

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Kristi Lea Harrington, Circuit Court Judge

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SC COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

DARRELL FLOREZ,

APPELLANT

APPELLATE CASE NO. 2012-213369

RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA
VS.
DARRELL FLORES,
DEFENDANT.

VOLUME 1 OF 2

held before the Honorable Kristi L. Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Thursday, October 25, 2012, Commencing at 12:13 p.m.

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PROCEEDINGS

[Whereupon, State's Exhibit Numbers 1 through 9
are marked by the court reporter]

[Whereupon, the jury panel enters the courtroom
at 12:23 p.m.]

- - - - -

JURY VOIR DIRE

THE COURT: Good afternoon, ladies and
gentlemen. I recognize you, some of you, from earlier
in the week, but once again, I am Judge Kristi
Harrington. We are selecting a jury for the case of
The State of South Carolina versus Darrell Anthony
Flores.

Mr. Flores is charged with an indictment, which
is simply a piece of paper that brings us to court here
today, with criminal domestic violence of a high and
aggravated nature. Mr. Flores has pled not guilty to
this indictment.

The State alleges that on or about May 31st,
2011, in Charleston County, that Mr. Flores did cause
physical harm or injury to the victim, Rosanne Eaton, a
household member of the defendant, or did offer or
attempt to cause physical harm or injury with apparent
present ability, under circumstances reasonably
creating fear of imminent peril to Rosanne Eaton. Said

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1 assault and battery involved the use of a deadly weapon
2 resulting in serious bodily injury to the victim or
3 would reasonably have caused a person to fear imminent
4 serious bodily injury or death, all in violation of
5 section 16-25-65 of the South Carolina Code of Laws,
6 1976, as amended.

7 Is there any member of the jury panel that knows
8 anything about this case other than what I have just
9 read to you? If so, please stand.

10 [Whereupon, there is no response]

11 THE COURT: Thank you. There are none.

12 Ms. Runey, if you would please stand, introduce
13 yourself, your client, and any persons who may be
14 assisting you throughout this trial.

15 MS. RONEY: Thank you, Your Honor.

16 My name is Martha Kent Runey. This is my
17 client, Mr. Darrell Flores. This is my co-counsel,
18 Ms. Cantrell Frayer.

19 THE COURT: Is there any member of the jury
20 panel related by blood, marriage, close personal
21 friend, ever have any business, personal, professional
22 dealings with Mr. Flores? If so, please stand.

23 [Whereupon, there is no response]

24 THE COURT: Thank you. There are none.

25 Any member of the jury panel related by blood,

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1 marriage, close personal friend, ever have any
2 business, personal, professional dealings with either
3 Ms. Runey or Ms. Frayer? If so, please stand.

4 Yes, sir. Your jury number and name.

5 MR. BENNETT: Ephriam Bennett, juror number 20.

6 THE COURT: Yes?

7 MR. BENNETT: I believe my daughter and Ms.
8 Cantrell went to law school together.

9 THE COURT: All right. Is there anything about
10 that that would affect your ability to be fair and
11 impartial in this case?

12 MR. BENNETT: No.

13 THE COURT: And your jury number and name?

14 MR. BENNETT: [No response]

15 THE COURT: Your jury number and name, sir.

16 MR. BENNETT: Ephriam Bennett, juror number 20.

17 THE COURT: All right. Thank you, Mr. Bennett.
18 Is there anyone else?

19 [Whereupon, there is no response]

20 THE COURT: Thank you. There are none.

21 Ms. Baldwin, if you would please stand,
22 introduce yourself and any persons who will be
23 assisting you throughout this trial.

24 MS. BALDWIN: Thank you, Your Honor.

25 My name is Jessica Baldwin, and this is my

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1 co-counsel, Timmy Finch. We're both assistant
2 solicitors. Our boss is Scarlett Wilson, the Solicitor
3 for the Ninth Circuit.

4 I will also be joined later on in the third
5 chair by a paralegal from our office, Julian Gould.
6 And coming in and out during the course of the trial is
7 my investigator, Josh Chainey.

8 THE COURT: Is there any member of the jury
9 panel related by blood, marriage, close personal
10 friend, ever have any business, personal, professional
11 dealings with either Ms. Baldwin or Mr. Finch? If so,
12 please stand.

13 Thank you. There are --
14 Yes?

15 MR. CROWDER: I know Ms. Baldwin from a mutual
16 friend at the café next door.

17 THE COURT: And your jury number and name, sir?

18 MR. CROWDER: 59. My name is Tim Crowder.

19 THE COURT: Mr. Crowder, is there anything about
20 your relationship with Ms. Baldwin that would affect
21 your ability to be fair and impartial in this case?

22 MR. CROWDER: No, ma'am.

23 THE COURT: Thank you.

24 If I could ask y'all to sit down. Thank you.

25 Is there any member of the jury panel related by

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1 blood, marriage, you yourself, used to work in the
2 solicitor's office in the ninth circuit or the public
3 defender's office in Charleston or Berkeley County or
4 had any matters handled by either one?

5 Yes, ma'am. Your jury number and name.

6 MS. CASEY: Sharon Casey, 44.

7 My brother-in-law works for the solicitor's
8 office.

9 THE COURT: And what's your brother-in-law's
10 name?

11 MS. CASEY: Matt Casey.

12 THE COURT: Are you saying Casey?

13 MS. CASEY: Casey.

14 THE COURT: Is there anything about that
15 relationship that would affect your ability to be fair
16 and impartial in this case?

17 MS. CASEY: No.

18 THE COURT: And Mr. Casey is your brother-in-
19 law. Do you define that as a close relationship?

20 MS. CASEY: Well, we live in the same town, so
21 we talk, yes.

22 THE COURT: Has Mr. Casey been involved with
23 this case, Ms. Baldwin?

24 MS. BALDWIN: No, Your Honor.

25 THE COURT: And your jury number, for the

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1 record.

2 MS. CASEY: 44. Sharon Casey.

3 THE COURT: Thank you.

4 Is there anyone else?

5 [Whereupon, there is no response]

6 THE COURT: Thank you. There are none.

7 I'm now going to call a list of potential
8 witnesses who may be called to testify in this case.
9 If you are related by blood, marriage, close personal
10 friend, ever have any business, personal, professional
11 dealings with any of these individuals, please stand
12 when I call their name.

13 Rosanne Eaton; Jeanie Shay; Donna Medders;
14 Ronald Medders; Deputy Michael Middleton, with the
15 Charleston County Sheriff's Office; Lieutenant Kevin
16 Whited, Charleston County Sheriff's Office; Andrew
17 Posine, Charleston County 911; Dr. Thomas Kays; Dr.
18 Kelly Lybrand.

19 Any member of the jury panel related by blood,
20 marriage, close personal friend, to any of those
21 individuals, please stand.

22 [Whereupon, there is no response]

23 THE COURT: Thank you. There are none.

24 Any member of the jury panel formerly employed
25 by, currently employed by, or a member of your family

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1 or a close personal friend employed with the Charleston
2 County Sheriff's Office, Charleston County 911, MUSC,
3 or the Clerk of Court in Charleston County? If so,
4 please stand.

