

The State of South Carolina
In the Court of Appeals

APPEAL FROM SUMTER COUNTY

Honorable R. Kirk Griffin, Circuit Court Judge
Appellate Case No. 2022-001444

The State.....Respondent

v.

Brittany Martin Appellant

RECORD ON APPEAL – VOLUME III

Alan Wilson
Attorney General

Mark Farthing
Assistant Deputy Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3727
mfarthing@scag.gov

Ernest A. Finney, III
Solicitor, Third Judicial Circuit
215 N. Harvin St.
Sumter, S.C. 29150
(803) 436-2185

Attorneys for Respondent

Meredith Dyer McPhail, #104551
David Allen Chaney, Jr., #104038
AMERICAN CIVIL LIBERTIES UNION OF SOUTH
CAROLINA
P.O. Box 1668
Columbia, SC 29202
(843) 259-2925
mmcphail@aclusc.org

Dr. Sybil Rosado, #104422
THE LAW OFFICE OF SYBIL D. ROSADO, LLC
2429 Haskell Ave.
Columbia, SC 29204
(803) 999-2029
sybil@rosado.law

Attorneys for Appellant

1 BY MS. MCELVEEN:

2 Q You keep saying that they brought the
3 drama, the police department, right?

4 A Yeah.

5 Q So you're a -- four days you were a victim
6 of their drama, right?

7 A Of course, that's what it all started
8 over, their drama. I was out there protesting
9 because of their drama. We're out there because
10 your officers do not have self-control to even do
11 their jobs right. We shouldn't have dead brothers
12 and sisters in a modern day strange fruit laying
13 around us by the hands of your officers.

14 Q And you always said you like to give
15 what's given, right?

16 A (No response.)

17 Q You said in the interview you like to --
18 you give what's given, right?

19 A Damn right, like I'm giving you right now.
20 You giving me hell; I'm giving you hell.

21 Q But the officers in the video, did you see
22 the officers offer to do a police escort on
23 May 31st?

24 A Did I see? I asked for it. I organized
25 it.

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1 Q Your protest, right? Your riot, yours?

2 A Our protest.

3 Q You asked for it, though, right? That's

4 ---

5 A Relevancy.

6 THE COURT: Ms. Martin, your -- your
7 lawyer is gonna be the one that's gonna have to
8 object.

9 THE WITNESS: Okay, I'm a lawyer too
10 'cause right now can't nobody defend me better than
11 me. This is my life and I need to know the
12 relevancy of ---

13 THE COURT: Ms. Martin.

14 THE WITNESS: --- what she talking about.

15 THE COURT: Ms. Martin, if -- if your
16 lawyer believes that the question is improper, she
17 will object; otherwise, she ---

18 THE WITNESS: Doesn't seem like she has
19 though.

20 THE COURT: Otherwise, you will answer the
21 question. If she objects, I will rule on it; but,
22 again, ---

23 THE WITNESS: Your Honor, lemme tell you
24 something, she -- she's committing stuff in
25 evidence, ---

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1 THE COURT: No, ma'am.

2 THE WITNESS: --- put all this in
3 evidence.

4 (Witness holds up large banner to jury.)

5 THE COURT: No, ma'am.

6 THE WITNESS: Wanted.

7 THE COURT: No, ma'am.

8 THE WITNESS: Wanted women of history.

9 THE COURT: Put that -- this is ---

10 THE WITNESS: It's my turn now.

11 THE COURT: Take that from her please.

12 THE WITNESS: They did this to Ida B.
13 Wells. They did it to Rosa Parks. They did it to
14 Malcolm X. They did it to Martin Luther King. It's
15 my turn now, ---

16 THE COURT: Ms. Martin.

17 THE WITNESS: --- y'all.

18 THE DEPUTY: Brittany.

19 THE WITNESS: Here you go, detective -- I
20 mean, okay. Wanted women in history. Right.

21 THE COURT: We're gonna take a break.
22 We're gonna take a brief recess. I'm gonna send you
23 to your jury room. Please do not begin your
24 deliberations at this time.

25 (Ms. Rosado conferring with witness at witness

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1 stand.)

2 THE WITNESS: I'm telling the truth. They
3 know every time I'm coming with the truth.

4 THE COURT: Let's take the jury out.

5 THE WITNESS: I cannot ---

6 MS. ROSADO: Shhh.

7 THE WITNESS: --- wait till you play that
8 video back. She just told them I snatched that flag
9 off that man, like we ain't got video. Girl, it's
10 hard sitting here getting lied on.

11 MS. ROSADO: It's not because if you let
12 them ---

13 THE WITNESS: I know you got it; I trust
14 you.

15 MS. ROSADO: But you got to be quiet,
16 okay.

17 THE COURT: Let's let the jury get out of
18 the room before y'all have a discussion.

19 (WHEREUPON, the jury was removed from
20 the courtroom at 4:23 p.m.)

21 THE COURT: Everybody can sit down.

22 THE WITNESS: Judge, don't take that flag
23 from me, I like that flag.

24 THE COURT: We're not gonna confiscate any
25 of your property, Ms. Martin, but there are

1 certain -- as I've stated many times over the course
2 of the last three days, there are rules that have to
3 be followed in this courtroom. Your lawyer knows
4 them, Ms. McElveen knows them, and I know them. And
5 what you just did is in violation of the rules. And
6 I'm doing my best to understand how you're feeling,
7 it's difficult because I've never been in your
8 shoes. But at the same time, I've got to maintain
9 order. I've got to maintain an accurate record; and
10 I can't have these continued interruptions, these
11 continued lapses in composure. It's my job to
12 insure this is a fair trial for everybody. So what
13 I want you to do, I want you to leave the witness
14 stand. I'm gonna let Ms. Rosado talk to you about
15 what the expectations are.

16 I don't want you to talk about the
17 substance of her testimony, Ms. Rosado, but I want
18 you to explain to her what might happen if the rules
19 are continually broken.

20 MS. ROSADO: Yes, sir.

21 THE COURT: And my -- like I said before,
22 my goal is to not punish anybody for these
23 violations and rules. My role and my aim in this
24 case is to keep a clean record and give everyone a
25 fair trial and that's what I'm gonna have you do.

1 We're gonna be in recess for about ten minutes.

2 And then, Ms. Martin, you're gonna take
3 the stand again and we're not gonna have anymore of
4 these issues.

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. I want you to say
7 whatever you feel is -- needs to be said, but
8 those -- your statements are governed by -- your
9 statements and your conduct in the trial is governed
10 by Rule 401 of the South Carolina Rules of Evidence
11 which defines relevant evidence. If something is
12 irrelevant, I'm gonna have to order it stricken from
13 the record; and when you go off on these editorial
14 comments that are nonresponsive to the lawyer's
15 question, I can't conclude that they're anything
16 other than irrelevant. So, again, at this point in
17 the trial your role is to answer questions; and if
18 you -- if your lawyer feels like the question is
19 improper or calls for something that is
20 inadmissible, then she will object. That's her
21 role, and she knows how to do it. You've been
22 through this. She's objected many times, just like
23 the State's lawyer has objected many times. These
24 lawyers know what they're doing, and Ms. Rosado is
25 gonna protect your rights the best of her ability.

1 And so I can't have a witness making objections,
2 asking questions, doing anything other than
3 answering questions.

4 So we're gonna be in recess for about ten
5 minutes. You're gonna talk with your lawyer and
6 then we're gonna resume this trial. And if anyone
7 else needs a break while we're in recess, that is
8 fine. We will come back about 4:40 and we'll resume
9 cross-examination.

10 THE WITNESS: All right.

11 THE COURT: And just for the record, the
12 banner that you pulled out, we're not gonna
13 confiscate it; but we're gonna hold on to it until
14 she has finished testifying.

15 MS. ROSADO: Thank you, Your Honor.

16 (WHEREUPON, a recess was taken from the
17 proceedings.)

18 THE COURT: All right. I trust that that
19 break in action did everybody some good.

20 Ms. Martin, if you would re-take the
21 witness stand please.

22 Bring us the jury, Mr. Tomlin.

23 (WHEREUPON, the jury was returned to the
24 courtroom at approximately 4:43 p.m., and the
25 following proceedings commenced in open court.)

1 THE WITNESS: Your Honor, I would like to
2 apologize to you and the jury, everybody in the
3 court. You know, I know I got to control myself a
4 little more than I'm doing and I apologize, y'all,
5 for real.

6 THE COURT: Ms. Martin, I accept your
7 apology and I'm -- I'm certain the jury does as
8 well. We're gonna proceed with cross-examination.
9 BY MS. MCELVEEN:

10 Q Ms. Martin, to attempt to wrap things up,
11 did you state on June 3rd, "Y'all want more, y'all
12 got it, go call all our hitters now. You tell 'em
13 to get ready. Everybody strapped, everybody. Y'all
14 better be ready. Them vests ain't gon' save you.
15 Some of us gon' be hurt and some of y'all gonna be
16 hurt. We ready to die for this. We tired of it.
17 You better be ready to die for the blue; I'm ready
18 to die for the Black. I'm dying for the Black; you
19 better be ready to die for the blue. Chief, it's
20 your call. We got our people and you got your
21 people."

22 A Yes, I did state that.

23 Q Can you understand why that was a threat
24 to officers, to inflict ---

25 A It wasn't a threat; it was a statement.

1 Q Did you see that officers throughout the
2 four days were giving police escorts, speaking with
3 "please" and "thank you," not trying to escalate
4 situations, not making arrests, not using teargas,
5 extending offers of waters and options and places to
6 peacefully protest? Did you see those things?

7 A Yes, I did see those things.

8 Q Did you give them what they were giving to
9 you when you made that comment?

10 A Yes, I did.

11 Q Thank you.

12 THE COURT: Ms. Rosado.

13 MS. ROSADO: Thank you.

14 **REDIRECT EXAMINATION**

15 BY MS. ROSADO:

16 Q Ms. Martin, when you were incarcerated did
17 you miss a trial?

18 A You know what, from that document they had
19 some proceedings going on. They had -- it was so
20 much going on, I don't know what happened. When
21 they arrested me, they arrested all of us for curfew
22 violation. We got PR'd out. I got out. And I
23 was bonding my car out, I wasn't even out an hour
24 and they picked me right back up and took me to jail
25 for 21 days with no bond on a nonviolent offense.

1 Q So you missed this trial in Iowa, I think
2 it is ---

3 A Yes, ma'am.

4 Q Blackhawk, Iowa?

5 A Yes, ma'am.

6 Q ---regarding your sister's request that
7 you have a welfare check for your father?

8 A Yes, ma'am. I mean, my sister, she just
9 -- we just fight over stupid stuff. And so she,
10 like I said, it's my big sister; I still love her;
11 but, you know, she was just coming for me and dad
12 and didn't even want him herself. Like right now,
13 he's not with her. She did all that, spent all her
14 money, went out of her way to tear us apart but
15 don't even want nothing to do with him.

16 Q And your father is how many years old? 80
17 you said?

18 A My daddy 82.

19 Q So ---

20 A I'm the baby. I'm 34. He had me when he
21 was, what, 54, 55, something like that. So even
22 then, I mean, even been born that late to that man,
23 you know, my sisters was all grown, they were
24 married. They were grown and moved on at that time
25 and so they kind of was jealous of me and my sister

1 then. Me and Tiffany, we the two babies. There's a
2 other young lady y'all seen in the video when I was,
3 like, get back from my sister. And they just hated
4 us since birth. I mean, 'cause we was daddy's
5 babies. You know, they went through a period with
6 dad where he was young and going through his
7 mistakes. We went through a period where we was
8 born to an old man that done went through life and
9 was ready to be a good father. So he spoiled us,
10 they hated it, and so it just kind of went until
11 now.

12 Q So it says here that you have power of
13 attorney over your father?

14 A Yes, I do. I actually have the paperwork
15 on me if you need it.

16 Q And your father was over 18 and could go
17 anywhere in the United States he wants to, right?

18 A Yeah, with his solid -- I mean, my daddy
19 ---

20 Q He wasn't ---

21 A Even though he has dementia, my daddy, it
22 comes in and out, it comes and goes. He doesn't --
23 his mind isn't gone completely so daddy still can
24 make solid decisions, which is why I'm letting him
25 make a decision right now where he wanna stay with

1 his wife. He likes staying with his wife.

2 Q And so the statement that your father
3 wasn't legally in South Carolina, is that a correct
4 statement?

5 A That's a whole lie. Like, I have
6 paperwork with my -- that my daddy took me to go
7 make sure is in place just in case anything happen.

8 Q So you actually weren't even served with
9 these papers it says here; is that correct?

10 A Not at all.

11 Q And the court decided that ---

12 A They came in the jail. They came into the
13 jailhouse maybe a week later. Okay.

14 Q The paperwork came to the jail?

15 A Oh, one of the deputies came to the jail
16 with the paperwork and gave me the paperwork then
17 and serve me there; but, yeah, I was locked up. My
18 sister has a lot of political power. When I say a
19 lot of power, a lot of power, so she used that here.
20 She actually is one of the reasons they kept me for
21 21 days with no bond. She stated that to me anyway
22 so.

23 MS. MCELVEEN: Your Honor, we -- I guess
24 we're entering State's exhibit without
25 Dr. Rosado's -- with her approval, Your Honor.

1 THE COURT: What number is that?

2 MS. MCELVEEN: State's Exhibit 6.

3 THE COURT: State's 6 is admitted without
4 objection.

5 (WHEREUPON, State Exhibit No. 6
6 was admitted into evidence.)

7 BY MS. ROSADO:

8 Q Was your father unable to get the proper
9 medical attention because you were in jail?

10 A I mean, I would assume that, you know. I
11 mean, I wasn't -- I'm his caregiver so, but daddy
12 didn't, I mean, he was just on his meds at that time
13 so, you know. What -- the point we were at when we
14 got here was just finding him the doctors here,
15 switching everything here. I made sure he had
16 enough medicine, made sure he was good before we
17 left. And then on top of that, like I said, was
18 Covid time so I'm protective of my dad. I'm very
19 protective of him so I didn't know what to -- I was
20 scared to send my daddy to, you know, up in medical
21 clinics and stuff at that time because of what was
22 going on. They were so bad. I'm sitting here
23 watching people dying. I try to protect my dad.

24 Q Turning to the events with -- I'm not sure
25 how to say his name -- Officer Colclough.

1 A Colclough.

2 THE COURT: I think we can take judicial
3 notice that all people from Sumter know that that
4 name is pronounced Colclough around here.

5 MS. ROSADO: Thank you. Colclough. Thank
6 you.

7 BY MS. ROSADO:

8 Q Did you force Officer Colclough to lie on
9 the ground?

10 A No, ma'am, not at all. And as we all see
11 in the video, like, I was -- I don't know what I was
12 doing exactly at that point. Like, I was focused on
13 something else really at that point. I wasn't even
14 right there. That was all a man thing. The men
15 were handling that at that point.

16 Q Did you snatch the flag off of his chest?

17 A That's Sharkhead. And Sharkhead, we heard
18 so many complaints about him in this community since
19 I've moved here and even before years ago when I
20 lived here. You always hear about Sharkhead
21 terrorizing the community, Sharkhead putting --
22 planting, planting this drug on someone, Sharkhead
23 doing -- I mean, it -- I mean, it was pure terror
24 stories. And as you can see as we're out there
25 protesting I'm like, who got a story on Sharkhead,

1 who got a MF'g story on Sharkhead. And you -- the
2 po-- I mean, so a lot of protestors had stories on
3 him, have beef with him. Like, this how much this
4 man terrorized the community. And so at that point
5 when you see him take off his flag, you will see the
6 guy that is recording -- mind you, I didn't know
7 this fella. I still don't know who he is to this
8 day. I'm so glad -- thank you, Jesus -- that he
9 caught this footage. I'm so glad he caught this
10 footage for us, you know, because, otherwise, it
11 just would have been lies told on me and I wouldn't
12 have been able to prove it.

13 Now, in the video you hear him talking to
14 the deputies. He's asking everyone for their name
15 and badge numbers or rank or something like that.
16 And he asked, when he gets to Sharkhead he said,
17 well why you wear that flag with the thin -- the
18 thin blue line? And I can't remember what Sharkhead
19 say. He say, well, isn't that separating yourself
20 from the people, you know. And Sharkhead, I guess,
21 felt compelled and empathized and took off his flag.
22 I literally had nothing to do with that at that
23 point. I was focused on something else, crowd
24 control really.

25 Q So you weren't tormenting officers by

1 protesting?

2 A I mean, if they felt tormented because we
3 were cussing and talking shit, then that's on them
4 and their personal feelings. Me, personally, no.
5 Tormenting, to me, I don't care what you got to say.
6 When you cross a line, the physical line, that's
7 when the torment, you know, begins for me. So
8 everyone has their own definition of torment.
9 Everybody have their own definition of threat.
10 Everybody have their own definition. I mean,
11 everyone is their own person so, you know, I can
12 just speak for me.

13 Q When the officer, Officer Colclough laid
14 down on the ground, did you put your knee on his
15 neck?

16 A No, ma'am, not at all. Like, the -- it's
17 bizarre, it's crazy to be, you know, dealing with
18 what I'm dealing with, like, to see officers of the
19 law really getting down like this, state's attorneys
20 getting down like this. I'm talking about not
21 playing fair at all, you know, using their personal
22 feelings. And then on top of that, we got videos to
23 prove everything so, like, why -- how you making up
24 all these, you know, lies when we have videos. We
25 have straight media proof to prove your lies; I

1 don't get it.

2 Q When Officer Colclough got down on the
3 ground, what did that symbolize to you?

4 A Empathy. They didn't see anything weak
5 about -- he's a black man in America. He's just a
6 cop. He's a black man. Just because he a cop don't
7 mean that he don't feel his people, don't mean he
8 don't empathize with us, you know what I'm saying.
9 It don't mean he don't -- I mean, come on. I'm
10 pretty sure if you were real -- if you were really
11 real, you still connected to your culture. Whether
12 you a cop or not, you're gonna -- you are still
13 gonna feel some type of way about what happened to
14 George Floyd. They had different nations of people.
15 It wasn't just black people out there protesting
16 with us. There were white folks. You see Dante out
17 there reading a bible to the city officers; that's a
18 white man. You had Stacy Lynch. She was on my side
19 out there the whole time, the white girl that was
20 standing right next -- she actually was here the
21 first day. She dealing with something way more
22 serious than this so she couldn't stick with us, but
23 she definitely sympathized with our community, you
24 know what I'm saying. And like, I mean, you just
25 got to be human, period. It's a human thing; it

1 ain't a race thing. It's a human thing.

2 MS. ROSADO: What number is that exhibit?
3 What number?

4 MS. MCELVEEN: 5? The video?

5 MS. ROSADO: The video? What number?

6 MS. MCELVEEN: 5. Of which video, I'm
7 sorry?

8 MS. ROSADO: The one you just played.

9 MS. MCELVEEN: That's in State's --
10 State's Exhibit 5 on the zip drive.

11 THE WITNESS: Yeah, she just put it up so
12 you couldn't get right to it; I watched her.

13 THE COURT: No, ma'am, Ms. Martin.

14 THE WITNESS: Okay, I'm sorry.

15 THE COURT: The court reporter has to keep
16 the exhibits. That's -- there's nothing -- nothing
17 nefarious about where the exhibits are being kept.
18 The court reporter is required to keep exhibits and
19 maintain the record.

20 THE WITNESS: Okay.

21 MS. ROSADO: Is No. 5 on the drive that I
22 was given also?

23 MS. MCELVEEN: I'm sorry, no, it was not,
24 huh-uh.

25 THE WITNESS: You can actually pull it up

1 on YouTube. It -- it went viral.

2 THE COURT: We're not gonna pull up any
3 YouTube videos.

4 THE WITNESS: I'm just saying it's viral.

5 THE COURT: We're gonna stick with the
6 exhibits that have been admitted into this record.

7 THE WITNESS: Yes, sir.

8 THE COURT: Where -- wherever it is, let's
9 find it if Ms. Rosado wants to play it.

10 MS. MCELVEEN: Your Honor, it's in the
11 Manila envelope ---

12 THE WITNESS: Right there in that yellow
13 packet. I watched her do it.

14 MS. MCELVEEN: Yes.

15 THE WITNESS: 21-minute mark, Queen.

16 (Publishing of video.)

