if someone pointed
14 a gun at your head, you would probably tell the police and
15 you'd be talking about that instead of where you got your
16 television. Seemed like a pretty opportune moment to get
17 that version of the story out if you really wanted to.

18 He claimed to be this calm, cool, collected guy, not
19 an angry guy, not violent. He was sad because his
20 girlfriend was cheating on him allegedly, but it took him
21 all of maybe two minutes to get angry on that stand with
22 me, a perfect stranger. We have no personal relationship
23 whatsoever. So to say he's a calm, cool and collected guy
24 is simply not the truth.

25 He admitted that he called Deanna 50 times that day

1 and that he said that was normal behavior for him. Now,
2 that might be normal behavior for this defendant, but that
3 is not normal behavior. It is also normal behavior for a
4 jealous and controlling domestic abuser who wants to keep
5 constant tabs on their victim.

6 One of the most important things that I want you to
7 remember from the defendant's testimony is how it ended.
8 At no point in this trial did you hear any testimony
9 before the defendant speaking to me that Kristina and
10 Deanna had a fight over a gun. We went an entire trial
11 with law enforcement, Deanna, Kristina. The defendant was
12 questioned by his own attorney and gave his version of
13 events, and at no point did he say that Kristina and
14 Deanna fought over a gun until I asked him a question he
15 couldn't answer. He can explain away Kristina's injuries
16 with his version of events that Kristina came after him.
17 He can't explain away Deanna's injuries because he didn't
18 set himself up for that, and he wasn't expecting the
19 question, well, how did Deanna get the red marks on her
20 neck that she got? And at that point on the stand, he was
21 forced to come up with an answer. His answer was that
22 Deanna and Kristina had a fight over this gun. Now, that
23 seems like an important detail you might want to give
24 before the last three minutes of a jury trial two years
25 later. This came completely out of left field.

1 Lastly, one of the most important things I want you
2 to remember that the defendant did not tell you, his
3 version of the story is that Kristina is the bad guy here.
4 She's the angry, violent person who started all of this.
5 But he never told you why Kristina attacked him. He says
6 Kristina got up, got a gun and came after him. What did
7 he do to make Kristina come after him with a gun? We
8 don't talk about that, just that Kristina was so angry
9 with him. She was trying to bust down a door and kill
10 him. But he says there was no altercation. There's
11 nothing. So what caused Kristina then, if this is the
12 version of events that you're going with? He gave you no
13 answer. He just said Kristina came after him.

14 Again, every good liar will give you bits and pieces
15 of truth. Unfortunately for Mr. Watson, he's not a very
16 good liar. His story changed right here on the stand
17 several times. He presented you with brand-new stories at
18 the end of his testimony.

19 But he was honest about a few things. He was honest
20 about the timeline, honest that he drove home in the
21 middle of the night, honest that he was mad, but only
22 after he lied about it on the stand a few times. He was
23 honest that he called Deanna obsessively, honest that he
24 thought she was cheating and he was going to, quote, catch
25 her in it. He was honest when he got home that he told

1 Deanna to bring her ass to the back porch. But remember,
2 those are the words of a calm, cool and collected person
3 who just wanted to have a casual conversation.

4 And in an attempt to sprinkle just a little bit of
5 honesty in there in the midst of a bunch of lies,
6 unfortunately, he was a little too honest. He showed you
7 who and what he is. And what you saw yesterday were the
8 words and behaviors of a domestic abuser.

9 In a few minutes the judge is going to instruct you
10 on the law. He's going to get real specific with like the
11 legal parts of this, but I'm going to give you a general
12 overview of what the State had to prove to you.

13 We are required to prove beyond a reasonable doubt,
14 so I want to talk to you about reasonable doubt.
15 Reasonable doubt does not mean absolute certainty. That
16 is an impossible burden. The State is not required to
17 meet an impossible burden. It must be reasonable. That
18 does not mean that people can come up with any version of
19 events. And just because you can conjure up a story in
20 your mind of something that could have happened, that's
21 not reasonable doubt. To a reasonable person, use your
22 life experience and common sense. Does that make sense?
23 No. Mr. Watson's story does not make sense.

24 The State is proving two charges today. First is
25 that the defendant is guilty of domestic violence in the

1 second degree. Now, what that means is that we must first
2 prove Deanna and this defendant are household members.
3 Household members are people who are married, had been
4 married in the past, live together currently in a romantic
5 relationship, or have lived together in the past or share
6 children in common. The State did meet that burden. They
7 do share children in common. They have lived together.

8 We must prove the defendant caused physical harm or
9 injury, however slight, to the victim, Deanna, or that he
10 even offered or attempted to cause harm to her with the
11 present ability to do so and under circumstances that
12 would cause a person to fear danger.

13 The last element to reach the second degree of this
14 domestic violence is that the State must have presented
15 the evidence to prove that this defendant during this
16 assault placed his hands on Deanna's neck, knowingly and
17 intentionally impeding normal breathing or circulation of
18 the blood.

19 The defendant is also charged with assault and
20 battery third degree. It is the State's burden to prove
21 to you beyond a reasonable doubt the defendant either did
22 unlawfully injure Kristina Watson, or that he offered or
23 attempted to injure Kristina with the present ability to
24 do so.

25 Now I want to talk briefly about what actually

1 happened that night. Just to recap this case, like
2 Ms. Gasser said, it's about jealousy, jealousy and control
3 that turned to rage.

4 Yesterday was an emotional day for Kristina and
5 Deanna. They both were emotional. This has not been an
6 easy experience for them. This is a man that Deanna was
7 with over 20 years. This is Kristina's own father, her
8 own flesh and blood. This was, as she testified, a
9 traumatic experience for her. She was pregnant. She was
10 scared for the life of her child.

11 She admitted she didn't have a great relationship
12 with her father, but she also told you that she's watched
13 her father abuse her mother in the past. She didn't
14 expect that rage to turn to her.

15 They shared three -- Deanna and Mr. Watson shared
16 three children together. Domestic violence is
17 complicated. Leaving an abusive relationship is not easy
18 at all. It is hard to explain. But jealousy is at the
19 core of many abusive relationships.

20 This defendant is an extremely jealous person. He
21 felt that even one weekend of the victim not coming to
22 visit him was giving her too much freedom and the ability
23 to do something that he wouldn't approve of. He called
24 and texted her all day mad, demanding that she come see
25 him. This was her first grandchild being born. She

1 wanted to be at the ultrasound. She -- this is a woman
2 who has lost two children. This was an important event
3 for her. He didn't care. What was more important to him
4 was to maintain control over Deanna.

5 What set everything ablaze that day was when this
6 defendant found out that a teenage boy, who was a distant
7 relative, close friend of Kristina's who her boyfriend is
8 also friends with, was in their home. He was so
9 controlling he didn't want his adult wife to be in the
10 home with a teenage boy with their daughter present. I
11 don't suspect that the worry was about his daughter, who
12 was already seven months pregnant at that point. He was
13 worried about his wife.

14 He was so mad he cut off the cable and the Wi-Fi, got
15 in his truck and began driving the two-and-a-half-hour
16 drive back to South Carolina in the middle of the night.
17 You heard that on the way to South Carolina, he made
18 several phone calls to Deanna, and Deanna and Kristina
19 heard his threats. And he said they better get ready. He
20 was going to beat their asses when he got home. And he
21 delivered on that promise. Again, bits and pieces of the
22 truth. He told the truth then.

23 He made this friend so uncomfortable that he left.
24 Told Deanna to go get him cigarettes and a drink. She did
25 because she was nervous. She didn't know -- she wanted to

1 calm him down. This is not her first rodeo.

2 It didn't work. The defendant beat Deanna home from
3 the store. Deanna went in, gave him the cigarettes,
4 everything, please calm down, trying to calm him down.
5 She didn't -- she wanted to avoid an altercation with him,
6 went to her bedroom, got on her iPad, played solitaire,
7 because that's all she could do since he cut off the cable
8 and Internet as a means of control.

9 He picks up a gun in an intimidating fashion. She
10 sees it out of the corner of her eye. Doesn't look at
11 him. She's not making eye contact. She's scared. Puts
12 the gun back down, walks over and knocked the iPad out of
13 her hand and demands that she goes outside. It's
14 December. It's cold. And if she goes outside, she's
15 going to be alone with the defendant. If she doesn't go,
16 what's he going to do to her?

17 Kristina is in the home this entire time. She's
18 hearing all of this happen. So she starts recording on
19 her phone, anticipating, knowing what's coming down the
20 line. You heard her testimony as to the reason why.
21 She's watched her father abuse her mother in the past.
22 And this time she was going to report it, she was going to
23 have evidence. She was scared for her mother in that
24 moment, and at the same time at seven months pregnant had
25 the bravery and the presence of mind to collect evidence

1 and do what she had to do to protect her mother in that
2 moment and do what she needed to do to hold her dad
3 accountable for his actions.

4 Kristina hears Deanna and the defendant arguing,
5 takes her phone -- she's recording -- to the window. She
6 sees her father get physical and put his hands on her
7 mother. You heard her tell the 9-1-1 frantically that her
8 dad tried to choke her mom out. She opens the door,
9 intervenes.

10 The defendant's even more angry. He turns his rage
11 towards Kristina, tells her to go back inside. He's
12 actively pursuing her, still taking no responsibility for
13 his actions, actively pursuing her but telling her to get
14 away from him while pursuing her. He turns his rage to
15 his own flesh and blood, his child who's pregnant with his
16 first grandchild, grabs her by the face, tries to push her
17 backwards. Thumb goes in her mouth. She bites his
18 finger. He takes her to the ground, wrestles her,
19 wrestles her on the floor for the phone because he doesn't
20 want her to call 9-1-1, wrestling a pregnant teenager.

21 She manages to get the phone away from him, gets on
22 the line with 9-1-1. She retreats to her bedroom while
23 the defendant continues to pursue her. She was still in
24 fear. She grabs a gun from the bedside table, which she
25 had every right to do. She is defending not only herself,

1 her child who is at a viable state at this point of seven
2 months pregnant and her mother.

3 She's on the phone with 9-1-1 at this time. You
4 don't hear her make any threats in that call toward her
5 dad. You do hear her in a range of emotions from anger to
6 crying to panic in this.

7 You don't hear the defendant say anything about a gun
8 being pointed at him during this phone call. You do hear
9 him later ask her if she's going to tell them she had a
10 gun. This was after she had already placed the gun back
11 in the bedside table and gone to the bathroom and locked
12 herself like the 9-1-1 operator asked her to do.

13 Kristina never pursued the defendant. She never even
14 pointed the gun at him. She retreated from him. She was
15 so afraid of him that she remained -- asked the 9-1-1
16 operator to remain on the phone with her during this
17 incident until law enforcement got there, because as she
18 testified, she knew as long as she had them on the phone,
19 this defendant wasn't going to do anything. Because he's
20 not dumb. He's smart. He knows she's on the phone with
21 9-1-1.

22 That's the true story, and that's the story that you
23 heard from both Deanna and Kristina. Their stories remain
24 the same. They never faltered on both direct and cross.
25 They were never tripped up. And that's because they were

1 telling the truth. And when you tell the truth, you don't
2 get tripped up. There were no inconsistencies in those
3 stories.

4 At the end of the day, what I would ask of you is to
5 simply use your common sense, your life experience to
6 decide which version of events makes sense. Was it the
7 version that there was no evidence to support, or the
8 version that lines up with everything that you've seen in
9 court today? Again, it is the State's burden to prove to
10 you, and I believe we have done so. And I would ask that,
11 at the end of all this, you find Jeremy Watson guilty of
12 not only domestic violence in the second degree for his
13 assault on Deanna, but assault and battery in the third
14 degree for his assault on Kristina.

15 Thank you.

16 MR. SANFORD: Thank you, Your Honor. May it please
17 the Court.

18 Ladies and gentlemen of the jury, thank you for being
19 here for this past day and a half. I know it's a little
20 weird being in what I liken to pneumatic bank tubes. I
21 feel like y'all are just going to go straight up and
22 somebody's going to make a deposit with you here. But I
23 do thank you for your service, especially during these
24 times with the masks on and off, in and out, with all of
25 the plastic.

1 If you'll remember yesterday, I talked about two
2 sides. Talked about two sides of the story. And I told
3 you that the State is going to tell you exactly what they
4 want you to hear, that they're not going to tell you both
5 sides of the story, that the police didn't get both sides
6 of the story. But now you have gotten both sides of the
7 story, and it's time for you to make a decision.

8 When we talked about the timeline, you just heard the
9 State say that my client was right on with the timeline.
10 Now, in this case Ms. Watson and Ms. Winkler, they have a
11 little bit of a problem with the timeline. They were
12 saying that, you know, they went to the Chinese buffet,
13 that they called the friend, that he came over about 5:00,
14 he left about 10:30 because that's when the call came in.
15 You heard from my client say that call came in at 1:30 in
16 the morning. He was already driving here. The one
17 important point in time that we know to be true and
18 correct is the 9-1-1 operator said call came in at about
19 2:30 a.m.

20 From the State's versions of events, Mr. Watson
21 wasn't in the house that long before that call came in.
22 He wasn't there hours. He was there for a few minutes
23 before all of this incident happened, enough time to, you
24 know, have certain things happen and then come out on the
25 porch.

1 So you have to think that Mr. Watson was working in a
2 place that is two, two and a half hours, you heard him
3 testify two hours if you're in the middle of the night and
4 maybe driving a little fast. So if he called them at 1:30
5 on the way there, that would make sense. He was about
6 30 minutes away, 45 minutes away. That would put him at
7 home about 2:30, 2:15, and that would be enough time for
8 these events to happen and 9-1-1 be called about 2:30.

9 Now, once again, they said that the friend wasn't
10 there past midnight. They said that the friend left about
11 10:30. That's when that call came in. But they weren't
12 really sure. So their timeline doesn't match up.

13 And let's talk about Ms. Winkler a little bit. Now,
14 first of all, she and Mr. Watson have never been married.
15 Not his wife. Yes, they have children together, and yes,
16 two of them have passed away. But I want to also say that
17 Mr. Watson buried both of them in their backyard at the
18 house where this took place.

19 Now, she said that this friend was -- or Kristina
20 said that this friend was family, that this person was
21 like family to her. And Deanna didn't even know his last
22 name. Said he'd been over to the house once or twice,
23 something like that. So this really close friend, doesn't
24 even know her [sic] last name. I know my really close
25 friends, my parents know their last names.

1 And there were some arguments that night. People in
2 a relationship have arguments. That's not a crime. But
3 what's being charged against my client is that, like the
4 State said, a domestic violence second. And part of that
5 is that her airway was constricted.

6 Now, Ms. Winkler testified that her airway was
7 constricted, but she also testified that it wasn't in her
8 statement because that was supposed to just be the meat
9 and potatoes' statement, that there was going to be a more
10 detailed report where that was listed. And that's also
11 what Master Deputy Rey says, that, oh, this is just the
12 meat and potatoes, and it's going to be listed in another
13 report, a more detailed report. And I got Deputy Campbell
14 up there. And I said, "Hey, is it in your report?"

15 And he said, "No. It's not in my detailed report."

16 And so there's no mention of her airway being
17 blocked. And he said, "Well, I could tell because of the
18 redness." Now, if I sit over there long enough and I put
19 my hand right here, my throat's going to be red. There's
20 going to be redness on my throat. So can you tell that my
21 airway was blocked by the redness on my throat? Don't
22 think so.