5 Yes, sir. Your jury number and name?

6 MR. HORNER: 124. Michael Horner.

7 THE COURT: Yes.

8 MR. HORNER: I am employed at MUSC.

9 THE COURT: All right. What do you do at MUSC?

10 MR. HORNER: I'm on the faculty in the
11 department of psychiatry. I'm a neuro-psychologist.

12 THE COURT: Do you know Dr. Lybrand?

13 MR. HORNER: No.

14 THE COURT: Is there anything about the fact
15 that Dr. Lybrand is on the witness list, and is
16 employed by MUSC, that would affect your ability to be
17 fair and impartial?

18 MR. HORNER: No, ma'am.

19 THE COURT: All right. Your jury number and
20 name, for the record.

21 MR. HORNER: 124. Michael Horner.

22 THE COURT: Thank you.

23 Yes, ma'am?

24 MS. RAY: Former employee of MUSC.

25 THE COURT: And your jury number and name?

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1 MS. RAY: 222. Carolyn Ray, R-A-Y.

2 THE COURT: Anything -- the same question to
3 you. Do you know Dr. Lybrand?

4 MS. RAY: I don't think so.

5 THE COURT: All right. And is there anything
6 about that you may or may not know Dr. Lybrand in your
7 former employment with MUSC that would affect your
8 ability to be fair and impartial in this case?

9 MS. RAY: No.

10 THE COURT: And your jury number before you sit
11 down.

12 MS. RAY: 222.

13 THE COURT: Thank you.

14 Is there anyone else?

15 [Whereupon, there is no response]

16 THE COURT: Thank you. There are none.

17 Any member of the jury panel that is a current
18 or former law enforcement in any capacity, please
19 stand.

20 [Whereupon, there is no response]

21 THE COURT: Thank you. There are none.

22 Ladies and gentlemen, is there any member of the
23 jury panel that belongs to an organization affiliated
24 with victims' rights, such as Citizens Against Violent
25 Crimes, People Against Rape, something of that nature?

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1 If so, please stand.

2 [Whereupon, there is no response]

3 THE COURT: Thank you. There are none.

4 Ladies and gentlemen, I now have a series of
5 questions to ask you that I have determined are
6 personal and so you will need to answer -- come up and
7 meet with me in private. And those of you who were in
8 my courtroom earlier in the week, you know private is
9 up here in front of the court reporter. We are a court
10 of record and that's why it's important. She is
11 writing down everything that I say and you say.

12 So ladies and gentlemen, if you, a member of
13 your immediate family, or a close personal friend have
14 ever been a victim of a crime or you yourself, a member
15 of your family, or a close personal friend has ever
16 been accused of a crime, or if you have a family member
17 or a personal friend that is currently incarcerated in
18 prison, please, I will need to see you.

19 And my final catchall question is if there's
20 anything about what I have read to you or any of my
21 questions to you that you feel that you will be unable
22 to listen to the facts from the witness stand, apply
23 the law as the Court gives it to you and render a
24 verdict free of any personal, political, moral,
25 religious beliefs that you may have, I also would need

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1 to see you.

2 And we, of course, will be done by tomorrow
3 afternoon with this trial. But if there's anything
4 that has come up since -- most of you have had time off
5 of jury service this week. So if anything has come up
6 and you are now leaving on a jet plane to go on an all-
7 expense vacation but you have to leave tomorrow by
8 three o'clock, I need to know that.

9 For whatever reason, if you need to see me, if
10 you need to answer the previous questions, or if you
11 have some reason that you feel that you could not be a
12 fair and impartial juror in this case, please come to
13 the center and the bailiffs will assist you.

14 THE BAILIFF: Juror number 222.

15 [Whereupon, the Court and counsel confer]

16 [Whereupon, Ms. Ray, juror number 222, comes
17 forward]

18 THE COURT: Yes, ma'am.

19 MS. RAY: Juror 222.

20 THE COURT: Yes, ma'am.

21 MS. RAY: Carolyn Ray.

22 THE COURT: Yes, ma'am.

23 MS. RAY: I'm trying to remember all the things
24 you said.

25 I've been a victim of a crime. It was a

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1 robbery.

2 THE COURT: Okay. Tell me when that happened.

3 MS. RAY: That was when I wasn't living in South
4 Carolina. It was in another state.

5 THE COURT: All right. Is there anything about
6 that that would affect your ability to be fair and
7 impartial in this case?

8 MS. RAY: I hope not.

9 THE COURT: Okay. Well, we hope not, either.

10 MS. RAY: Okay.

11 THE COURT: But the defendant and the State
12 deserve a juror who is able to listen to the facts from
13 the witness stand --

14 MS. RAY: Right.

15 THE COURT: -- and apply the law as the Court
16 gives it --

17 MS. RAY: Right.

18 THE COURT: -- and render a verdict, based upon
19 your common sense, without any outside influences.

20 Can you do that?

21 MS. RAY: I think so.

22 THE COURT: All right. And, again, one more
23 time. I'm just -- I'm a real stickler.

24 MS. RAY: Right.

25 THE COURT: I need a yes or a no. I don't care

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1 what the answer is, but I just need a definite yes or
2 no.

3 MS. RAY: Yes. Yes, I can.

4 One other question I think you --

5 THE COURT: Yes?

6 MS. RAY: -- you asked: was there any member of
7 the family that was -- pardon me if I don't get this
8 right -- but in law enforcement.

9 THE COURT: Okay.

10 MS. RAY: Did you ask --

11 THE COURT: Yes.

12 MS. RAY: My father is a police officer.

13 THE COURT: All right. And is that here in
14 Charleston, or somewhere else?

15 MS. RAY: No. Somewhere else.

16 THE COURT: Is there anything about that that
17 would affect your ability to be fair and impartial in
18 this case?

19 MS. RAY: No.

20 THE COURT: All right. Again, question -- the
21 same question to you. Will you be able to listen to
22 the facts from the witness stand --

23 MS. RAY: Right.

24 THE COURT: -- apply the law as the Court gives
25 it and render a verdict based only on those things?

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1 MS. RAY: Yes.

2 THE COURT: All right. Juror 222 will remain.

3 THE BAILIFF: 161.

4 [Whereupon, Mr. Long, juror number 161, comes
5 forward]

6 THE COURT: Mr. Payne?

7 MR. LONG: Long.

8 THE COURT: Long.

9 MR. LONG: I told you this the other day. Do
10 you want --

11 THE COURT: Yes, because this is a totally
12 different case.

13 MR. LONG: Okay. The solicitor's office
14 prosecuted my dad. It was a false allegation --

15 THE COURT: Okay. Is there anything about that
16 that would affect your ability to be --

17 MR. LONG: Yes.

18 THE COURT: Is there anything about that that
19 will affect your ability to be fair and impartial in
20 this case?

21 MR. LONG: Yes.

22 THE COURT: And your jury number and name?

23 MR. LONG: 161. Charles Long.

24 THE COURT: All right. You are excused from the
25 trial of this case, but you'll need to stay with us.

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1 Thank you.

2 THE BAILIFF: 67.

3 [Whereupon, Mr. Deturk, juror number 67, comes
4 forward]

5 THE COURT: How are you?

6 MR. DETURK: Good. 67. Steve Deturk.

7 My wife and I were robbed in July and --

8 THE COURT: This past July?

9 MR. DETURK: This past July.

10 THE COURT: And I'm assuming here in Charleston
11 County?

12 MR. DETURK: Yes.

13 THE COURT: And have charges been brought?

14 MR. DETURK: No. No arrests have been made.

15 THE COURT: Is there anything about that that
16 would affect your ability to be fair and impartial in
17 this case?

18 MR. DETURK: Yes.

19 THE COURT: All right. You would -- with what
20 you've shared, there would -- you would be unable to
21 listen to the facts from the witness stand and apply
22 the law as the Court gives it and render a verdict
23 based on those things?