17 THE WITNESS: I don't know that brother.
18 Glad he caught this. So at that point he's asking
19 ---

20 THE COURT: Hold up. Wait, wait a second.

21 THE WITNESS: Okay.

22 THE COURT: She hasn't asked a question at
23 this point.

24 THE WITNESS: Yes, sir.

25 (Publishing of video.)

1 BY MS. ROSADO:

2 Q Did you hear the officer say, "Would you
3 like me to take it off?"

4 A Yes, I did, loud and clear.

5 Q Thank you.

6 (Publishing of video.)

7 BY MS. ROSADO:

8 Q Just a point of clarification, did you
9 make that officer raise his hand up?

10 A Huh-uh.

11 (Publishing of video.)

12 BY MS. ROSADO:

13 Q Is that an officer on the ground that has
14 ---

15 A No, ma'am. That's one of the protestors.
16 And brother Curtis Hilton, he placed his knee
17 gently on his, I would say back, not on his neck,
18 but just symbolizing what George Floyd went through.
19 It's just a symbol.

20 Q Thank you.

21 A And as you can see, Corporal Colclough was
22 not scared of us ---

23 Q No.

24 A Okay.

25 (Publishing of video.)

1 BY MS. ROSADO:

2 Q Does Officer Colclough appear to be being
3 forced to get down on the ground at this point to
4 you?

5 A No, ma'am, not at all.

6 Q Thank you.

7 (Publishing of video.)

8 BY MS. ROSADO:

9 Q Did you believe that was a symbol of
10 allegiance with your movement?

11 A Yes, ma'am. And I didn't see -- she said
12 that we made him get on the ground and put our foot
13 on his neck; I didn't see none of that. I mean,
14 knew on his neck. I didn't see no one put their
15 knee on his neck.

16 (Publishing of video.)

17 THE WITNESS: He made me proud.

18 BY MS. ROSADO:

19 Q I don't actually see you anywhere in the
20 video. Were you nearby?

21 A I mean, I was nearby, but I wasn't right
22 there in that exact circle. If you keep playing it,
23 he did hug me.

24 (Publishing of video.)

25 THE WITNESS: See, that's him hugging me.

1 I was around in the crowd to lead.

2 BY MS. ROSADO:

3 Q I'm sorry, is this where he hugged you at?

4 A Yes, ma'am.

5 Q Is this where the riot started?

6 A There was never a riot, Queen.

7 Q Is this where you threatened officers
8 lives?

9 A No, ma'am.

10 (Publishing of video.)

11 THE WITNESS: He said he gonna take him
12 off of the team. Thank God is good.

13 BY MS. ROSADO:

14 Q Was the crowd happy after this officer
15 showed his allegiance with them?

16 A They wasn't happy, but they felt some
17 love. I felt -- I can -- well, I can really speak
18 just for me. I felt love. I felt respect, which is
19 why I told the people let's go.

20 Q And just for clarity, did you in any way
21 exert power over that officer to force him to get on
22 the ground?

23 A Not at all. That is a grown man that's
24 been doing this for years, in his position for
25 years. I'm pretty sure if he felt threatened, I'm

1 pretty sure if he -- he would have handled it a
2 whole 'nother way. He knew we was not out there to
3 hurt him or nobody else. We was out there grieving;
4 America was grieving.

5 Q Thank you very much.

6 A Yes, ma'am.

7 **RECROSS-EXAMINATION**

8 BY MS. MCELVEEN:

9 Q I have one question, Ms. Martin. If
10 officers had treated you the way you treated them
11 over those four days by yelling profanity at them,
12 calling them horrible vulgar names, threatening to
13 kill them and threatening to do bodily harm to them,
14 would it have been okay for them to treat you the
15 way you treated them?

16 A I tell you what, in my profession for one,
17 what I did -- you leaving out a lot of my
18 statements. When I said what I said, it was
19 piggy-back-- piggybacking off of them, their
20 actions, what they do, and I said that then. Even
21 at the end of that statement that y'all getting
22 ready to go back there and deliberate on, I said,
23 Chief, it's up to you. I left the ball and the tone
24 in their court. I did not bring war; but if war had
25 had have been brought, we were ready for war. And

1 that just real. And so if I'm wrong because I'm a
2 fighter and I fight back, then call me wrong, judge
3 me how you want to judge me. But I'm sorry, I'm not
4 laying down, I'm not.

5 Now, in my profession, I'm a chef. I'm
6 trained to deal with hungry, agitated people. When
7 people come into my restaurant, they come agitated
8 because they're hungry. So until we're able to have
9 this entree ready for them, I give them a appetizer.
10 Huh.

11 MS. MCELVEEN: Your Honor, may I ask ---

12 THE WITNESS: Imma set this ---

13 MS. MCELVEEN: --- relevance.

14 THE WITNESS: Because you just said dill--
15 because it all ties together.

16 THE COURT: Hold on one second, Ms.
17 Martin. Hold on one second. She's explaining her
18 answer. You know, if I feel that it's irrelevant,
19 I'll stop her, but she's -- she's explaining the
20 answer to the question.

21 Go ahead, Ms. Martin.

22 THE WITNESS: Yes, sir. Like I said,
23 hungry people, I know what I'm dealing with. I know
24 I'm dealing with agitated people. I give them their
25 appetizer to hold them over until the entree is

1 ready because I don't want angry customers. So, as
2 an officer, they should be trained and they should
3 know that they're not going into peaceful
4 situations. You are supposed to be the peacemaker
5 so you know, you know you're going to deal -- you're
6 pulling up on agitated people. You pulling up on
7 situations that's problems. We're calling you to be
8 the mediator. And if you don't have enough tough
9 skin to deal with agitated people, if you do not
10 have enough tough skin to deal with just regular
11 humans, a human that is hurting in whatever way that
12 they call for, you do not need to be a officer of
13 the law. An officer should not go and match fire
14 with fire. They should come just like a fire
15 department do and try to put this fire out. That is
16 what I think an officer should do.

17 So what I brought to the officers that
18 day, yes, they should have been able to handle that.
19 We see law enforcement get -- kill people all the
20 time, all over America; this is nothing new. Do you
21 not see it yourself? So ---

22 THE COURT: All right, that's non --
23 that's nonresponsive.

24 THE WITNESS: Yes, sir.

25 THE COURT: That's to be stricken.

1 THE WITNESS: Well, I answered. I
2 answered her.

3 MS. MCELVEEN: Your Honor, may I ask the
4 yes or no question that I never got a yes or no
5 answer to?

6 THE WITNESS: Okay.

7 THE COURT: Yes, ma'am. Ask your
8 question.

9 BY MS. MCELVEEN:

10 Q Yes or no, would it have been okay if the
11 police treated you the way that you treated them ---

12 A Yes.

13 Q --- in those four days?

14 A Yes, that would have been fine. I never
15 hurt no one, yes. Yes.

16 Q They could yell in your face and call you
17 vulgar words?

18 A That is fine with me. You're in my face
19 now lieing on me so.

20 Q They ---

21 THE COURT: That's nonresponsive. That
22 will be stricken.

23 THE WITNESS: I'm sorry. Yes.

24 BY MS. MCELVEEN:

25 Q They threaten to -- the officers, it would

1 be okay for them to threaten to kill you?

2 A If they're touched. Add it on now.
3 Don't, don't say part of it. State the whole
4 statement.

5 Q Would it have been okay for officers to
6 threaten to kill you on June 3rd?

7 A Lemme tell you something, words don't hurt
8 me, baby. That is okay with me. As an officer, if
9 I was a officer of the law right now which I should
10 be, I should be, I feel like it, I can patrol my
11 community. Yes, that is fine with me.

12 MS. MCELVEEN: Thank you, Your Honor. I
13 have no other questions.

14 THE COURT: All right. Ms. Martin, you
15 can step down. Thank you very much.

16 THE WITNESS: Yes, sir.

17 MS. ROSADO: Your Honor, may we approach.

18 THE COURT: Yes.

19 (WHEREUPON, counsel approached the
20 bench for an off-the-record discussion.)

21 MS. ROSADO: Your Honor, the Defense would
22 like to call Major Colclough.

23 THE COURT: All right. Major Colclough,
24 if you'll come up to be sworn please.

25 THE CLERK: Raise your right hand, state

DW - T. COLCLOUGH - DIRECT

1 your name.

2 THE WITNESS: Terrence Colclough.

3 THE CLERK: You solemnly swear or affirm
4 your testimony to the Court shall be the truth,
5 whole truth, nothing but the truth, so help you God?

6 THE WITNESS: I do.

7 WHEREUPON,

8 **TERRENCE COLCLOUGH,**
9 having been duly sworn by the clerk, testified
10 as follows:

11 THE CLERK: Thank you much. Step around,
12 sir. State your name for the record and spell your
13 last name please.

14 THE WITNESS: Terrence Colclough,
15 C-O-L-C-L-O-U-G-H.

16 **DIRECT EXAMINATION**

17 BY MS. ROSADO:

18 Q Thank you for your service, Major
19 Colclough. I'm sorry I wasn't calling you Major;
20 I'm just calling you officer.

21 A That's no problem.

22 Q Major Colclough, we just saw you on the
23 screen there. Did Ms. Martin force you to lie down
24 on the ground?

25 A No, ma'am.

1 Q Did Ms. Martin force you to hold your hand
2 up in solidarity?

3 A No, ma'am.

4 Q Did someone put their knee on your neck?

5 A No, ma'am.

6 Q Did Ms. Martin threaten to kill you?

7 A No, ma'am.

8 Q Thank you.

9 **CROSS-EXAMINATION**

10 BY MS. MCELVEEN:

11 Q Major Colclough, you're with the sheriff's
12 office?

13 A Yes, ma'am, I do.

14 Q And you don't work for the police
15 department, right?

16 A No, ma'am.

17 Q And you weren't on the steps on June 3rd
18 at the police department?

19 A No, ma'am, I wasn't.

20 Q Were you promised that they would leave
21 the El Cheapo gas station if you got on the ground?

22 A Yes, ma'am, I was. I was called -- the
23 Sheriff received some intelligence that the crowd
24 from the steps of the police station were heading to
25 the El Cheapo which is located in the county of

1 Sumter, our jurisdiction, so we already had a group
2 of individuals of pretty much deputies that was
3 already helping out the city with crowd control and
4 so forth. I was actually home. After I got the
5 call, I wanted to see whether or not I could assist
6 the deputies out at the El Cheapo, so when I
7 arrived, I saw the crowd. I wanted to intervene and
8 I chose a -- I may have chose an unorthodox method,
9 but I did what I had to do after conversing with
10 some of the individuals in the crowd to get them to
11 disburse and pretty much deescalate the situation.

12 Q So you laid on the ground to deescalate
13 the situation?

14 A Yes, I did.

15 Q Thank you. No other questions.

16 **REDIRECT EXAMINATION**

17 BY MS. ROSADO:

18 Q Did your actions deescalate the situation?

19 A Yes, it did. From my opinion it did.

20 Q Why didn't you choose to use teargas?

21 A I didn't feel that was necessary at the
22 time.

23 Q Thank you, sir.

24 MS. MCELVEEN: No further questions, Your
25 Honor.

1 THE COURT: All right, Major Colclough,
2 thank you. You may be excused.

3 MS. ROSADO: The Defense rests, Your
4 Honor.

5 THE COURT: Thank you, Ms. Rosado.

6 Ladies and gentlemen of the jury, at this
7 point in time the law requires me to send you to
8 your jury room to take up matters of law with the
9 attorneys. I'm gonna ask you to go back to the jury
10 room and please do not begin your deliberations. We
11 still have more things to do before this case will
12 be in a position for you to begin your
13 deliberations. Do not seek to do any research by
14 any means whatsoever and we'll get you back out as
15 soon as possible. Thank you.

16 (WHEREUPON, the jury was removed from
17 the courtroom at 5:20 p.m.)

18 THE COURT: All right. Everyone be
19 seated.

20 Do -- Ms. Rosado, do you have any motions?

21 MS. ROSADO: Your Honor, I'm just gonna
22 renew my same motion from earlier.

23 THE COURT: All right. And, Ms. Rosado, I
24 appreciate that and I will respectfully deny those
25 motions based upon the same reasoning and rationale

1 that was used when you made it at the close of the
2 State's case.

3 All right. It is now rapidly approaching
4 5:30. I am willing to press on and send this case
5 to the jury, but I don't want the jury to feel any
6 pressure to reach a verdict at any specific time
7 frame. I know we're past the normal working hours
8 so -- and this was discussed at the bench. What I
9 propose we do is have the jury decide whether they
10 want to press on or come back Monday morning to
11 proceed to closing arguments and jury charge. I
12 would imagine the closings will take likely an hour
13 combined. And I see Ms. McElveen's frowning, but I
14 think a lot of times lawyers underestimate the
15 amount of time that they -- that they speak, and I
16 know that the charge will take at least 25 -- 20, 25
17 minutes.

18 So I propose that we let the jury decide
19 if they want to press on, we can. If not, I have
20 cleared it with court administration for us to
21 resume this trial Monday morning. And so what I
22 would like to do is bring them back out and advise
23 them that I want them to go back in the jury room,
24 not begin their deliberations but deliberate over
25 whether they want to proceed with the trial this

1 evening or come back Monday morning and then have
2 the foreperson come back out and let us know what
3 the consensus of the jury is. Any problem with
4 that from the State?

5 MS. MCELVEEN: None, Your Honor, except I
6 was gonna say I -- the State would feel comfortable
7 with Your Honor going to the jury to explain that if
8 you'd like.

9 THE COURT: Well, I ---

10 MS. ROSADO: I will be fine with that
11 also, Your Honor. The back and forth is just ---

12 THE COURT: Okay.

13 MS. ROSADO: --- extra time.

14 THE COURT: Okay, all right. As long as
15 everyone consents.

16 Ms. Martin, do you understand what is
17 being proposed ---

18 THE DEFENDANT: Yes, sir.

19 THE COURT: --- by the lawyers? They are
20 authorizing me and Ms. Rosado is authorizing me on
21 your behalf, to go step to the jury room and advise
22 them of the situation and have them ---

23 THE DEFENDANT: Make a decision.

24 THE COURT: --- make a decision as to
25 whether we move on with this case this evening or

1 come back Monday morning, come back Monday morning
2 for the closing arguments and jury charge and then
3 the deliberation. You understand that?

4 THE DEFENDANT: Yes, sir, that's fine with
5 me.

6 THE COURT: Okay. All right. Given that
7 all parties have consented, I will step back and the
8 bailiff will accompany me to be my witness. I
9 certainly will not discuss any matters regarding
10 this case other than their ability to decide whether
11 they want to press on or come back Monday. And,
12 again, I'm doing this because of the late hour and I
13 would estimate the jury will get this case about
14 7:00 tonight, and I don't want them to feel any
15 pressure one way or the other.

16 (Pause.)

17 THE COURT: I've been informed that the
18 jury has reached a consensus opinion on what they
19 would like to do with regard to schedule this case.
20 We'll bring them back out and have them put that on
21 the record.

22 (WHEREUPON, the jury was returned to the
23 courtroom at approximately 5:32 p.m., and the
24 following proceedings commenced in open court.)

25 THE COURT: Mr. Foreperson, has the jury

1 conferred with regard to whether the jury as a whole
2 would like to proceed with trial at this late hour
3 or come back on Monday to resume the trial with
4 closing arguments and charge of the law?

5 THE FOREPERSON: The jury would like to
6 resume on Monday.

7 THE COURT: Okay. All right. Thank you
8 very much. You can have a seat.

9 Based upon the jury's wishes to come back
10 on Monday, we're gonna be in recess in this case
11 until 9:30 Monday morning. Ladies and gentlemen of
12 the jury, over the weekend don't discuss the case
13 with anybody. That includes friends, family,
14 significant others. Don't do any research about any
15 issues raised in this case. Your verdict must come
16 solely from the evidence that you have heard in this
17 courtroom over these last few days. And if any of
18 you -- I know that jury excuses are usually given at
19 the end of the week. Since this is going over the
20 course of the weekend, I was -- Mr. Campbell, can we
21 provide ---

22 THE CLERK: Sure.

23 THE COURT: If you need a work excuse, we
24 can provide those to you. I appreciate the level of
25 attention you paid, and I hope y'all have a pleasant

1 weekend and we will see you back at 9:30 Monday
2 morning and we'll resume the trial. Thank you very
3 much.

4 (WHEREUPON, the jury was removed from
5 the courtroom at 5:35 p.m.)

6 THE COURT: All right, folks, everybody
7 can have a seat. And if anybody in the audience
8 wants to leave, they need to wait until the jury has
9 had a chance to get out of the building. There's
10 still a few more matters that I need to discuss with
11 the attorneys with regard to jury charges and,
12 specifically, ladies, I'd like for you to send any
13 proposed jury charges that you have directly to me.
14 Don't send them to my law clerk. I'm not gonna
15 announce my email address in open court, but ---

16 MS. ROSADO: And may we approach, Your
17 Honor? I have ---

18 THE COURT: Yes, ma'am.

19 (WHEREUPON, counsel approached the
20 bench for an off-the-record discussion.)

21 THE COURT: Ms. Martin, we weren't gonna
22 keep your banner. I'm gonna give it back to you,
23 but it doesn't need to be presented in open court
24 again. Okay?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And a less patient, a less
2 patient person might have held you in contempt of
3 court for that. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay? All right. So during
6 closing arguments and certainly while I'm charging
7 the jury on the law, there won't be any -- any
8 signs, any banners, anything of that nature
9 presented before this jury. And I promise you the
10 next time, if it occurs, I won't be as patient and
11 you might find yourself in contempt of Court. You
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You understand that if a
15 person is held in contempt of court, they can be
16 sentenced up to six months at the judge's
17 discretion. And I'm not singling you out but for
18 the fact that you pulled the banner out so I've got
19 to address it. You understand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. And because you've
22 caused no problems on your bond, I'm gonna extend
23 your bond over the weekend because you've shown up
24 for court. And as far as that's concerned, just
25 continue to do what you've been doing while these

1 charges have been pending. If you fail to appear,
2 the trial will proceed in your absence. You
3 understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. Thank you very
6 much. Folks, if the people from the Defense want to
7 leave, now -- now is the time. We'll do it stages
8 just like we've done over the course of the trial.

9 (WHEREUPON, the proceedings were concluded
10 for the day to be reconvened on May 16, 2022.)
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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence,
South Carolina, this 18th day of January, 2023.

Frances B. Ray

FRANCES B. RAY, RPR

1 STATE OF SOUTH CAROLINA)
2) IN THE COURT OF
3 COUNTY OF SUMTER) GENERAL SESSIONS
4
5 THE STATE,)
6 Plaintiffs,)
7 Vs.) CASE NO. 2021-GS-43-0091
8 BRITTANY V. MARTIN,)
9 Defendant.)

10
11 MAY 16, 2022

12 SUMTER, SOUTH CAROLINA
13

14 HONORABLE R. KIRK GRIFFIN, JUDGE

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

16 BY: BRONWYN K. MCELVEEN, ESQUIRE

17 Attorney for the Plaintiffs

18 BY: SYBIL D. ROSADO, ESQUIRE

19 Attorney for the Defendant
20
21
22

23 KATHERINE A. SPIRES

24 REGISTERED PROFESSIONAL REPORTER
25

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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CLOSING ARGUMENTS

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EX</u>
C-1	Note		91
C-2	Code of Laws		93
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C-4	Note		98

1 THE COURT: All right. Good morning
2 everyone. Before we get started, we've got some
3 issues to go over, specifically, a written motion
4 that I received this morning from the Defense and
5 the proposed jury charges which will be read at the
6 end of closing arguments. I'll be happy to take up
7 the motion first, Ms. Rosado.

8 MS. ROSADO: Thank you, Your Honor.
9 We've submitted a motion to dismiss for lack of
10 subject matter jurisdiction on the charge of the
11 breach of the peace of a high and aggravated
12 nature. And, basically, the State has not produced
13 any evidence that Ms. Martin has participated in
14 any kind of high and aggravated activities as
15 required.

16 The threatening of a life of a public
17 official and one count of aiding or participating
18 in a riot was first filed on June 2020. And then
19 April of '21 through direct presentment of charges,
20 the grand jury indicted Ms. Martin for the breach
21 of peace of high and aggravated nature.