23 You have two things that the police took: you have a
24 report and you have a statement that they said on the
25 stand there's nothing about there being a blocked airway.

1 And you can also hear in the 9-1-1 call Kristina say
2 that he was "gonna" hurt my mother, that he was trying to
3 choke her out. "Gonna" and "trying" aren't "did." That
4 is something that potentially could have happened but did
5 not. And she says that clear as day on the 9-1-1 call.

6 Let's talk about Kristina a little bit here. She
7 took a video. Y'all saw that video. And, you know, she
8 said that she was recording because her dad had beat her
9 mom previously, which there was no basis for that. That's
10 just her statement. There was no evidence showing that
11 there was any time prior to this that she was beaten.
12 Just her statement. You can hear her egging her father
13 on, saying, "Hit me. Hit me." But he was getting in her
14 face -- she was getting in his face. And he was saying it
15 doesn't matter. This was before the police were called
16 saying, "You're going to go to jail tonight." She was
17 going to do whatever it took to send him to jail that
18 night, whether that was forcing him to hit her or
19 whatever. She was saying, "You're going to go to jail
20 tonight. You're going to go to jail tonight."

21 And the State's saying, "Well, you know, what was the
22 reason for this? What was the reason for this?" Well,
23 she said she and her father didn't have a good
24 relationship and she didn't want to be living there with
25 him. So what better way to get rid of him than send him

1 to jail?

2 You can also hear on that video her kicking the door.
3 The State said that didn't happen, but you can hear it.
4 You can hear at least one thud, maybe two or three. And
5 you can hear Mr. Watson say, "Don't kick my door." You
6 can hear that on the video. And I want you all, if you
7 want to, you can go back and watch that. And I want you
8 to hear that.

9 And at the end of that video, it's kind of a jumble.
10 You can't really see what happens. The phone's moving
11 around. You see, you know, some -- some jumbling of the
12 phone. It's moving around. Is it possible that she fell?
13 That's possible. Is it possible that she was tripped?
14 That's possible. Was it possible that that's when she got
15 in the confrontation with her mother? That's completely
16 possible as well, because we couldn't see a whole lot.

17 Now, she also took pictures, before the police got
18 there, of her injuries. I think she said there's time
19 stamps on those photos. They can show you when those
20 photos were taken before the police got there. Because
21 she wanted to take those photos because she said she was
22 going to send her dad to jail tonight.

23 You know, and while this is happening, she said that
24 while she's in this struggle with her father, while she's
25 rolling around on the ground, she dials 9-1-1 and sends

1 it. Now, I don't know about you, but I sometimes have a
2 hard time dialing my phone right when I'm just sitting
3 still. So for you to dial 9-1-1 correctly while you're in
4 a struggle and send it, that just seems a little
5 complicated to me.

6 She also admitted to having a gun. The police didn't
7 really look for the gun. You heard them say, well, we
8 don't know if anybody swept for the gun or anything. And,
9 of course, you know they heard that Mr. Watson said that
10 there was a gun, and they didn't really think anything
11 about it, said -- told him in the car. But they didn't
12 really follow up with Mr. Watson. They didn't take any
13 statements from him. They didn't try to get his story.
14 All they got was one story and they made a decision on
15 that no matter what. They talked to him more about his
16 65 inch TV and what a deal he got on Black Friday than
17 doing an investigation and trying to get his side of the
18 story and figure out exactly what happened.

19 Then you heard his testimony. You heard that --
20 heard him say that Deanna and Kristina struggled over the
21 gun. Now, maybe it wasn't brought up because the police
22 didn't ask him about it. Maybe it wasn't brought up
23 because they didn't try to get his story. So that's why
24 you haven't heard about it, because nobody tried to get
25 Mr. Watson's story. The State will have you believe that

1 he just made this up on the stand. But he came up with
2 that answer pretty quickly. It's not something he just
3 made up.

4 Kristina had fallen. He was out trying to help her
5 up, and she bit his thumb. And there's photos of that
6 thumb. And there's photos of his fingers very soon after
7 this attack.

8 And you see that his nails, there is no way he could
9 have scratched her. There is no way. I know the State
10 says, "Oh, if you played sports, you know you can get
11 scratched by any short nails." His nails are so far down
12 on the quick if you look in that, it's going to be very,
13 very hard for you to have anything but skin rubbing
14 against you.

15 You've heard all the evidence. You've heard the
16 tapes. You've seen the videos. You've heard testimony.
17 And I want you to listen to it. I want you to take your
18 time. I want you to watch it. I want you to look at the
19 photos. I want you to take in all the evidence, because
20 you have it. And you can see what the evidence says. Not
21 what the State says, but what the evidence says. And I
22 want you to make up your mind about what happened that
23 night.

24 Now, the judge is going to charge you here in just a
25 minute. I want you to listen to that. I want you to

1 listen to it closely. I want you to listen to the words
2 of what he says that what standard you have to meet with
3 reasonable doubt.

4 Now, I want you to think about -- while you're in
5 your deliberations, I want you to think about is it
6 possible that there was a struggle between Kristina and
7 Deanna? Is it possible, not probable? I believe it is.
8 Is it possible, not probable, that Kristina was going to
9 send her father to jail that night no matter what
10 happened, that she was looking for a way to get him
11 somewhere that was not that house? It's possible, not
12 probable.

13 Is it possible, not probable, that she was enraged
14 and bit him and the red marks came from him trying to get
15 his finger out of her mouth? It's possible, not probable.

16 Is it possible, not probable, that he was trying to
17 defend himself to get that thumb out of her mouth? It's
18 possible, not probable.

19 If you can think of all these possibilities and you
20 can think, yeah, that's possible, I believe you should
21 find my client not guilty on all counts.

22 Thank you.

23 MS. PAGE: Quick reply, Your Honor.

24 In response to some of the things defense counsel
25 just talked to you about, the friend Trent, Kristina

1 testified he used to visit her in their home in Easley,
2 not where the defendant lived. At the end of the day, it
3 doesn't matter. It doesn't matter what time Trent left.
4 And it doesn't matter who Trent is. He was not a part of
5 this altercation. This was between the defendant, the two
6 women, regardless. That's a distraction that you just --
7 doesn't have relevance to the facts of the assault.

8 On the stand I told you the defendant testified that
9 the redness came from fighting between Deanna and
10 Kristina. His own defense attorney just stood up here and
11 said that she could have leaned her hand on her neck and
12 caused redness. Let's get our lies straight. Which one
13 is it? There was a fight between Deanna and Kristina or
14 she did it to herself? Which story are we going with?

15 An important thing to talk about is the airway
16 restriction as that is an element that was testified to.
17 Law enforcement testified that she did tell them this,
18 that it was told. They also told you that they don't
19 write every detail in a report or it would be six pages
20 long. We don't punish victims because the law enforcement
21 don't include something in their report. The victim
22 didn't write this report. She didn't even write her own
23 statement. She signed off on it. And we don't hold them
24 accountable for something that law enforcement does. But
25 not only that, law enforcement testified they did put this

1 in their report, and they just didn't use that language.
2 They said that he put her hands around her neck. That was
3 in the report, and that was his testimony.

4 They want to make it seem like Kristina was
5 antagonizing the defendant and that she wanted him to go
6 to jail. But again, they still won't tell you why, why
7 this night. She has it out for her dad. Why this random
8 night did she choose to make this grandiose story up,
9 cause this scene to try to send her dad to jail this time?
10 We still haven't gotten a reason why. What did he do to
11 cause her rage that night, to make this be the night that
12 she's going to send him to jail? He beat her mom. That's
13 what he did.

14 The defense wants to punish Kristina for being an
15 intelligent enough person to preserve evidence in this
16 case for law enforcement before they got there in case the
17 redness was gone. She didn't know what time law
18 enforcement was going to get there. That wasn't a lengthy
19 9-1-1 call. Perhaps by the time they got there, redness
20 would be gone. You did see the photos that law
21 enforcement took, and they were subtly different from the
22 photos that she took right after this incident happened.
23 It was great presence of mind for Kristina to lock herself
24 in the bathroom and preserve that evidence.

25 Talked about dialing 9-1-1, how could she have done

1 that during a fight. You saw the screen shots from
2 Kristina's photos on her phone. It was clearly an iPhone.
3 You just hit the end button on an iPhone repeatedly and it
4 dials 9-1-1. I'm sure some of you might have children
5 that have done that accidentally. It's pretty
6 embarrassing. Quite easy to call 9-1-1 with an iPhone.

7 Keeps saying that the police didn't ask him about his
8 story. He had every opportunity to tell them. Quite
9 frankly, his own attorney didn't ask him about his story.
10 He stood right up there on the direct. You didn't hear
11 that story until I asked him to explain away an injury.
12 So if he wanted to get his story out, taking the stand in
13 a jury trial is the perfect opportunity. So if law
14 enforcement didn't ask his story, it seems like an
15 opportune time for the defense attorney to ask him his
16 story. That still didn't happen, because it wasn't -- it
17 wasn't the truth. He only came up with that story in a
18 response to explain away an injury.

19 Lastly, just because something's possible does not
20 make it reasonable. We talk about reasonable doubt. Any
21 possibility does not mean reasonable.

22 So, again, I believe the State has met their burden.
23 This defendant did assault Deanna and Kristina. He did
24 impede Deanna's airway in an attempt to. I would ask that
25 you find him guilty of both domestic violence second

1 degree and assault and battery third degree.

2 Thank you.

3 CHARGE ON THE LAW

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, during this trial you and I have certain duties to
6 perform. As the trial judge, it is my responsibility to
7 preside over the trial of the case and to rule on the
8 admissibility of the evidence offered during the trial.
9 It is also my duty to charge you the law applicable to the
10 case, and it is your duty as jurors to accept and apply
11 the law as I now state it to you. If you have any idea as
12 to what you think the law is or what the law ought to be
13 and it does not agree with what I tell you the law is, you
14 must set aside your own opinion and apply the law
15 precisely as I state it to you.

16 I also remind you in every case tried in this court
17 before a jury, the jury is the sole and exclusive judge of
18 the facts, and a trial judge is not allowed under that law
19 to have any opinion about the facts of the case. So
20 please don't think, by anything I may have said or done
21 throughout the course of the trial, I have such an
22 opinion. I do not. It is up to you all to make those
23 determinations.

24 I instruct you that the fact that the defendant was
25 arrested, charged and indicted in this case is not

1 evidence of guilt, nor does it create any presumption or
2 inference of guilt. These documents are simply the formal
3 written instruments which contain the allegations made
4 against the defendant, and they serve as the formal
5 documents by which the case is processed and brought here
6 into court for resolution.

7 The indictments in this case allege two different
8 offenses against this defendant. The first indictment is
9 domestic violence in the second degree against -- with the
10 victim being Deanna Winkler and the obstruction of the
11 airflow. The second one is assault and battery in the
12 third degree, and it's unlawful injury to Kristina Watson.

13 Now, ladies and gentlemen, each indictment contains a
14 separate and distinct offense, and you must decide each
15 indictment separately on the evidence and the law
16 applicable to it, uninfluenced by your decision on any
17 other indictment. The defendant may be convicted or
18 acquitted on any or all of the offenses charged, and you
19 will be asked to write a separate verdict of guilty or not
20 guilty for each indictment.

21 Necessarily, you must determine the credibility or
22 believability of the witnesses who have testified, and it
23 becomes your duty as jurors to evaluate the evidence and
24 determine which evidence convinces you that it is true.
25 And in determining the believability of the witnesses, you

1 may believe one witness over several or several over one;
2 you may believe a part of the testimony of a witness and
3 reject the remaining part; you may believe the testimony
4 of a witness in its entirety or reject that testimony in
5 its entirety; you may consider whether the witness has an
6 interest in the result of the trial; whether the witness
7 is prejudiced towards either the State or the defendant;
8 the opportunity for the witness to have seen the matters
9 and things about which the witness has testified; and the
10 way the witness acts on the witness stand or what we call
11 a witness's demeanor.

12 The defendant has pled not guilty to these
13 indictments, and that plea puts the burden on the State to
14 prove the defendant guilty. A person charged with
15 committing a criminal offense in South Carolina is never
16 required to prove themselves innocent. So I charge you it
17 is a cardinal and a signal rule of the law that the
18 defendant in a criminal trial will always be presumed to
19 be innocent of the crime for which an indictment has
20 issued unless and until guilt has been proven by evidence
21 satisfying each of you of guilt beyond a reasonable doubt.

22 And a reasonable doubt is the kind of doubt which
23 would cause a reasonable person to hesitate to act.
24 Reasonable doubt may arise from the evidence which is in
25 the case or from the lack or absence of evidence in the

1 case, and you the jury must determine whether or not
2 reasonable doubt exists as to the guilt of this defendant.

3 There are two types of evidence which are generally
4 presented during a trial: direct evidence and
5 circumstantial evidence. Direct evidence directly proves
6 the existence of a fact and does not require deduction.
7 Circumstantial evidence is proof of a chain of facts and
8 circumstances indicating the existence of a fact. And
9 crimes may be proven by circumstantial evidence.

10 The law makes no distinction between the weight or
11 the value to be given to either direct evidence or
12 circumstantial evidence. However, to the extent the State
13 relies on circumstantial evidence, the circumstances must
14 be consistent with each other, and when taken together,
15 point conclusively to the guilt of the accused beyond a
16 reasonable doubt. If the circumstances merely portray the
17 defendant's behavior as suspicious, the proof has failed.

18 The State has the burden of proving the defendant
19 guilty beyond a reasonable doubt, and this burden rests
20 with the State regardless of whether the State relies on
21 direct evidence, circumstantial evidence or a combination
22 of the two.

23 So the defendant is indicted for domestic violence in
24 the second degree. A person commits the offense of
25 domestic violence in the second degree if the State proves

1 beyond a reasonable doubt that the defendant caused
2 physical harm or injury to a household member, or that the
3 defendant offered or attempted to cause harm or injury
4 under circumstances reasonably creating a fear of imminent
5 danger and the offense is committed by impeding the
6 victim's breathing or airflow.

7 A household member is a spouse, a former spouse, a
8 person with whom the defendant has a child in common or a
9 person of the opposite sex with whom the defendant is
10 living or has lived in the past.

11 If you find the defendant not guilty of domestic
12 violence in the second degree, then you must consider the
13 lesser-included offense of domestic violence in the third
14 degree. In order to be found guilty of domestic violence
15 in the third degree, the State must prove beyond a
16 reasonable doubt that the defendant caused harm or injury
17 to a member of the defendant's own household with the
18 apparent present ability to cause harm or injury under
19 circumstances reasonably creating a fear of imminent
20 danger. And, again, a household member is a spouse, a
21 former spouse, a person with whom the defendant has a
22 child in common, or a person of the opposite sex with whom
23 the defendant is living or has lived in the past.

24 With respect to the indictment for assault and
25 battery third degree, a person commits the offense of

1 assault and battery in the third degree if the person
2 unlawfully injures another person or offers or attempts to
3 injure another person with the present ability to do so.

4 An assault occurs when a person unlawfully attempts
5 or offers to commit a violent injury upon another person
6 and had the present ability to complete the attempted
7 injury.

8 An assault is an intentional creation of a reasonable
9 fear of immediate bodily harm. It is not necessary that
10 the attempted injury or harm actually take place. That's
11 an assault.

12 A battery is the unlawful touching of another person
13 by a person who has committed an assault. An unlawful
14 touching may be caused by a part of the accused's body or
15 by any object the accused puts in motion.