24 MR. DETURK: I would be distracted, yes.

25 THE COURT: All right. I'm going to excuse you

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1 from the trial of this case. Again, we have other
2 cases that we will get to during the week. Juror --

3 MR. DETURK: 67.

4 THE COURT: Juror 67 is excused from the trial
5 of this case. Thank you.

6 THE BAILIFF: 65.

7 [Whereupon, Mr. Dearagon, juror number 65, comes
8 forward]

9 MR. DEARAGON: Good afternoon.

10 THE COURT: Hi.

11 MR. DEARAGON: How are you?

12 The reason why I would be uncomfortable in this
13 case --

14 THE COURT: What is that?

15 MR. DEARAGON: My girlfriend, she was in an
16 assault and rape approximately two years ago.

17 THE COURT: Was that here in Charleston County,
18 or somewhere else?

19 MR. DEARAGON: It was somewhere else.

20 THE COURT: And with what you shared with us,
21 you would be unable to listen to the facts from the
22 witness stand?

23 MR. DEARAGON: I would be very impartial.

24 THE COURT: All right. You would be unable to
25 apply the law to those facts and render a verdict based

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1 on any of those things?

2 MR. DEARAGON: No, I could not.

3 THE COURT: All right. Your juror number and
4 name?

5 MR. DEARAGON: 65. Francisco Dearagon.

6 THE COURT: All right. I'm going to excuse you
7 from the trial of this case. Your service is for the
8 week so you need to stay with us.

9 Juror 65 is excused from the trial of this case.
10 Thank you.

11 THE BAILIFF: 208.

12 [Whereupon, Ms. Owens, juror number 208, comes
13 forward]

14 THE COURT: Good afternoon.

15 MS. OWENS: Hi. Previously --

16 THE COURT: Say that one more time. There's a
17 lot of commotion.

18 MS. OWENS: My son was convicted of a charge.

19 THE COURT: All right. And that was here in
20 Charleston County or --

21 MS. OWENS: Yes.

22 THE COURT: -- somewhere else?

23 MS. OWENS: Charleston County.

24 THE COURT: And did it go to trial?

25 MS. OWENS: Yes. He's on probation.

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1 THE COURT: Do you -- was it through the
2 solicitor's office? Did you deal with anybody in the
3 solicitor's office or anybody in the public defender's
4 office?

5 MS. OWENS: I don't know who did it.

6 THE COURT: Okay. Was there anything about what
7 you shared with us that will affect your ability to be
8 fair and impartial in this case?

9 MS. OWENS: No.

10 THE COURT: And your jury number again?

11 MS. OWENS: Queen Owens. 240.

12 THE COURT: Thank you, Ms. Owens. You can stay
13 with us.

14 Juror 208 will remain. Thank you.

15 THE BAILIFF: 124.

16 [Whereupon, Mr. Horner, juror number 124, comes
17 forward]

18 THE COURT: Hi.

19 MR. HORNER: I'm sorry. Did you say we should
20 come up if one has ever been a victim of a crime?

21 THE COURT: Sure.

22 MR. HORNER: Is that right?

23 THE COURT: Yes.

24 MR. HORNER: Okay. I was I guess attempted --
25 someone attempted to rob me years ago.

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1 THE COURT: And how many years ago?

2 MR. HORNER: This would have been about 1985.

3 THE COURT: All right. And is there anything
4 about that that will affect your ability to be fair and
5 impartial in this case?

6 MR. HORNER: No.

7 THE COURT: All right. And your jury number and
8 name?

9 MR. HORNER: 124. Michael Horner. I should
10 also -- I'm sorry.

11 THE COURT: All right. Go ahead.

12 MR. HORNER: I've had a couple of cars broken
13 into and stuff. I don't think it will affect anything.

14 THE COURT: All right.

15 MR. HORNER: I also wanted to clarify -- not
16 very much that it matters, but I'm not -- my salary is
17 not paid by MUSC. I'm regular faculty there.

18 THE COURT: All right. We're just trying to
19 alleviate any conflicts, because both the defendant and
20 the State deserve a jury who can listen to the facts
21 from the witness stand and apply the law as the Court
22 gives it and render a verdict based on those things.

23 Is that the kind of juror you will be?

24 MR. HORNER: Yes.

25 THE COURT: All right. Thank you. You will

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1 stay with us.

2 THE BAILIFF: Number 18.

3 [Whereupon, Mr. Beeland, juror number 18, comes
4 forward]

5 THE COURT: Good afternoon.

6 MR. BEELAND: Hello. My girlfriend of many
7 years was in -- domestic abuse and sexual trauma.

8 THE COURT: All right. And you share that with
9 us. Would that affect your ability to be fair and
10 impartial in this case?

11 MR. BEELAND: I can't say that it -- I can't say
12 that I could be impartial.

13 THE COURT: All right. You believe that it will
14 affect your ability to listen to the facts from the
15 witness stand and the law as the Court gives it?

16 MR. BEELAND: I do.

17 THE COURT: All right. Your juror number?

18 MR. BEELAND: 18.

19 THE COURT: Juror 18 is excused from the trial
20 of this case.

21 I need you to stay with us, though. All right?

22 MR. BEELAND: Yes, ma'am.

23 THE COURT: Thank you.

24 THE BAILIFF: Number 5.

25 [Whereupon, Ms. Ahearn, juror number 5, comes

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1 forward]

2 THE COURT: How are you?

3 MS. AHEARN: Fine. Robin Ahearn.

4 My brother was arrested for criminal domestic
5 violence last September.

6 THE COURT: All right. This was last month?

7 MS. AHEARN: No, no. 2011.

8 THE COURT: Okay. And was this here in
9 Charleston County --

10 MS. AHEARN: Yes.

11 THE COURT: -- or somewhere else?

12 And has he been prosecuted?

13 MS. AHEARN: No. It was dismissed. It was
14 dropped.

15 THE COURT: All right. Is there anything about
16 that that would affect your ability to be fair and
17 impartial in this case?

18 MS. AHEARN: Yes.

19 THE COURT: All right. I'm going to need you to
20 stay with us. I'm going to excuse you from the trial
21 of this case. Please do not answer anymore questions,
22 but stay with us.

23 MS. AHEARN: Okay.

24 THE COURT: Juror number 5 is excused from the
25 trial of this case.

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1 THE BAILIFF: 92.

2 [Whereupon, Ms. Gaffney, juror number 92, comes
3 forward]

4 MS. GAFFNEY: When I was in residence in
5 Atlanta, Georgia, my home was robbed twice.

6 THE COURT: Okay. Is there anything about that
7 that would affect your ability to be fair and impartial
8 in this case?

9 MS. GAFFNEY: No.

10 THE COURT: All right. Your juror number?

11 MS. GAFFNEY: 92.

12 THE COURT: Thank you. You will remain with us.
13 Thank you.

14 Juror 92 will remain.

15 THE BAILIFF: 266.

16 [Whereupon, Mr. Stevens, juror number 266, comes
17 forward]

18 THE COURT: Good afternoon. How are you?

19 MR. STEVENS: Fine.

20 We were a victim of a violent crime. Two break-
21 ins in our house in '93 and '96.

22 THE COURT: All right. Anything about that that
23 would affect your ability to be fair and impartial in
24 this case?

25 MR. STEVENS: No, ma'am.

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1 THE COURT: All right. Your jury number?