22 The issue here first is that the high
23 and aggravated nature was never demonstrated here
24 in the court from the evidence. There was no
25 threatening of anybody's life. There was no

1 violence. There was no direct threat to anybody.
2 There was nothing there. On top of the fact that
3 the Court has made known of the fact that there is
4 no charge for breach of peace of a high and
5 aggravated nature. It is actually just a term of
6 identification for the type of charge, but it
7 should be based on the activities that actually
8 occurred during the event. And the fact that it
9 wasn't charged until April of 2021 also indicates
10 that it wasn't of a high and aggravated nature
11 because it took them nine months to decide to try
12 to add that on.

13 Additionally, the fact that the high
14 and aggravated nature of the crime, it requires
15 physical force, violence of a high and aggravated
16 nature to overcome the victim. That was not
17 testified to here in this court and there is no
18 testimony about that at all. Irritation,
19 certainly; but violence, no.

20 And subject matter jurisdiction can be
21 pled at any point in the trial and in this
22 particular case, Ms. Martin would like to argue
23 that point. Thank you so much.

24 THE COURT: Ms. McElveen?

25 MS. MCELVEEN: Yes, Your Honor. Your

1 Honor, I think Defense cites a federal civil
2 procedure code in her motion. But, Your Honor, we
3 certainly feel the breach of peace high and
4 aggravated nature is a common law offense,
5 something that a jury is to determine using their
6 own common sense, Your Honor. Breach of peace and
7 high and aggravated circumstances can be found by
8 these factfinders. We certainly feel that the
9 curfew put in place, the fact that businesses had
10 to shut down and even the discussion of having to
11 use tear gas in stopping of traffic are certainly
12 things that were testified to and could be factors
13 to be used to find a high and aggravated nature
14 component for the breach of peace, Your Honor.

15 Along with the threats of violence
16 given to officers. Although threats of violence
17 don't necessarily have to be a part of a breach of
18 peace high and aggravated nature, but they
19 certainly were present as demonstrated throughout
20 the case through a variety of quotes given by the
21 Defendant.

22 THE COURT: All right. Based on my
23 understanding of subject matter jurisdiction, the
24 indictment is the document which gives this court
25 subject matter jurisdiction over any criminal case.

1 This charge was presented to the grand jury earlier
2 this year. Was it earlier this year or earlier
3 last year, Ms. McElveen? In 2021?

4 MS. MCELVEEN: Your Honor, it was 2022
5 actually. The indictment was -- Your Honor, when I
6 reviewed it, I added the breach of peace high and
7 aggravated nature. That's when she was direct
8 presented, Your Honor, with that breach of peace
9 high and aggravated nature was in 2021.

10 THE COURT: All right. And ordinarily
11 breach of peace is a magistrate level offense. The
12 high and aggravated circumstances are the
13 allegations which bring it before the jurisdiction
14 of the circuit court. And as stated earlier, the
15 indictment is the document which confirms
16 jurisdiction upon the court of general sessions.
17 This charge was true billed on May 5, 2022 by the
18 Sumter County grand jury. Any of these factual
19 issues with regard to whether the circumstances of
20 aggravation exists to make this charge high and
21 aggravated are factual determinations that this
22 jury will have to make.

23 There has been -- evidence has been
24 presented that the jury could conclude would make
25 this high and aggravated. So, Ms. Rosado, I

1 respectfully deny your motion based on subject
2 matter jurisdiction.

3 Moving to the proposed jury charges. I
4 received Ms. Rosado's proposed charges earlier this
5 morning. And my focus with regard to her proposed
6 charges are going to be on the actual substantive
7 offense charges. The preliminary charges you
8 submitted, Ms. Rosado, I think are covered in my
9 general charges that have been provided to the
10 circuit judges by the -- by Court Administration.
11 So I really think our discussion needs to be
12 focused on the substantive charges of the offenses
13 that the Defendant is facing.

14 Ms. McElveen, does the State have any
15 proposed charges?

16 MS. MCELVEEN: No, Your Honor, because
17 there are no lesser included's in this case, Your
18 Honor. We are just asking that the charges be
19 presented by Your Honor as ordained by the books
20 provided.

21 THE COURT: Well, unfortunately, these
22 three charges, the substantive charges are
23 included. These are types of charges that rarely,
24 at least the breach of peace high and aggravated
25 and the instigating a riot, they are included

1 within the sample charges that we've been provided.
2 So, obviously, Ms. Rosado has cited the appropriate
3 elements and there are some parts which frankly I
4 feel like maybe my commenting on the evidence, I'm
5 going to need a little bit of time as -- while
6 y'all are making your closing arguments to look at
7 these charges and make sure that I strike through
8 anything that I believe is objectionable.

9 And really I'm looking at the, you
10 know, the First Amendment components of the
11 charges. To me this is kind of a blend of
12 substantive criminal statutes verses general First
13 Amendment law. It's a little bit out of the
14 ordinary for what we do on a day in, day out basis,
15 but while the closings are going forward, I should
16 be able to come up with.

17 MS. MCELVEEN: Your Honor, if I may?

18 THE COURT: Yes, ma'am.

19 MS. MCELVEEN: Your Honor mentioned
20 that you were going to use the definition of a riot
21 from *State v. Albert* and we are requesting that
22 that definition be used. That's what I'm opening
23 the law on based upon the Court's direction.

24 Also, we do object to the reference of
25 a rout verses a riot. That is not really something

1 that has been testified to or would be a part of a
2 jury charge and elements of offense. Rout is not
3 really something that is an element of instigating
4 or promoting a riot.

5 Also, Your Honor, we are asking that to
6 be made clear that a riot does not actually need to
7 take place for someone to be charged and found
8 guilty of inciting a riot. Because that language
9 is not included in this proposed charge.

10 THE COURT: And, Ms. McElveen, I agree
11 with you. I said I was going to use that charge.
12 I think what Ms. Rosado has cited are the cases
13 which *State v. Albert* relied upon in determining
14 the definition of riot. So I think -- and I'll
15 look at them again closely based on what my charge
16 states. But I think just on a first glance they're
17 the same because I remember seeing *State v.*
18 *Connelly* as one of the cases that was cited in
19 *Albert*. yeah, that's the same definition that Ms.
20 Rosado has presented. She just cited the older
21 cases and those are the cases that *Albert* relied
22 upon in the decision. So I think that's clear.
23 And I agree with you on the issues
24 verses rout verses riot, I don't think that
25 evidence is before this jury.

1 As far as lesser included's, I think
2 just standard breach of peace needs to be charged
3 and I've included that on the sample verdict form
4 for breach of peace high and aggravated. And it
5 states -- on that verdict form it states as to the
6 charge of breach of peace high and aggravated
7 nature, we the jury unanimously find the Defendant
8 not guilty or guilty of breach of peace of a high
9 and aggravate nature. If you unanimously find the
10 Defendant not guilty of breach of peace of a high
11 and aggravated nature, consider the following
12 charge. We the jury unanimously find the Defendant
13 not guilty or guilty of breach of peace.

14 I think based upon what I've heard
15 there are certainly an argument over whether these
16 high and aggravated nature or these high and
17 aggravated elements exists and so I think the
18 magistrate's level of breach of peace is
19 appropriate as a lesser included.

20 Is there any objection to that being
21 charged to the jury from the State?

22 MS. MCELVEEN: None, Your Honor.

23 THE COURT: From the Defense?

24 MS. ROSADO: Your Honor, the statute
25 actually also has in it the statement that this is

1 not to be construed to abridge people's rights to
2 free speech. If we add that then I would be fine
3 with it.

4 MS. MCELVEEN: Your Honor, we're happy
5 to remove the breach of peace lesser included from
6 the consideration of the jury if she doesn't want
7 it in there. We'd be happy just to have BOPHAN.

8 THE COURT: Ms. Rosado, what's your
9 position on that?

10 MS. ROSADO: The concept of breach of
11 peace, when you look at the statute, clearly says
12 that there do not intend for this to cover
13 protesting. I think that somewhere in the charge
14 that should be noted.

15 MS. MCELVEEN: Your Honor, I'm not
16 seeing anything in the statute about that. I'm
17 trying to find the statute.

18 THE COURT: I am too. 22-3-560
19 includes the penalty for breach of peace.

20 MS. MCELVEEN: And if you also look at
21 22-5-150, arrest of persons threatening breach of
22 peace, it does not mention protest either.

23 THE COURT: All right, folks. Based on
24 what I've heard I'm gonna -- we'll just send it
25 under breach of peace high and aggravated and I

1 will amend the verdict form as such.

2 All right, folks. As we proceed to
3 closing arguments, I just want to make one general
4 comment, directive, words of wisdom, however you
5 want to describe it. There will be things that are
6 said during the closing arguments which are true
7 arguments. They are a particular party's view of
8 what the evidence has shown and one side -- we'll,
9 actually both sides will probably say things during
10 these arguments that the other side disagrees with.
11 That's the nature of closing arguments.

12 So if you hear something and this is
13 directed to both the State and the Defense, if you
14 hear something during this closing -- these closing
15 arguments that you disagree with, there won't be
16 any exclamations, no statements made during the
17 closing arguments. The only people authorized to
18 speak during the closing arguments are the
19 attorneys when they have their turn and me.

20 So if you feel like these closing
21 arguments might be too much for you to take or may
22 engender some sort of response from you that you
23 can't control, it's probably a good time to step
24 out. Because if there are any outbursts,
25 exclamations, basically if I hear anybody's voice

1 other than my own, Ms. McElveen's or Ms. Rosado's,
2 that person will be removed from the courtroom.

3 Those are the ground rules and I intend
4 to follow them, so do with that information what
5 you will, but we're not going to have anybody else
6 speaking. This isn't the time to testify. This
7 isn't the time to disagree with anything that's
8 being said. These are arguments, these occur in
9 every criminal trial which is held in this state
10 and we're going to maintain order. We're going to
11 maintain decorum and I'm going to enforce the rules
12 of court. And, for example, if Chief Roark were to
13 exclaim something, it doesn't matter that he's the
14 chief of police, he's got to follow the rules just
15 like everybody else.

16 So, and I'm not singling out the Chief
17 Roark, I'm just using his position as an example.
18 It doesn't matter to me that he's the chief, if he
19 violates the rules, he's going to be treated just
20 like everybody else. So, that's about all I have
21 to say about that.

22 Anything else before we bring the jury
23 in for closings?

24 MS. MCELVEEN: Your Honor, I just want
25 to make sure for the sake of the record. The

1 State's objections just to the notes from the
2 Defense proposed voir dire that a riot does not
3 need to actually happen, we'd ask that that
4 language be included that a rout be removed. That
5 the right to protest is not found in the statute
6 and it not be included.

7 That Your Honor use your charge for
8 knowing and willful as prescribed that you usually
9 use in the course of your duties already. That we
10 do not include the language about heightened
11 fighting words required for police officers under
12 threatening the life of a public official.

13 MS. ROSADO: Well, Your Honor, I'm
14 going to have to object to that one. The
15 heightened language is absolutely necessary.
16 Because as the cases show, the police officer is
17 held to a different standard than a regular person
18 in the community. And they are based on the cases
19 suppose to have a higher level of resilience and
20 based on their training to being threatened.

21 MS. MCELVEEN: Your Honor, being a
22 public official that's titled they're called in the
23 statute unless it's covered by that in that
24 statute. Threatening the life of a public
25 official, not your ordinary citizen, a public

1 official.

2 THE COURT: Well, this is precisely why
3 I asked to receive these jury charges over the
4 weekend because I knew that there were going to be
5 these issues that we were going to have to deal
6 with. And, you know, this is the blend of the law
7 interpreting these criminal statutes verses the
8 First Amendment law that Dr. Rosado has cited and
9 these are United State Supreme Court cases. And --

10 MS. MCELVEEN: Your Honor, the State
11 would also object to Number 3 under the breach of
12 peace definition. I'm trying to figure out the
13 source for that definition. In light of the First
14 Amendment stuff, I'm trying to figure out the
15 source for these number elements. But we certainly
16 would object to Number 3, as a breach of peace does
17 not necessarily require violence to be a breach of
18 peace.

19 MS. MARTIN: (Inaudible.)

20 THE COURT: Ms. Martin, you were
21 listening to me when I talked about the only voices
22 I wanted to hear and I know said it was during the
23 closing arguments, but you heard me say that I want
24 to hear these lawyers voices and it wasn't time for
25 any exclamations. And I'm going to cut you a break

1 on that one because I did say during the closing
2 arguments and we haven't gotten there yet, but this
3 is a good -- this is instructive. If you do
4 something like that during the closing arguments,
5 I'm going to have to follow through on what I said
6 I was going to do, do you understand that?

7 MS. MARTIN: Yes, sir.

8 THE COURT: Okay.

9 MS. MCELVEEN: Your Honor, I don't know
10 if -- finally, the language after Number 4 in the
11 breach of peace high and aggravated --

12 THE COURT: I'm going to use my charge
13 for breach of peace high and aggravated nature. My
14 charge --

15 MS. MCELVEEN: Thank you.

16 THE COURT: -- my charge will define
17 breach of peace and then includes language that
18 states the Defendant is charged with breach of
19 peace of a high and aggravated nature. A person is
20 guilty of breach of peace of a high and aggravated
21 nature if he was an affrayer, rioter, disturber or
22 breaker of the peace or was dangerous or disorderly
23 or when armed offensively to terror of the public.
24 That was used in a recent case by Circuit Judge
25 Frank Addy for a breach of peace high and

1 | aggravated. So I will define general breach of
2 | peace and then include these circumstances of
3 | aggravation.

4 | And as far as the fighting words
5 | portion, I have -- I think it's clear that these
6 | Supreme Court cases do require obviously a little
7 | bit -- they require the fighting words absolutely
8 | and then when dealing with police officers a little
9 | bit -- police officers are held to a higher
10 | standard than your average citizen. I'll read
11 | appropriate portions of Ms. Rosado's charge where
12 | that -- where that concept is conveyed to the jury.
13 | I think a lot of, Ms. Rosado, what you've submitted
14 | is while certainly good law, I think some of it is
15 | commentary by the Court, you know. I'm going to
16 | limit it to elemental portions of the law, so.

17 | MS. MCELVEEN: Your Honor, may I ask
18 | for that case -- the name of the case Judge Addy
19 | had?

20 | THE COURT: Hold on one second. I've
21 | got it because he sent me the whole -- and it
22 | wasn't -- that was a murder case that included
23 | breach of peace high and aggravated. But it's
24 | *State verses Khalid, K-H-A-L-I-D, Cunningham.*

25 | MS. MCELVEEN: C-U-N-N-I-N-G-H-A-M?

1 THE COURT: Yep.

2 MS. MCELVEEN: Is it possible for you
3 to -- I mean, to have a case citation? Or how did
4 you -- how can I find a copy of that?

5 THE COURT: I had my clerk e-mail his
6 law clerk and it hasn't been reported. It was
7 tried within the last two or three months. I
8 remember a discussion about the jury charge on our
9 judicial list serve and so I had him send me the
10 charge he used.

11 MS. MCELVEEN: Since I have to quote on
12 the law, is there any way your law clerk could
13 possibly e-mail me the language that's used in your
14 charge so I know -- so I can accurately --

15 THE COURT: Just give us a moment.
16 Folks, while we're talking about ground rules and
17 procedures that are going to be followed,
18 immediately after the closing arguments are done,
19 I'm going to move on to the charge of law. And
20 while I'm charging the jury on the law, the
21 bailiffs will lock the back door and there won't be
22 any opportunity for any movement.

23 Now, what I'll probably do is give --
24 depending on how long the closing arguments are, we
25 might take a brief recess for bathroom breaks or

1 things of that nature. But once I start the charge
2 on the law, the doors will be locked, there won't
3 be any movement allowed. So -- but we'll see how
4 that goes with regard to timing in terms of how
5 long the jury or the closing arguments take.

6 MS. MCELVEEN: Beg the Court's
7 indulgence just one second.

8 THE COURT: And, again, the only
9 relevant portion of that charge will be the breach
10 of peace high and aggravated. It's -- those two
11 cases are not similar but for that one charge.

12 And, Ms. McElveen, I'm going to reverse
13 -- the way Judge Addy did it, I'm going to define
14 breach of peace first and then talk about the
15 circumstances of aggravation. I think it makes
16 more sense to do it that way.

17 MS. MCELVEEN: Thank you, Your Honor.
18 But you're not charging breach of peace; right?

19 THE COURT: Well, you've got to charge
20 breach of peace -- the elements of breach of peace
21 to get to breach of peace high and aggravated, but
22 I'm not sending that as a potential verdict or a
23 lesser included on the breach of peace high and
24 aggravated charge. But I do have to define common
25 law breach of peace that would be in the

1 magistrate's level offense to get to breach of
2 peace high and aggravated.

3 MS. MCELVEEN: Thank you, Your Honor.

4 THE COURT: Ms. McElveen, is the State
5 ready to go ahead?

6 MS. MCELVEEN: Yes, sir, Your Honor.

7 MS. ROSADO: I thought we were waiting
8 for the copies of the charge? Did it come in the
9 e-mail?

10 MS. MCELVEEN: I just got a charge from
11 the old case for the breach of peace definition
12 he's using in his charge. I didn't get his charge,
13 no, ma'am.

14 THE COURT: Yeah and this charge is
15 cobbled together from my printed -- I'll be happy
16 to make copies of it afterwards. But it's kind of
17 a hodgepodge of what's been submitted, so I don't
18 have an electronic copy of it. Okay. Ms. Rosado,
19 my law clerk is telling me that the e-mail that he
20 sent to Ms. McElveen and to you has been kicked
21 back.

22 MS. MCELVEEN: Your Honor, I can
23 forward mine.

24 THE COURT: Okay. See if that works.

25 MS. ROSADO: Your Honor, is there a way

1 | that we could get a physical copy of the charges
2 | before we start so that I know exactly what we're
3 | dealing with so that I know if I need to object or
4 | not?

5 | THE COURT: Well, I mean, this is kind
6 | of putting me in a position of -- because I'm
7 | making my notes as to what I think is appropriate
8 | charge from what's been submitted. I'm really kind
9 | of -- I've stricken through -- and I'm going to be
10 | working on this -- here's what I'll do. As you're
11 | making your closings, I will do my best to make it
12 | clear on what's been submitted, what I'm charging
13 | and what I'm not. We'll take a break after the
14 | closings. We'll make copies of the charge and I'll
15 | give them to you before I charge on the law. And
16 | that's the best I can do. I mean, I've had -- this
17 | jury has been sitting back here an hour already, so
18 | I will provide you a copy of what I'm going to
19 | charge before I charge it.

20 | MS. ROSADO: Thank you, Your Honor.

21 | THE COURT: All right. As far as
22 | order, it will be State, Defense, State.

23 | MS. MCELVEEN: Yes, sir.

24 | THE COURT: Bring us the jury.

25 | (WHEREUPON, the jury entered the

1 courtroom at 10:42 a.m.)

2 THE BAILIFF: The jurors are all
3 seated, Your Honor. You may be seated.

4 THE COURT: All right. Ladies and
5 gentlemen, thank you for your return here this
6 morning. As we've reach the point in this trial
7 where the attorneys will present their closing
8 arguments to you. The procedure we'll follow is
9 the State will go first followed by the Defense and
10 then the State will have the opportunity to rebut
11 any arguments which the Defense has made.

12 Ladies and gentlemen, please provide or
13 pay close attention to the lawyers as they make
14 their closing arguments to you. These will be
15 their arguments on what they believe the evidence
16 shows. With that being said, I'll recognize the
17 State, Ms. McElveen.

18 MS. MCELVEEN: Thank you, Your Honor.

19 CLOSING ARGUMENT

20 BY MS. MCELVEEN:

21 Ladies and gentlemen, thank you for
22 coming back. After a long week last week, we
23 certainly appreciate you being here this morning.

24 As you can see from the testimony and
25 what you saw last week, this case is very

1 important. It's important to the police
2 department. It's very important to the Sumter
3 community. It's important to the State of South
4 Carolina and it's important to Ms. Martin and you
5 play the most important role. You are the finders
6 of fact. I'm going to open on the law and then I
7 will address you again after the Defense has
8 spoken.