16 A battery is the completion of the assault by using
17 or applying force to another person, however slight, in a
18 rude, angry or resentful manner without legal
19 justification for doing so.

20 Now, the defendant has raised the defense of
21 self-defense. And self-defense is a complete defense, and
22 if it is established, you must find the defendant not
23 guilty. The State has the burden of disproving
24 self-defense by proof beyond a reasonable doubt. If you
25 have a reasonable doubt of the defendant's guilt after

1 considering all the evidence, including evidence of
2 self-defense, then you must find the defendant not guilty.
3 On the other hand, if you have no reasonable doubt of the
4 defendant's guilt after considering all the evidence,
5 including the evidence of self-defense, then you must find
6 the defendant guilty.

7 The following elements are required to establish
8 self-defense: first, the defendant must be without fault
9 in bringing on the difficulty. If the defendant's conduct
10 was the type which was reasonably calculated to and did
11 provoke an assault, the defendant would be at fault in
12 bringing on the difficulty and would not be entitled to an
13 acquittal based on self-defense.

14 The second element of self-defense is that the
15 defendant was actually in imminent danger of bodily
16 injury, or that the defendant actually believed he was in
17 imminent danger of bodily injury. If the defendant was
18 actually in imminent danger, it must be shown that the
19 circumstances would have warranted a person of ordinary
20 firmness and courage to strike the blow to prevent bodily
21 injury.

22 If the defendant believed he was in imminent danger
23 of bodily injury, it must be shown that a reasonably
24 prudent person of ordinary firmness and courage would have
25 had the same belief. And in deciding whether the

1 defendant actually was or believed he was in imminent
2 danger of bodily injury, you should consider all the facts
3 and circumstances surrounding the events including the
4 physical condition and characteristics of the defendant
5 and the victim.

6 The next element or final element of self-defense is
7 that the defendant had no other probable way to avoid the
8 danger of death or serious bodily injury other than to act
9 as the defendant did under those particular circumstances.
10 And in order to be entitled to claim self-defense, the
11 defendant must have no other way -- must have had no other
12 way to avoid the danger of bodily injury, including the
13 duty to retreat from the harm if that opportunity exists.
14 However, if the defendant was on his own premises, the
15 defendant had no duty to retreat before acting in
16 self-defense.

17 Now, ladies and gentlemen, with respect to these
18 indictments, there are two possible verdicts which you may
19 reach. The first is -- and there's no particular
20 importance in the way I -- the order I state them. They
21 are either guilty or not guilty. We've prepared a verdict
22 form which we will send back to you in the jury room. And
23 I think they're pretty self-explanatory.

24 I remind you, again, each indictment stands on its
25 own and must be decided on its own merits and the law

1 applying to it.

2 The first indictment -- or the domestic violence
3 indictment, if you find, as I've told you, that the
4 defendant is not guilty of domestic violence in the second
5 degree, then you must consider domestic violence in the
6 third degree. However, if you find the defendant guilty
7 of domestic violence in the second degree, you would mark
8 that on here and move on to the indictment with respect to
9 assault and battery third degree. So each of these stand
10 on their own. You first decide whatever order you decide
11 it in, whether assault and battery or domestic violence,
12 but the domestic violence, make that determination
13 initially guilty or not guilty. On second degree if it's
14 not guilty, you go to third and make another
15 determination, guilty or not guilty. Okay. Separate and
16 distinct from the assault and battery.

17 Ladies and gentlemen, your verdict must be unanimous.
18 All 12 of you must agree. And your verdict cannot be
19 based on passion, sympathy, prejudice, emotion or any
20 other consideration which is not in evidence in the case.
21 You have no friends to reward, you have no enemies to
22 punish.

23 So I'm going to excuse you all back to your jury room
24 with the exception of Mr. Watson, and ask you not to begin
25 your deliberations just yet. I have to go over my charge

1 on the law with the lawyers to make sure I didn't misstate
2 or omit something. But when the verdict form comes back
3 to you with the evidence in the case, you may begin your
4 deliberations. Okay. Thank you.

5 (WHEREUPON, the jury exits the courtroom at 11:03 AM.)

6 THE COURT: Mr. Watson, I want to thank you for your
7 service. You're just as qualified, paid just as good
8 attention as everyone else. I knew it was going overnight
9 so I knew we needed it in case someone became ill. But
10 you're -- I can't let you go back in there. The law won't
11 allow it.

12 JUROR NUMBER 55: Understood.

13 THE COURT: All right. And you're free to go.
14 You're done for the week. And thank you again for your
15 service.

16 JUROR NUMBER 55: Thank you.

17 THE COURT: Let me talk to the lawyers up here for a
18 minute.

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

20 THE COURT: All right. Any exception or objection to
21 the jury charge from the State?

22 MS. PAGE: Not from the State.

23 THE COURT: From the defense?

24 MR. SANFORD: Not from the defense, Your Honor.

25 the COURT: All right.

1 (WHEREUPON, a recess is taken at 11:08 AM, and the jury
2 starts deliberations.)

3 JURY QUESTION

4 THE COURT: Question from the jury: Can we have the
5 complete definition of "domestic third degree." So do you
6 want to look at it? I'm just going to send them the
7 substantive -- the DV second and the lesser included and
8 the assault and battery third degree. Any objection?

9 MS. PAGE: No objection.

10 MR. SANFORD: No objection, Your Honor.

11 THE COURT: Okay.

12 (WHEREUPON, a recess is taken at 11:29 AM; Court's Exhibit
13 Numbers 2 and 3 were marked for identification.)

14 JURY QUESTION

15 THE COURT: All right. I have a question from the
16 jury: Can you define "harm" as physical or emotional
17 harm? I believe under our statutes it would be physical
18 harm.

19 MR. SANFORD: That's how I would interpret it, Your
20 Honor.

21 MS. PAGE: Your Honor, under the domestic violence
22 statute, the threat of harm is also qualified as domestic
23 violence, so I think that that is a confusing answer to
24 that question, potentially.

25 THE COURT: Threat of harm, yes. But the definition

1 of the word "harm" under our statute, unless you can show
2 me something different, is actual physical touching,
3 battery. Have you got anything?

4 MS. PAGE: No, Your Honor.

5 THE COURT: It says -- the statute says "physical
6 harm or injury."

7 MS. PAGE: They do also have the statute back there
8 that includes the other part, though, correct, with them?
9 The threat is part of the domestic, so ---

10 THE COURT: Yeah. The threat of physical harm or
11 injury.

12 MR. SANFORD: And, of course, I would also -- you
13 know, I would say that the threat is of physical harm, not
14 of emotional harm because it's essentially, like you said,
15 the assault and battery statute for household members.

16 THE COURT: Let's bring the jury back.

17 (WHEREUPON, the jury entered the courtroom at 11:55 AM.)

18 THE COURT: All right. Ladies and gentlemen, I've
19 provided you with the jury charge I read to you earlier.
20 I'm now going to read directly from our code of laws.
21 Section 16-25-20 reads: It is unlawful to cause physical
22 harm or injury to a person's own household member or to
23 offer or attempt to cause physical harm or injury to a
24 person's own household member with apparent present
25 ability under circumstances reasonably creating fear of

1 imminent peril. Okay. I hope that answers your question.

2 All righty. Thank you very much.

3 (WHEREUPON, the jury exits the courtroom at 11:57 AM.)

4 THE COURT: All right. Anything from the State?

5 MS. PAGE: Nothing from the State, Your Honor.

6 THE COURT: Anything from the defense?

7 MR. SANFORD: Nothing, Your Honor.

8 THE COURT: Okay. We'll just be at ease.

9 (WHEREUPON, a recess is taken at 11:57 AM; Court's Exhibit
10 Number 4 was marked for identification.)

11 JURY QUESTION

12 THE COURT: The next question: Do you have to have
13 assault to have battery? Yes. I'm not going to bring
14 them out here and recharge them. They've got the charge
15 back there.

16 Is there any input from the State?

17 MS. PAGE: I would just ask they just be directed to
18 read the statute they've been given already.

19 MR. SANFORD: That's fine with me, Your Honor.

20 THE COURT: I like to be simple and direct.

21 MR. SANFORD: I'm fine with a "yes," Your Honor.

22 THE COURT: You can't have -- you can't have an
23 illegal touching without an assault. It's in there. The
24 simple answer is "yes." I'll say, "Yes. Please read the
25 charge." How about that? Is that better?

1 MS. PAGE: Sure, Your Honor.

2 MR. SANFORD: That's fine with me, Your Honor.

3 THE COURT: All right. We'll be at ease.

4 (WHEREUPON, a recess is taken at 12:24 PM; Court's Exhibit

5 Number 5 was marked for identification.)

6 JURY QUESTION

7 THE COURT: Can we have a laptop to review video?

8 How many videos are there?

9 MS. PAGE: There is one actual video and then there's
10 the 9-1-1 call.

11 THE COURT: The 9-1-1 call is not a video.

12 MS. PAGE: It's just audio, Your Honor.

13 THE COURT: So do you have the video here? How long
14 is the video?

15 MS. PAGE: The actual video, I believe, is around
16 four minutes.

17 THE COURT: Okay. We're going to empty the
18 courtroom.

19 Are you all right doing this without your guy?

20 MR. SANFORD: Yeah. That's fine. I mean, because he
21 won't be in here when they come in here, correct?

22 THE COURT: No. No one will be in here except
23 Caroline.

24 MR. SANFORD: I can go in there and talk to him real
25 quick.

1 THE COURT: Okay. So what we'll do, if y'all will go
2 get the video and bring the disk back, tell them we'll get
3 right with them. Okay. And then, Meghan, you can help
4 Caroline. What we'll do is bring them in, tell them what
5 we're doing, and then everyone will leave the courtroom
6 except for Caroline who will run it.

9 THE COURT: Okay. Bring the jury.

11 THE COURT: Okay. Ladies and gentlemen, I believe we
12 have this queued up. And everyone is going to exit the
13 courtroom except for my law clerk. She has no skin in the
14 game anywhere. She's going to operate the computer. You
15 all feel free to discuss it however you want to. She is
16 not going to discuss what you talk about. And we're going
17 to get out of here, get out of your hair. When you're
18 done, you guys will be right -- just come knock on the
19 door and we'll get back at it. All right.

21 JURY QUESTION

25 I would note that they have been deliberating almost

1 four hours. I don't know how many questions there have
2 already been. The testimony in the trial didn't last but
3 four hours, so, you know, short the parties coming to a
4 resolution because nobody knows what decision, which way
5 the jury is leaning, then I would propose giving the jury
6 what's known as the Allen charge.

7 Do I hear any objection from the State?

8 MS. PAGE: No objection from the State.

9 THE COURT: From the defense?

10 MR. SANFORD: None from us, Your Honor.

11 THE COURT: All right. Let's bring them in.

12 (WHEREUPON, the jury entered the courtroom at 2:55 PM.)

13 THE COURT: All right. Ladies and gentlemen, welcome
14 back to the courtroom.

15 I have your note. And you've stated that you have
16 been unable to reach, to agree on a verdict on one count,
17 one of the counts in this case. As I instructed you
18 earlier, the verdict of the jury must be unanimous. I
19 will tell you that when a matter is in dispute, it isn't
20 always easy for even two people to agree, so when 12
21 people must agree, it becomes even more difficult.

22 In most cases absolute certainty cannot be reached or
23 expected. However, you have a duty to make every
24 reasonable effort to reach a unanimous verdict. In doing
25 this, you should consult with one another, express your

1 own views, and listen to the opinions of your fellow
2 jurors. Tell each other how you feel and why you feel
3 that way. Discuss your differences with open mind.

4 Although the verdict of the jury must be unanimous,
5 every one of you has a right to your own opinion. The
6 verdict you agree to must be your own verdict, the result
7 of your own convictions, and you should not give up your
8 firmly held beliefs merely to be in agreement with your
9 fellow jurors. The majority should consider the
10 minority's position, and the minority should consider the
11 majority's position. You should carefully consider and
12 respect the opinions of each other and re-evaluate your
13 position for reasonableness, correctness and impartiality.
14 You must lay aside all outside matters and re-examine the
15 questions before you based on the law and the evidence in
16 this case.

17 If you do not agree on a verdict in this case, I must
18 declare a mistrial. In that case it does not mean that
19 anybody wins. It just means that, at some future time, I
20 will try this case with some other jury sitting where you
21 now sit, the same participants will come and the same
22 lawyers will ask basically the same questions and get
23 basically the same answers, and we will go through the
24 whole process again. You were selected in the same manner
25 and from the same source as any future jury will be, and

1 there is no reason for me to suppose that the case will
2 ever be submitted to 12 more intelligent, impartial,
3 conscientious and competent jurors than you 12 or that
4 more or clearer evidence will be produced on one side or
5 the other. I therefore ask you to return to your
6 deliberations with the hope that you can arrive at a
7 verdict within a reasonable time.

8 Okay. Thank you very much.

9 (WHEREUPON, the jury exits the courtroom at 2:59 PM.)

10 THE COURT: All right. Anything from the State?

11 MS. PAGE: Nothing from the State.

12 THE COURT: Defense?

13 MR. SANFORD: Nothing from defense, Your Honor.

14 THE COURT: All right. Y'all stay close.

15 (Pause in proceedings; Court's Exhibit Number 7 was marked
16 for identification.)

17 THE COURT: Let's go back on the record for a minute.
18 I want to note for the record that our most able court
19 reporter has informed me that testimony in this case took
20 about two and a half hours, and they have been
21 deliberating now almost four hours.

22 Okay. Thank you.

23 (WHEREUPON, a recess is taken at 3:00 PM; the jury entered
24 the courtroom at 3:31 PM.)

25 THE COURT: All right. Mr. Foreman, I understand

1 you've reached a verdict.

2 JURY FOREPERSON: Your Honor, yes, we have.

3 THE COURT: Okay. If you would, please send it to
4 the bailiff.

5 Okay. Madam Clerk, if you would publish, please.

6 VERDICT

7 THE CLERK: Your Honor, in the case of
8 2021-GS-23-3605 and 3615, the State of South Carolina vs.
9 Jeremy Allen Watson, Number 1, as to the indictment
10 2021-GS-23-3605, the charge of domestic violence in the
11 second degree, we the jury find the defendant not guilty.

12 Number 2, as to the lesser-included charge domestic
13 violence in the third degree, we the jury find the
14 defendant guilty.

15 Number 3, as to the indictment 2021-GS-23-3615, the
16 charge of assault and battery third degree, we the jury
17 find the defendant not guilty.

18 And I certify this decision is the unanimous decision
19 of the jury, and this is Mr. Leberth, our foreperson.
20 Thank you.

21 THE COURT: All right. If that is your verdict and
22 it remains your verdict, please signify by raising your
23 right hand.

24 (WHEREUPON, all jurors complied.)

25 THE COURT: Okay. Anything further from the jury

1 from the State?

2 MS. PAGE: Nothing from the State, Your Honor.

3 THE COURT: From the defense?

4 MR. SANFORD: No, Your Honor.

5 THE COURT: Okay. Wow, what a hard-working,
6 conscientious group of citizens we have. I thank you for
7 your hard work this week. Being on a jury is a great
8 privilege and a great responsibility. You all have set a
9 shining example for how to do it, and we appreciate all
10 your sacrifices.

11 I'm happy to tell you that we're done for the week.
12 You're done for the week. And you all are welcome to
13 stay, go, whatever you please. And enjoy the national
14 holiday tomorrow, Veterans Day.