2 MR. STEVENS: 266.

3 THE COURT: 266 will remain. Thank you.

4 THE BAILIFF: 198.

5 [Whereupon, Ms. Morrison, juror number 198,
6 comes forward]

7 MS. MORRISON: Hi. 198. Janice Morrison. My
8 son was arrested a week ago Saturday.

9 THE COURT: All right. For DUI?

10 MS. MORRISON: DUI.

11 THE COURT: Is there anything about that that
12 would affect your ability to be fair and impartial in
13 this case?

14 MS. MORRISON: No.

15 THE COURT: And that was in North Charleston; is
16 that correct?

17 MS. MORRISON: That's correct.

18 THE COURT: All right. I'm going from memory.

19 MS. MORRISON: Right.

20 THE COURT: All right. Juror 9 --

21 MS. MORRISON: 198.

22 THE COURT: See, I can't remember.

23 Juror 198 will remain. Thank you.

24 THE BAILIFF: 147.

25 [Whereupon, Mr. King, juror number 147, comes

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1 forward]

2 THE COURT: Good afternoon, sir.

3 MR. KING: Paul King, 147.

4 THE COURT: Yes.

5 MR. KING: My son was assaulted up in Columbia.

6 It was about ten years ago.

7 And my other son went through PTI in this court.

8 THE COURT: All right. And remind me what the
9 charge was and about how long ago it was.

10 MR. KING: It was actually marijuana. It was
11 about a year and a half ago that he completed it.

12 THE COURT: Anything about those two -- what
13 you've shared with us that will affect your ability to
14 be fair and impartial in this case?

15 MR. KING: No, Your Honor.

16 And did I mention the other day my job, my
17 employee, Charleston County Sheriff's Department -- for
18 security.

19 THE COURT: All right. Anything about that that
20 will affect your ability to be fair and impartial in
21 this case?

22 MR. KING: No.

23 THE COURT: And you didn't recognize any of the
24 names, did you?

25 MR. KING: No, I didn't.

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1 THE COURT: All right. Thank you, Mr. King.

2 You'll stay with us. Thank you.

3 THE BAILIFF: 210.

4 [Whereupon, Ms. Padgett, juror number 210, comes
5 forward]

6 MS. PADGETT: I'm so sorry. I forgot. I have
7 an aunt that works here.

8 THE COURT: Okay.

9 MS. PADGETT: Annie Maddox.

10 MS. BALDWIN: She's the victim advocate on this
11 case.

12 THE COURT: Okay.

13 MS. RONEY: I would ask that you excuse her.

14 THE COURT: I'm going to excuse you. What's
15 your juror number?

16 MS. PADGETT: Well, I'm glad I said something.
17 210.

18 THE COURT: All right. Juror 210.

19 Juror 210 is excused from the trial of this
20 case.

21 But I need you to stay with us. Okay?

22 MS. PADGETT: Okay.

23 THE COURT: Thank you.

24 THE BAILIFF: 157.

25 [Whereupon, Mr. Leland, juror number 157, comes

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1 forward]
2 THE COURT: Yes, sir?
3 MR. LELAND: Hi.
4 THE COURT: Hi.
5 MR. LELAND: Mine is purely a personal thing.
6 THE COURT: All right.
7 MR. LELAND: At the beginning of the week they
8 presented it like I might get called, so I took a shot.
9 But my son lives with me. I --
10 THE COURT: You took what kind of a shot?
11 MR. LELAND: [No response]
12 THE COURT: You took a shot?
13 MR. LELAND: No. My son lives with me.
14 THE COURT: Okay. I'm sorry.
15 MR. LELAND: I'm separated. I've got a father
16 in a nursing home who's in the hospital right now --
17 THE COURT: Right.
18 MR. LELAND: -- and just my financial situation.
19 I can't miss much work or I will get fired.
20 THE COURT: Okay. What's your juror number?
21 MR. LELAND: 157. But, see, I'm a small-time
22 contractor.
23 THE COURT: Sir, I can't excuse you just for
24 general inconvenience. I'm going to have you stay with
25 us.

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1 MR. LELAND: Okay. I appreciate it.

2 THE COURT: All right? But I'll try to do
3 everything I can for you.

4 MR. LELAND: Okay. I appreciate it. I just
5 don't know who's going to pick up my son -- child in
6 the afternoon.

7 THE COURT: What time does he need to be picked
8 up?

9 MR. LELAND: Three o'clock.

10 THE COURT: Three o'clock?. Where does he go to
11 school?

12 MR. LELAND: James Island Charter.

13 THE COURT: How old is he?

14 MR. LELAND: Fifteen.

15 THE COURT: Fifteen. All right.

16 You're juror 157?

17 MR. LELAND: Yes.

18 THE COURT: Juror 157 will remain. Thank you.

19 MR. LELAND: Thank you.

20 [Whereupon, the Court and counsel confer]

21 THE COURT: Ladies and gentlemen, just to be
22 clear, is there any member of the jury panel that you
23 or a close family member or a very close personal
24 friend is in law enforcement? If so, please stand.

25 All right. Juror 222?

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1 MS. RAY: Yes.

2 THE COURT: All right. Who's in law enforcement
3 in your family?

4 MS. RAY: -- family. Father.

5 THE COURT: I'm sorry?

6 MS. RAY: Father.

7 THE COURT: Your father is in law enforcement?

8 MS. RAY: Yes.

9 THE COURT: Here in Charleston or --

10 MS. RAY: No. No.

11 THE COURT: And what does he do?

12 MS. RAY: He's now deceased.

13 THE COURT: All right. How long -- he was in
14 law enforcement? A police officer?

15 MS. RAY: Yes.

16 THE COURT: Is there anything about that that
17 would affect your ability to be fair and impartial in
18 this case?

19 MS. RAY: No.

20 THE COURT: All right. Thank you.

21 All right. Anything further?

22 MS. BALDWIN: No, Your Honor.

23 THE COURT: Anything further?

24 MS. RUNEY: No.

25 THE COURT: All right. Thank you.

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1 STRIKING OF THE JURY

2 THE CLERK OF COURT: Ladies and gentlemen, when
3 I call your name and juror number, if you'll please
4 come forward, turn, and face the audience, please.

5 Juror number 127, Johnetta Howard.

6 With your belongings..

7 [Whereupon, Ms. Howard comes forward]

8 THE CLERK OF COURT: What say ye for the State?

9 MS. BALDWIN: Please present the juror.

10 THE CLERK OF COURT: What say ye for the
11 defendant?

12 MS. RUNEY: Please seat Ms. Howard.

13 THE CLERK OF COURT: Ms. Howard, please have a
14 seat in the jury box.

15 THE COURT: Thank you.

16 [Whereupon, Ms. Howard is seated in the jury box
17 as a juror]

18 THE CLERK OF COURT: Juror number 160, Mark
19 Lipsmeyer.

20 [Whereupon, Mr. Lipsmeyer comes forward]

21 THE CLERK OF COURT: What say ye for the State?

22 MS. BALDWIN: Please present the juror.

23 THE CLERK OF COURT: What say ye for the
24 defendant?

25 MS. RUNEY: Beg the Court's indulgence, please.

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1 THE COURT: Take your time.