9 But Ms. Martin is charged with three
10 different crimes. The first, inciting or promoting
11 a riot. I copied the statute there on the screen.
12 You can easily read, but a person who is convicted
13 of riot or participating in a riot either by being
14 personally present or by instigating, promoting or
15 aiding the same is guilty. If the offender
16 directs, advises, encourages or solicits other
17 persons present or participating in a riot to acts
18 of force or violence.

19 A riot is defined there from case law
20 to be a tumultuous disturbance of the peace by
21 three or more persons. No, it does not have to be
22 thousands of people, just three or more. Assembled
23 together of their own authority with the intent
24 mutually to assist each other against anyone who
25 shall oppose them and putting their design into

1 execution in a terrific and violent manner whether
2 the object was lawful or not.

3 Note that a riot does not have to
4 actually happen. The person has to promote or aid
5 it, direct, advise, encourage or solicit a riot.
6 The riot doesn't have to actually happen. At the
7 same time, looking at this definition of a riot,
8 State's position is that a riot actually did occur.
9 Albeit small ones, not the thousands of people
10 riots that we hear about the burning in the streets
11 and pillaging.

12 But if you look at these elements,
13 three or more persons, Ms. Martin and her family
14 and the people with her, assembled together with
15 the mutual intent to assist each other against
16 anyone who would oppose them. Police department,
17 other citizens, peaceful protestors who were
18 opposing them. Even those people. And in a
19 terrific or violent manner. Blocking traffic,
20 threatening officers, chest bumping, vulgar slurs,
21 shutting down businesses.

22 As you can see from the videos and her
23 own testimony, the Defendant had the goal of
24 creating these situations in which officers would
25 react. Ms. Martin wanted a riot. She wanted that

1 battle. Her own witness called it a battlefield
2 and she testified that she wanted to fight, fight,
3 fight, fight, fight. Ms. Martin was there to put
4 officers in a situation with the hopes that they
5 would react in a way that would justify her
6 behavior and further her position.

7 And she claimed ownership of these
8 riots. Every single day she claimed ownership.
9 May 31st, she held herself out as the leader to
10 Colonel Jackson. He pulls her aside and talks to
11 her. Gives a police escort. June 1st, she gave
12 commands people drive the car, drive the car. No,
13 you're driving. She's leading it. Get your hands
14 off of my property. We didn't put -- she's
15 speaking for the group. She ran off peaceful
16 protestors in front of the police department. I
17 think she said, this ain't y'all's protest. Leave
18 my protest.

19 June 2nd she said, I'm the one holding
20 the protest here. Not we. I'm the one holding the
21 protest here.

22 June 3rd at the end of threatening the
23 officers, she tells Colonel Jackson, I got my
24 people. My people. You got your people. She
25 owned these riots. These protests.

1 The testimony even indicates that she
2 thought she was inciting a riot. On May 31st, she
3 stated, now they worried about a riot, they ready.
4 We are ready. Don't worry about that y'all. Y'all
5 come on and get ready. She said it herself. You
6 can hear it in the videos. She is inciting or
7 encouraging, advising, directing a riot. No matter
8 what happened or not. Legally, I think elements
9 are there. Even if you don't think there's a riot,
10 she is trying to make a riot happen.

11 Her own witness even said the officers
12 were there and putting on tear gas to stop a
13 possible riot. They didn't use that gas, thank
14 goodness. But even her own witness admitted that
15 they were there to hopefully stop a possible riot.

16 She's also charged with five counts of
17 threatening the life of a public official. Here's
18 the legalese again. It's unlawful for a person
19 knowingly and wilfully to deliver or convey to a
20 public official and a law enforcement officer, a
21 police officer, is a public official or to a
22 teacher, principal of an elementary or secondary
23 school, any letter or caper, writing, print,
24 missive, document or electronic communication or
25 verbal or electronic communication which contains a

1 threat to take the life of or to inflict bodily
2 harm upon that public official if the threat is
3 directly related to the public official's
4 professional's responsibilities.

5 A police officer is a public official.
6 And while executing their duties in a very tough
7 time, very tough time for everyone, she is out
8 there threatening to do bodily harm. And there are
9 five counts. One for each officer, but, frankly,
10 there are a lot more officers on those steps. But
11 the officers whose threats were direct towards
12 Captain Rabon, Colonel Jackson, Sergeant Pinckney,
13 Captain Singleton and Sergeant Major Sinkler.
14 You've heard from all of those officers that they
15 felt threatened that day.

16 You're going to -- throughout our
17 testimony, she gave threats throughout multiple
18 days. May 31st, we ready. You hear me like I am.
19 You bleed like I do. You cut my arm, I cut your
20 arm. You black my eye, I black my eye -- your eye.
21 You kill me, I kill you and that's real.

22 May 31st, if we get met with any
23 excessive force, we're going to use our Second
24 Amendment. I'm telling you that y'all we about.
25 I'm telling you right now that everybody's ready.

1 Let'em follow and if anybody gets touched,
2 everybody knows what's up.

3 June 1st, sitting on the car talking to
4 Captain Rabon. She want trouble, we gonna bring
5 it. I'm telling you, you want to F with, I'm the
6 wrong one to F with.

7 June 2nd, yelling in that SLED
8 officer's face at the gas station. It's attack
9 time N word, it's attack time N word.

10 Also on June 2nd in front of the
11 officer, we built this MF'er for free. We that's
12 why we gonna burn it down. And, finally, the
13 culmination that finally was the straw that broke
14 the camel's back due to the threats, we're a threat
15 now, they'll be been a threat. You can't tell us
16 how to F'ing protest and where the F to protest.
17 We around the bitch. We aren't leaving this bitch.
18 Y'all want war, y'all got it. Go call all our
19 hitters now, you tell them to get ready,
20 everybody's strapped, everybody. Y'all better be
21 ready. Them vests ain't gonna save you. Some of
22 us is going to be hurt and some of y'all are going
23 to be hurt. We ready to die for this. We tired of
24 it. You better be ready to die for the blue. I'm
25 ready to die for the black. I'm dying for the

1 black, you better be ready to die for the blue.
2 Chief, it's your call. We got our people, you got
3 your people.

4 Ladies and gentlemen, that's a direct
5 threat. These officers are sitting ducks on the
6 front steps of that police department. They're
7 wearing vests and she knows where they are and
8 she's threatening to get people to put out hits on
9 them. She's calling hitters, strapped, wear guns,
10 come up here, shoot these officers that are sitting
11 on these steps trying to calm this riot, trying to
12 calm the peace. Ladies and gentlemen, that was the
13 ultimate threat.

14 And finally, the breach of peace of a
15 high and aggravated nature. This is a common law
16 offense. It's kind of different. Common law we
17 kind of equate with a common sense kind of offense.
18 But a breach of peace is a violation of the public
19 order or a disturbance of the public peace or any
20 act or conduct inciting violence. It includes any
21 violation of any law enacted to preserve peace in
22 good order which is standing in roadways, not
23 riding on top of cars, having a police escort,
24 peace means the peace which is enjoyed by the
25 citizens of the community whether certain conduct

1 constitutes a breach of peace depends on the time,
2 place and nearness of other persons. That's your
3 common sense. That's when you as jurors use your
4 common sense, did this breach the peace? Did this
5 breach the peace of our community.

6 And though breach of peace includes
7 acts which are likely to produce violence, we are
8 not required to prove that actual violence took
9 place or that the peace was actually broken. If
10 what was done was unjustifiable and unlawful
11 tending with sufficient directness to break the
12 peace, that's all we have to prove, ladies and
13 gentlemen. No violence, no actual violence has to
14 happen.

15 High and aggravated nature includes
16 some additional elements or some suggestions on
17 what makes it a high and aggravated nature. If an
18 affrayer, rioter, there's that keyword there that
19 rioter, disturber and breaker of the peace was
20 dangerous and disorderly or when armed offensively
21 to the terror of the public. It's an or situation.
22 And so we don't -- there are no points of any
23 testimony that she was armed. There were threats
24 that she would get her people that were armed to
25 come by and kill these officers. But she was

1 dangerous and disorderly and she breached the peace
2 of our community.

3 Ladies and gentlemen, you're going to
4 hear from Defense and I'll be back to join you.
5 But when considering a high and aggravated nature,
6 you need to look at what the officers had to do in
7 light of Ms. Martin. A curfew had to be put in
8 place, ladies and gentlemen. The chief, the mayor
9 and city counsel felt the need to put this curfew
10 in place to protect the citizens of Sumter and to
11 protect these officers. A whole city shut down
12 because of Brittany Martin and her group. That,
13 ladies and gentlemen, is breach of peace in a high
14 and aggravated nature.

15 I look forward to addressing you again
16 more specifically on this case after the Defense
17 attorney speaks. Thank you.

18 THE COURT: Thank you, Ms. McElveen.
19 Ms. Rosado?

20 CLOSING ARGUMENT

21 BY MS. ROSADO:

22 MS. ROSADO: "You may write me down in
23 history
24 With your bitter, twisted
25 lies.

1		You may trod me in the
2	very dirt,	
3		But still, like air, I'll
4	rise.	
5		Does my sassiness upset
6	you?	
7		'Cause I walk like I've
8	got oil wells	
9		Pumping in my rooms.
10		Does my haughtiness offend
11	you?	
12		Because I move like I can
13	move.	
14		Did you want to see me
15	broken?	
16		Bowed head and lowered
17	eyes?	
18		Shoulders falling down
19	like teardrops,	
20		Weakened by my soulful
21	cries.	
22		Don't you take it awful
23	hard.	
24		'Cause I laugh like I've
25	got gold minds	

1 Diggin' in my backyard.
2 You may shoot me with your
3 words,
4 You may kill me with your
5 hatefulness.
6 But still, like air, I'll
7 rise.
8 Does my sexiness upset
9 you?
10 Does it come as a surprise
11 That I dance like I've got
12 diamonds
13 At the meeting of my
14 thighs?
15 I rise
16 Up from a past that's
17 rooted in pain
18 I rise
19 A black ocean, leaping and
20 wide,
21 I rise."

22 Ms. Martin is rising. This is an
23 example of someone who has stood up for everyone
24 else. This is not an example of what the
25 prosecution has decided to characterize it as.

1 If you think back to the very beginning
2 of this trial, the prosecution promised you they
3 would show you a video of Ms. Martin snatching
4 somebody's flag off their vest. She promised you
5 she would show you an officer Ms. Martin forced to
6 get on the ground and then she stood on his head.
7 She promised you that she would show you Ms. Martin
8 rioting. But after we watched the videos, what did
9 we see? We saw no justice, no peace. Hands up,
10 don't shoot.

11 We saw people protesting the horrors
12 that occur in our society. We saw people fighting
13 the power. We saw people, yes, taking the two
14 ladder crew version of F- the police. But we also
15 heard police chief say that's not against the law.
16 Cuss words are not against the law even if you
17 don't like it. What we see here is an irritation.
18 The police were irritated by Ms. Martin's
19 protesting. They were irritated. They spent four
20 whole days working twelve hours a day which they do
21 anyway. They were irritated. They were not
22 harassed. They were not frightened. They handed
23 her Gatorade and helped her with her broken shoe as
24 she walked away from the march. They patted her on
25 the back and said, don't worry, I'm going to come

1 and join you later.

2 Are these frightened officers? Do you
3 believe these are frightened officers? Frightened
4 of Ms. Martin? No. Irritated by? Yes.
5 Frightened by? No. Threatened by? No. There's a
6 difference. A person who's threatening you usually
7 don't say I'll meet you afterwards and help you
8 march. A person who's threatening you doesn't ask
9 you over and over again, please, please, if you all
10 are so concerned about us, block off the highway.
11 If you're concerned and you want to help us, set it
12 up so we can make this march. And what do we see
13 on the videos? We see them doing that. We hear
14 communication from the officers who testified here
15 saying, we're going to get you back on the road.
16 Saying, I'll meet you at the end of the way. Which
17 way do you all want to go?

18 The very same day they geared up and
19 put on their tear gas outfits and pulled out their
20 tear gas guns before, supposedly, Ms. Martin said
21 anything really threatening. So who was
22 threatened? Was it the people who saw the tear
23 guns and tear masks come out and the snipers on the
24 roof while they were trying to have a peaceful
25 march? Or was it the police who were standing

1 | there together in unison?

2 | One of the things when you go and look
3 | at the video there were marchers, yeah. There was
4 | a sleepy little march. Oh, and that's exactly what
5 | the people called it on Facebook when they live
6 | streamed it. Sleepy march in Sumter. They didn't
7 | say riot, they said sleepy march. That was the
8 | prosecutions's last piece of evidence that we saw
9 | on Friday. A sleepy march where one of the
10 | officers who was attempting to bridge the gap
11 | between the marchers, the protestors, and the
12 | police, took off his pin that said -- that had the
13 | thin blue line and put it away and then they fist
14 | bumped. Then another officer kneels down. He lays
15 | on the ground to simulate how George Floyd felt.
16 | How it would feel to be George Floyd. And the
17 | crowd goes crazy in solidarity with him.

18 | There is a way to police protestors.
19 | And clearly, some officers in Sumter County know
20 | how. And some officers in Sumter County may need
21 | more training. Often times in my work, I end up
22 | training police officers to be better at what they
23 | do. This is an example of an overreaction to an
24 | underdevelopment. This was not a riot. This was
25 | not affray. This was a march with some loud mouth

1 people who were irritated.

2 Sumter didn't enact a curfew for
3 Brittany Martin. Sumter enacted a curfew because
4 in 2020 there were 4,000 marches across the world
5 protesting George Floyd. Sumter didn't set up
6 Brittany Martin. Sumter was afraid one of those
7 4,000 real marchers might come to Sumter, not
8 Brittany Martin. They didn't face the kinds of
9 things that we saw in other states, in other
10 cities. They faced a few people complaining and
11 marching and being very loud and sustaining that
12 march for a few days.

13 The marches went on far longer than
14 four days, didn't they? Everybody remembers that.
15 Every other day it seemed as if there was a new
16 march, a new complaint, a new protest. And
17 unfortunately, the media that we expose ourself, we
18 get exposed to also showed us every day there was a
19 new event. Every day in America we're faced with
20 danger and Brittany Martin is trying to stop that.
21 Brittany Martin said, let's get together and have a
22 protest march. Let's stop this. Let's change.
23 She reached out. She extended the olive branch.
24 She asked for the consideration of please, block
25 the street off for us. That doesn't sound like a

1 person trying to at least start a riot. You don't
2 say, hey, can you block off the street for me while
3 I participate in this riot? No. That's a person
4 trying to exercise her First Amendment rights to
5 free speech in our country.

6 Each and every one of us has the right
7 to say what we believe in our country. We do not
8 live in Russia. There's nobody going to sensor
9 what I'm doing and keep me from looking at certain
10 things on the internet and stop me from
11 participating in what is my actual civil duty. My
12 civil duty is to stand up. Because if I don't
13 stand up for people who can't stand up for
14 themselves, who does? That's why you go to church
15 and tithe. That's why you help out when you see
16 the homeless people. These are all parts of our
17 civic duty. We are here and those of us who can,
18 those of us who are strong, do. Philanthropy,
19 activism, whatever you can do, you do. Everybody
20 has their niche for how they give back to the
21 community. And if disrupting the social media is
22 Ms. Martin's choice, we should not stop her from
23 doing that because that is a part of her given
24 right as an American to exercise her First
25 Amendment right.

1 Now, when we look at things like, well,
2 Ms. Martin -- Ms. Martin said, I'm going to use my
3 Second Amendment if you all use excessive force
4 against me. Ms. Martin didn't say, I'm going to
5 shoot you. I'm going to get you. I'm going to
6 kill y'all. She said, if you meet me with
7 excessive force, I will defend myself. Wait, is
8 that a threat or is that an understanding that,
9 hey, if you beat me up, I am going to fight back.
10 Doesn't everybody fight back if they are attacked?
11 Isn't that fair to allow Ms. Martin to fight back
12 and to say, I'm not afraid? Why is it that we
13 require her to be afraid of the police?
14 Now, I'm afraid of them, but, hey,
15 that's me. What she does and what I do are two
16 different things and that's because we're Americans
17 and I don't have to do the same thing she does.
18 That's the other beautiful part of our culture and
19 our country. I get to be me and she gets to be her
20 over there. Okay. That is a right. She doesn't
21 dictate what I do, I don't dictate what she does.
22 Now, if she needs to speak out then she can be
23 controlled based on where she marches and that's
24 what the police did. She can be controlled on when
25 she marches and that's what the police did. But

1 she can't be controlled on what she says when she
2 marches. Content is not a part of police control.
3 They do not get to tell you what to say. They can
4 tell you where to stay it, stand over here, get off
5 the road. They can say when to say it. Go home by
6 six and that's what we hear on the videos. Curfew
7 is coming, get off the street. It's time to go
8 home. That is in the purview of the police.

9 But what you say, F the police. Hands
10 up. Don't shoot. Black lives matter. All of
11 these slogans, all of these statements are just
12 that. They are free speech. They are not threats.
13 They are not attacks. And let's go over some of
14 those things.

15 May 31, 2020, Ms. Martin said, we
16 protesting. We have every right to do what we
17 doing. If we get met with excessive force, we are
18 going to use our Second Amendment rights. Ain't
19 nobody touching us. Everybody knows what's up. Is
20 that a threat? No. That's saying, hey, you stay
21 over there. Don't tread on me. Oh wait, where
22 have I heard that before? Classic; right? Don't
23 tread on me. It's the same concept. Because she
24 uses new words doesn't make it a new idea. You
25 don't mess with me, I won't mess with you. That's

1 not a threat. That's a god given America right to
2 say, hey, my house is my castle. My body is my
3 temple. You don't get to beat me up, I won't beat
4 you up. We'll be cool.

5 Moving on. This is just a job y'all
6 got, we ready. Y'all human like I am. You bleed
7 too. You cut my arm, I cut your arm. You black my
8 eye, I black your eye. You kill me, I kill you.
9 That's real. Now, is that a threat? No. That's
10 in the bible. An eye for an eye. That's a
11 statement about not being afraid and not being
12 intimidated.

13 When the police showed up in the gas
14 masks and the snipers are on the roof, you have a
15 choice. Now, I would have chosen to go home. Ms.
16 Martin chose to say, I'm not afraid. I'm going to
17 stand my ground. I am not going to be intimidated
18 by your desires to keep me from speaking out about
19 this horrific reality that George Floyd and Breonna
20 Taylor represented.

21 Again, the prosecution started off by
22 saying that this is not about race. This is not
23 about Breonna Taylor. This is not about George
24 Floyd. Ms. Martin would not have been outside
25 marching if it weren't for those things. But for

1 those events, she would have been at home watching
2 TV or maybe marching about something else somewhere
3 else. But not here marching about that.

4 This is absolutely rooted in the
5 oppression and the issues that we have experienced
6 with police departments in America. It can't be
7 separated. And it's unfortunate that it can't be
8 separated. Again, give us a police escort if you
9 care about us. They so worried about us, they
10 can't block the street off for us and let us
11 protest? We're protestors, shut it down if you
12 care about us. Cut it off and give us a police
13 escort. How many times can she beg for help?
14 She's begging for help. She's begging for her
15 rights. She's begging for assistance with
16 protesting.

17 Now, Ms. Belcher is in the road walking
18 down the middle of the road, did they arrest her?
19 No. She's running for mayor. But they arrested
20 Ms. Martin because again, this is really not about
21 just the protest. This is about the irritation
22 that Ms. Martin represents to them. Ms. Martin
23 spends her days thinking of ways to protest things
24 that she sees are unjust. She is a professional
25 protestor she told us. She considers herself

1 driven by god to protest and stand up for others.
2 That is her right to believe. That doesn't make
3 her a narcissist. That makes her a person who is
4 doing what they think they should do. That makes
5 her a person who is driven and who has a purpose in
6 life. And how many of us would like to have some
7 of our kids have a purpose.

8 When you look at who's getting
9 punished, who's getting pointed out, who is the
10 focus of these things? Ms. Martin didn't run up
11 and chest bump someone. Watch the video. Ms.
12 Martin stepped in between her sister and the police
13 officer who bumped him -- bumped her first. Yes,
14 Ms. Martin put her breast on the police officer's
15 vest and they call it breast to vest. Because in
16 part, one of the things that her movement has done
17 is identify the reality that the black men in the
18 movement cannot be upfront doing things that might
19 be pursued as aggressive. Because what happens is
20 oftentimes an overreaction. Race is an integral
21 part of this conversation unfortunately.