15 So thank you very much.

16 (WHEREUPON, the jury exits the courtroom at 3:34 PM.)

17 THE COURT: All right. Any motions?

18 MS. GASSER: None from the State.

19 MR. SANFORD: None from the defense, Your Honor.

20 THE COURT: Okay. Can I have some sentencing sheets?

21 MR. SANFORD: I believe the State has them, Your
22 Honor.

23 MS. PAGE: Your Honor, I'm also going to pass you a
24 firearm prohibition as well as the permanent restraining
25 order if you're so inclined to sign those.

1 THE COURT: All right. Thank you.

2 All right. Come on around.

3 How many days has he been in jail?

4 MS. PAGE: One counting last night, Your Honor.

5 THE COURT: We do.

6 Does he have a criminal history?

7 MS. PAGE: He does not.

8 THE COURT: Okay. All right. What do you want to
9 tell me?

10 MR. SANFORD: Your Honor, you've seen the facts in
11 this case, and, you know, he's been found guilty of a
12 domestic violence third. He has no criminal record. He
13 is a hard-working man. And I would ask Your Honor for a
14 probationary sentence in this case.

15 THE COURT: Is there any victim input?

16 MS. PAGE: Yes, Your Honor. They did not
17 particularly want to speak themselves. Is it all right if
18 I tell you what they preferred?

19 THE COURT: Yeah. What is it?

20 MS. PAGE: They are requesting the maximum penalty,
21 Your Honor, which is the full 90 days, as well as a
22 permanent restraining order for Deanna, which is the
23 charge that he was found guilty on.

24 And as far as the State, our position as well is the
25 full 90 days is appropriate in this case, Your Honor.

1 He's taken no accountability for his actions even
2 throughout this trial.

3 THE COURT: All right. Anything else? Anything you
4 want to tell me?

5 MR. SANFORD: Your Honor, I would say that, you know,
6 the only victim input at this point that matters is
7 Deanna's because she was the one that he was found guilty
8 of, and so I don't believe that both of the victims -- or,
9 I mean, the victim that he's found not guilty of is
10 entitled to input. But I don't believe he -- like I said,
11 due to his criminal record, I don't believe he is --
12 should get the maximum sentence in this case.

13 THE COURT: Okay. Anything you want to tell me?

14 DEFENDANT WATSON: No, sir. I'm just standing right
15 here.

16 SENTENCING

17 THE COURT: Okay. 45 days. Good luck. I have
18 signed the orders.

19 MR. SANFORD: Thank you, Your Honor.

20 MS. PAGE: Your Honor, did you sign the permanent
21 restraining order?

22 THE COURT: I did. You can't go near her.

23 (WHEREUPON, proceedings concluded at 3:38 PM.)
24
25

1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)4 COUNTY OF GREENVILLE)
5
6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South
9 Carolina, do hereby certify that the foregoing is a true,
10 accurate and complete Transcript of Record of the
11 proceedings had and evidence introduced in the trial of
12 the captioned case, relative to appeal, in the Court of
13 General Sessions for Greenville County, South Carolina, on
14 the 9th and 10th day of November, 2021.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.
17

18 October 26, 2022
19
20

21 Cheryl A. Smith

22 Cheryl A. Smith, CVR-M

23 Court Reporter
24
25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2022-CP-23-5979
	)	
	)	
JEREMY WATSON	)	
	)	APPLICANT)
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE	)	
	)	RESPONDENT)

January 18, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE R. SCOTT SPROUSE, Judge.

A P P E A R A N C E S:

HOWARD W. ANDERSON, III, ESQ.
Attorney for The Applicant

MELODY J. BROWN, ESQ.
Attorney for The State

APRIL HERRON
Official Court Reporter

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STATE EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Attorney Contract	25	25
	All exhibits were retained by the Greenville County Clerk's Office.		

1 MS. BROWN: Your Honor, we did have one more
2 case on the roster today, and it's Jeremy Watson vs.
3 The State. Mr. Watson is not incarcerated and he's
4 here in the courtroom with his attorney. And we are
5 able to go forward if The Court's inclined to hear
6 the case.

7 THE COURT: Yes, ma'am, yes, ma'am.

8 All right, Mr. Anderson, you prepared to
9 proceed?

10 MR. ANDERSON: Yes, sir, Your Honor, thank you.

11 THE COURT: All right. Let me -- let me hear
12 the procedural history of the case and then we will
13 hear The Applicant's presentation.

14 MS. BROWN: Yes, sir, Your Honor. This is
15 Jeremy Allen Watson vs. State, it is case No.
16 2022-CP-23-5979. And I have copies, Your Honor, of
17 the application and the return to hand up, if may
18 approach?

19 THE COURT: Yes, ma'am.

20 MS. BROWN: Mr. Watson filed this action on
21 October 31 st of 2022. It's a timely action. He had
22 a trial November 9th through 10th, 2021 before Judge
23 Miller. He was originally charged and tried on
24 domestic violence, second degree, assault and battery
25 third degree. But the jury convicted him on domestic

1 violence third degree and Judge Miller sentenced him
2 to 45 days. There was no direct appeal. So, Your
3 Honor, he has raised three issues here and that's
4 what we will be concentrating on today.

5 The first is an allegation that his trial
6 counsel did not discuss a motion for a new trial or
7 appellate options. The second is that trial
8 counsel's alleged not to have met with Mr. Watson
9 about his testimony. And the last is a charge, a
10 Allen charge, was given at the jury trial and The
11 Applicant alleges that it was coercive and that that
12 would be an issue for The Court to consider.

13 And our return requested a hearing only on the
14 first two and we asserted that hearing was not
15 necessary on the Allen charge because it's a matter
16 of law, Your Honor. So with that, we're ready to
17 proceed.

18 THE COURT: Okay.

19 Mr. Anderson.

20 MR. ANDERSON: Thank you, Judge. Give me one
21 second.

22 Mr. Sanford. Mr. Sanford for The Defense and my
23 client, and I think that's all of the witnesses
24 today. We do have one other potential witness but I
25 don't think we're going to get to him.

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 THE CLERK: Please raise your right hand.

2 RUSSELL SANFORD, after being duly sworn,

3 testified as follows:

4 THE CLERK: Thank you, please state your full
5 name for the record.

6 THE WITNESS: Russell Sanford.

7 THE CLERK: Thank you.

8 THE WITNESS: That's R-U-S-S-E-L-L
9 S-A-N-F-O-R-D.

10 DIRECT EXAMINATION

11 BY MR. ANDERSON:

12 Q All right, Mr. Anderson.

13 Thank you, Judge.

14 Mr. Sanford, where do you work?

15 A I work at the Law Firm of Richard Warder.

16 Q How long have you worked there?

17 A Five years.

18 Q Okay. And how long have you been a licensed
19 attorney?

20 A I'm trying to do math in my head, it's around
21 five years. I got my license in May of 2018.

22 Q And did you the occasion, at some point, to
23 represent Mr. Watson here at the criminal trial?

24 A I did.

25 Q Okay. And do you remember which charges that he

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 was on trial for?

2 A Yes. He was originally charged with a domestic
3 violence second degree and an assault and battery third
4 degree.

5 Q All right. And did you handle the trial of that
6 case?

7 A I did.

8 Q And did Mr. Warder have any role, other than
9 sort of being at the firm?

10 A During the case, I guess prior to trial, he was,
11 you know, in a, I guess, what we would call an advisory
12 role, where we would kind of work together on a case at
13 that point. But once we got to trial, then I did the
14 trial. If that makes sense.

15 Q Right. So then you were the attorney primarily
16 responsible for the case, is that a fair statement?

17 A That's correct.

18 Q And at the trial, the jury returned a mixed
19 verdict; is that correct?

20 A That's correct.

21 Q And so they acquitted on the greater charge but
22 convicted on the he lesser included of AB third -- I'm
23 sorry, a DV third, rather; is that right?

24 A That's correct, yes. And they also found not
25 guilty on the A&B third.

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 Q Okay. And at the -- after the trial, Judge
2 Miller imposed a sentence of 45 days; is that right?

3 A Yes, that's correct.

4 Q Okay. And what was your theory of The Defense
5 at the trial, generally?

6 A Well, theory of The Defense at the trial,
7 generally, was that it, basically, that there was --
8 because there's two charges and two different victims,
9 there's a little bit of a difference of theory here.
10 Because Mr. Watson, after talking to him, our theory was
11 that they both had issues with their stories to the
12 police, that there were certain falsehoods that were told.
13 And also, with the A&B third charge, and you'll have to
14 excuse me if I don't remember the exact relationship, but
15 I believe it was his daughter that the A&B third charge
16 was against. That it was more of an egging on, which
17 there was a video that kind of showed that. So it was
18 more of something with a -- that was kind of our defense
19 is that it did not happen like they said it happened. And
20 that they were just trying to kind of throw the book at
21 Mr. Watson.

22 Q Okay. And it was Mr. Watson's position that he
23 was not guilty of any of the charges; is that right?

24 A That's correct.

25 Q And that was a pretty consistent view that he

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 had throughout the case, right?

2 A Yes, it was.

3 Q Okay. All right. And so when the verdict came
4 back and it was a guilty sentence and he got a term of
5 imprisonment, he had to begin serving right away; is that
6 correct?

7 A I believe so. They took him over into the
8 section where they take people and they took him to
9 Greenville County, from what I understand.

10 Q Okay. So you would have understood that he was
11 not happy about having to go to jail; is that right?

12 A I don't think anybody would be.

13 Q Okay. And -- and what did you do after, I
14 guess -- did you have any conversations with Mr. Watson
15 after the trial was over?

16 A Not that day I don't believe. He did call me a
17 little bit afterwards. I want to say it was like six to
18 eight months afterwards for a phone call. But that was
19 the conversations that we had afterwards, yes.

20 Q All right. So the first conversation that you
21 had after the trial was about six to eight months by
22 telephone; is that right?

23 A As best I can remember, yes. It was by
24 telephone some months after the trial.

25 Q Okay. And did you have any written

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 correspondence to him after the trial?

2 A I don't believe so.

3 Q Do you recall at the trial that, I guess -- the
4 trial was about four hours of testimony, is that about
5 right?

6 A That would seem about right. Because I believe
7 it was two days and the bulk of the testimony, I believe,
8 it was on day two. So that seems about right.

9 Q And then the jury was out for a long time; is
10 that a fair statement?

11 A They were out for probably longer than the
12 amount of testimony we had.

13 Q And then they sent back, I guess, four or five
14 notes to the Judge; is that correct?

15 A They sent back multiple notes. I don't know the
16 exact number but they sent back multiple notes.

17 Q I want to be recharged on various portions of
18 the law, I want to see evidence again; is that right?

19 A I believe so. I believe there was some things
20 about them having questions about certain aspects of the
21 law, certain definitions. And maybe wanting to hear some
22 audio, that kind of thing.

23 MR. ANDERSON: And Judge, for the record, I know
24 that the transcript is already part of the file but I
25 would just formally ask you to take notice of the

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 transcript that's there for the record.

2 THE COURT: Yes, sir, so noted.

3 MR. ANDERSON: Okay.

4 BY MR. ANDERSON:

5 Q All right. Then at some point the jury sent a
6 note to Judge Miller saying that they were sort of
7 deadlock 11 to one on one charge; is that right?

8 A I believe so. I don't know that -- I don't know
9 that there was a number specifically said but yes, there
10 was a deadlock saying they could not come to a decision on
11 one charge.

12 Q Okay. And then at that point, Judge Miller
13 decided to give an Allen charge?

14 A Correct.

15 Q All right. And you're familiar with Allen
16 charges, I assume?

17 A I am.

18 Q And so The Judge gave an Allen charge and you
19 didn't take any exception to it; is that right?

20 A I did not.

21 Q Why is that?

22 A I didn't see anything coercive or special about
23 it. It wasn't different than any other Allen charge I had
24 heard at that point.

25 Q And if you thought that there was some basis to

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 object, you would have done so, I assume?

2 A I would have done so, yes, sir.

3 Q Because you know that an Allen charge can be
4 prejudicial to the defendant?

5 A Yes, sir.

6 Q All right. About how often -- or, I guess --
7 I'll rephrase. Did you and Mr. Watson prepare for him to
8 testify at his trial?

9 A Yes.

10 Q And how did you do that?

11 A Well, I met with Mr. Watson several times. I
12 know there was multiple times, not only here at the
13 courthouse when we had role calls and various things, but
14 I know he came into the office a few times. I can't say
15 exactly how many but he did come into the office. I know
16 that I definitely received emails from him with some
17 photographs, that kind of thing. Also, during the trial
18 just because, as people know, having a victim -- or sorry
19 defendant testify is kind of a fluid situation based on
20 what's happening in the trial. And, of course, it's their
21 decision. But, you know, he was writing notes during
22 trial, having things that was wrong with the testimony,
23 points that he wanted to be made, that kind of thing.
24 And, you know, we went over his testimony, we went over
25 his story multiple times prior to trial and even during

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 trial.

2 Q So when you say you went over his testimony
3 prior to trial, when, I guess, sit down and go over the
4 questions you were going to ask and the answers he was
5 going to be giving?

6 A Not specifically to that effect, not that
7 pinpointed. But, you know, you can you get a -- when you
8 represent somebody that long, you kind of learn their
9 story, you learn their version of events, you learn what
10 story they want to tell. And so we didn't go through and
11 say, you know, I'm going to ask this question, I'm going
12 to ask that question, in those terms. But -- and part of
13 that is because with my trial strategy, you have to base
14 that on what has The State been attacking, what do we need
15 to bring up, what do we not need to bring up, at that
16 point. So we didn't go into that specific but we did go
17 over, you know, generally, you know, this is kind of what
18 we're doing, this is kind of where we are and these are
19 the points that we believe are pertinent to this situation
20 and what he wanted to bring up. And then, you know, once
21 we get into that courtroom and we go to trial, then we
22 want to attack The State where we think they're the most
23 vulnerable, at that point.

24 Q I guess, I would prefer to say that you thought
25 that the evidence in this case was close on the one charge

RUSSELL SANFORD-DIRECT BY MR. ANDERSON

1 he was convicted of?

2 A I would say the evidence in this case, it's
3 definitely close, yes, for sure.

4 Q Okay. And in your preparations for trial, were
5 you aware that there had been an altercation between --
6 I'll rephrase. Are you aware that the daughter, at some
7 point, pulled a gun there at the scene?

8 A I was aware of that, yes.

9 Q And so that was going to be an important part of
10 the trial defense, is that a fair statement?

11 A That's something that definitely needed to be
12 mentioned at some point in the trial, correct.

13 Q Okay. And, in fact, it came out at the trial --
14 it came out during his cross-examination; is that right?

15 A I believe so. I believe I might have also asked
16 about the guns prior with the officers and if they found
17 any guns, if they searched for any guns, any of that kind
18 of line of questioning.

19 Q Okay. But you thought it was important for you
20 to get out the fact that there was a scuffle involving a
21 gun?

22 A Correct.

23 Q All right. Now, you didn't file a notice of
24 appeal in this case; is that right?

25 A I did not.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q Why is that?

2 A We weren't asked to.

3 Q Okay. Did you consult with him about whether he
4 wanted to file the notice of appeal?

5 A Did not.

6 Q Why not?

7 A Because he didn't ask me about an appeal.

8 Q Okay. All right. If -- I guess if he would
9 have asked to file an appeal, would you have done so?

10 A Yes.

11 MR. ANDERSON: No further questions, Judge,
12 thank you.

13 THE COURT: Ms. Brown.

14 MS. BROWN: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. BROWN:

17 Q Just a few questions.

18 A No problem.

19 Q A little bit of follow up. Now, you said that
20 Mr. Warder is your law partner?

21 A He's boss, lawyer partner, whatever you want to
22 say, but, yes, ma'am.

23 Q So he's the boss and you're his -- just kidding.
24 Just joking there. But seriously, going back to this
25 case, Mr. Warder's practiced for multiple decades?