2 [Whereupon, Ms. Runey reviews documents]

3 MS. RUNEY: Please seat Mr. Lipsmeyer as a
4 juror.

5 THE CLERK OF COURT: Have a seat in the jury
6 box.

7 [whereupon, Mr. Lipsmeyer is seated in the jury
8 box as a juror]

9 THE CLERK OF COURT: Juror number 168, Stephanie
10 Manigault.

11 MS. RUNEY: Madam Clerk, could you tell me the
12 number again?

13 THE CLERK OF COURT: 168.

14 [Whereupon, Ms. Manigault comes forward]

15 MS. RUNEY: Thank you.

16 THE CLERK OF COURT: What say ye for the State?

17 MS. BALDWIN: Please present the juror.

18 THE CLERK OF COURT: What say ye for the
19 defendant?

20 MS. RUNEY: Please seat Ms. Manigault.

21 [Whereupon, Ms. Manigault is seated in the jury
22 box as a juror]

23 THE CLERK OF COURT: Juror number 20, Ephriam
24 Bennett.

25 [Whereupon, Mr. Bennett comes forward]

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1 THE CLERK OF COURT: What say ye for the State?

2 MS. BALDWIN: Please present the juror.

3 THE CLERK OF COURT: What say ye for the
4 defendant?

5 MS. RUNEY: Please seat Mr. Bennett.

6 THE CLERK OF COURT: Mr. Bennett, have a seat in
7 the jury box.

8 [Whereupon, Mr. Bennett is seated in the jury
9 box as a juror]

10 THE CLERK OF COURT: Juror number 124, Michael
11 Horner..

12 [Whereupon, Mr. Horner comes forward]

13 THE CLERK OF COURT: What say ye for the State?

14 MS. BALDWIN: Please excuse this juror.

15 THE CLERK OF COURT: Mr. Horner, please have a
16 seat back in the gallery.

17 [Whereupon, Mr. Horner returns to the audience]

18 THE CLERK OF COURT: Juror number 208, Queen.
19 Owen.

20 [Whereupon, Ms. Owen comes forward]

21 THE CLERK OF COURT: What say ye for the State?

22 MS. BALDWIN: Please excuse this juror.

23 THE CLERK OF COURT: Ms. Owen, please have a
24 seat back in the gallery.

25 [Whereupon, Ms. Owen returns to the audience]

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1 THE CLERK OF COURT: Juror number 204,
2 Sonseeahray Nelson-Gathers.

3 [Whereupon, Ms. Nelson-Gathers comes forward]

4 THE CLERK OF COURT: What say ye for the State?

5 MS. BALDWIN: Beg the Court's indulgence.

6 THE COURT: Take your time.

7 MS. BALDWIN: Please excuse this juror.

8 THE CLERK OF COURT: Ms. Nelson-Gathers, please
9 have a seat back in the gallery.

10 [Whereupon, Ms. Nelson-Gathers returns to the
11 audience]

12 THE CLERK OF COURT: Three strikes for the
13 State.

14 Juror number 147, Paul King.

15 [Whereupon, Mr. King comes forward]

16 THE CLERK OF COURT: What say ye for the State?

17 MS. BALDWIN: Please present this juror.

18 THE CLERK OF COURT: What say ye for the
19 defendant?

20 MS. RONEY: Beg the Court's indulgence.

21 THE COURT: Take your time.

22 [Whereupon, Ms. Roney reviews documents]

23 MS. RONEY: Please seat Mr. King.

24 [Whereupon, Mr. King is seated in the jury box
25 as a juror]

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1 THE CLERK OF COURT: Juror number 216, Judith
2 Pittard.

3 [Whereupon, Ms. Pittard comes forward]

4 THE CLERK OF COURT: What say ye for the State?

5 MS. BALDWIN: Please present this juror.

6 THE CLERK OF COURT: What say ye for the
7 defendant?

8 MS. RONEY: Please excuse Ms. Pittard.

9 THE CLERK OF COURT: Ms. Pittard, please have a
10 seat back in the gallery.

11 [Whereupon, Ms. Pittard returns to the audience]

12 THE CLERK OF COURT: Juror number 120, Lindsay
13 Hoffman.

14 [Whereupon, Ms. Hoffman comes forward]

15 MS. RONEY: I'm sorry. What was that number
16 again?

17 THE CLERK OF COURT: 120.

18 MS. RONEY: Thank you.

19 THE CLERK OF COURT: What say ye for the State?

20 MS. BALDWIN: Please present the juror.

21 THE CLERK OF COURT: What say ye for the
22 defendant?

23 MS. RONEY: Please excuse Ms. Hoffman.

24 [Whereupon, Ms. Hoffman returns to the audience]

25 THE CLERK OF COURT: Juror number 7, Aimee.

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1 Bolchoz.

2 [Whereupon, Ms. Bolchoz comes forward]

3 THE CLERK OF COURT: What say ye for the State?

4 MS. BALDWIN: Please present this juror.

5 THE CLERK OF COURT: What say ye for the
6 defendant?

7 MS. RONEY: Beg the Court's indulgence.

8 THE COURT: Take your time.

9 [Whereupon, Ms. Roney reviews documents]

10 MS. RONEY: Please seat Ms. Bolchoz.

11 THE CLERK OF COURT: Ms. Bolchoz, please have a
12 seat in the jury box.

13 [Whereupon, Ms. Bolchoz is seated in the jury
14 box as a juror]

15 THE CLERK OF COURT: Juror number 119, Simon Ho.

16 [Whereupon, Mr. Ho comes forward]

17 THE CLERK OF COURT: What say ye for the State?

18 MS. BALDWIN: Please present the juror.

19 THE CLERK OF COURT: What say ye for the
20 defendant?

21 MS. RONEY: Please seat Mr. Ho.

22 [Whereupon, Mr. Ho is seated in the jury box as
23 a juror]

24 THE CLERK OF COURT: Juror number 222, Carolyn
25 Ray.

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1 [Whereupon, Ms. Ray comes forward]

2 THE CLERK OF COURT: What say ye for the State?

3 MS. BALDWIN: Please present this juror.

4 THE CLERK OF COURT: What say ye for the
5 defendant?

6 MS. RUNEY: Please excuse Ms. Ray.

7 THE CLERK OF COURT: Ms. Ray, please have a seat
8 back in the gallery.

9 [Whereupon, Ms. Ray returns to the audience]

10 THE CLERK OF COURT: Juror number 178, Carolyn
11 Varndell.

12 [Whereupon, Ms. Varndell comes forward]

13 THE CLERK OF COURT: What say ye for the State?

14 MS. BALDWIN: Please present this juror.

15 THE CLERK OF COURT: What say ye for the
16 defendant?

17 MS. RUNEY: Please excuse Ms. Varndell.

18 THE CLERK OF COURT: Ms. Varndell, please have a
19 seat back in the gallery.

20 [Whereupon, Ms. Varndell returns to the
21 audience]

22 THE CLERK OF COURT: Juror number 62, Raymond
23 Dangerfield.

24 [Whereupon, Mr. Dangerfield comes forward]

25 THE CLERK OF COURT: What say ye for the State?

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1 MS. BALDWIN: Please present this juror.