22 When we talk about what a protest looks
23 like, what a march looks like, what a riot looks
24 like, and we turn our eyes to January 6th. What
25 does a riot look like? We all have seen one. It's

1 not unfamiliar now because we've actually seen one.
2 But then what does a protest look like? We've seen
3 those too. We've seen John Lewis cross the bridge.
4 We've seen people in the Orangeburg lunch counters
5 getting pulled away and arrested. And we've seen
6 people here in Sumter experiencing the exact same
7 things. One of the interesting things is the law
8 in Sumter that Ms. Martin is being charged with was
9 also used in the '60's against the -- the very same
10 protestors that were a part of the civil rights
11 movement. It's the same law being used in the same
12 way now in a different situation.

13 So we haven't changed what we're doing,
14 we just are doing the same thing and expecting
15 different results. Unfortunately, that doesn't
16 tend to work, does it? So when you talk about
17 who's chest bumming and who's being aggressive, if
18 putting my breast up against your vest is a fight
19 moment then what is saying that you better run
20 nigger because I'm going to kill you. Your own
21 police chief didn't fire his officer for saying
22 those statements directly to a person. He instead
23 recommended that that person get training and
24 development because he thought he could be
25 rehabilitated. That's a threat. I'm -- you better

1 run nigger because I'm going to kill you is a
2 threat. I'm willing to die for the black, are you
3 willing to die for the blue is not a threat. It's
4 a political commentary. She did not say, officer
5 such and such, I'm going to kill you and your
6 family too. Which is a threat, yes. She said, I
7 am willing to die for the black, are you willing to
8 die for the blue? That vest ain't going to protect
9 you. This is crazy, why are you doing this? You
10 only make \$40,000 a year. She's having a political
11 conversation with these people. She's trying to
12 tell them, hey, you know what, you don't make
13 enough money to risk your life. This is crazy.
14 Why would you do this? That's a political comment.

15 Hey, my work might not maybe they'll
16 change their minds. Look at what some of them did.
17 They took off the blue line pin. They laid down
18 and showed their solidarity. Officers are people
19 too. They recognize that things, atrocities hurt
20 them also. So officers who are compassionate
21 understand that a few bad apples have spoiled
22 things for everyone and made things look bad for
23 everyone when not everyone is like that and that's
24 why you see the officers on the video taking off
25 the pin. Laying down to show we are one community.

1 It's not black lives or blue lives, it's all lives
2 matter.

3 Now, why do people have to say black
4 lives matter? Because, traditionally, they have a
5 matter and it was important to say it out loud.
6 Just like when the black power movement came and
7 people said, I'm black and I'm proud. Why would
8 you have to say that? Because you've been taught
9 not to be and taught not to say I'm black and I'm
10 proud. That black wasn't something to be proud of.
11 It was something to hide, something to get rid of.
12 So stating I'm black and I'm proud was a form of
13 protest against that idea. The same concept occurs
14 here. Ms. Martin is attempting to discuss with
15 these officers, hey, do you think that's a good
16 choice? No, how about do something else. Do you
17 really want to be here doing this? Ms. Martin is
18 out on the 31st of May maybe with 25 or 30
19 protestors and 20 police officers and what happens,
20 you get the 10 code. Nobody is rioting. Nobody is
21 upset. Nobody is screaming and hollering, jumping
22 on police officers, they're just talking loud. And
23 what does he say, he says arrest them all. 10-67,
24 arrest them all and they go in and put on the riot
25 gear. This is before Ms. Martin said anything that

1 could be perceived of as a threat. This is at the
2 very beginning of the march. This is the first
3 day.

4 So the concept that it took days and
5 days for this to build up and she harassed them for
6 all these days and tortured them, it doesn't really
7 match. Because on day one from jump street they
8 were ready with the riot gear. When I asked the
9 officers, did you put on riot gear? Do you
10 remember they said, no, there wasn't a riot. We
11 didn't put on riot gear. And then we look at the
12 video of them putting on riot gear. I'm not clear
13 on what I would think if I saw people putting on
14 riot gear. But I think I would be concerned. When
15 they put on the gas masks, I'd be concerned. I
16 don't want to get gassed. That was my least
17 favorite part of police academy. Getting gassed.
18 Let's get tased or get gassed. Neither one was
19 fun.

20 Gas is horrible. People actually went
21 to get milk because they knew if we get the tear
22 gas on us and we rub our faces with the milk it
23 will stop burning as much. Why do you need to know
24 that when all you're doing is trying to assert your
25 rights? You're trying to speak. You're having a

1 political dialogue. That shouldn't be a part of
2 what goes on. Ms. Martin worked with the police.
3 They say in the video, she's going to do what we
4 ask her to do. That's Ms. Martin speaking to the
5 police officer and she's telling the people who the
6 State would have you believe are her rioters.
7 She's saying, no. No. No. Don't worry, she's
8 going to do what we want her to do and the officer
9 did just that. She drives behind them. She gives
10 out Gatorade. She talks to them. She says, I'm
11 proud of you. She helps Ms. Martin with her broken
12 shoe at the end of the day and says, I'm going to
13 come and join y'all later. Is that a person who's
14 frightened and threatened? No. That's an officer
15 trying to protect people who are protesting
16 lawfully. That's an officer showing her empathy.
17 Helping the people who need help at the moment
18 because that's what they do. That's their job to
19 help us.

20 Now, is it a hard job? Yeah. Does it
21 sometimes last four days in a row and 12 hours a
22 day? Yeah. Can you imagine how many hours it
23 would take to assist people when they've been
24 victimized by something? It takes a long time.
25 Every time we report to a negative scene, it takes

1 a long time. That's a part of the job. It's a
2 hard job and a lot of times very vagueness and Ms.
3 Martin understands that. Again, heads her
4 commentary, why are you doing this? If you're not
5 going to fix the solution, don't be a part of the
6 problem. And the officers who took off the badge,
7 laid down, are trying to be a part of the solution.

8 So you have a situation where Ms.
9 Martin even says, I am just mad. I'm just
10 disappointed. They think we against each other,
11 but let me tell you something, I ain't seen black
12 cops killing people. I really ain't got no problem
13 at all -- with all of y'all, I'm just mad. I'm
14 just disappointed with you. Think that we against
15 each other. That's not a threat. That's not a
16 statement of us against you. That's a statement
17 about how unfortunately the way the dynamics are
18 playing out in social media and in our country, it
19 is not black cops that are killing black people.
20 It is unfortunately primarily white cops that are
21 killing black people. And her commentary is about
22 that. That's political commentary.

23 What are we to do? Should we silence
24 people because we don't like what they say, is that
25 what our country's about? Should we keep people

1 from standing up for their rights, is that what our
2 country's about? It's not. Our country is founded
3 on the concept that diverse ideas can stand next to
4 each other and still thrive. I think some silly
5 stuff my momma said and I think she thinks some
6 silly stuff, but we can hang out together and I'll
7 do what she says, but she's my momma and we work
8 together.

9 Now, people always tease me and if the
10 clan came tomorrow and asked me to defend them, I
11 would be here defending their rights to speak too
12 because it's not about the content of the speech.
13 It's not about the person. It's about the
14 fundamental reality that this is something we all
15 get to hold on to. We all get to hold on to our
16 freedom of speech. That is for us all no matter
17 whose hand it's placed in. I can like the hand or
18 dislike the hand. Irrelevant. It's the right to
19 be able to speak about my truth cannot be abridged
20 because you don't like it or because I use cuss
21 words. It does not rise to the level of breach of
22 the peace for me to use a cuss word. It depends on
23 where I use it.

24 Now, in a march where everybody is
25 marching, yes, probably. Not my choice, but maybe

1 | somebody else's. That does not in and of itself
2 | make me a rioter. It doesn't make me a threatener
3 | because I say a cuss word. Because I'm loud, it
4 | does not make me a problem. Unfortunately, in our
5 | country, we have tended to stigmatize certain
6 | people. If there is a party at the college full of
7 | people it's going to be perceived differently
8 | depending on who those people are.

9 | Much like the January 6th event. That
10 | event has been characterized a lot of different
11 | ways in the news. Some people say it was just the
12 | meeting. Some people say it was a riot. Some
13 | people say it was a protest. Some people say it
14 | was just people picnicking on the lawn. It depends
15 | on your prospective. Now, am I to humanize people
16 | who see it as a picnic? No. That's their
17 | perception. Am I to be angry with people because
18 | they went out and exercised their free rights? No.
19 | You have a right to assemble in America and they
20 | exercised it.

21 | Now, when we think about these
22 | different concepts, what I want you to think is, is
23 | it a riot or a protest? A protest is when I'm
24 | concerned and I'm outside upset about something and
25 | I'm making noise, how do you protest? Are we to

1 protest in silence? Are we to not say words that
2 are offensive to other people's ears? That's not
3 how protest work all the time. You don't get to
4 control the content of what I say when I'm
5 protesting. You get to control where I say it and
6 when I say it. In a manner, the time and the
7 place, absolutely under government control. The
8 content of what I say is sacred. It is not to be
9 disturbed by the government's decisions about what
10 I can say.

11 Now, when we talk about the elements of
12 a riot, the tumultuous disturbance of the peace
13 where three or more people assemble together of
14 their own authority with the intent to mutually
15 assist each other against anyone who shall oppose
16 them. Now, the State has already told you they
17 seem to be two different groups going on there.
18 How can she be mutually assisting with these two
19 different groups? Are they all part of this riot?
20 Or just her friends? Was this her family who was
21 planning the riot? How does this work? The
22 problem is it doesn't. Because there was no riot
23 because it doesn't fit the definition. It was a
24 protest march.

25 When we talk about putting into their

1 design execution of a terrific and violent manner
2 whether or not the object was lawful or not, what
3 was terrific about it if not walking down the
4 street. What was terrific and violent about
5 carrying posters? What was terrific and violent
6 about yelling at the police? Do you think Ms.
7 Martin is the first person to yell at the police
8 during a protest march? No. I'm sure of it.

9 When we talk about intentional threats,
10 y'all want more, you got it. Go call our hitters.
11 I'll tell you get them ready. Everybody. The vest
12 ain't going to save you. Some of us are going to
13 get hurt and some of y'all are going to get hurt.
14 Ready to die for this. We tired of it. Are you
15 ready to die for the blue, I'm ready to die for the
16 black. I'm dying for the black. You better bet
17 ready to die for the blue. Chief, it's your call.
18 Chief, it's your call.

19 Now, sounds to me like she's saying if
20 y'all going to hurt us, we're going to fight back.
21 We're not going to stand here and let you kill us
22 anymore. It's all about prospective. Living in a
23 community where people get pulled over and don't
24 make it home because they're driving the car and
25 they were (inaudible/someone coughed) going to be

1 tased, but ends up getting shot. That's the
2 community I live in.

3 I live in a community where when I send
4 my sons out, I'm concerned about how they're going
5 to interact with the police if they have to
6 interact with the police. Because in my community
7 that's a dangerous activity. That's an activity
8 you avoid at all cost. That's not an activity you
9 seek oftentimes in my community. And Ms. Martin's
10 community is the same way. In her community, in
11 her protest, she is protesting what happened to
12 George Floyd. She is protesting being oppressed.
13 And in that protest she's saying, I'm sick of you
14 all killing us. You got to stop killing all these
15 people.

16 People go and end up dead from being at
17 their house asleep on the sofa. End up dead trying
18 to pass a \$20 counterfeit bill. End up dead
19 getting in the car trying to drive through the
20 McDonald's and get shot at. That's the community
21 we live in. You cannot separate that reality from
22 the different stories of all of these different
23 shootings and that's what Ms. Martin is protesting.
24 She's saying you got to stop doing the same thing
25 and expecting different results.

1 Race, riots, community, that's what
2 this case is about. Our rights. Unfortunately,
3 race can't be ignored in this concept. This is a
4 different experience depending on where you stand
5 on this platform. If you've never been pulled over
6 by the police and frightened that something bad was
7 going to happen because you were black, you won't
8 really understand that concept. But you will
9 understand the concept of having been given a
10 ticket. You will understand the concept of feeling
11 as if things aren't fair.

12 Ms. Martin is protesting things that
13 she feels have been unfair. She doesn't think it's
14 fair for George Floyd to have been executed in the
15 street rather than having him go to jail. Jail was
16 fine and she said that on the stand. She said, you
17 know, they didn't have to shoot him 17 times. They
18 could have shot him in the leg.

19 One person shouldn't judge another
20 person. It should be at least 12 people judging.
21 And what Ms. Martin is protesting is the fact that
22 so many singular police officers have been able to
23 judge and take the lives of so many people in our
24 community. She doesn't want that to happen
25 anymore. She's willing to fight for it. She's

1 willing to die for it. How many of us are willing
2 to die for a cause? I don't know if I'm willing to
3 die for it, but I'm definitely willing to fight for
4 it. So I wouldn't have said I'm willing to die, I
5 would said I'm willing to fight. But that's me and
6 that's where I get my freedom of speech. I can say
7 how far I'm willing to go. I'm not going to be
8 angry with her because she's willing to go further.
9 She took off her shoes after that march and her
10 feet were hurting and the shoe broke and the
11 officer's trying to help her, I thought to myself,
12 that's exactly why I'm not out there walking. I
13 have bad feet. I don't want to commit in that way.
14 But I can't be mad at her for wanting to carry the
15 message and speak to these issues. If she doesn't
16 speak to these issues, if someone doesn't speak to
17 these issues, will anything change?

18 When about 35 years ago when Rodney
19 King was one of the first video surveillance things
20 that we had that came into the forefront and people
21 said, oh, my goodness, he's getting beat up by the
22 police. Prior to that, people had heard stories
23 about people getting beat up. They didn't have a
24 video of it. They didn't have actual video of it.
25 Part of what's happening now is that we see these

1 things on video because of social media and because
2 everybody's carrying a cell phone with a camera.
3 So now you do see these things. Now they're no
4 longer myths.

5 So now that we know this is actually
6 happening, it's our job to try to stop it and
7 that's what Ms. Martin has done. She's trying to
8 stop the injustice that's being videotaped all
9 around, live streaming all around us. She is
10 attempting to protest injustice, not threatening
11 people's lives. You don't ask people to help you,
12 those off the street because you want to kill them.
13 We ask them to help you close out the street
14 because you're having a protest march. You tell
15 people step back.

16 Many times in the video other
17 protestors are far more agitated than Ms. Martin
18 and they jump toward the police and she steps in
19 between them and puts those breasts to those vests.
20 That's not aggressive I'm trying to hurt you,
21 that's to let me keep these children down move
22 because they are not acting right and I'm going to
23 stop them. Even though she speaks louder, even
24 though she uses profanity, she still understood the
25 concept of I am less at risk of being hurt than

1 | this person who is more agitated and we don't want
2 | anybody hurt.

3 | Over and over and over again in the
4 | crowd you hear people say we just want to be
5 | peaceful. We're trying to be peaceful. We're
6 | being peaceful. But just because you're being
7 | peaceful doesn't mean you have to not use profanity
8 | and you have to do and say what the government
9 | says. The government doesn't control what we say
10 | in America, we do. This is not Russia. This is
11 | America.

12 | I'm asking y'all today to think very
13 | carefully about this right that we all have to free
14 | speech. Ms. Martin exercised her right to free
15 | speech and that is all. She did not directly
16 | threaten anyone. She did not lay in wait for
17 | anyone. She did not cause anyone to be hurt or
18 | burned or destroyed. It was a sleepy little
19 | protest in Sumter and that's all.

20 | Unfortunately, as you heard the police
21 | officers testify, this was their first real protest
22 | march in their memories. Because there were
23 | protest marches here in the '60's, but this was
24 | their first real protest march and so it was
25 | aggravating to them.

1 Aggravation is not a threat.

2 Aggravation is a part of the job when you're a
3 police officer. We shouldn't be like, oh, gosh,
4 she wasted so much time. What has this trial been?
5 If we're talking about who's wasted time, who's
6 wasted time and money, it seems as if prosecuting
7 Ms. Martin exercising her First Amendment rights is
8 more of a waste of time than her protest march.

9 Sumter didn't create a curfew for Ms.
10 Martin. Sumter created a curfew because of COVID
11 and the George Floyd marches and the Breonna Taylor
12 marches that were happening across the country.
13 Those were the reasons that curfew came about.
14 Nobody got up in the city counsel meeting and said,
15 we're going to set up this curfew because Brittany
16 Martin is harassing the police. No. They said
17 we're concerned, we see all of these different
18 police marches around the country, we are
19 frightened. We are concerned. Let's do something
20 to make sure what we see in these other places
21 doesn't happen here. That had nothing to do with
22 Ms. Martin. She could have been anywhere else
23 marching at the same time and that still would have
24 been a concern. Because at that time, if you
25 transport yourself back to that time, it was a

1 | frightening time. We didn't know what was
2 | happening from day-to-day with COVID and then it
3 | seemed like every other day somebody was getting
4 | killed. So between the two, it was a very high
5 | stress situation that had nothing to do with Ms.
6 | Martin at all.

7 | Ms. Martin's protest just added to the
8 | high stress situation that was already there. But
9 | if she didn't protest, were we expecting
10 | (inaudible). Would our First Amendment rights be
11 | free for us all to use if people like Ms. Martin
12 | didn't say it? No.

13 | I would ask you today to go back there
14 | and vote that Ms. Martin is not guilty of all these
15 | charges. She did not create a riot. She did not
16 | try to create a riot. She did not willfully and
17 | intentionally threaten anyone. I wouldn't have
18 | known that people felt like that was a threat if I
19 | had said it. I can't imagine that she would have
20 | known. And she said on the stand she did not
21 | intend to threaten anyone. She intended to stand
22 | up for her rights. She intended to make statements
23 | about politics and how things work in our country.
24 | She did not intend to threaten anyone's life. She
25 | did not cause a riot. She did not cause public

1 disturbance. She led a protest march and that's
2 all.

3 So help me to help her continue to
4 rise. Maya Angelou talks about how we all have to
5 rise to the occasion. Ms. Martin rose to the
6 occasion. Let's not punish her for it. Thank you.

7 CLOSING ARGUMENT

8 BY MS. MCELVEEN:

9 MS. MCELVEEN: Ladies and gentlemen,
10 apples and oranges. Apples and oranges. The real
11 are issues verses the non-issues. What's relevant
12 verses irrelevant. What this case is about verses
13 what it's not about. Ladies and gentlemen, the
14 oranges, not an issue in this case. Black lives
15 matter. Blue lives matter. George Floyd. Breonna
16 Taylor. Dr. Martin Luther King. And if you'll
17 remember from Dr. Rosado's opening statements, she
18 compared the Defendant to Dr. Martin Luther King.
19 How insulting to Dr. King is that? Dr. King
20 encouraged love, empathy, inclusivity. If given
21 olive branches, Dr. King took them. Brittany
22 Martin didn't take olive branches. How insulting
23 to Dr. King.

24 A Maya Angelou poem, not an issue.
25 John Lewis, civil rights movement. Rodney King.

1 January 6th, not an issue. Politics in general,
2 not an issue. None of these are issues here. The
3 only issue we have, ladies and gentlemen, is
4 Brittany Martin, her actions, her behavior. What
5 she said. What she did. How she behaved. That's
6 the apple. That's the real issue here. Not the
7 oranges, the apple.

8 We're talking about rights, ladies and
9 gentlemen. The Second Amendment right to free
10 speech. No one is trying to stop Brittany Martin
11 from speaking. You saw officers, gave them places
12 to peacefully protest. Gave Ms. Martin her group
13 those places. Gave her police escorts. Asked for
14 her to just wait for those escorts. Olive branch
15 after olive branch. Sergeant Gayle, yes, she gave
16 Gatorade. She helped her with her shoe. And
17 Brittany Martin turned around the days afterwards
18 and slaps Sergeant Gayle in the face by threatening
19 her on the steps and her fellow officers. Sergeant
20 Gayle said, please, thank you, yes, I'd love to, I
21 support your cause. Brittany Martin slapped her in
22 the face the days after that.