RUSSELL SANFORD-CROSS BY MS. BROWN

1 A Yes, I believe it's somewhere around 48, 46, 48
2 somewhere, at this point, years.

3 Q And you would consider him a very good resource
4 for any questions that you had about criminal law?

5 A I would.

6 Q And you consulted with Mr. Warder in the
7 development of the trial?

8 A I did.

9 Q But he was not present at trial?

10 A He was not present at trial. Other than maybe
11 he popped in during a recess or something, just to see how
12 it was going. But he was not present for the actual--

13 Q Okay.

14 A -- trial.

15 Q And you said in your direct examination that
16 your client denied the event?

17 A That's correct.

18 Q Okay. But he didn't deny being there though,
19 right?

20 A No, he did not.

21 Q He denied the way that the assaults occurred; is
22 that correct?

23 A Correct. He denied the version of events that
24 were proposed by The State.

25 Q And can you tell us how many times you met with

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Mr. Watson prior to trial?

2 A Not exactly. I would say it's probably
3 somewhere between -- I would say probably around five,
4 would be my guess.

5 Q Okay. And when you meet with your client, tell
6 us a little bit about that. Do you ask them for
7 information, do you have a series of questions or you let
8 them just talk?

9 A It kind of depends. When you're going into
10 trial, obviously, it's a different meeting with a client
11 than, you know, if we had just gotten discovery. But
12 yeah, I mean, I will let them talk, I will ask questions,
13 it kind of just depends on where the flow of the meeting
14 is going at that point. And, you know, what stage of the
15 case we're in.

16 Q Okay. But with Mr. Watson here, he wanted a
17 trial; correct?

18 A Yes, he did, definitely.

19 Q Okay. Did you talk to him about options? You
20 could plead or go to trial?

21 A Yes, I talked about multiple options, including
22 the fact that -- I mean, I'll say we were here for
23 magistrate municipal court one day where he could plead to
24 DV third and A&B second for just a fine and he turned down
25 that plea.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q Okay. And he wanted his story heard, is that a
2 fair statement?

3 A He did for sure.

4 Q Okay. And there were only three people involved
5 in the altercations where these crimes arose?

6 A That's correct.

7 Q Okay. And two of them testified for The State?
8 Two of them were allegedly victims?

9 A Correct.

10 Q Mr. Watkins [verbatim] disagreed.

11 A That's correct.

12 Q But he didn't deny that there was an
13 altercation?

14 A No. And there was also video of one the
15 altercations.

16 Q Okay. And that was telephone video filmed by a
17 victim?

18 A Yes, that is correct.

19 Q And there was a 911 call too?

20 A Correct.

21 Q And there were two officers who testified?

22 A Yes.

23 Q And those officers were there fairly soon after
24 the event?

25 A Correct.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q And both officers testified that the victims
2 were upset?

3 A Yes.

4 Q But Mr. Watkins [verbatim] was not?

5 A No. And I think they, actually, from reviewing
6 this case, they said that he was kind of a little
7 belligerent at that point, yes.

8 Q And he got injured; correct?

9 A He did.

10 Q Okay. And it was a injury to his finger?

11 A Correct.

12 Q And his daughter, the assault and battery charge
13 victim, indicated she had bitten his finger; correct?

14 A Yes.

15 Q So that injury could be very consistent with her
16 story; correct?

17 A Yes.

18 Q Now, did your client provide you any evidence
19 that you used in The Defense?

20 A He did. He provided me -- he emailed, I
21 believe, in November of 2021, emailed me a couple of
22 photos of his fingers where they had the injuries. Also,
23 I believe, he came to trial -- I can't remember if he gave
24 them to me right before trial or if when he met at the
25 courthouse but he had photos of a doorframe and how it

RUSSELL SANFORD-CROSS BY MS. BROWN

1 looked like it had been kicked in or something had been
2 done to it and he provide me with those.

3 Q And you offered that at trial, did you not?

4 A I did.

5 Q And you were successful?

6 A I was over the objection of The State.

7 Q Okay. And that fit Mr. Watson's narrative,
8 correct?

9 A It did.

10 Q Okay. Now, you remember Judge Miller took some
11 time to explain that it was Mr. Watson's decision to
12 testify?

13 A Yes.

14 Q Well, the record shows us that there was a break
15 right after the advice. I believe that you asked for the
16 break?

17 A I did.

18 Q Can tell us what occasion that request?

19 A That comes from, of course, it is the
20 defendant's decision to testify and when that portion of
21 the trial comes up, I want to be able to discuss with my
22 client, Mr. Watson, or otherwise, you know, what my
23 thoughts and recommendation is on testifying. And I
24 believe that's what happened here is we discussed his
25 potential testimony about him testifying, what the pros

RUSSELL SANFORD-CROSS BY MS. BROWN

1 and cons were. Which, you know, then we came back from
2 recess at that point.

3 Q So that break was reflective of your concern to
4 make sure that your client understands his rights?

5 A Correct.

6 Q Mr. Watson was very clear he wanted his story
7 told?

8 A Yes, he wanted to be heard for sure.

9 Q Okay. And he never waived?

10 A Did not, no.

11 Q Okay. And Mr. Watson was present during trial;
12 right?

13 A Oh, yes, he was there.

14 Q So he heard the victims testify?

15 A He did.

16 Q He heard the officers testify?

17 A He did.

18 Q He looked at the pictures along with you?

19 A Uh-huh.

20 Q At trial?

21 A Yes, he did.

22 Q And you mentioned that your client gave you
23 several notes during trial?

24 A He did.

25 Q And have you recently reviewed those?

RUSSELL SANFORD-CROSS BY MS. BROWN

1 A Yes, I have looked at those recently.

2 Q Okay. And what of kind notes did he pass to
3 you?

4 A They were -- they were a lot of notes regarding
5 the testimony, where the testimony differed from his
6 story, a lot of saying what the lies about the case were,
7 questions that I, potentially, should ask the witnesses in
8 cross, anything -- any questions or anything about the
9 trial and what, potentially, you know, is this happening
10 and more kind of the procedure of the trial type
11 questions. But it was mostly about the testimony more
12 than anything.

13 Q So he was focused on the testimony?

14 A He was.

15 Q Okay. Did you tell him that his story was going
16 to be inconsistent with the testimony that the jury just
17 heard?

18 A Yes. And, you know, he, obviously, knew that
19 because there were a lot of notes that said, you know,
20 that's not true and that calling them liars, for lack a
21 better term. So he knew that his testimony was
22 inconsistent with what their story was.

23 Q Okay. And you were asked whether you consulted
24 with your client about the possibility of appeal?

25 A Yes, I was.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q And I want to talk about that a little but
2 because you said you didn't consult with him?

3 A Correct.

4 Q But isn't it true that you advised him that
5 there was a possibility of an appeal?

6 A He was aware of that in the sense of, I believe,
7 at some point, when we were talking about it, it was
8 generally brought up in the sense that if you are found
9 guilty, there is an appeals process. But outside of that
10 there was no in-depth conversation of what that entailed
11 or the process.

12 Q Okay. Well, what I want to clarify, when you
13 say consult, are you talking about consulting about
14 specifics that could be raised on appeal or are you
15 talking about advising your client of the possibility of
16 the process?

17 A Advising the client about the possibility of the
18 process, not about specifics.

19 Q Okay. And you have a letter that or a contract
20 for your fee and what you will do during your
21 representation; correct?

22 A Correct.

23 Q And Mr. Watkins -- Watson, excuse me, signed one
24 of your standard forms, correct?

25 A He did.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q Okay. Within that form, do you not advise the
2 client that you will file a notice of appeal but no more?

3 A We do, yes.

4 Q Okay. So do you explain that paragraph when
5 they sign it?

6 A We allow the client to read the contract and if
7 they have any questions, we are more than happy to answer
8 them, at that point.

9 Okay.

10 MS. BROWN: Your Honor, if I may approach the
11 witness?

12 THE COURT: Yes, ma'am.

13 BY MS. BROWN:

14 Q I'd like to hand you this document that is
15 titled, Attorney Employment Contract with fee amount and
16 terms negotiated. And see if you recognize that.

17 A I do.

18 Q Okay. Is that a form that you use in your
19 practice?

20 A It is.

21 Q And is that a form regrading Mr. Watson?

22 A It is.

23 Q Okay. Does this look like the original of the
24 form that you would have gone over with Mr. Watson?

25 A It does it looks like that.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q Does it bear signatures?

2 A It does.

3 Q Okay. And what's the date on the signatures?

4 A Date on signatures looks to be January 16, 2020.

5 Q Okay. And this appears to be the original
6 contract that you recall signing?

7 A It does, yes, ma'am.

8 MS. BROWN: Your Honor, I'd like to have this
9 marked as State's -- or State's Exhibit 1.

10 MR. ANDERSON: No objection.

11 THE COURT: You said there's no objection to
12 that being admitted?

13 MR. ANDERSON: Oh, I'm sorry, that's correct.

14 MS. BROWN: I move to admit, Your Honor.

15 THE COURT: All right, so State's Exhibit No. 1
16 is admitted without objection.

17 (WHEREUPON, State's Exhibit No. 1 was marked for
18 identification and received into evidence.)

19 MS. BROWN: Thank you, Your Honor.

20 BY MS. BROWN:

21 Q I want to go back to this appeal here. You have
22 language here, and correct me if I'm wrong, it reads, The
23 attorney herein is only responsible for filing a notice of
24 an intention to appeal.

25 Is that correct?

RUSSELL SANFORD-CROSS BY MS. BROWN

1 A That's correct.

2 Q Okay. So did Mr. Watson have any questions
3 about that provision?

4 A Not that I remember.

5 Q Okay. Did he seem to understand what an appeal
6 was?

7 A From my recollection he did.

8 Q Okay. Is that the only time you ever mentioned
9 appeal to Mr. Watson?

10 A I don't believe so. I believe it was mentioned,
11 as I said, in more of a general sense in our
12 conversations. But not in the sense of these are the
13 problems afterwards, these are the problems at your trial
14 and that is what would happen in the appeal.

15 Q Okay. So it is correct that you advised him
16 there was an appeal process available?

17 A Yes.

18 Q Okay. But you never advised him to any
19 particular issue that he could raise?

20 A No, I did not.

21 Q Okay. And you mentioned that Mr. Watson did
22 contact you after trial?

23 A He did.

24 Q Did he complain to you about something?

25 A No. I believe he had a question about his

RUSSELL SANFORD-CROSS BY MS. BROWN

1 charge and potential expungement. I could be wrong about
2 that but that's what I believe it was. He didn't have any
3 complaints or anything about anything. It was a very
4 cordial, normal conversation.

5 Q And did he ever ask you, at that point, if there
6 was anything that he could do now to challenge the
7 conviction?

8 A I don't believe so.

9 Q Okay. After Mr. Watkins [verbatim] testified,
10 when he came back to the table and sat down next to you,
11 did he pass you any notes or ask you any questions?

12 A I don't recall, specifically, but I don't
13 believe so. Because I feel like if he would have been
14 fairly hostile towards me and how it would have -- if he
15 didn't like -- if he didn't like the way I had directly
16 examined him, I believe he would have let me know and I
17 believe I would have remembered that.

18 Q And he had written notes all the way through the
19 trial?

20 A Correct.

21 Q Did he write notes after that?

22 A I believe he might have. I would have to check
23 those notes. But there's nothing in there indicative of
24 it being a -- saying it was a bad job or anything like
25 that.

RUSSELL SANFORD-CROSS BY MS. BROWN

1 Q Okay. And when Judge Miller gave his Allen
2 charge, you said in your direct, that sounded fairly
3 standard to you?

4 A Correct.

5 Q Okay. You didn't see anything objectionable in
6 that?

7 A I did not.

8 Q What about the delivery? What can you tell us
9 about the delivery of that charge?

10 A I don't remember anything outside of Judge
11 Miller's normal inflection. I had done -- I've been in
12 front of Judge Miller a number of times. And I didn't see
13 anything unusual about his inflection.

14 Q Okay. And you didn't see any obvious reactions
15 from any jurors either?

16 A I did not. I didn't see anybody one way or the
17 other cheer or cry or whatever you want to say. But I
18 didn't see anything unusual.

19 Q Okay. And you didn't hear anything,
20 particularly, coercive of the way that it was delivered?

21 A I did not.

22 Q Okay. And the jury went back and deliberated
23 additional, some additional 30 minutes; is that correct?

24 A I believe it was somewhere around there. But it
25 was a little bit longer, yes, ma'am.

RUSSELL SANFORD-REDIRECT BY MR. ANDERSON

1 Q Okay. So they were out for approximately four
2 hours or so?

3 A Correct.

4 Q Then the Allen charge?

5 A Correct.

6 Q Then they're still out for about another 30
7 minutes?

8 A Correct.

9 Q And coming back, I believe you mentioned there
10 was a favorable verdict?

11 A I believe, in my experience, to me, this is a
12 favorable verdict. There were not guilties on both of the
13 original charges that The State charged him with. And he
14 was charged with or found guilty of a lesser included. As
15 I stated earlier, that was a very, very -- it's one of
16 those that could have gone either way. And, of course,
17 the DV third has a -- it's a little bit of a lesser bar to
18 get over than a DV second is.

19 MS. BROWN: Thank you, Mr. Sanford.

20 No further questions, Your Honor.

21 MR. ANDERSON: Just briefly, Judge.

22 REDIRECT EXAMINATION

23 BY MR. ANDERSON:

24 Q Mr. Sanford, you said that your recollection is
25 that after the Allen charge, that the jury was out for

RUSSELL SANFORD-REDIRECT BY MR. ANDERSON

1 about another 30 minutes before y'all came back; is that
2 correct?

3 A That sounds correct to me. I don't know the
4 exact time but that sounds correct.

5 Q Okay. And so all -- but all that you know is
6 that when you came back in the courtroom when The Judge
7 called you; right?

8 A Yes. I -- I don't believe -- can you be a
9 little bit more specific on that so I can answer
10 correctly?

11 Q Yeah. So what I'm just sort of putting here is
12 that -- and I'll represent to you that the transcript
13 shows it was about a 30 minute delay.

14 A Okay.

15 Q So what I'm asking is that you don't, actually,
16 have any personal knowledge about when the jury told The
17 Judge they were ready and when the jury came into the
18 courtroom; right?

19 A I have no -- I have no idea. They could have --
20 they could have told them ten minutes afterwards and they
21 could have held them back there but I don't believe that's
22 standard procedure in the courtroom.

23 Q Right. But you don't know, for example, if
24 Judge Miller was dealing with something else, if he wasn't
25 available to come rush right back in the courtroom the

RUSSELL SANFORD-REDIRECT BY MR. ANDERSON

1 moment the jury said we have a verdict?