2 THE CLERK OF COURT: What say ye for the
3 defendant?

4 MS. RUNEY: Please seat Mr. Dangerfield.

5 [Whereupon, Mr. Dangerfield is seated in the
6 jury box as a juror]

7 THE CLERK OF COURT: Juror number 171, Holly
8 Marsh.

9 [Whereupon, Ms. Marsh comes forward]

10 THE CLERK OF COURT: What say ye for the State?

11 MS. BALDWIN: Please present this juror.

12 THE CLERK OF COURT: What say ye for the
13 defendant?

14 MS. RUNEY: Beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 [Whereupon, Ms. Runey and Ms. Frayer confer]

17 MS. RUNEY: Please seat Ms. Marsh.

18 THE CLERK OF COURT: Ms. Marsh, please have a
19 seat in the jury box.

20 [Whereupon, Ms. Marsh is seated in the jury box
21 as a juror]

22 THE CLERK OF COURT: Juror number 59, Timothy
23 Crowder.

24 [Whereupon, Mr. Crowder comes forward]

25 THE CLERK OF COURT: What say ye for the State?

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1 MS. BALDWIN: Please present this juror.

2 THE CLERK OF COURT: What say ye for the
3 defendant?

4 MS. RUNEY: Please excuse Mr. Crowder.

5 [Whereupon, Mr. Crowder returns to the audience]

6 THE CLERK OF COURT: The defendant is out of
7 strikes.

8 Juror number 35, Joan Britt.

9 [Whereupon, Ms. Britt comes forward]

10 THE CLERK OF COURT: What say ye for the State?

11 MS. BALDWIN: Please present this juror.

12 THE CLERK OF COURT: Any challenge from the
13 defendant?

14 MS. RUNEY: No challenge.

15 THE CLERK OF COURT: Ms. Britt, please have a
16 seat in the jury box.

17 [Whereupon, Ms. Britt is seated in the jury box
18 as a juror]

19 THE CLERK OF COURT: Juror number 24, Elizabeth
20 Bliss.

21 [Whereupon, Ms. Bliss comes forward]

22 THE CLERK OF COURT: What say ye for the State?

23 MS. BALDWIN: Please excuse this juror.

24 THE CLERK OF COURT: Please have a seat back in
25 the gallery.

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1 [Whereupon, Ms. Bliss returns to the audience]

2 THE CLERK OF COURT: Juror number 198, Janice
3 Morrison.

4 [Whereupon, Ms. Morrison comes forward]

5 THE CLERK OF COURT: What say ye for the State?

6 MS. BALDWIN: Please present this juror.

7 THE CLERK OF COURT: Any challenge from the
8 defendant?

9 MS. RUNEY: No challenge.

10 THE CLERK OF COURT: Ms. Morrison, have a seat
11 in the jury box.

12 [Whereupon, Ms. Morrison is seated in the jury
13 box as a juror]

14 THE CLERK OF COURT: Juror number 266, John
15 Stevens.

16 [Whereupon, Mr. Stevens comes forward]

17 THE CLERK OF COURT: What say ye for the State?

18 MS. BALDWIN: Please present this juror.

19 THE CLERK OF COURT: Any challenge from the
20 defendant?

21 MS. RUNEY: No, ma'am.

22 THE CLERK OF COURT: Mr. Stevens, please have a
23 seat in the jury box.

24 [Whereupon, Mr. Stevens is seated in the jury
25 box as a juror]

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1 THE COURT: An alternate.

2 THE CLERK OF COURT: Now striking for the
3 alternate.

4 Juror number 22, Elaine Berry.

5 [Whereupon, Ms. Berry comes forward]

6 THE CLERK OF COURT: What say ye for the State?

7 MS. BALDWIN: Please present the juror.

8 THE CLERK OF COURT: What say ye for the
9 defendant?

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

11 THE COURT: Yes, ma'am.

12 [Whereupon, Ms. Roney reviews documents]

13 MS. RONEY: Please seat Ms. Berry.

14 THE CLERK OF COURT: Ms. Berry, please have a
15 seat in the jury box. You've been selected as an
16 alternate.

17 [Whereupon, Ms. Berry is seated in the jury box
18 as an alternate juror]

19 THE COURT: Any motions or matters pertaining to
20 the jury as selected?

21 MS. BALDWIN: None from the State, Your Honor.

22 MS. RONEY: No, ma'am.

23 [Off the record momentarily]

24 THE COURT: Ladies and gentlemen, you have been
25 selected as the jury for this case. And I'm assuming,

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1 since you reported at noon, that most of you need a
2 lunch break. We have been working through lunch, so I
3 know all of my staff needs a lunch break. You will
4 need to report back, and the bailiffs will show you
5 where to report back, at 2:30. That will give you
6 sufficient time to enjoy the day and walk around and
7 have a nice lunch. Please remember these are going to
8 be my admonitions throughout the progress of this
9 trial. I told you just a little bit about this case.
10 You may not do any independent investigation regarding
11 this matter. That means you can't research anything on
12 Google, maps, or anything of that nature. You may not
13 do any independent investigation regarding any of the
14 attorneys involved, or the Court, or anything of that
15 nature. Ladies and gentlemen, you may not discuss this
16 case with anyone. That includes your fellow jurors, as
17 well as friends or family members. That includes face-
18 to-face discussions but it also includes texting or
19 blogging or anything of that nature, posting on
20 Facebook, until I tell you that you may do so. Please
21 have a wonderful lunch. I'll see you back at 2:30.
22 Thank you.

23 [Whereupon, the jury exits the courtroom at
24 1:05 p.m.]

25 THE COURT: Ladies and gentlemen, you were not

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1 selected as the jury in this case. I wish to thank
2 you. I know some of you were under the understanding
3 that you only had to come one time. So I appreciate --
4 there were matters that we had to attend to and we
5 could not have done that had you not showed up here
6 today. Ladies and gentlemen, you have completed your
7 service for the week and so that means that you do not
8 have to call back this evening or report in any manner
9 tomorrow. Again, thank you for your service to
10 Charleston County. I may have shared this with some of
11 you before, but there have been counties that I go to
12 and I cannot do my job because I do not have enough
13 jurors. What that means is that court just, in
14 essence, shuts down. No one gets their cases tried,
15 cases are not resolved. And so that's what that means
16 when we don't have enough jurors. I know it's a
17 sacrifice for all of you to be here, but every person
18 in this room does appreciate that you have made that
19 sacrifice. And, again, thank you for showing up. I
20 know you didn't really have a choice of whether or not
21 you showed up, but we do appreciate that you did. I
22 hope that for the limited time you were here you have
23 found this to be a learning experience, and I hope that
24 you will come back. You've earned your exemption for
25 three years, so I hope to see every one of you in three

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1 years. Have a wonderful day. And, again, thank you
2 from Charleston County. You are excused.

3 [Whereupon, the jury panel exits the courtroom
4 at 1:08 p.m.]

5 THE COURT: I'll see you back here a little
6 before 2:30 so that we can begin promptly. Thank you.

7 [Whereupon, a recess is taken from 1:08 p.m. to
8 2:28 p.m.]

9 THE COURT: All right. Counsel, anything before
10 we bring in the jury?

11 MS. BALDWIN: Nothing from the State, Your
12 Honor.

13 MS. RUNEY: I don't have anything, Your Honor.
14 Thank you.

15 [Off the record momentarily]

16 THE COURT: Ms. Baldwin, will you be handling
17 all matters or is Mr. Finch going to do --

18 MS. BALDWIN: Mr. Finch will be doing three
19 witnesses, Your Honor.

20 THE COURT: All right. Ms. Runey, will you be
21 doing everything or will --

22 MS. RUNEY: Yes, ma'am.

23 THE COURT: -- Ms. Frayer be assisting in any
24 capacity?

25 MS. RUNEY: I'm going to be doing all the

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1 talking, but she'll -- I'm sure she will assist me.