23 Brittany Martin, ladies and gentlemen,
24 is the issue here. I'm going to play a clip of the
25 important parts of these videos. Don't worry, not

1 all of them, together. While you're watching
2 these, I wrote down some words that Dr. Rosado
3 characterized these interactions as. While
4 watching these videos, ask yourself if it truly is
5 attempting to discuss with officers. Merely
6 irritating or aggravating. Is it a statement about
7 how things work in the community? Is it a critical
8 dialogue? Is Ms. Martin working with police? Is
9 it political commentary? Is it diverse ideas
10 standing next to each other and thriving? When
11 peaceful protestors are pushed away, is that
12 everybody thriving? Is it -- is it not a direct
13 threat, she said she didn't directly threaten
14 anyone. Watch the video especially on June 3rd of
15 what was said. Was it a peaceful march? Ladies
16 and gentlemen, I'm going to play this video.

17 (Playing the video.)

18 MS. ROSADO: I thought we already
19 watched these videos, Your Honor?

20 (Playing the video.)

21 MS. MARTIN: Please add that he called
22 me a nigger. Make sure y'all add that --

23 THE COURT: Ms. Martin.

24 (Playing the video.)

25 THE COURT: Pause that, Ms. McElveen.

1 MS. SPIRES: I can't hear what Ms.
2 Martin is saying.

3 THE COURT: Y'all come up.

4 (WHEREUPON, there was a bench
5 conference.)

6 (Playing the video.)

7 MS. MCELVEEN: Ladies and gentlemen,
8 you saw for yourself, was that a peaceful march?
9 Was that an attempt to communicate with officers
10 and work with them? As you can see from Ms.
11 Martin's testimony in these videos, she's gotten an
12 inflated sense of herself and her importance in
13 this community. What she admitted to by her own
14 testimony, two weeks prior. She said she was
15 ordained for this. She's a prophetess and a gift
16 for her ancestors. She is the voice for everyone.
17 You can tell she controlled her crowd. She made
18 hand motions, verbal commands on what to do. She
19 drove off peaceful protestors and prevented them
20 from expressing themselves.

21 Members of the Sumter community were
22 taken away the ability to have their Second
23 Amendment right. Ladies and gentlemen, we have
24 rights. We have the right to express ourselves.
25 We have a right to a second -- to say what we want

1 to say. But at a certain point those rights, if
2 you exercise them, there are limits. I have a
3 right to drive, but if I drive while intoxicated
4 and I kill somebody, hit and kill them, I'm going
5 to be held accountable for that even though I have
6 the right to drive. I have a right to keep and
7 bear arms. But if I go out and shoot someone for
8 no reason, I'm going to be held accountable for
9 that despite my rights.

10 At what point does Brittany Martin's
11 right to free speech infringe on everybody else's
12 rights? The right to be safe. A right to these
13 officers not to be threatened while exercising
14 their duties. A right for the Sumter community to
15 not have traffic stopped, to not have a curfew.

16 Ladies and gentlemen, you heard from
17 the chief that curfew was put in place for Brittany
18 Martin. That curfew was not for COVID. That
19 curfew was not for general riots. That curfew was
20 put in place for Brittany Martin.

21 You can tell that Brittany Martin has
22 to be told yes. And if not, it's a personal
23 injustice to her. And she speaks even more loudly,
24 but she acts even more poorly. She likes to
25 exercise control and she never stops to think about

1 her -- how her behavior victimizes everyone else.
2 On the stand she was a victim of everyone. The
3 police department, the mayor, the city, me, her
4 sisters, the police in Iowa, Illinois, everybody
5 victimized Brittany Martin. Brittany Martin never
6 realized how she was victimizing others. Her
7 father that she brought her without his medical
8 stuff, the police with these events, the community,
9 the mayor's office when she's going to city counsel
10 meetings by her own testimony, her sisters, making
11 them file papers to get their dad back so he can
12 get medical treatment. Peaceful protestors, she
13 victimized them time and time again. She
14 victimized her own son by running him over, hitting
15 him. Ladies and gentlemen, and now she is
16 victimizing the Sumter community on these dates and
17 that curfew was put in place for her.

18 I think the best indication of her
19 guilt is the question I asked her at the end. And
20 I said, if these officers behaved towards you the
21 way you behaved towards them, would that be
22 acceptable? Would their behavior be okay if they
23 were chest bumping her and yelling vulgar comments
24 and threatening to kill her, would that be okay?
25 Brittany Martin tried to say, yes, that would be

1 okay. But it's not okay. And it's time now to
2 tell Ms. Martin that this is not okay.

3 You have a right to free speech. You
4 have a right to express yourself, but other people
5 have rights too. It is not all about Brittany
6 Martin. It is about everyone and everyone's
7 rights. This is not okay. Thank you.

8 THE COURT: Ladies and gentlemen of the
9 jury, we've been in the courtroom about an hour and
10 a half, my charge on the law will likely take about
11 30 minutes. It's probably a good time for
12 everybody to take a recess, so we're going to take
13 a recess until 12:15. At that time, I will begin
14 the charge on the law which is applicable to this
15 case.

16 So please go to your jury rooms -- your
17 jury room, excuse me. Do not begin your
18 deliberations, you have not heard the charge on the
19 law. Please don't do any research about any issue
20 raised in this case. Please do not discuss the
21 case amongst yourselves until you are told to do
22 so. We'll be back at 12:15.

23 (WHEREUPON, the jury left the courtroom
24 at 12:05 p.m.)

25 THE COURT: All right. We'll be in

1 recess until 12:15.

2 (There was a short break.)

3 THE COURT: Hold on one second, Mr.
4 Tomlin.

5 THE BAILIFF: All right, sir.

6 THE COURT: All right. Again, folks,
7 once the charge on the law begins, the doors will
8 be locked from the outside. Obviously, it won't be
9 locked from the inside in case there were some
10 reason someone had to leave in an emergent nature,
11 but once I start the jury charge, I don't want any
12 moving around. You won't be able to get out or in
13 unless under normal circumstances. So the charge
14 will probably take about 30 minutes, so if anyone
15 feels that they can't sit in one place and remain
16 relatively still for that timeframe, now would be
17 the time to exit the courtroom.

18 Once the jury charge is over, the doors
19 will be returned to normal and people will be
20 allowed in and out. But that is how things will go
21 during the charge of the law to the jury. Anything
22 before we begin?

23 MS. MCELVEEN: Your Honor, we received
24 a copy of your jury charge and looking under the
25 section heightened fighting words required where

1 police officers are threatened. After Subsection
2 3, there are three sentences back to back which we
3 feel are put together would be a commentary on the
4 evidence. It's basically saying -- well,
5 essentially the same thing three times in a row.

6 The First Amendment protects a
7 significant amount of verbal criticism and
8 challenge directed at police officers. The
9 fighting words exception may require narrower
10 application in cases involving words addressed with
11 a police officer, because a properly trained
12 officer may be expected to exercise a higher degree
13 of restraint than the average citizen.

14 And then the freedom of individuals
15 verbally to oppose or challenge police action
16 without thereby risking arrest is one of the
17 principal characteristics by which we of a free
18 nation.

19 Your Honor, we would ask that one of
20 those sentences instead of all three or just all of
21 them together we feel would be a commentary on the
22 evidence of the case, although we understand the
23 need to include one of them.

24 THE COURT: Ms. Rosado?

25 MS. ROSADO: Your Honor, I think that

1 the First Amendment is sacred. And that
2 understanding there's a difference between what you
3 say to people who are every day people verses
4 police officers is critical in this case.
5 Understanding the concept of fighting words and how
6 that plays into whether or not they felt
7 threatened, whether or not they were actually
8 victimized in this case is critical.

9 The fact that individuals are verbally
10 able to oppose or challenge police action without
11 risking arrest, it is, it's a fundamental thing
12 that helps support our First Amendment rights.

13 THE COURT: And, Ms. Rosado, let me
14 stop you right there because I think I agree with
15 you with the exception of one spot. I think in the
16 face of verbal challenges to police action officers
17 or municipalities must respond with restraint, I
18 don't think there's any evidence that they
19 responded in any fashion in this case other than
20 restraint. I mean, there is the portion that's on
21 video and the jury will have it to watch that there
22 were preparations to dawn the right gear. But
23 apparently upper level command staff reversed that
24 decision.

25 So I'm going to take in the face of

1 verbal challenges to police action officers in
2 municipalities must respond with restraint out. I
3 don't think that's particularly relevant in this
4 situation, but the remainder of it I'm going to
5 keep in. I'm trying to balance obviously the
6 statutory requirements of the charges verses the
7 First Amendment jurisprudence and I think the
8 portions that I've chosen to charge in this case is
9 an accurate representation of what the blending of
10 these two different areas of law require in this
11 case, so.

12 MS. ROSADO: Thank you, Your Honor.

13 THE COURT: Bring them in.

14 (WHEREUPON, the jury entered the
15 courtroom at 12:24 p.m.)

16 THE BAILIFF: The jurors are all
17 seated, Your Honor.

18 JURY CHARGE

19 BY THE COURT:

20 THE COURT: Thank you, sir. Members of
21 the jury, please give me your attention as it is
22 now my duty as the trial judge to instruct you on
23 the law which is applicable to this case. And in
24 that regard, it is your duty as jurors to accept
25 and apply the law as I now state it to you.

1 Furthermore, it is your exclusive duty to decide
2 all the issues of fact in this case and determine
3 the effect, value and weight of the evidence. The
4 State and the Defense have the right to expect that
5 you will carefully consider and evaluate the
6 evidence and apply the law of this case to it, so
7 that in the end, both the State and the Defense
8 have received a fair and impartial trial.

9 I remind you that, during this trial,
10 you and I have certain duties to perform. As the
11 trial judge, it is my responsibility to preside
12 over the trial of this case, and I also have the
13 duty to rule on the admissibility of the evidence
14 offered during this trial. You are to consider
15 only the competent evidence before you. If there
16 was any testimony ordered stricken from the record
17 in this case and during this trial, you must
18 disregard that testimony. You are to consider only
19 the testimony which has been presented from this
20 witness stand, any exhibits which have been made a
21 part of this record in this case, and any
22 stipulation of counsel.

23 I have the additional duty to charge
24 you the law applicable to this case. And as the
25 presiding judge, I am the sole judge of the law of

1 this case, and it is your duty as jurors to accept
2 and apply the law as I now state it to you. If you
3 already have any idea as to what the law is or what
4 the law ought to be and it does not agree with what
5 I now tell you the law is, you must abandon this
6 idea because you are sworn to accept the law and
7 apply the law exactly as I state it to you.

8 In every case tried in this court
9 before a jury, the jury becomes the sole and
10 exclusive judge of the facts in the case. A trial
11 judge cannot intimate, state, comment on, or make
12 any statement to a trial jury about the facts in
13 the case. Since you, the jury, are the sole judge
14 of the facts in this case, you are not to infer
15 from what I've said during the trial in ruling upon
16 the admissibility of evidence, or otherwise, or
17 anything that I say now during the course of this
18 instruction to you, that I have any opinion about
19 the facts in this case. The law does not allow me
20 to have an opinion about the facts in this case.
21 This is solely a matter for you, the jury, to
22 determine. As jurors it is your duty to determine
23 the effect, value, weight, and truth of the
24 evidence presented during the trial.

25 The indictment charges the Defendant

1 with breach of peace of a high and aggravated
2 nature, instigating a riot, and threatening the
3 life of a public official and there are five counts
4 of that charge. I remind you the fact that the
5 Defendant was arrested, charged and indicted in
6 this case, is not evidence in this case and cannot
7 be considered by you as evidence of guilt in this
8 case, nor does it create any presumption or
9 inference of guilt. This document is simply the
10 formal, written instrument which contains the
11 charges made against the Defendant. It is the
12 formal document by which the case is brought into
13 court.

14 The indictment in this case alleges
15 several different offenses against the Defendant.
16 As stated before, the charges are breach of peace
17 of a high and aggravated nature, instigating a
18 riot, and threatening the life of a public official
19 and there are five of those charges. Each charge
20 is a separate and distinct offense. You must
21 decide each charge separately on the evidence and
22 the law applicable to it uninfluenced by your
23 decision as to any other charges the Defendant may
24 be convicted or acquitted on, any or all of the --
25 of any of all the offenses charged. You will be

1 asked to write a separate verdict of guilty or not
2 guilty for each charge.

3 The Defendant has pleaded not guilty to
4 this indictment and that plea puts the burden on
5 the State to prove the Defendant guilty. A person
6 charged with committing a criminal offense in South
7 Carolina is never required to prove herself
8 innocent.

9 I charge you that it is an important
10 rule of law that the Defendant in a criminal trial,
11 no matter what the seriousness of the charge may be
12 will always be presumed to be innocent of the crime
13 for which the indictment was issued unless guilt
14 has been proven by evidence satisfying you of that
15 guilt beyond a reasonable doubt. This presumption
16 of innocence does not end when you begin your
17 deliberation, but it accompanies the Defendant
18 throughout the trial until you reach a verdict of
19 guilt based upon evidence satisfying you of that
20 guilt beyond a reasonable doubt.

21 The presumption of innocence is like a
22 robe of righteousness placed about the shoulders of
23 the Defendant which remains with the Defendant
24 until it has been stripped from the Defendant by
25 evidence satisfying you of the Defendant's guilt

1 | beyond a reasonable doubt.

2 | The presumption of innocence is not a
3 | mere legal theory. It is not just a legal phrase.
4 | It is a substantial right to which every Defendant
5 | is entitled unless you, the jury, are satisfied
6 | from the evidence of the Defendant's guilt beyond a
7 | reasonable doubt.

8 | What is reasonable doubt in the law? A
9 | reasonable doubt is the kind of doubt that would
10 | cause a reasonable person to hesitate to act.

11 | The State has the burden of proving the
12 | Defendant guilty beyond a reasonable doubt. Some
13 | of you may have served as jurors in civil cases
14 | where you were told that it is only necessary to
15 | prove that a fact is more likely true than not true
16 | such as by the greater weight or preponderance of
17 | the evidence. In criminal cases the State's proof
18 | must be more powerful than that. It must be proof
19 | beyond a reasonable doubt.

20 | Proof beyond a reasonable doubt is
21 | proof that leaves you firmly convinced of the
22 | Defendant's guilt. There are very few things in
23 | this world that we know with absolute certainty,
24 | and in criminal cases the law does not require
25 | proof that overcomes every possible doubt. If,

1 based on your consideration of the evidence, you
2 are firmly convinced that the Defendant is guilty
3 of the crime charged, you must find the Defendant
4 guilty. If on the other hand, you think there is a
5 real possibility that the Defendant is not guilty,
6 you must give the Defendant the benefit of the
7 doubt and find her not guilty.

8 Ladies and gentlemen, there are two
9 types of evidence which are generally presented
10 during a trial, direct evidence and circumstantial
11 evidence.

12 Direct evidence is the testimony of a
13 person who claims to have actual knowledge of a
14 fact such as an eyewitness.

15 Circumstantial evidence is proof of
16 chain of facts and circumstances indicating the
17 existence of a fact.

18 The law makes absolutely no distinction
19 between the weight or value to be given to either
20 direct or circumstantial evidence. Nor is a
21 greater degree of certainty required of
22 circumstantial evidence than a direct evidence.
23 You should weigh all of the evidence in the case.
24 After weighing all of the evidence, if you are not
25 convinced of the guilt of the Defendant beyond a

1 reasonable doubt, you must find the Defendant not
2 guilty.

3 Direct evidence directly proves the
4 existence of a fact and does not require deduction.
5 Circumstantial evidence is proof of a chain of
6 facts and circumstances indicating the existence of
7 a fact.

8 Crimes may be proven by circumstantial
9 evidence. The law makes no distinction between the
10 weight or value to be given to either direct or
11 circumstantial evidence. However, to the extent
12 the State relies on circumstantial evidence, all of
13 the circumstances must be consistent with each
14 other and when taken together point conclusively to
15 the guilt of the accused beyond a reasonable doubt.
16 If these circumstances merely portray the
17 Defendant's behavior as suspicious, the proof has
18 failed.

19 The State has the burden of proving the
20 Defendant guilty beyond a reasonable doubt and this
21 burden rests with the State regardless of whether
22 the State relies on direct evidence, circumstantial
23 evidence or some combination of the two.

24 Necessarily, you must determine the
25 credibility of witnesses who have testified in this

1 case. Credibility simply means believability. It
2 becomes your duty as jurors to analyze and evaluate
3 the evidence and determine which evidence convinces
4 you of its truth. In determining the believability
5 of witnesses who have testified in this case, you
6 may believe one witness over several witnesses or
7 several witnesses over one witness. You may
8 believe a part of the testimony of a witness and
9 reject the remaining part of the testimony of that
10 same witness. You may believe the testimony of a
11 witness in its entirety or reject the testimony of
12 a witness in its entirety. You may consider
13 whether any witness has exhibited to you any
14 interest, bias, prejudice or other motive in this
15 case. You may also consider the appearance and
16 manner of a witness while on the witness stand.

17 In order to establish criminal
18 liability, criminal intent is required. For
19 example, the mental state required to be proven by
20 the State for a particular crime might be purpose,
21 intent, knowledge, recklessness or criminal
22 negligence. Criminal intent must be proven by the
23 State beyond a reasonable doubt. Criminal intent
24 is always a matter that must be determined by the
25 jury from the circumstances surrounding the

1 situation. There is no way to prove intent to a
2 mathematical certainty. There's no way medical
3 science can dissect a person's brain and determine
4 what the person had in mind. So the law says that
5 criminal intent may be inferred from the
6 circumstances shown to have existed. This is how
7 you make a determination of whether or not the
8 element requiring intent was present. It is not
9 necessary to establish intent by direct and
10 positive evidence, but intent may be established by
11 inference in the same way as any other fact by
12 taking into consideration the acts of the parties
13 and all the facts and circumstances of the case.

14 Criminal intent is a mental state. A
15 conscious wrongdoing. It is up to you to determine
16 what the Defendant intended to do based upon the
17 circumstances shown to have existed.

18 Criminal intent can arise from action
19 or a failure to act. It may arise from negligence,
20 recklessness or an indifference to duty or
21 consequences that is considered by the law to be
22 the equivalent of criminal intent.

23 Ladies and gentlemen, there has been
24 evidence presented that witnesses have made prior
25 statements which are not consistent with the

1 witness's present testimony. You may use this
2 evidence to decide whether to believe the witness.
3 You may also use the evidence of the earlier
4 contradictory statements to determine the truth of
5 those statements. It is up to you to decide
6 whether to believe the earlier statements or the
7 testimony given at trial.

8 If a witness is shown to have knowingly
9 testified untruthfully concerning any material
10 matter, you may consider this in determining
11 whether to trust the witness's testimony as to
12 other matters. You may reject all testimony of
13 that witness or give all or part of the testimony
14 the weight you think it deserves.

15 Ladies and gentlemen, the Defendant is
16 charged in the indictment with breach of peace of a
17 high and aggravated nature. Breach of peace is the
18 violation of the public order or the disturbance of
19 the public peace or any act or conduct inciting
20 violence. This includes any violation of any law
21 enacted to preserve peace in good order.

22 Peace means the peace which is enjoyed
23 by the citizens of the community, whether certain
24 conduct constitutes a breach of peace depends on
25 the time, place and nearness of other persons.

1 Although a breach of peace includes
2 acts which are likely to produce violence, the
3 State is not required to prove that actual violence
4 took place or that the peace was actually broken.
5 If what was done was unjustifiable and unlawful,
6 tending with sufficient directness to break the
7 peace, no more is required.

8 Breach of peace of a high and
9 aggravated nature, a person of guilty -- is guilty
10 of that charge if the person was an affrayer,
11 rioter, disturber and breaker of the peace or was
12 dangerous and disorderly or when armed offensively
13 to the terror of the public.

14 The Defendant is also charged in this
15 indictment with instigating a riot. The Defendant
16 is charged with that crime and that crime is
17 defined as that the accused did riot or did
18 participate by instigating or promoting or aiding
19 in the same whether a person present or not, the
20 person is convicted of riot or participating in a
21 riot either by being personally present or by
22 instigating, promoting or aiding the same.

23 And this code section must not be
24 construed to prevent peaceable assembling of
25 persons for lawful purposes or protest or petition.