2 A I believe he might have been--

3 MS. BROWN: Your Honor, I would object to
4 speculation.

5 MR. ANDERSON: Judge, I'm trying to bear what he
6 doesn't know.

7 THE COURT: Okay, overrule the objection.
8 You can answer the question.

9 THE WITNESS: I believe Judge Miller might have
10 sat on the bench the whole time.

11 BY MR. ANDERSON:

12 Q Okay. But again, you don't have any personal
13 knowledge about when the jury told the bailiff or whatever
14 and when y'all reconvened about what the delivery was?

15 A I have no knowledge if they were any delays or
16 there weren't any delays.

17 Q All right. And going back to sort of the trial
18 result, although it was a favorable result, you are aware
19 that, you know, that Mr. Watson wasn't happy with the
20 result; right?

21 A I am aware that he was not happy with the
22 result, yes. I mean, I can see that.

23 Q Because not only he landed 45 days in jail,
24 right after trial ended; right? That's one reason?

25 A Sure.

RUSSELL SANFORD-REDIRECT BY MR. ANDERSON

1 Q And secondly, there's now a lifetime ban on him
2 having firearms and ammunition; right?

3 A I believe so.

4 Q Okay. So that's a pretty significant
5 consequence of this guilty verdict for lesser included,
6 would you agree with that?

7 A Depends on the person but I can see how that can
8 be significant to somebody.

9 Q And you testified that, you now, it was your
10 understanding that he wanted to have his story told and so
11 he was likely going to get up on the stand at trial?

12 A Yes.

13 Q Okay. But you did not go over with him the
14 questions you were going to ask, in the order you were
15 going to ask them, even though you knew that he was likely
16 going to testify?

17 A I did not. Not that specifically.

18 Q Just one other thing. You said that you had a
19 general conversation about that there's this thing called
20 an appeal, at some point, in the two-year representation
21 that you had but you don't remember when?

22 A That's correct, yes.

23 Q And so it probably would have been say, maybe,
24 at the plea offer stage, maybe?

25 A It probably would have been somewhere where we

RUSSELL SANFORD-REDIRECT BY MR. ANDERSON

1 are trying to decide, you know, we're bringing a plea
2 offer to him and say, hey this is the offer, if we go to
3 trial, you know, you could be found guilty and get
4 sentenced the X amount of time, all that kind of stuff.
5 And if you are found guilty there is no process of appeal.
6 And then that would have been when it would have been
7 brought up. Like I said, previously, more generally and
8 not these are the points that we would do because,
9 obviously, the trial hadn't happened yet. So I don't know
10 what to appeal at that point.

11 Q And in general conversation would have happened
12 some months before the trial at a minimum?

13 A Probably, yes.

14 MR. ANDERSON: No further questions, Judge.
15 Thank you.

16 THE COURT: Thank you, Mr. Sanford.

17 THE WITNESS: Thank you.

18 THE COURT: You can step down.

19 MR. ANDERSON: Judge, I'm fine to excuse the
20 witness.

21 THE COURT: Any objection?

22 MS. BROWN: No objection.

23 THE COURT: All right. Mr. Sanford, you're
24 excused.

25 THE WITNESS: Thank you, Judge.

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 MR. ANDERSON: And, Judge, I had subpoenaed
2 Mr. Warder but I'm not going to call him today. I'll
3 excuse him.

4 THE COURT: Mr. Warder will be excused.

5 MR. ANDERSON: I know he's got a lot of work to
6 get back to at the office. And Judge, for the second
7 and final witness, I'll call my client, Mr. Watson.

8 THE COURT: All right.

9 THE CLERK: Mr. Watson, place your left hand on
10 the Bible, raise your right hand.

11 JEREMY WATSON, after being duly
12 sworn{,} testified as follows:{F}

13 THE CLERK: Thank you, you may be seated.
14 Please state your name for the record.

15 THE WITNESS: Jeremy Allen Watson.

16 DIRECT EXAMINATION

17 BY MR. ANDERSON:

18 Q All right. Mr. Watson, you are the petitioner
19 in this PCR action; is that right?

20 A Correct.

21 Q And you're here challenging your conviction on
22 the DV third; is that right?

23 A Correct.

24 Q Have ever been convicted of any felonies?

25 A No, sir.

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 Q Have you ever been charged with any felonies
2 outside this case?

3 A No, sir.

4 Q Have you ever filed an appeal of a traffic
5 ticket or anything else like that?

6 A No.

7 Q Do you know how to, actually, file an appeal?

8 A No.

9 Q Did you hire a lawyer to represent you at your
10 trial in this case?

11 A Correct.

12 Q And who was that lawyer that was going to be
13 your trial lawyer?

14 A Richard Warder.

15 Q And then was there another lawyer that was going
16 to help him at the trial?

17 A Russell.

18 Q Okay. And he was the lawyer who, actually,
19 handled the trial of the case; is that correct?

20 A Correct.

21 Q And when you say, Russell, that's Mr. Sanford
22 that we just heard from a moment ago; right?

23 A Yes.

24 Q Okay. Did you and Mr. Sanford have any specific
25 conversations about what you were going to testify to at

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 the trial?

2 A No. He just told me where he was going to start
3 at and I just answered from there.

4 Q Okay. And so you say he told you where he was
5 going to start at. What was that conversation? Where did
6 it take place?

7 A At the little office in the courtroom.

8 Q So that would be after The State had rested and
9 was going to be your opportunity to testify or not?

10 A Correct.

11 Q All right. And so he just told you where in the
12 sequence of events he was going to start and that was your
13 conversation?

14 A Correct.

15 Q Okay. At your -- I guess, going back to the
16 underlining incident with the altercation with your
17 mother -- your child's mother and your child, there was,
18 at some point, an altercation involving a gun; is that
19 right?

20 A That's correct.

21 Q And can you remind us, briefly, about what that
22 altercation was?

23 A Yeah, Christina came in from the back porch and
24 went to her bedroom and got a gun. I was in the living
25 room trying to stop the bleeding from where she bit me.

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 And she put the gun to my head and her and her mom got
2 into a scuffle because she was trying to get her to stop.
3 So I went to the bedroom and then she broke into the door
4 and put the gun to my head again.

5 Q When you say Christina, that's your daughter;
6 right?

7 A Correct.

8 Q Ms. Watson; right? Her last name is Watson?

9 A Yes.

10 Q Okay. And the law enforcement came out to the
11 home that night; is that correct?

12 A Correct.

13 Q Then you were arrested there on the scene?

14 A Yes. As soon as he got there he just went ahead
15 and put me in handcuffs.

16 Q Okay. When the officer was on the scene, you
17 never told him that there was a gun; is that right?

18 A No, he didn't give me any time.

19 Q And so why didn't you tell him a gun had been
20 pulled on you?

21 A I told him as we was going to the car that I
22 wanted to press charges. And he said there's nothing I
23 can do because I'm the aggressor. Nothing I can do about
24 it.

25 Q Okay. And then, at some point, did you tell

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 Mr. Sanford that Ms. Watson had pulled a gun on you?

2 A I did.

3 Q Okay. And then as far as you understood, that
4 was going to be brought up at your trial; is that right?

5 A Correct.

6 Q And in your direct testimony, you didn't talk
7 about the gun; is that right?

8 A Correct.

9 Q And why is that?

10 A I had to bring everything up. Everything that
11 happened, I brought it up because it wasn't coming out in
12 the courtroom at all.

13 Q And so The State asked you about a gun, at some
14 point, during cross-examination; correct?

15 A Correct.

16 Q And then, at that point, you answered about this
17 altercation with the gun; right?

18 A Correct.

19 Q And then at your trial you had testified that
20 you had caught -- you had caught Ms. Winkler in a lie, is
21 that right?

22 A Correct.

23 Q Okay. And so what was the lie that you had
24 caught her in?

25 A Well, she said that her and Christian was going

JEREMY WATSON-DIRECT BY MR. ANDERSON

1 to the doctor and going out to eat, this, that and the
2 other. But they wasn't, they was at the house and
3 Christina's friend -- Christina's friend was trying to
4 hook her up with her friend. So that's how that all just
5 played out.

6 Q And was Mr. Sanford aware of that lie?

7 A Correct.

8 Q Okay. Then after the trial was over, you were
9 not happy with the results, is that a fair statement?

10 A That's correct.

11 Q And were you taken to jail right after the
12 sentencing?

13 A Yeah, they put me in handcuffs and took me
14 straight back.

15 Q And before trial you were out on bond; is that
16 right?

17 A Correct.

18 Q Okay. And so had you made any plans to go to
19 jail?

20 A No.

21 Q If Mr. Sanford would have gone over your
22 appellate rights, would you have requested him to file a
23 motion for a new trial?

24 A Yes.

25 Q Would you have requested him to file an appeal?

JEREMY WATSON-CROSS BY MS. BROWN

1 A Yes.

2 Q And that's because you weren't happy with the
3 result and you wanted to not be guilty?

4 A Correct.

5 MR. ANDERSON: No further questions, Judge.

6 Thank you.

7 THE COURT: Ms. Brown.

8 MS. BROWN: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. BROWN:

11 Q Good morning, Mr. Watson.

12 A Good morning.

13 Q Now, you told us you never requested that
14 Mr. Sanford file on appeal; correct?

15 A No, I didn't even know of it.

16 Q Okay. Do you recall signing your contract with
17 Mr. Sanford?

18 A No. I was told that I needed to sign that for
19 him to begin to be my lawyer. And to start the payments.

20 MS. BROWN: Your Honor, may I approach the
21 witness?

22 THE COURT: Yes, ma'am.

23 BY MS. BROWN:

24 Q This look like the contract that you would have
25 signed, Mr. Watson?

JEREMY WATSON-CROSS BY MS. BROWN

1 And this is State's Exhibit 1.

2 A That's my signature.

3 Q That's your signature?

4 A Uh-huh.

5 Q Within this contract, I believe you probably
6 heard us talking about it in Mr. Sanford's testimony,
7 there is a provision regarding the appeal. Do you recall
8 that provision?

9 A No. Because I didn't even read this, I was just
10 told to sign it so they can represent me.

11 Q Uh-huh. Is your name right under that
12 paragraph?

13 A Right there and there.

14 Q Okay. And you don't contest that's your
15 signature?

16 A No.

17 Q Okay. When you contacted your lawyer several
18 months after trial, why didn't you tell him that you were
19 displeased?

20 A Oh, he knew it. Because I called him while I
21 was in jail and asked him what we was going to be doing.

22 And he said, Well, you just got to do your
23 time. That's the end of it.

24 The only other time I contacted him after
25 that, the months after, was because I was trying to do it

JEREMY WATSON-CROSS BY MS. BROWN

1 myself because he wasn't helping.

2 Q It wasn't for anything else that you contacted
3 him?

4 A It wasn't for anything else I contacted him?

5 Q You didn't ask him to file anything on your
6 behalf?

7 A I didn't know about it.

8 Q You didn't ask him if there was anything that he
9 could talk to you about to see if there was some way to
10 overturn the verdict?

11 A I asked him when I was in jail, when I called
12 his assistant when I was in jail.

13 Q And you -- did you ever talk to Mr. Sanford?

14 A No.

15 Q Okay. Never followed up, never wrote to him,
16 anything like that?

17 A No.

18 Q Okay.

19 A They pretty much said, well, the court case is
20 over and you just do your time, that's it.

21 Q Okay. Now, you mentioned that you have had
22 interactions with the court system before; right? But not
23 a felony?

24 A Uh?

25 Q You were in general sessions court before;

JEREMY WATSON-CROSS BY MS. BROWN

1 correct?

2 A Yeah, probably when I was 15.

3 Q Okay. All right. So you were aware that you
4 could go and have things taken care of in a Magistrate's
5 Court, in a lower court and not face jail time; correct?

6 A Well, you got to go to court either or I'm not
7 understanding that question.

8 Q Okay. Well, let's look at it a different way.
9 You wanted your story told; didn't you?

10 A Yes.

11 Q You did not want to plead guilty?

12 A Correct.

13 Q You did not want a negotiation that ensured that
14 you did not serve any jail time?

15 A I wanted the truth to come out. Which it did
16 not in that courtroom.

17 Q Okay. So you wanted the truth to come out,
18 there were three people in this event; right?

19 A Correct.

20 Q Two people testified for The State, evidence
21 that supported the charges?

22 A Yeah.

23 Q Your daughter?

24 A (The witness nods.)

25 Q And I would just say Ms. Winkler?

JEREMY WATSON-CROSS BY MS. BROWN

1 A Ms. Winkler.

2 Q I don't know if you'd like me to say girlfriend
3 or --

4 A No --

5 Q -- Ms. Winkler. Okay. So for your side to be
6 presented, you were going to take the stand; right?

7 A Right.

8 Q So you knew that?

9 A Yeah.

10 Q And you knew when you were talking to
11 Mr. Sanford that you needed to tell him what that story
12 was; correct?

13 A Correct.

14 Q All right. So y'all communicated back and forth
15 on your perception of the events; correct?

16 A Correct.

17 Q Okay. You had several conversations about that;
18 right?

19 A Correct.

20 Q But what you're complaining about is that he
21 didn't sit down and tell you these are the list of
22 questions and how we will present what you told me?

23 A No. He just said this is where he's going to
24 start from and just tell the truth. And that's what I
25 did.

JEREMY WATSON-CROSS BY MS. BROWN

1 Q Okay. And you remember Judge Miller advising
2 you that that was your decision to take the stand; right?

3 A Correct.

4 Q And you had seen the process before? You saw
5 witnesses take the stand, attorneys ask questions,
6 opposing counsel do cross-examination, you saw that
7 procedure that day?

8 A Yes.

9 Q Okay. And you took some time with your
10 attorney, Mr. Sanford, testified earlier today, that there
11 was a break right after Judge Miller advised you of your
12 rights and Mr. Sanford wanted to talk to you a little bit
13 about that decision to testify. Do you recall that during
14 the trial?

15 A Yeah, but it wasn't the decision to testify. It
16 was just to tell me where he was going to pick up and
17 where I needed to follow.

18 Q So he, actually, laid out a road map when you
19 decided you wanted to testify?

20 A He told me where he was going to start, yes.

21 Q Okay. Now, you also allege that you thought
22 Mr. Sanford should file a new trial motion?

23 A If I would have knew about it I would have.

24 Q And you're not alleging that there is any new
25 evidence, correct?

JEREMY WATSON-CROSS BY MS. BROWN

1 MR. ANDERSON: Judge, just because this is a
2 legal matter for the outside -- we are alleging that
3 he should have -- that it was ineffective assistance
4 to not have consulted about whether to file a new
5 trial, including on the 13th juror grounds. Then
6 also, to have raise the objection about the Allen
7 charge, etcetera, as the first step in the appellate
8 process. So that's what we're arguing is the basis
9 for the new trial motion.

10 THE COURT: Okay. Well, I'm going to allow her
11 to ask the question. The Applicant may tell me what
12 relief he's seeking.

13 MR. ANDERSON: Okay, thank you, Judge.

14 MS. BROWN: Thank you, Your Honor.

15 BY MS. BROWN:

16 Q Mr. Watson, you're not saying that there is any
17 new trial -- excuse me, any new evidence that can be
18 presented in a new trial; right? No new witness you
19 didn't know about before; correct?