2 [Whereupon, the jury enters the courtroom at
3 2:33 p.m.]

4 THE COURT: Please be seated.

5 Mr. Dangerfield, I understand you have been
6 selected as the foreperson.

7 THE FOREPERSON: Yes, ma'am.

8 THE COURT: Thank you for accepting that
9 responsibility.

10 What that means is you are the jury spokesperson
11 here in court. You are also required to write the
12 verdict, but I'll give you further instructions
13 regarding that when I instruct you on the law
14 applicable to this case.

15 Ladies and gentlemen, you have been given
16 notepads. That indicates that you may take notes
17 throughout the progress of this trial. I always
18 caution jurors some of us were much better note-takers
19 in school than others. So please remember those are
20 your notes. No juror's -- one juror's notes are no
21 more accurate or correct than another juror. So please
22 -- you'll be able to take those notes back with you
23 during your deliberations.

24 Mr. Dangerfield, you are the foreperson, so
25 that is your assigned seat. And as the alternate,

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1 Ms. Berry, that is your assigned seat. So the two of
2 you have assigned seats. The rest of you may alternate
3 whenever we take breaks.

4 If you need any additional breaks, please let
5 your foreperson know and he'll alert the bailiff and we
6 will break accordingly.

7 Ladies and gentlemen, I need you to stand. Miss
8 Jenny will administer the oath to try this case.

9 THE CLERK OF COURT: Mr. Foreman, ladies and
10 gentlemen of the jury, please raise your right hands to
11 be sworn.

12 [Whereupon, the jury is duly sworn by the clerk
13 of court as follows: do you swear or affirm that you
14 shall well and truly try and a true deliverance make
15 between the State of South Carolina and the defendant
16 at the bar, whom you shall have in charge -- have in
17 charge, and a true verdict render according to the
18 evidence and the law, so help you God]

19 Please indicate by saying, I do.

20 [Whereupon, the jurors comply]

21 THE CLERK OF COURT: Thank you.

22 THE COURT: Y'all may have a seat. Thank you.

23 Ladies and gentlemen, you also may have noticed
24 that when you came in this time everyone was standing
25 for you. That is out of respect for your new position

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1 as judges of the facts. So please come in, have a
2 seat, because everyone will remain standing until all
3 of you have been seated.

4 Ladies and gentlemen, the case that we are about
5 to try is the case of the State versus Darrell Anthony
6 Flores.

7 I am just going to give you a quick overview, an
8 introduction, to the trial of this case. Please
9 remember that these remarks are not a charge on the
10 law. I will instruct you on the law applicable to this
11 case as we progress throughout the trial and at the
12 close of the trial before you retire to consider your
13 verdict.

14 The defendant has been charged by an indictment,
15 filed in this court, with the crime of criminal
16 domestic violence of a high and aggravated nature. I
17 will explain the elements of that charge to you at a
18 later time. The indictment is simply the charge by
19 which this case is brought into court. It is not in
20 any sense evidence of the allegations it contains. The
21 defendant has pled not guilty to this indictment. The
22 State has the burden of proving each of the elements of
23 the indictment beyond a reasonable doubt. It is your
24 duty, ladies and gentlemen, to decide whether the State
25 has met that burden.

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1 Your purpose as jurors is to find and determine
2 the facts. You are the sole judges of the facts in
3 this case and at anytime I make any comment regarding
4 the facts, you must disregard it. You are to determine
5 the facts from the testimony you hear, as well as other
6 evidence introduced in court. It is up to you to
7 determine the inferences which you feel may be properly
8 drawn from the evidence. It is important that you
9 perform your duty of determining the facts diligently
10 and conscientiously, because ordinarily there is no way
11 to correct an erroneous determination of the facts by a
12 jury.

13 On the other hand, and with equal emphasis, the
14 same law that makes you the judges of the facts makes
15 me the judge of the law. The law as given by this
16 Court is the only law that you may consider. You must
17 accept it and follow it, even though you may disagree
18 with me. I cannot tell you what I think the facts are
19 and you cannot disagree with me about what the law is
20 or what the law ought to be. Your job is to take the
21 law as I give it to you, apply it to the facts as you
22 find them from the testimony of the witnesses as well
23 as any other evidence that is introduced. After doing
24 that, you will render your verdict, a true and just
25 verdict, under the solemn oath that you just took as

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1 jurors.

2 Until I advise you to begin your deliberations,
3 you must not discuss this case with anyone. That
4 includes your friends, your family members, or anyone
5 involved in this case. Please remember it also
6 includes not only face-to-face discussions but any
7 entry on facebook, texting -- texting, anything of that
8 nature.

9 You may not read, watch, listen to any news
10 accounts regarding this case, should there be any, and
11 you may not do any independent investigation. It is
12 important that you keep an open mind and not decide any
13 issue in this case until all of the evidence has been
14 presented, the parties have made their closing
15 arguments, and I have instructed you on the law
16 applicable to this case.

17 It is your solemn responsibility to determine
18 the guilt or innocence of the defendant and your
19 verdict must be based solely on the evidence as it is
20 presented to you in this trial and on the law as I
21 instruct you during and at the close of this trial.

22 In just a moment the solicitor will make what is
23 called an opening statement in which the solicitor will
24 explain to you the issues in this case, or at least
25 what the solicitor thinks the issues are. The attorney

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1 for the defendant may also make an opening statement,
2 although the law does not require the defendant to do
3 so. What the attorneys tell you in their opening
4 statement is not considered evidence in this case. It
5 is only their contention as to what the issues are.
6 The evidence in this case will be presented to you by
7 the testimony of sworn witnesses from the witness
8 stand, as well as any exhibits that may be introduced
9 into evidence.

10 From time to time you may hear one of the
11 attorneys say, Your Honor, may we approach the bench,
12 or I might find it necessary to excuse you from the
13 courtroom for a short while. If I have the attorneys
14 approach the bench, please do not try to overhear us or
15 read our lips. Please do not think we're trying to
16 hide anything from you. The reason for this is because
17 sometimes it is necessary for me to make a comment
18 regarding the facts when ruling on the law and, as I
19 just indicated to you, the law does not allow me to
20 have an opinion about the facts in this case. So that
21 is why I may excuse you for a short while.

22 Ladies and gentlemen, in determining what the
23 true facts are, you must decide whether or not the
24 testimony you hear is believable. It is my
25 responsibility to determine as a matter of law whether

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1 certain testimony is admissible but once the testimony
2 is admitted, whether or not you believe it is solely
3 for you to determine.

4 In deciding whether to believe a witness, you
5 have the right to consider the interest of a witness,
6 the bias of a witness, the prejudice of a witness, as
7 well as the way the witness acts on the witness stand.
8 You have a right to consider anything in the record
9 that will help you evaluate the testimony of the
10 witnesses. That means it's your duty to pay close
11 attention to the witnesses, to observe the witnesses,
12 to listen to the Court and to the attorneys.

13 Please do not let your thoughts wander so at the
14 end of all the testimony, after closing arguments and I
15 have instructed you on the law applicable to this case,
16 you will be in a position to determine what the true
17 facts are and to apply the law to those facts,
18 rendering your true and just verdict.

19 Ladies and gentlemen, please give your strict
20 attention.

21 Ms. Baldwin.

22 MS. BALDWIN: Thank you, Your Honor.

23 THE COURT: Thank you.

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OPENING STATEMENT

MS. BALDWIN: Good afternoon, everyone.