1 A riot is defined as an tumultuous
2 disturbance of the peace by three or more persons
3 assembled together by their own authority with the
4 intent to mutually assist each other against anyone
5 who shall oppose them in putting their design into
6 execution in a terrific and violent manner whether
7 the object was lawful or not.

8 Again, this section does not seek to
9 prevent peaceable assembling of persons for lawful
10 purposes of protest or petition and the State is
11 not required to prove a riot actually occurred.

12 And, finally, ladies and gentlemen, the
13 Defendant is charged with threatening the life or
14 bodily harm to a public official or a family member
15 of that public official. It is unlawful for a
16 person to knowingly and willfully to deliver or
17 convey to a public official any letter or paper,
18 writing, print, missive document or electronic
19 communication or verbal or electronic communication
20 which contains a threat to take the life or inflict
21 bodily harm upon the public official or members of
22 his immediate family if the threat is directly
23 related to the public official's professional
24 responsibilities.

25 The State must prove beyond a

1 reasonable doubt that the Defendant knowingly and
2 willfully or conveyed to a public official verbal
3 communication which contains a threat to take the
4 life of or inflict bodily harm upon the public
5 official or members of his or her immediate family.

6 In order to prove the element of
7 threats to take life or inflict bodily harm against
8 police officers, the prosecution must prove the
9 Defendant used more than mere fighting words or
10 abusive phrases. The words must be by their very
11 utterance -- the words used must by their very
12 utterance inflict injury or tend to incite an
13 immediate breach of peace they must be directed at a
14 specific person and they must be inherently likely
15 to cause the officer to react with violence and
16 finally the words must have no role in the
17 expression of ideas.

18 In law, fighting words are abusive
19 words or phrases directed at the person of the
20 addressee and inherently likely under circumstances
21 to cause an average person to react with violence
22 and playing no role in the expression of ideas.

23 The First Amendment protects a
24 significant amount of verbal criticism in challenge
25 directed at police officers. The fighting words

1 exception may require narrow application in cases
2 involving words addressed to a police officer
3 because a properly trained officer may be
4 reasonable expected to exercise a higher degree of
5 restraint than the average citizen. The freedom of
6 individuals who verbally oppose or challenge police
7 action without thereby risking a risk is one of the
8 principal characteristics of a free nation.

9 If you find that the State has proven
10 each element of this offense beyond a reasonable
11 doubt then you must find the Defendant guilty. If,
12 however, you find the State has failed to prove any
13 element of the offense beyond a reasonable doubt
14 then you must find the Defendant not guilty.

15 Now, ladies and gentlemen, there are
16 multiple verdicts which are possible in this case
17 and that is due to the multiple number of charges
18 which have been made in this indictment. And so
19 there are a total of seven verdict forms, ladies
20 and gentlemen, and they are each separate and
21 distinct of each other. And, essentially, ladies
22 and gentlemen, as to each verdict form there are
23 two choices, guilty or not guilty. Now, you --
24 don't take any -- there's no reason beyond or
25 reason why one is listed before the other, one just

1 simply has to come first.

2 So as you deliberate, ladies and
3 gentlemen, you are to review each of these separate
4 and distinct verdict forms and make a decision of
5 guilty or not guilty as to each of them. And,
6 again, they each stand on their own.

7 Once you've reached a unanimous verdict
8 on these verdict forms, the foreperson will fill
9 out the verdict form, you'll sign the verdict form
10 as the foreperson and let the bailiffs know that
11 they have -- that you have reached a unanimous
12 verdict as to the charges. And I'm going to hand
13 the verdict forms to the bailiff and he will hand
14 them to the foreperson at this time.

15 Now, ladies and gentlemen, again, your
16 verdict as to each of these charges must be
17 unanimous. That means all twelve of you must
18 agree. And, Mr. Foreperson, it is your job to
19 preside in the jury room over these deliberations.
20 I would ask that only deliberate when all of you
21 are present in the room. If one of your members
22 has to step out for any reason whatsoever whether
23 it's to go to the restroom or for whatever -- any
24 reason, all twelve jurors must be in the jury room
25 while you're deliberating. If one steps out,

1 deliberations needs to cease.

2 If you have anything that needs to be
3 brought to the Court's attention, you need to write
4 that on a piece of paper, hand it to the bailiff
5 after you've signed it and the bailiff will bring
6 it to my attention.

7 Again, once you've reached a unanimous
8 verdict on all of these verdict forms, notify the
9 bailiff and we will bring you back into court to
10 receive the verdict.

11 Ladies and gentlemen, at this time, I'm
12 going to send you to your jury room as you have
13 heard the charge on the law. Please do not begin
14 your deliberations yet. Once you've received the
15 items of evidence which have been admitted in this
16 case that will be your signal to begin your
17 deliberations. So at this time, please go to your
18 jury room and wait for the signal to begin your
19 deliberations. Again, that signal will be the
20 items of evidence being brought in for your
21 consideration. Thank you very much.

22 (WHEREUPON, the jury left the courtroom
23 at 12:45 p.m.)

24 THE COURT: All right. Any further
25 objections other than what's been raised with

1 regard to the trial -- or the charge?

2 MS. MCELVEEN: Nothing from the State,
3 Your Honor.

4 MS. ROSADO: Nothing, Your Honor.
5 Thank you.

6 THE COURT: Ladies, if you will come
7 and make sure we have all of the items of evidence
8 ready for the jury's consideration, we will send it
9 back.

10 (WHEREUPON, Ms. Rosado and Ms. McElveen
11 complied.)

12 THE COURT: All right. If y'all will
13 take the items of evidence back to the jury and
14 bring Ms. Barno and Mr. Plum.

15 THE BAILIFF: Yes, sir.

16 (WHEREUPON, Ms. Barno and Mr. Plum
17 entered the courtroom.)

18 THE COURT: All right. Ms. Barno and
19 Mr. Plum, you have been the alternates in this case
20 and I assume that you know what that meant. I
21 liking it to being relief pitchers. I don't know
22 if either of y'all are baseball fans, but y'all
23 have essentially been in the bullpen waiting for
24 your chance and, unfortunately, for the two of you,
25 the primary jury has gone all nine innings in terms

1 of listening to the case and being able to
2 deliberate. And the law requires me at this time
3 to excuse you as jurors because the law does not
4 allow for alternate jurors to participate in the
5 deliberations.

6 I hope that this case has been
7 interesting and instructive to you on the way the
8 criminal system works here in South Carolina. I
9 will tell you, you've earned a three year exemption
10 from jury service. So for the remaining part of
11 this year and the next two years.

12 You will receive your pay and I'm using
13 that in quotes even though I didn't make the quote
14 symbol because it will in no way compensate you
15 adequately for what service you've done this week
16 has been worth. And I think that's done by way of
17 a debit card and I'd probably give it to the end of
18 week before you try and use it. If you need a work
19 excuse, the bailiffs will provide that for you.
20 And, again, you have my thanks, you have the thanks
21 of the South Carolina Judicial Branch and the
22 thanks of Sumter County for your service this week.
23 Thank you very much. You are free to go.

24 (WHEREUPON, they left the courtroom.)

25 THE COURT: All right. Ladies and

1 gentlemen, we will be in recess until we hear from
2 the jury. Thank you.

3 (WHEREUPON, Court was in recess.)

4 THE COURT: Ladies and gentlemen, we
5 have a question -- received a question from the
6 jury. I'm going to have to court reporter mark it
7 and then I will read it into the record.

8 (WHEREUPON, Court's Exhibit Number 1
9 was marked and entered.)

10 THE COURT: The question is, can we
11 please get a copy of the laws like a definition of
12 what each charge is? Signed by the foreperson,
13 Michael Winefeldt, dated today.

14 I have taken the liberty of printing
15 the law that I read on each substantive charge
16 instigating a riot, breach of peace high and
17 aggravated and threatening the life of a public
18 official. This is exactly what I read to the jury
19 with regard to each of these charges. I've got a
20 copy for each of you and we'll make one a Court's
21 Exhibit. That's how I propose dealing with this.
22 I think if we bring them in and I recharge the law,
23 we'll probably be in the same boat later on today.

24 And, again, this isn't -- this is just
25 -- this isn't exactly what I read from in terms of

1 the actual pieces of paper because it was all
2 scratched up with my notes and everything like
3 that, but I went through after we received the
4 question and compiled it in a clean copy so the
5 jury can review it. And based upon my notes of
6 what I read earlier, this is exactly what was read
7 to the jury.

8 MS. MCELVEEN: Your Honor, we -- the
9 State still objects to the fighting words language,
10 but --

11 THE COURT: I understand.

12 MS. ROSADO: No objection, Your Honor.

13 THE COURT: Your objection is noted for
14 the record.

15 MS. MCELVEEN: Thank you.

16 THE COURT: All right. Do y'all want
17 me to bring the jury in or would you like me to
18 just have the bailiff to hand this -- a copy of
19 this form to them? Okay. I see both sides are
20 nodding and motioning that they're okay with us
21 handing it in. So, Mr. Tomlin, if you would hand
22 these copies to the foreperson. Tell him that this
23 is in response to his question about asking for a
24 definition of -- for a copy of the laws and a
25 definition of the charges.

1 All right. Folks, we will be in recess
2 until we here further from the jury.

3 (WHEREUPON, Court's Exhibit Number 2
4 was marked and entered.)

5 (WHEREUPON, court was in recess.)

6 THE COURT: Okay. Ladies and
7 gentlemen, we have another question. The question
8 -- well, it's more of a statement than a question,
9 but in any event. We have an agreement on two
10 charges, we cannot come to an agreement on the
11 charge of threatening a public official. I think
12 we are in Allen charge territory with regard to
13 that one charge.

14 MS. MCELVEEN: Yes, sir.

15 THE COURT: So my proposal is to bring
16 them out and give them the standard Allen charge
17 with regard to that one remaining charge. Ms.
18 Rosado, any objection to that plan?

19 MS. ROSADO: No, sir, thank you.

20 THE COURT: All right. Let me make
21 this a Court's Exhibit.

22 (WHEREUPON, Court's Exhibit Number 3
23 was marked and entered.)

24 THE COURT: All right. Mr. Tomlin, if
25 you would bring the jury in please.

1 THE BAILIFF: Yes, Your Honor.

2 (WHEREUPON, the jury entered the
3 courtroom at 3:34 p.m.)

4 THE BAILIFF: Jurors seated, Your
5 Honor.

6 THE COURT: Thank you, sir. Ladies and
7 gentlemen of the jury, I see from the note which
8 has been forwarded to me from the foreperson that
9 you have reached an agreement on two charges and
10 that you cannot come to an agreement on the charge
11 of threatening a public official; is that correct?

12 THE FOREMAN: Yes, sir.

13 THE COURT: All right. Ladies and
14 gentlemen, listen closely. You have stated that
15 you've been unable to agree on a verdict on the
16 charge of threatening the life or bodily injury to
17 a public official in this case.

18 As I instructed you earlier, the
19 verdict of the jury must be unanimous. When a
20 matter is in dispute, it isn't always easy for even
21 two people to agree. So when twelve people must
22 agree, it becomes even more difficult. In most
23 cases, absolute certainty cannot be reached or
24 expected. However, you have a duty to make every
25 reasonable effort to reach a unanimous verdict.

1 In doing this you should consult with
2 one another, express your own views and listen to
3 the opinions of your fellow jurors. Tell each
4 other how you feel and why you feel that way.
5 Discuss your differences with open minds. Although
6 the verdict of the jury must be unanimous, every
7 one of you has the right to your own opinion.

8 The verdict you have reached must be
9 your own verdict. The result of your own
10 convictions and you should not give up your firmly
11 held beliefs merely to be in agreement with your
12 fellow jurors. The majority should consider the
13 minorities' position and the minorities should
14 consider the majorities' position. You should
15 carefully consider and respect the opinions of each
16 other and reevaluate your position for
17 reasonableness, correctness and impartiality. You
18 must lay aside all outside matters and reexamine
19 the questions before you based upon the law and the
20 evidence in this case.

21 If you do not agree on a verdict in
22 this case, I must declare a mistrial. In that
23 case, it does not mean that anybody wins, it just
24 means that at some future time, I or another judge
25 will try this case with regard to the threatening

1 the life of a public official charge and some other
2 jury will be sitting in the same seats where you
3 now sit. The same participants will come and the
4 same lawyers will ask basically the same questions
5 and get basically the same answers and we will go
6 through this whole process again.

7 You were selected in the same manner
8 and from the same source as any future jury will be
9 and there is no reason for me to suppose that the
10 case will ever be submitted to twelve more
11 intelligent, impartial conscientious and competent
12 jurors than you or that more or clearer evidence
13 will be produced on one side or the other.

14 Ladies and gentlemen, I therefore with
15 these instructions ask you to return to your
16 deliberations with regard to the charge of
17 threatening the life of a public official. So if
18 you would please return to your jury room. Take
19 these instructions that I've given you and please
20 resume your deliberations. Thank you.

21 (WHEREUPON, the jury left the courtroom
22 at 3:37 p.m.)

23 THE COURT: Any exceptions or
24 objections to the Allen charge from the State?

25 MS. MCELVEEN: None, Your Honor.

1 THE COURT: Any from the Defense?

2 MS. ROSADO: None, Your Honor.

3 THE COURT: All right. We will be in
4 recess until we hear from the jury. Thank you.

5 (WHEREUPON, court was in recess.)

6 THE COURT: All right. Folks, we've
7 received another note from the jury. It reads, no
8 change, still unable to decide.

9 So I believe what the law requires me
10 to do under South Carolina Code Section 14-7-1330
11 is to bring the jury in, ask them whether they feel
12 that any further deliberation as to the charge on
13 which they're deadlock would be -- would
14 essentially do any good. And essentially what they
15 have to do is to consent to returning to the jury
16 room to deliberate. That's the Code Section I just
17 quoted in *Buff vs. South Carolina Department of*
18 *Transportation* 342 S.C. 416, 422 -- on page 422,
19 537 S.E.2nd 279 on page 282, the Supreme Court held
20 when a jury has twice indicated it is deadlocked,
21 the trial judge should diplomatically discuss with
22 the jury whether further deliberations could be
23 beneficial. The jury consents to resume or
24 discontinue deliberations and determine either
25 expressly or impliedly by its response to the trial

1 judge's comments. The judge need not advise the
2 jurors that their consent to further deliberations
3 is required.

4 So I will bring them out and ask them
5 if they feel like continued deliberation as to the
6 threatening the life of a public official charges
7 would be beneficial. Based on their responses, I
8 will make a decision. If they indicate that they
9 feel that further deliberations would not be
10 beneficial, we will receive the verdicts on the
11 charges they've agreed upon and I will declare a
12 mistrial on the charges which are not agreed upon.

13 Mr. Tomlin, have them bring the verdict
14 forms in on the charges that they've agreed upon,
15 please.

16 THE BAILIFF: Yes, Your Honor.

17 (WHEREUPON, Court's Exhibit Number 4
18 was marked and entered.)

19 THE COURT: And, folks, I expect the
20 same level of decorum and order that has been
21 present throughout today's proceedings to be
22 maintained regardless of what decision was reached
23 by the jury on the two charges they have agreed
24 upon.

25 (WHEREUPON, the jury entered the

1 courtroom at 4:13 p.m.)

2 THE BAILIFF: They jurors have been
3 seated, Your Honor.

4 THE COURT: Thank you, sir. Mr.
5 Winefeldt, we received the jury's latest note that
6 there has been no change and you're still unable to
7 decide unanimously with regard to the threatening
8 the life of a public official charge; is that
9 correct?

10 MR. FOREMAN: Yes, sir.

11 THE COURT: All right. This question
12 is for all of you. Do you feel that continued
13 deliberations would be beneficial in your reaching
14 a decision?

15 MR. FOREMAN: I don't think so.

16 THE COURT: Is that the general
17 consensus among everyone that you're at an impasse
18 that you just can't get beyond?

19 For the record, I see pretty much
20 unanimous nodding of heads with regard to my answer
21 to that question.

22 All right. Ladies and gentlemen, we're
23 going to -- let me back up a second. With regard
24 to the two decisions that you have reached, are
25 those verdicts unanimous?

1 MR. FOREMAN: Yes, sir.

2 THE COURT: All right. Could you hand
3 the verdict forms to the bailiff, please.

4 (WHEREUPON, the foreman complies.)

5 THE COURT: All right. Folks, what
6 we're going to do is we're going to receive these
7 two unanimous verdicts. And with regard to the
8 charges that you can't reach a verdict on, I'm
9 going to declare as I told you in the last
10 instructions since you are deadlocked and you don't
11 believe any further deliberations would be
12 beneficial at this time, the Court is left with no
13 alternative but to declare a mistrial on those
14 charges alone.

15 All right. With regard to the two
16 charges where a verdict has been reached.

17 On Indictment number 2021-GS-43-0091,
18 the State of South Carolina verses Brittany Martin.
19 As to the charge of breach of peace of a high and
20 aggravated nature, we the jury unanimously find the
21 Defendant guilty of breach of peace of a high and
22 aggravated nature.

23 As to the charge of instigating a riot.
24 We the jury unanimously find the Defendant not
25 guilty.

1 Mr. Foreperson, that is the jury's
2 unanimous verdict with regard to those two charges?

3 MR. FOREMAN: Yes, Your Honor.

4 THE COURT: All right. Does the
5 Defense require polling the jury, please?

6 MS. ROSADO: Yes, sir, I would like to
7 poll the jury.

8 THE COURT: All right. Poll the jury.

9 MS. MARTIN: Thank y'all so much.

10 THE CLERK: May it please the Court,
11 Your Honor. Ladies and gentlemen of the jurors, I
12 ask you a question, the only thing I require a yes
13 or no answer.

14 Juror Number 119, Rayshari Muldrow. Is
15 this your verdict and still your verdict? Yes or
16 no?

17 THE JUROR: Yes.

18 THE CLERK: Juror Number 35, Christian
19 Cribb. Is this your verdict and still your
20 verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror Number 38, Zachary
23 Davis. Is this your verdict and still your
24 verdict?

25 THE JUROR: Yes, sir.

1 THE CLERK: Juror Number 48, Darlene
2 Fulton. Is this your verdict and still your
3 verdict?

4 THE JUROR: Yes.

5 THE CLERK: Juror Number 86, Blake
6 Junious. Is this your verdict and still your
7 verdict?

8 THE JUROR: Yes.

9 THE CLERK: Juror Number 76, Charles
10 Howard. Is this your verdict and still your
11 verdict?

12 THE JUROR: Yes.

13 THE CLERK: Juror Number 79, Henry L.
14 Jackson. Is this your verdict and still your
15 verdict?

16 THE JUROR: Yes.

17 THE CLERK: Juror Number 157, Kendra
18 Simmons. Is this your verdict and still your
19 verdict?

20 THE JUROR: Yes.

21 THE CLERK: Juror Number 178, Danielle
22 Welch. Is your verdict and still your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Juror Number 184, Michael
25 Winefeldt. Is this your verdict and still your

1 | verdict?

2 | THE JUROR: Yes, sir.

3 | THE CLERK: Juror Number 182, John
4 | Wills. Is this your verdict and still your
5 | verdict?

6 | THE JUROR: Yes.

7 | THE CLERK: Juror Number 159, Jarlisa
8 | Sinkler. Is this your verdict and still your
9 | verdict?

10 | THE JUROR: Yes.

11 | THE CLERK: Your Honor, the jurors have
12 | been polled.

13 | THE COURT: Thank you, sir. All right.
14 | Ladies and gentlemen of the jury, this concludes
15 | your service in this case and concludes your
16 | service for this term of general sessions court.
17 | Ladies and gentlemen, because of your service, you
18 | have earned a three year exemption from future jury
19 | service.

20 | I've been telling you this whole time
21 | you cannot speak with anybody about this case. I'm
22 | lifting those restrictions from you, but also
23 | telling you that you don't have to discuss your
24 | service in this case with anybody. If you choose
25 | not to discuss your service in this case with

1 anyone and they persist, you let the clerk's office
2 know and they'll know what to do in those
3 situations.

4 I want to thank you for your service as
5 jurors in this term of general sessions court. You
6 are now excused as jurors. If you need a work
7 excuse, the bailiffs can provide those to you and
8 we appreciate your service last week and today.