20 A Correct, no new witness.

21 Q No video that you didn't know about before?

22 A There's some -- yeah, there's new. . .

23 Q Nothing new that you want to present; correct?

24 A Yes, there is.

25 Q Okay. What's that?

JEREMY WATSON-CROSS BY MS. BROWN

1 A A recording from which Russell had the whole
2 time.

3 MR. ANDERSON: And, Judge, again, because
4 Mr. Sanford had that recording, I think he made a
5 strategetic choice to not make it. And so while
6 Mr. Watson might have wanted it come in and it was a
7 new trial, perhaps, I might put it in, I'm not
8 claiming it's a basis for ineffective assistance that
9 he didn't pursue that because, in fact, he was aware
10 that it existed he had made the strategic choice --

11 THE COURT: You're noted for the record that any
12 recording that Mr. Sanford may have had is not a
13 ground that you're pursuing?

14 MR. ANDERSON: Correct. Because he made a
15 strategetic choice about what evidence he wanted to
16 put in and that's his prerogative.

17 THE COURT: All right, noted for the record.

18 BY MS. BROWN:

19 Q Mr. Watson, isn't it true that what you are
20 seeking right now is to have the jury verdict overturned?
21 You don't want to be guilty?

22 A I shouldn't be guilty.

23 Q It's your belief that you should not be guilty?

24 A Correct.

25 Q But you have to concede that there was a trial

JEREMY WATSON-CROSS BY MS. BROWN

1 and a jury verdict; correct?

2 A Correct.

3 Q Okay.

4 MS. BROWN: Beg the Court's indulgence, please.

5 Just a few more questions, Your Honor, if I may.

6 Q Mr. Watson, you might have heard some testimony
7 this morning about reaching out to your attorney and
8 requesting something about expungement?

9 A Yes, Russell.

10 Q Okay. What were you looking to expunge and why?
11 What process, I suppose?

12 A Process as far as what?

13 Q Let me -- sometimes I ask bad questions. Let me
14 rephrase. You reached out to your attorney for additional
15 assistance; correct?

16 A Yeah, because I don't think I was guilty of it
17 and I shouldn't be charged with it.

18 Q Okay. So you came to your attorney with an idea
19 of expungement and you ask your attorney about
20 expungement?

21 A It wasn't expungement. I asked him what we
22 could do about the situation because I don't want to be
23 guilty. And he said well we could do an expungement.
24 Never said appeal, never said anything about that. He
25 said you need to file for expungement after three years, I

JEREMY WATSON-CROSS BY MS. BROWN

1 think it was.

2 Q Uh-huh. But what you're telling us, though, is
3 that it was months and months and months after your
4 release that you go back to your attorney?

5 A Yeah, because it wasn't because of the months
6 and months after, it was -- it was the day after I got
7 locked up. I called him from jail and he pretty much
8 said, well, you're in jail, that's the end of it. You
9 just need to do your time. So they pretty much wrote me
10 off to begin with.

11 Q Uh-huh. But yet you went back to your attorney?

12 A No, I went back and asked him what I could do
13 because I was not happy with the verdict that was given.

14 Q Uh-huh. What about the restraining order? You
15 said you weren't happy about the verdict, you weren't
16 happy about the restraining order?

17 A She can stay away from me. I don't care about
18 the restraining order.

19 Q And you're not happy with that, the limitation
20 on firearms, correct?

21 A Correct. Because I wasn't -- I wasn't even the
22 one with the gun. That y'all seem to let that just slide.

23 Q So isn't it true it's more of the limitation
24 about the firearms, the lingering effects that you were
25 concerned about? That's why you talked to your attorney

JEREMY WATSON-REDIRECT BY MR. ANDERSON

1 months after the verdict; isn't it?

2 A I like my guns. But I can use a bow just as
3 well. And that's what I got.

4 MS. BROWN: Thank you.

5 No further questions, Your Honor.

6 THE COURT: Redirect?

7 MR. ANDERSON: Just briefly.

8 REDIRECT EXAMINATION

9 BY MR. ANDERSON:

10 Q Mr. Watson, you don't believe that you were
11 guilty of the crime; is that right?

12 A Correct.

13 Q And so while you acknowledge that a jury said
14 otherwise, you just respectfully disagree with their
15 decision?

16 A Correct.

17 Q And so you would like to have the record clear
18 that you're not guilty of the crime; is that correct?

19 A Correct.

20 Q All right. Then you said that there was a phone
21 conversation with Mr. Sanford's office the day of or after
22 you were convicted?

23 A Correct.

24 Q And I think you said you talked to--

25 A The assistant --

JEREMY WATSON-REDIRECT BY MR. ANDERSON

1 Q -- paralegal or secretary?

2 A Correct.

3 Q But you didn't talk to Mr. Sanford; is that
4 correct?

5 A Correct.

6 MR. ANDERSON: No further questions, Judge.
7 Thank you.

8 THE COURT: Okay, thank you, Mr. Watson, you can
9 step down.

10 MR. ANDERSON: The petitioner rests, Judge.

11 THE COURT: All right, any reply testimony from
12 The State?

13 MS. BROWN: Nothing from The State, Your Honor.

14 THE COURT: Any testimony from The State?

15 MS. BROWN: No, sir.

16 THE COURT: All right. I will let each side
17 make a summation and start with The State. Then I
18 will give Mr. Anderson the last argument.

19 Yes, ma'am.

20 CLOSING STATEMENT

21 MS. BROWN: Thank you, Your Honor, may it please
22 The Court. There are only three issues today. The
23 Allen charge can really be resolved on the record
24 itself. That is the third allegation that is before
25 The Court. The Allen charge is short, it's brief, it

1 does not point out in my -- it does not bring any
2 pressure to bear on the jurors to return that
3 verdict. Mr. Watson has pointed out that there is a
4 phrase in there with the hope that the jury will
5 return. That is phrasing that has been and
6 considered in The State v. Williams case, to have a
7 potential, a potential, but our State Supreme Court
8 in Williams did not find that it was coercive and the
9 charge was actually given. Because context is very
10 key.

11 There's been no testimony that there was any
12 type of reaction to that charge. There's no
13 testimony that the jurors were singled out. There's
14 nothing that would, actually, indicate that the very
15 short Allen charge given resulted in any coercion
16 whatsoever. Williams, actually, supports that it
17 should be found not coercive and a good Allen charge
18 in this particular context.

19 Now, to the two issues where testimony was
20 important, trial counsel did not discuss my motion
21 for new trial or appellant options. Well, one reason
22 not to discuss new trial would be that there's
23 nothing to bring up, no new evidence to bring up.
24 Reconsideration of the sentence, probably, maybe,
25 could have been put in there but there was no

1 testimony whatsoever that there was reconsideration.
2 The only testimony is that Mr. Watson did not want to
3 be found guilty. He did not want that guilty
4 verdict. There's no basis for that. But, Your
5 Honor, the biggest thing about the motion for a new
6 trial aspect of the allegation, is that that is not a
7 Sixth Amendment claim. To file a motion for a new
8 trial is discretionary act by counsel. The Sixth
9 Amendment does not cover that. Any discretionary act
10 by counsel would not be a constitutional law based
11 claim. So quite frankly, that portion of the claim
12 is not recognizable under the statutory limitations
13 for PCR in 17-27-20.

14 Now, appellate options, I think the controlling
15 United States Supreme Court case says a little
16 generally that if there's a reason to advise that you
17 might need to go into a little more specifics. Our
18 court however, is very clear. You need to make sure
19 your client knows that there's an option. Now, in
20 this case, we have testimony from counsel that he did
21 say it was an option. But he quite frankly, never
22 said, here's a good issue to bring up, here's a good
23 issue to bring up, that sort of thing. That kind of
24 consultation is not required. What is required is
25 that he knows the option. And I believe that the

1 exhibit that's placed before The Court shows that
2 appeal was mentioned as an option. And,
3 specifically, he would not be represented by his
4 trial counsel on appeal but trial counsel would file
5 the notice of appeal. It's written out. And
6 Mr. Watkins [verbatim] does not contest that he did
7 sign that particular portion. His signature follows
8 that particular paragraph.

9 The other thing, Your Honor, that we would
10 submit is very telling, is that Mr. Watson does agree
11 that he did not talk to his attorney until months
12 after the verdict. Months after the verdict. Your
13 Honor, it could be more likely that it is tide to the
14 restriction on firearms that as a result of that
15 conviction than the conviction itself. It is true
16 that Mr. Watson does not agree with that conviction.
17 Obviously, his testimony was different than the two
18 victims who testified. But the lingering part of
19 this is that restriction on firearms. And as he has
20 told, Your Honor, that is important to him.

21 Now, I would submit that the evidence before The
22 Court now does satisfy that Mr. Sanford told his
23 client that there was an appellate option. But that
24 there was no request for appeal. Now, if counsel
25 does not file once he has been requested to file,

1 that is ineffective assistance, that's deficient
2 performance, prejudice does not need to be shown.
3 But very clear in this record no request was made
4 within that 10 day period, at all.

5 The second issue, Your Honor, is that the
6 allegation that counsel failed to, essentially, walk
7 Mr. Watson through the testimony. I believe that
8 there's agreement in the testimony that attorney and
9 client sat down and talked about the facts as
10 Mr. Watson saw them. Numerous times. They went
11 through that. And Mr. Watson even conceded that
12 counsel talked to him about the general process, how
13 he would ask questions when Mr. Watson was
14 testifying. It is true that there's no testimony
15 that shows that counsel went to his client and said
16 here are the exact questions I am going to ask you
17 exact times and Mr. Watson saw the process. Again,
18 he agreed with his testimony. He knew that there
19 would be questioning by one attorney and
20 cross-examination by another and redirect
21 examination. That much he understood.

22 But the overriding point that Mr. Watson kept
23 making to his attorney is that he wanted his story
24 told. And it could only be told by Mr. Watson
25 because there were three people there. So, Your

1 Honor, based on what you heard today and based on the
2 record, we would ask The Court to deny the relief.

3 THE COURT: Thank you, Ms. Brown.

4 Mr. Anderson.

5 CLOSING STATEMENT

6 MR. ANDERSON: Thank you, Judge, I do appreciate
7 your consideration. Judge, I think, again, we have
8 the three legal issues. And I think that the law is
9 pretty well settled, particularly on the first one.
10 And I would direct Your Honor's attention to the U.S.
11 Supreme Court's decision in Roe v. Flores-Ortega,
12 which 528 U.S. 470, which lays out the test for a --
13 what counsel must do with respect to appellate
14 options. And it says that one, you have to file your
15 notice of appeal if your client asks you to. But
16 then too, you have a duty to consult with the client
17 to quote to advise the defendant about the advantages
18 and disadvantages of taking an appeal and
19 reasonable -- making a reasonable effort to discover
20 the defendant's wishes, if you know or reasonably
21 should know that the client is not satisfied with the
22 result.

23 And here, the testimony is uncontroverted that
24 trial counsel knew it. That he knew that the client
25 thought he was not guilty, rejected all the offers.

1 He knew he was upset that he was in jail. Mr. Watson
2 was clear. And so under Roe v. Flores-Ortega, it
3 doesn't matter whether trial counsel before the
4 trial, has said hey, there's this thing called an
5 appeal under the Sixth Amendment, trial counsel must,
6 after the verdict, go and say, you can have an
7 appeal, let me tell you about that. If you win on
8 the appeal and it's anything other than insufficient
9 evidence, there will be a new trial. At the new
10 trial, if you're found guilty, it will be a new
11 sentence. The sentence can be better or worst than
12 what you got before. That is what the Sixth
13 Amendment says the trial counsel must do. And trial
14 counsel failed to do it, even though he knew that the
15 client was not satisfied with the results. So that's
16 an easy one.

17 And here in South Carolina, I disagree that a
18 motion for a new trial is subject to the
19 discretionary rule like petition for certiorari
20 because motions for new trial in this state, or
21 motion to alter or amend, are an important part of
22 the appellate practice. That you got to make sure
23 that everything's been raised and ruled upon. And
24 here, there's an opportunity to have The Judge as a
25 13th juror, as, Your Honor, knows. And I would say

1 here, particularly given that the jury, you know,
2 disbelieved the victims on, at least, two of those
3 charges, and The Judge did not max out Mr. Watson, I
4 think there might be a potential there that a new
5 trial would have been granted.

6 But particularly given that if counsel had filed
7 a motion for a new trial, he might have gone and
8 looked about this Allen charge business. Where the
9 Supreme Court has said that the language that Judge
10 Miller used is problematic, right? So it can be
11 coercive. And again, you heard trial counsel say
12 that if I had thought there was any basis to object,
13 I would have done so. Because he knows that Allen
14 charges can be prejudice to the defendant.

15 So if he would have gone back to his office and
16 done a little bit of research, he might have found
17 that as a ground for a motion for a new trial. But
18 again, he didn't do that because he didn't talk to
19 Mr. Watson about whether he did or didn't want to
20 file a motion for a new trial or an appeal. So we
21 have language that the Supreme Court has said it's
22 potentially coercive. But on top of that, if you go
23 look at the transcript, the jury note says that we've
24 got one person who won't change his or her vote. And
25 if you look at Taylor, which I'll pass up here to

1 you, if I can approach, Judge?

2 THE COURT: Yes, sir, yes, sir.

3 MR. ANDERSON: Okay. And if you look, in
4 particular, at page -- let's see, it's 406 on this
5 PDF, on the right-hand column. It talks about how
6 delicate of a situation it is if The Judge is aware
7 of what the numerical split is. And so here it says,
8 quote, So the jury knew -- the trial judge knew they
9 stood 10 to two in favor of conviction. The murder
10 charge and how they were divided on the others. This
11 bears on our coercion analysis for a juror laboring
12 under such knowledge might interpret the trial
13 Judge's comments as being aimed at the minority.
14 Close quote.

15 And so here, the jury [verbatim] knew, because
16 they had told him, we're 11 to one. And so Taylor
17 says you got to be super duper careful of the Allen
18 charge in general because its words can easily be
19 coercive. But then two, you got to be extra, extra
20 careful if the jury is aware that the trial judge
21 knows how the deadlock is split. Because the jury is
22 looking to The Judge as the authority figure in a
23 trial and the one hold out juror could have
24 reasonably understood that the Allen charge was laser
25 beam targeted to that one hold out juror. And that's

1 unduly coercive, all right.

2 So we've got language that the Supreme Court
3 already says you shouldn't use. It's that I hope you
4 reach a verdict, right? So the Supreme Court says
5 don't say that trial judges. And again, trial
6 counsel, he didn't object because, perhaps, he just
7 didn't -- wasn't aware of jurisprudence. But
8 certainly, a motion for a new trial, if you'd gone
9 and done a little bit of research, after consulting
10 with Mr. Watson, he would have come across these
11 cases. He then would have found that there was error
12 in the Allen charge. And so that would have been
13 something that he could have brought on a motion for
14 a new trial. And given the opportunity to set for a
15 13th juror. And also the opportunity that I think
16 Judge Miller, you know, is a reasonable Judge and I'm
17 sure that Judge Miller didn't intend to say something
18 that the South Carolina Supreme Court says he
19 shouldn't say. And if trial counsel had pointed out
20 to him, Judge, I didn't catch it at the time, yes, I
21 didn't object so, you know, it's technically, not
22 preserved. But Judge Miller in his discretion can
23 still grant a new trial, even when trial counsel
24 didn't object. And I think that Judge Miller might
25 have done so given that we got a split verdict here.

1 And it's important that for Strickland purposes
2 for prejudice, the test is a defense favorable test.
3 Because it's not only that you have to prove that
4 it's more likely than not that Judge Miller would
5 have granted a new trial. Or that -- or that the
6 appeal would have more likely than not resulted in
7 relief, all you have to show is a reasonable
8 probability. And the Supreme Court has said that a
9 reasonable probability is less than a preponderance
10 of the evidence.