9 So, ladies and gentlemen, you are now
10 free to go. Thank you so much.

11 MS. MARTIN: Blessings, blessings,
12 blessings be upon y'all. Thank y'all. Thank you
13 so much. That's good. God is good. I serve a
14 power king. I serve a mighty god. Yes lord, thank
15 you.

16 (WHEREUPON, the jury left the courtroom
17 at 4:20 p.m.)

18 THE COURT: All right. Folks, you can
19 have a seat. Thank you very much. We are going to
20 take a brief recess and proceed to the next phase
21 in the proceedings. And so we will be back on the
22 record at 4:30 to proceed with the sentencing on
23 the conviction. Be in recess until 4:30.

24 (WHEREUPON, court was in recess.)

25 THE COURT: All right. The jury having

1 found the Defendant guilty of breach of peace high
2 and aggravated, we will proceed to the sentencing
3 portion of the proceeding.

4 Ms. McElveen, I'll be happy to hear
5 from you with regard to Ms. Martin's prior criminal
6 record. I will be happy to hear from any of the
7 law enforcement who were involved in this case
8 either by way of being part of the law enforcement
9 administration or anyone who could be classified as
10 a victim in this matter.

11 MS. MCELVEEN: Yes, Your Honor. As to
12 her criminal record, she's got a record it appears
13 in four different states. Regarding South
14 Carolina, she's got a shoplifting enhancement from
15 2015 for which she received probation.

16 August 2015, public disorderly conduct
17 and a shoplifting, Your Honor, which she received
18 probation.

19 And then she's got a 2019 probation
20 case that transferred from Iowa.

21 Your Honor, as to the other states,
22 we've got a theft from Iowa from looks like from
23 2020 it appears. She's got a leaving the scene of
24 an injury with an accident and willful injury
25 causing bodily injury. That's the one involving

1 her son for which she's on probation, Your Honor,
2 again.

3 And then we've got it appears a
4 disorderly conduct from 2011 from Wisconsin for
5 which she received a probationary sentence, again.

6 And, Your Honor, she's got a Georgia
7 First Offender Act, also a theft by shoplifting
8 from 2014 from Cobb County for which she received
9 probation, Your Honor.

10 Your Honor, please the Court, we'd
11 like for the Chief -- Chief Roark to be allowed to
12 speak.

13 THE COURT: All right. Be happy to
14 hear from him. You can come on up, Chief.

15 CHIEF ROARK: May it please the Court,
16 Your Honor.

17 THE COURT: Yes, sir.

18 CHIEF ROARK: As a community and as a
19 police officer and as someone who represents the
20 entire community that represents the police
21 department, this was never about us against
22 Brittany Martin. We were very cognizant of the
23 temperature, if you will, across our nation. we
24 have discussed those types of event, the terrible
25 event of George Floyd how he was killed at the

1 hands of a police officer. We all watched that in
2 horror and we're saddened that a young man would
3 lose his life in such a violent way at the hands of
4 a police officer.

5 When something like that happens
6 whether it's in Maine, California, Texas, all the
7 communities across our nation suffer. Law
8 enforcement suffer. We offered Brittany -- Ms.
9 Martin an opportunity to peacefully protest. With
10 every olive branch we extended, she insisted on
11 going and doing something else or beyond what we
12 were willing to be able to do to keep everybody
13 safe.

14 Those four days may not equal what some
15 people may have in their minds about a riot and
16 other things across the nation, but it was very
17 difficult on our community. These actions
18 continued to escalate. Hence, the curfew was put
19 in place to keep persons who wished to protest
20 peacefully, law enforcement and the community at
21 large to be able to do so peacefully.

22 This is something that we continue to
23 address in our training and how we interact with
24 people with empathy and de-escalation have done
25 countless other types of training for police

1 officers even after and will continue to do so
2 after the George Floyd. We're one of the first
3 agencies other than Los Angeles and they may have
4 their contract in place before we did, but we were
5 the first agency to get V. R., virtual reality
6 training to teach us better, help us better
7 understand how to deescalate in certain situations.

8 So in spite of our best effort, we
9 attempted to allow Ms. Martin to peacefully
10 protest. Your Honor, I do think that a sentence of
11 some level of incarceration based off your
12 judgement is very appropriate in this case and
13 thank you for giving me the opportunity to hear
14 from me.

15 THE COURT: Thank you, Chief Roark.
16 Anything else from anybody else associated with the
17 prosecution?

18 MS. MCELVEEN: Nothing, Your Honor.

19 THE COURT: All right. Thank you very
20 much. Ms. Rosado, I'll be happy to hear from you
21 in mitigation.

22 MS. ROSADO: Thank you, sir. Brittany
23 Martin is a mom, currently pregnant who happens to
24 also be a protestor. In this country it's our
25 right to protest --

1 MS. MARTIN: And a grandmother.

2 MS. ROSADO: The State of South
3 Carolina hasn't fully defined breach of peace of a
4 high and aggravated nature. Yes, breach of peace
5 is there, but this elevation of a high and
6 aggravated nature seems to be crafted for violent
7 acts, for aggressive acts, not for people who are
8 talking loud and complaining and agitating. That
9 is the very nature of protest. That is Malcolm X,
10 that is John Lewis, that is Martin Luther King. We
11 wouldn't have the letter from the Alabama jail if
12 it weren't.

13 Ms. Martin deserves no more than time
14 served, sir. She spent 21 days in jail with no
15 bond because at the hearing there was a difference
16 of opinion about some things that occurred. She is
17 not a criminal. She is a person who previously had
18 been a hungry person and shoplifted. She's a
19 person who had previously had an altercation with
20 her child that rose to the level of smacking him
21 with the car. She didn't kill the kid, she didn't
22 hurt the kid. But as we all know, DSS comes in and
23 takes care of those kinds of things for us.

24 She is very loud. But it's not against
25 the law to be loud. It's not against the law to

1 cuss. And this is a very broad, vague statute in
2 our state.

3 I would ask Your Honor to consider that
4 the nature of this case, she was not out lewding
5 and throwing fire bombs into stores and stealing
6 things. She was out with a poster and her kids and
7 her dad complaining and yelling and cussing. Those
8 are two different activities, Your Honor.

9 The statute asks you not to do anything
10 that's repugnant to the Constitution and I would
11 ask you to do the same, sir. This is her free
12 speech that we have unfortunately she's been
13 convicted for using. So 21 days, the bond, my
14 cost, she's paid. And, of course, she will
15 continue to pay because there are other issues
16 associated with this conviction. Thank you, sir.

17 THE COURT: All right. Thank you,
18 Rosado. I'll be happy to hear from Ms. Martin if
19 she would like to address me.

20 MS. MARTIN: Yes, sir.

21 THE COURT: All I ask that you stand
22 up, please.

23 MS. MARTIN: Okay. Like I said when I
24 went on the stand, Your Honor, I come from -- I
25 come from an extensive background. I come from a

1 place where most people don't make it out of
2 successfully. And thank god I beat the odds. And
3 I know Ms. McElveen ran my convictiveness
4 (verbatim), but I have another stack of
5 accomplishments. Another stack of achievements,
6 you know. Where I am in life right now, I --
7 honestly, I can't believe I been there and done
8 that, you know, where god has brought me now.

9 So I would ask that you please consider
10 that, consider where I am now, consider my heart
11 and consider my purpose. You know, right now, like
12 I said, my fight back then it was more protesting.
13 I mean, I was learning how to transition my fight.
14 Now I fight more politically as you can see. You
15 know, I'm part of a black voters matter. I work
16 with the South Carolina black democratic party, you
17 know, we are really doing some major things. You
18 know, trying to get the right people in and the
19 wrong people out. And so that is where my fight
20 has switched to.

21 I do have five children at home plus my
22 grandson. You know, as you all know I lost my
23 oldest son four months ago, so I'm raising his
24 child now and I am pregnant. So, you know, this is
25 a lot just on my pregnancy alone, the grieving, the

1 stress, everything. But like I said, I serve a
2 powerful god and I'm going to get through whatever,
3 but please just take into considerations my
4 achievements and not just all the bad. Thank you.

5 THE COURT: Thank you, ma'am.

6 MS. MARTIN: Yes, sir.

7 THE COURT: Anybody else, Rosado?

8 MS. ROSADO: Your Honor, again, there
9 were no injuries, there was no damage, there was no
10 violence. There was yelling, cussing and screaming
11 and that's it. Nobody got hurt. Nobody almost got
12 hurt. Nothing. This is not high and aggravated
13 nature. This is high aggravation. And high
14 aggravation is also not defined in the South
15 Carolina statutes. We don't put people in jail for
16 being aggravated at least that's not what the
17 statute seems to say. Thank you.

18 THE COURT: When I took this job older,
19 wiser, more experienced judges told me that
20 criminal sentencing would be the hardest part of
21 the job. And when people tell you things like that
22 it's easy to think to yourself, no, that won't be
23 hard for me. I practiced law for a long time, I
24 can figure out what the right thing to do is.
25 Criminal sentencing won't be difficult.

1 Well, you have those thoughts and then
2 you put on this robe and you sit in a chair like
3 this in courtrooms throughout this state and you
4 realize that those wiser, older, more experienced
5 judges when they're giving you their words of
6 advice and wisdom as you set out upon the task of
7 being a circuit judge, you realize very quickly
8 that those judges were telling you these things for
9 a reason. And it is difficult and it's difficult
10 in a situation like this because breach of peace
11 high and aggravated carries zero to ten years.
12 There's lots of room for a judge to exercise his
13 discretion.

14 And when you set out to determine what
15 an appropriate sentence is, you've got to at least
16 list the good and the bad that are associated with
17 the case that's in front of you. We're all
18 thankful, fortunate, lucky that here in Sumter,
19 South Carolina these protests didn't rise to the
20 level where people were injured, where stores were
21 lewded where things were stolen. We're fortunate
22 that by and large the protests were just that,
23 protest. They didn't become lewding events. They
24 didn't become events where people were injured
25 severely.

1 But then on the other hand you've got
2 the circumstances of aggravation. The fact that
3 these protests were occurring in perhaps one of --
4 on one of the busiest streets in the City of
5 Sumter. That protestors were putting themselves in
6 danger. Protestors were putting drivers in danger.
7 Protestors were perhaps putting themselves and/or
8 law enforcement in danger with the admitted
9 physical contact that was made by the protestors.

10 The jury has found circumstances
11 amounting to aggravation, so it's not my place to
12 determine whether this was aggravated or not. The
13 jury determined that it is aggravated. So based on
14 what's before me, I've got to consider a sentence
15 greater than 30 days. Because 30 days is the
16 sentence for magistrate's level breach of peace.
17 The jury has determined that this case was not
18 that.

19 So I take the good and the bad, what
20 happened and then I look at Ms. Martin's prior
21 criminal record. I realize that she's currently on
22 probation and this conviction will likely have an
23 impact on that probation case. I see that she's
24 been on probation numerous times. So I don't see
25 where a probationary sentence would really do much

1 good.

2 This conviction will likely subject her
3 to revocation for the Iowa case. I don't know what
4 the outcome of that situation will be and that's
5 totally out of my hands. All I can do is take
6 what's been presented to me, what I've watched, the
7 evidence that I've seen and try and fashion a
8 sentence which does justice in this case.

9 And, again, I am thankful and this
10 community is blessed that none of those extremely
11 horrendous things occurred. We've had protests in
12 this country about numerous things. We've had the
13 protests associated with the events of the tragic
14 killing of George Floyd. We've had protests at the
15 Capitol on January 6th and people have been
16 convicted of those protests. In thinking about
17 this sentence, I can't help but think about the
18 sentences which have been handed out in the federal
19 courts for protests around the country.

20 Taking everything into consideration
21 and before I get to that, I do want to make clear
22 that this isn't -- this sentence and this
23 conviction isn't about the threats or anything of
24 that nature. It's not about the language that was
25 used. It was about the actions which breached the

1 peace. It's about putting the City of Sumter and
2 its citizens as a whole in danger. And, again, the
3 jury has found that this was aggravated in nature.
4 So this isn't about the statements where exercising
5 one's right to free speech, it's about the
6 noncompliance which put the public at risk.

7 Breach of peace is in the jury charge I
8 read, breach of peace is a violation of the public
9 order or a disturbance of the public peace or any
10 act or any conduct inciting violence. This
11 includes any violation of any law enacted to
12 preserve peace and good order. People can protest
13 without violating the peace and good order and the
14 jury has found that this protest did violate the
15 peace and good order in an aggravated way.

16 The sentence of the Court on Indictment
17 2021-GS-43-0091, as to the charge of breach of
18 peace high and aggravated nature, I sentence, Ms.
19 Martin, you be committed to the State Department of
20 Correction for a determinate term of four years.
21 You're given credit for the time that you have
22 served for 21 days and that's the sentence of the
23 Court.

24 We are adjourned.

25 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the Third 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 the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Sumter County, South Carolina, on the 16th of May, 2022.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 17, 2023

s/Katherine A. Spires

Katherine A. Spires

Registered Professional Reporter

EXHIBITS

State's Exhibit 1

(Disc containing videos)

State's Exhibit 2

(Flash drive containing videos)

State's Exhibit 5

(El Cheapo gas station video)

OTHER DOCUMENTS

STATE OF SOUTH CAROLINA

COUNTY OF Sumter

STATE

VS.

Brittany Valencia Martin

AKA:

Race: Black Sex: F Age: 34

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#* [REDACTED] SID# [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2021-GS-43-0091

AW#: 2021DIR430001

Date of Offense: 6/3/2020

S.C. Code §: 00-00-0000

CDR Code #: 0955

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: Breach / Breach of peace, aggravated in nature

In violation of § 00-00-0000 of the S.C. Code of Laws, bearing CDR Code # 0955

☒ 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. [REDACTED] (def.'s initials)

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

ATTEST:

McElveen, Bronwyn I

Brittany Valencia Martin

Rosado, Sybil D.

SCB104422

Solicitor

SC Bar #

Defendant

Attorney for Defendant

SC Bar #

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

for a determinate term of 4 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.
21 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. Brittany Valencia Martin INDICTMENT/CASE#: 2021-GS-43-0091

SPECIAL CONDITIONS:

☐ **PTUP** after _____ months/years

And Other Terms Listed Below:

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

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

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

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____

James L. Campbell II
Frances B. Ray
Kathrine Spires

Presiding Judge: _____

Judge Code: _____

Sentence Date: _____

B. K. O'Flaherty
2768
5-16-22

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SUMTER	)	
	)	
THE STATE,	)	
	)	
-vs-	)	VERDICT FORM
	)	
BRITTANY MARTIN,	)	Case Number: 2021-GS-43-0091
	)	
Defendant.	)	
_____	)	

AS TO THE CHARGE OF INSTIGATING A RIOT:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

[☒] NOT GUILTY.

OR

[☐] GUILTY OF INSTIGATING A RIOT.

Michael Windfeldt
Foreperson

SUMTER, South Carolina

MAY 16, 2022

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
THE STATE,)
-vs-)
BRITTANY MARTIN,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

VERDICT FORM

Case Number: 2021-GS-43-0091

AS TO THE CHARGE OF BREACH OF PEACE OF A HIGH AND AGGRAVATED
NATURE:

WE, THE JURY, UNANIMOUSLY FIND THE DEFENDANT [CHECK ONE]:

[] NOT GUILTY.

OR

[☒] GULTY OF BREACH OF PEACE OF A HIGH AND AGGRAVATED
NATURE

Michael W. Wiedel

Foreperson

SUMTER, SC
MAY 16, 2022

COUNTY OF SUMTER

)
)

Riot / Instigating, aiding, or participating in riot, defendant direct
others to violence
Breach of Peace, High and Aggravated
Threatening Life, person or family of public official
(5 counts)

At a Court of General Sessions, convened on April 8, 2021 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE

BREACH OF PEACE, HIGH AND AGGRAVATED NATURE

That Brittany Valencia Martin did in Sumter County on or about June 3, 2020, knowingly, willfully and intentionally disturb public order and/or public tranquility through her conduct, accompanied by circumstances of aggravation, such acts constituting the offense of Breach of Peace in violation of the Common Law of South Carolina.

COUNT TWO

INSTIGATING A RIOT

That in Sumter County, South Carolina, on or about June 3, 2020, the Defendant, Brittany Valencia Martin, knowingly and willfully did instigate and promote the commission of a riot while present in front of the Sumter Police Department, located at 335 North Lafayette Drive, Sumter, South Carolina; in violation of Section 16-5-0130(2), of the Code of Laws of South Carolina (1976, as amended).

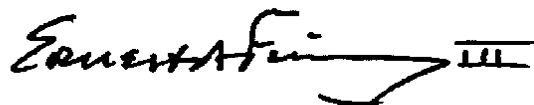
COUNT(S) THREE THRU SEVEN

THREATENING THE LIFE OF A PUBLIC OFFICIAL (5 COUNTS)

That in Sumter County, South Carolina, on or about June 3, 2020, the Defendant, Brittany Valencia Martin, knowingly and willfully did deliver or convey to a public official, teacher or principal of an elementary or secondary school, by way of writing, electronic or verbal communication, a threat to take the life of or to inflict bodily harm upon such public official, teacher or principal or her immediate family and such threat was directly related to her professional responsibilities, to wit: the Defendant did verbally threaten to take the life of and/or inflict bodily harm upon the following officer(s): Col. Jeffrey Jackson, First Sgt. James Sinkler, Capt. Angela Rabon, Sgt. Cleveland Pinckney, and/or Capt. Robert Singleton; this is in violation of Section 16-3-1040(A), of the Code of Laws of South Carolina (1976, as amended).

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

Solicitor



At a Court of General Sessions, convened on May 5, 2022 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE

BREACH OF PEACE, HIGH AND AGGRAVATED NATURE

That Brittany Valencia Martin did in Sumter County on or about May 31, 2020 through June 3, 2020, knowingly, willfully and intentionally disturb public order and/or public tranquility through her conduct, accompanied by circumstances of aggravation, such acts constituting the offense of Breach of Peace in violation of the Common Law of South Carolina.

COUNT TWO

INSTIGATING A RIOT

That in Sumter County, South Carolina, on or about May 31, 2020 through June 3, 2020, the Defendant, Brittany Valencia Martin, knowingly and willfully did instigate and promote the commission of a riot while present in front of the Sumter Police Department, located at 335 North Lafayette Drive, Sumter, South Carolina; in violation of Section 16-5-0130(2), of the Code of Laws of South Carolina (1976, as amended).

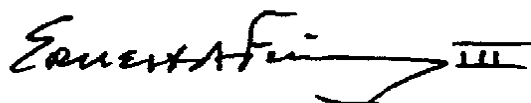
COUNT(S) THREE THRU SEVEN

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That in Sumter County, South Carolina, on or about June 3, 2020, the Defendant, Brittany Valencia Martin, knowingly and willfully did deliver or convey to a public official, teacher or principal of an elementary or secondary school, by way of writing, electronic or verbal communication, a threat to take the life of or to inflict bodily harm upon such public official, teacher or principal or her immediate family and such threat was directly related to her professional responsibilities, to wit: the Defendant did verbally threaten to take the life of and/or inflict bodily harm upon the following officer(s): Col. Jeffrey Jackson, First Sgt. James Sinkler, Capt. Angela Rabon, Sgt. Cleveland Pinckney, and/or Capt. Robert Singleton; this is in violation of Section 16-3-1040(A), of the Code of Laws of South Carolina (1976, as amended).

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

Solicitor



IN THE SOUTH CAROLINA COURT OF APPEALS

State of South Carolina,

Respondent,

v.

Brittany Martin,

Appellant.

RECEIVED

Sep 29 2023

SC Court of Appeals

Appellate Case No. 2022-001444

CERTIFICATE OF APPELLANT

Appellant hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Date: September 27, 2023

/s/Meredith Dyer McPhail

Meredith Dyer McPhail, #104551

David Allen Chaney, Jr., #104038

AMERICAN CIVIL LIBERTIES UNION OF SOUTH
CAROLINA

P.O. Box 1668

Columbia, SC 29202

(843) 259-2925

mmcphail@aclusc.org

/s/ Sybil Rosado

Dr. Sybil Rosado, #104422

THE LAW OFFICE OF SYBIL D. ROSADO, LLC

2429 Haskell Ave.

Columbia, SC 29204

(803) 999-2029

sybil@rosado.law

Attorneys for Appellant