11 So again, it's a very favorable standard here.
12 I think the charge is clearly improper. And if you
13 look, the jury was out not too long after having
14 struggled back there for longer than the trial
15 testimony, four plus hours, they were out for, at
16 most, 30 minutes. But we all agree that we don't
17 know how long it was between when they told the
18 bailiff they were ready and when they brought in. If
19 they were doing sort of bathroom breaks or whatever.
20 And so it could have been two or three minutes after
21 the Allen, it could have been ten minutes, we don't
22 know because we're not allowed to know how the jury
23 process works back there. So Judge, I think the
24 Allen charge is problematic. Certainly, trial
25 counsel was obligated to consult and didn't.

1 Then I'd also like to talk briefly about the
2 trial counsel's examination of Mr. Watson. Trial
3 counsel was aware that Mr. Watson was going to
4 testify because he told you that. Trial counsel was
5 also aware that there was an altercation involving a
6 gun. And trial counsel told you that it was
7 important to his trial strategy that there was
8 testimony about this altercation involving the gun.
9 Because you heard him say, well, I asked some of the
10 State's witnesses about it on cross. But if you go
11 back and you look at trial counsel's testimony -- I'm
12 sorry, trial counsel questioning, I don't see any
13 questioning about that. And, in fact, as it comes
14 out on cross-examination.

15 And if you look at the closing arguments, the
16 solicitor, on Page 157 of the transcript, she says,
17 quote, One of the most important things that I want
18 you to remember from The Defendant's testimony is how
19 it ended. At no point in this trial did you hear any
20 testimony before The Defendant speaking, to me, that
21 Christina and Dianna fought over a gun, right?

22 So the solicitor made a big point about how you
23 shouldn't believe what The Defendant says because he
24 had an opportunity to tell you but it only came out
25 in response to one of her questions. And so she

1 recognized at the trial, that it was a problem that
2 trial counsel didn't ask the question.

3 And it would have been one thing if trial
4 counsel had decided, as a strategetic matter, that he
5 didn't want to ask about it. But again, you heard
6 him say, No, it's part of my trial strategy, it was
7 important that the jury hear about the gun. So it's
8 not a strategic choice, it was an oversight on his
9 part and it was prejudicial because the solicitor
10 hammered on it in closing arguments. And the
11 solicitor also said on Page 153, that Mr. Watson
12 quote, says, He caught Dianna in a lie. But he never
13 told you guys what the lie was. He never elaborated
14 on that whatsoever. Close quote.

15 And again, trial counsel elicited testimony
16 that, you know, hey, there was this lie, but I think
17 in part because he never went over the questions and
18 the answers, he didn't sort of ask the follow up.
19 And so, Judge, again, I think there's a reasonable
20 probability here. The jury believed Mr. Watson on
21 two of the three charges. And so it's not that they
22 thought he was a liar sort or top to bottom.

23 Our standard for prejudice is a low one just a
24 reasonable probability. And I think that trial
25 counsel should have -- particularly given that he

1 knew that Mr. Watson was likely going to take the
2 stand, that he should have gone over the questions
3 and taken good notes to make sure that trial counsel
4 elicited the information in a way that's going to be
5 most helpful to the client to prevent The State from
6 being able to say, don't believe Mr. Watson because
7 you only heard about this stuff when I asked him
8 about it and his own lawyer didn't ask about it.
9 Thank you, Judge.

10 THE COURT: Thank you, Mr. Anderson.

11 Well, counsel, I want to review the transcript
12 and the materials that have been submitted. So I'll
13 take this under advisement. And my law clerk will
14 email you my decision.

15 MR. ANDERSON: Thank you, Your Honor.

16 THE COURT: Thank you.

17 MS. BROWN: Thank you, Your Honor.

18 (WHEREUPON, the proceedings were concluded.)
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

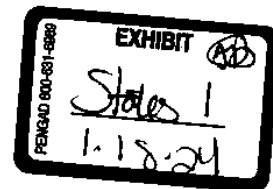
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 18th day of January, 2024.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 6, 2024

APRIL P. HERRON, Court Reporter



ATTORNEY EMPLOYMENT CONTRACT
WITH FEE AMOUNT AND TERMS NEGOTIATED

IN RE: Jeremy Alan Watson
Current pending criminal charges and/or Warrant/Ticket Numbers

Assault + Battery 3rd
CDV - 2nd

You have retained the Law Office of Richard H. Warder to represent you on the charge(s) set forth above on this 16 day of January 2020. As a client, you have furnished me with facts of your case and your personal history and background which will be used in preparing the defense of this case. This case is currently pending. You consent and understand that the law firm's staff, paralegal, legal assistant, investigator, and legal secretaries will also be assisting in preparing this case for trial. You consent for Richard H. Warder to delegate and assign them to work on your case as he determines necessary. Richard H. Warder employs Russell Sanford as an associate attorney, and you consent for him to make appearances for the firm and represent you in any or all court proceedings involving the charges you have retained us for, including the complete trial of your case.

Fee for Availability of Counsel and Pretrial Representation. This NON-REFUNDABLE RETAINER FEE for my availability and handling this matter will be \$ 5000.00 exclusive of trial fees. In the event of trial, additional fees of Zero (\$0) Dollars are agreed upon and that amount must be paid to ATTORNEY no later than one week after the trial is scheduled, whichever is first. Trial fees include only one (1) trial, in the event of a second trial (as the result of a mistrial or multiple cases) additional trial fees will be due as set forth in this contract or otherwise agreed in writing. The parties agree that the Trial Fee is a

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charges have not been brought, a determination that the matter will not result in charges will also terminate this representation. It is also agreed that should the case result in a period of probation (including a conditional discharge) or home incarceration, attorney will charge a separate fee for representation on the violation of said probation (including conditional discharge) or home incarceration. This agreement does not apply to violations of home incarceration which is merely a condition of bond. **It is further agreed that upon termination of representation, clients' file will be kept for four (4) years and thereafter destroyed, and that client will be entitled to one copy of his entire file upon a request in writing. It is also understood that should the client require more than one copy of his file, attorney reserves the right to charge the client for reasonable copying costs.**

This agreement will be binding upon client and client's beneficiaries, administrators, personal representatives and successors in interest. It is likewise agreed that should client pass away, any funds paid to attorney will not be refunded.

Client confirms that this agreement has been concluded by negotiation and that the fees client has agreed to pay herein are not set by law but have been arrived at through negotiation. Client further confirms that the fees set forth herein are only for attorneys services as described in this agreement. Any services rendered by attorney to client on related matters arising out of the attorney client relationship established herein will be made subject to a separate fee agreement and are not covered herein.

Termination of Representation by Clients dismissal of attorney, I understand that I have the right to terminate the attorney-client representation with Richard Warder at any time. If so, I may be entitled to a refund of all or a portion of the fee should the **Law Office of Richard Warder** fail to provide me with the legal services that we have agreed upon. Client agrees to pay to the Law Office of **Richard Warder**, as compensation for services rendered to the date of said termination, the amount which shall be determined in mediation to fully compensate the Law Office of **Richard Warder** for the services rendered on an hourly basis. Said compensation shall be based upon the prevailing hourly rates charged by attorneys of like experience and expertise practicing in the field of criminal litigation in the County of Greenville at the time of termination. Fair and reasonable valuation of the complete services are agreed by the parties to this contract to be an hourly rate of Seven Hundred Fifty (750) dollars per hour.

CLIENT AND ATTORNEY AGREE THAT ANY DISPUTE REGARDING THE TERMS OF THIS AGREEMENT OR PAYMENTS DUE SHALL BE SUBMITTED TO MEDIATION BY THE FEE DISPUTE RESOLUTION COMMITTEE OF THE SOUTH CAROLINA BAR ASSOCIATION.

Expenses and Disbursements. You have agreed to pay the necessary expenses and disbursements separately as these expenses and disbursements are the client's costs. These expenses and disbursements may include but shall not be limited to, fees for private investigators

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reasonable payment for trial preparation in addition to time set aside on attorney's calendar for the trial itself. As of today, you have paid \$ 2500.00. The Client further has agreed to Item C below as a means of paying the Retainer Fee.

Client agrees that he/she will pay said Retainer Fee as follows:

- A) Payment in full at the time of the signing of this Fee Agreement; or
B) Payment in two (2) equal installments, ½ at the time of the signing of this Fee Agreement and the balance within 60 days; or
C) Payment down as set forth above, and the Law Office of Richard Warder will finance the balance of the Retainer Fee with Client making 2 payments of \$ 1000.00, with the first installment payment being made on or before 1-30-2020 * and the balance of the Retainer Fee shall be paid in full within 6 months, or before the disposition of the case or a trial being determined. * \$1000.00 on 2-14-2020 - \$500.00 on 2-28-2020
D) Client agrees that Payment shall be paid by Credit Card payments and authorizes attorney to run these payments as follows:
Amount: \$ _____, Card Number: _____
Expiration Date: _____ Security Code _____ Zip Code _____
Authorization: _____
E) Other: _____

Client agrees that if a credit card is used for payment purposes, client agrees that client is the owner of the card or has been authorized by the owner to use the card for attorneys fees set forth above. Client agrees that the credit card provided is good and funds available to cover the fees agreed upon, and that should the credit card be denied, then Client shall be responsible for payment an insufficient funds fee of \$25 each time the card is ran and denied. Attorney will give client one (1) chance for the card to be declined prior to issuing the insufficient funds charge. Client agrees to be responsible for all insufficient fund fees in addition to the contract fee agree upon above.

Not a Strict Hourly Rate Agreement. It is understood that we are not entering into a strict hourly rate contract. This means that I will be obligated to devote such time as is necessary in this matter, but that my fee may not be increased based upon the amount of time expended. In setting the fee, I have taken into consideration the degree of difficulty of the case, the urgency of the matter, the necessity of declining other work so as to have the time available to properly attend to this matter, and my degree of expertise in handling criminal cases, and the availability to my staff. I also understand that any funds paid to the Law Office of Richard Warder for my representation is deemed to be earned upon receipt, and I will receive no other bill for services rendered concerning this matter.

It is agreed by the parties that representation of the client under this agreement will terminate with the occurrence of dismissal of charges, verdict, guilty plea, judgment, settlement or compromise, whichever occurs first. In the case of matters under investigation in which

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and attorneys, experts, including reports and potential testimony, drug analysis, court fees, copies of documents, postage, long distance telephone calls, long distance facsimile charges and any and all other expenses which are considered necessary to the lawyer for the proper defense of this case. It is anticipated that Costs and Expenses for Experts and Jury Consultants can be expensive and Client understands that these costs must be paid in advance.

Witness Responsibility. Client fully accepts the responsibility for getting his witnesses to the attorneys' office and to the courts and/or any other necessary location in the defense of the client's case and client acknowledges that he is fully responsible for any witnesses, fees and expenses necessary to make the witnesses available as needed in the defense of the case.

*Further, Client is responsible for notifying Richard Warder's Office of any change in Client's address and/or telephone number. Client understands that failure to notify of change in address and/or telephone number will result in the Law Office of Richard Warder not being able to reach the Client regarding court notices and correspondence relative to Client's case. Failure to reach Client due to address and/or telephone change may also result in a bench Warrant for Clients arrest by the City/State.

It is further understood that Law Office of Richard Warder has made no promises to you as to the outcome of your case except that the lawyer promises to render his best professional skill possible.

Defense of Case. It is understood that part of the defense of the case shall and will be plea bargaining on behalf of the Client and it is fully understood that the final decision as to whether to accept or reject any compromise, reduction, or agreed upon sentence shall be left solely and entirely up to the client. **If my case goes to Court, I understand that Attorneys will make all strategic decisions such as the following: who will be called as a witness, and which witnesses or parties will have a written statement taken, who will be called as an expert witness and if the expert is needed, whether stipulations will be entered into, whether and when motions will be filed, whether or not a preliminary hearing is held or if the clients right to a preliminary hearing is waived, and whether continuances will be agreed to or not.**

I have been informed by counsel that I should not discuss this matter with anyone but him unless I am in consultation with a pastor, therapist or counselor. In addition, I have been advised that I should cease all communications via electronic media, including but not limited to Facebook, Snap Chat, Match.com, Twitter, Instagram, chat rooms, or any other publically available media outlets. I understand that I do so at my own risk.

NEW CRIMINAL CHARGES: This fee agreement is specific and exclusive to the above referenced charge(s). New criminal charges greatly enhance the likelihood of a sentence involving incarceration and make your case more difficult to handle. This includes charges for crimes that occurred before the current charges occurred or were brought. Therefore, in the event that new charges are brought against you while the current charges are pending, the fee must be agreed to in writing. **THIS FEE CANNOT BE ALTERED OR OTHERWISE REDUCED UNLESS IT IS DONE SO IN WRITING AND SIGNED BY THE ATTORNEY HANDLING THE CASE.**

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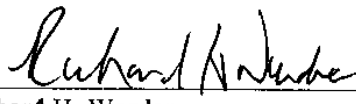
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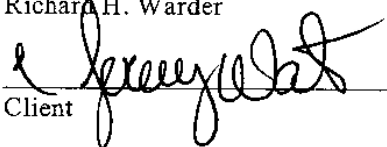
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It is further understood that the fee agreed upon herein does not include services for a TRIAL, APPEAL, OR RETRIAL or on motion made pursuant to the Federal Rules of Criminal Procedure Rule 35 or any issues of post-conviction or re-sentencing matters if such should become necessary. In the event of a TRIAL, APPEAL OR RETRIAL, a new and separate agreement will be made and if the client seeks to pursue an Appeal in this case, the Defense of Indigent Acts will be explained to the Client. The attorney herein is only responsible for filing a **Notice of Intention to Appeal** on behalf of the Client in the event an appeal becomes necessary.

Client and the Law Office of Richard Warder hereby confirm that this Agreement is an integration of all prior representations and negotiations concerning the subject of this contract, it embodies all the terms and conditions of the contract between them and that there are no other terms, conditions, representations or understandings which are not included herein. Client and attorney hereby confirm that this Agreement may not be modified except in writing, signed by the undersigned.

DATED: 1-10-2020



Richard H. Warder


Client

I have been given an opportunity to read this document, the conditions have been carefully explained to me (or I have stated that I understand them by reading them), and I agree to all of the terms and have received a copy of this contract, all of which is evidenced by my signature. Client understands that timely payment of fees is required. Failure to pay fees as agreed may lead to attorney being released from this Contract and the case. If client fails to pay fees as agreed, client consents to attorney being released from the Contract.



Client

CLIENT INFORMATION:

1. If you have trouble reaching me by phone or email, please ask to speak to one of my assistants. They can often answer your questions and can get word to me of any emergency.
2. Often on court dates, the prosecutor requires you to be there at 8:30 or some other time while court may not begin for some time afterwards. I may arrive much later than you.

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Feel free to call my office to confirm that I am on the way, but frequently I am supposed to be in two or more courts at the same time, or I have other matters that are pressing before court. You may also be met at the court by one of my assistants before I arrive. You are to sign in or register with the court officials that you are present as required, but you are not to discuss the facts of your case with anyone other than those at my office.

3. If the attorney's fees are not paid as agreed herein, I acknowledge that my attorney may make a Motion with the Court that they be relieved of any and all obligations and responsibilities associated with this case.

I acknowledge that attorney has informed me of points 1, 2 and 3 above, and I agree to all of them.


Client

Date: 1-16-2020