As I stated earlier, my name is Jessica Baldwin. I'm an assistant solicitor here in the ninth circuit and I just wanted to say thank you very much for your service. As the judge mentioned earlier, we would not be able to do this without having y'all.

We're here today because of what the defendant, Darrell Anthony Flores, did to the victim, Rosanne Eaton. It was May 31st, 2011, and it was a day that changed Ms. Eaton's life forever.

It had been a hard past three years for her. She had lost her husband three years prior. She was still mourning him, but she had met someone new: Mr. Flores. She found somebody and she fell in love with him. He moved in with her.

She actually called him Tony, so you might hear mention of that during the trial.

Initially you'll hear her say Tony treated her like a queen but then over time the relationship started to sour and she asked him to move out. She had given him the date of June 1st of 2011, the beginning of the month, seemed like a good time. So that day before, May 31st, Ms. Eaton picked Tony up from the McDonald's over on John's Island.

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1 She had been at work. She picked him up on her
2 way home -- to go back to their house, watch some TV,
3 just, you know, making out around the house as couples
4 do. But it was sort of on edge because that
5 relationship had sort of -- had been broken off.

6 Rosanne went to bed about nine o'clock. The
7 next thing she knew, Tony came in. And he wanted to
8 lay on the bed with her, get a little close, get a
9 little physical. But Rosanne wasn't having that,
10 because that relationship was over; he was moving out.

11 So she said, you know, it's hot in here, I don't
12 have any air-conditioning in here, there's a central
13 air unit in the living room, I'm warm, I'm going to go
14 lay down in the living room; I'll make myself a little
15 bed, settle down; you sleep in the bedroom if you want
16 to. So she went in there.

17 Well, Tony wasn't having that. He got mad.
18 In fact, he became enraged and started screaming at
19 Ms. Eaton, yelling at her. She saw him holding a body
20 pillow, twisting it in his hands, began to wonder what
21 he was doing with that. She turned around and the next
22 thing she knew, that pillow had knocked her down. He
23 was yelling at her.

24 And at that point Rosanne knew she needed to get
25 out of that house; this guy was mad. So she went to

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1 her bedroom, grabbed her purse, came back into her
2 kitchen, went to grab her keys off the wall and get out
3 of there. However, before she could, Tony had other
4 ideas. He picked up an ottoman, a heavy ottoman that
5 had been just sitting in the living room, turned it on
6 its end and came running at her full force.

7 And you'll see pictures of that ottoman. You'll
8 get to hear about the size of Mr. Flores. You'll see
9 Ms. Eaton so you can see her size. That ottoman, the
10 two-by-four that was part of the framing, came and hit
11 her right in the mouth. Knocked her down on the
12 ground, it hit her so hard.

13 Blood started gushing out of her mouth. She
14 didn't know what happened but she knew something was
15 bad. She said she heard a crack. She ran -- he jumped
16 on top of her while she was on the ground and had her
17 pinned to the ground with his knees on her chest.

18 She ran to her bedroom, fearful, trying to see
19 what the damage was, looking in the mirror, could see
20 the blood gushing out of her mouth. And she said, you
21 know, Tony, I need to go to the hospital; I'm really,
22 really hurt.

23 At first he was telling her she wasn't going
24 anywhere. But then all of a sudden his demeanor
25 changed. Calmed down. Said, okay, I'll go with you.

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1 Well, she was still fearful of him. She knew that no
2 matter what, things weren't good. So she realized that
3 when he -- since he was in his boxers, he needed to get
4 changed in order to go to the hospital.

5 So when he went to go get changed, she ran. She
6 ran out of the house, hopped in her car and left. She
7 actually went to her daughter's house, Jeanie Shea, and
8 told her daughter what happened. She was screaming and
9 crying. So you'll hear -- and Jeanie called the
10 police.

11 You'll hear from Jeanie. You'll hear from Rose.
12 You'll hear from two relatives that Jeanie contacted,
13 after she contacted the police, who actually went over
14 to the residence to see what was going on. And you'll
15 hear them talk about how angry Mr. Flores was. You'll
16 hear about his violence from Rose. The relatives will
17 tell you how he was screaming at them, how he was
18 threatening to shoot them.

19 Now, the judge will instruct you on the law of
20 criminal domestic violence of a high and aggravated
21 nature. But when you hear from the witnesses and when
22 you hear how mad Mr. Flores was, how violent he was,
23 and the injury that he caused to her teeth, to her
24 mouth, by the fact that she still has to wear dentures
25 -- he knocked out her front eight teeth, top and

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1 bottom.

2 When you hear all of that testimony, I'm
3 confident that you will find Mr. Flores guilty of
4 criminal domestic violence of a high and aggravated
5 nature. Thank you.

6 THE COURT: Ms. Runey.

7 MS. RONEY: Thank you, Your Honor.

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OPENING STATEMENT

MS. RUNEY: A rush to judgment, that's what this case is about.

There is no doubt that Ms. Eaton was injured. And that is truly unfortunate. We aren't going to be standing over here arguing that she was not hurt. She was. But the facts here are that she was not truthful about how this injury happened. She wasn't truthful about how this altercation occurred and how the injury happened. For these reasons, Mr. Flores sits on trial before you today.

This isn't a long and complicated case, but there is more to the story. Once Ms. Eaton tells the police and her family what happened, from there on out Mr. Flores is to be blamed.

He's a native of California. He came to South Carolina to find work. And as Ms. Baldwin told you, he met Ms. Eaton. He moved in with her on John's Island. He worked doing auto restoration while living in this area.

And this is an important day, an important day for Mr. Flores, a day to show what really happened that night and how the police acted solely on what Ms. Eaton told them. I ask you, and Mr. Flores asks you, to pay close attention. Pay close attention how things were

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1 assumed and no further investigation was done.

2 Mr. Flores hid from the police and the State is
3 going to make a big deal about that. But once Ms.
4 Eaton left that trailer, he knew the police were coming
5 for him and he knew what was going to happen.

6 This is a rush to judgment and not the whole
7 story and based on that, you must find Mr. Flores not
8 guilty.

9 THE COURT: Call your first witness.

10 MS. BALDWIN: Thank you, Your Honor.

11 The State calls Rosanne Eaton.

12 [Whereupon, Ms. Eaton comes forward]

13 THE CLERK OF COURT: Will you raise your right
14 hand and place your left hand on the Bible, please.

15 [Whereupon, Ms. Eaton is duly sworn by the clerk
16 of court as follows: do you swear or affirm that the
17 testimony you shall give be the truth, the whole truth,
18 and nothing but the truth, so help you God]

19 THE WITNESS: I do.

20 THE CLERK OF COURT: Please be seated.

21 [Whereupon, Ms. Eaton takes the witness stand]

22 THE CLERK OF COURT: Can you state your full
23 name, spelling your last name for the record, please.

24 THE WITNESS: It's Rosanne Eaton. E-A-T-O-N.

25 MS. BALDWIN: Good afternoon, Ms. Eaton. How

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1 are you doing?

2 THE WITNESS: All right.

3 - - - - -

4 ROSANNE EATON,

5 Having Been First Duly Sworn,

6 was Examined and Testified as Follows:

7 DIRECT EXAMINATION

8 BY MS. BALDWIN:

9 Q. Tell the jury a little bit about yourself. How
10 old are you?

11 A. Fifty.

12 Q. Where are you from?

13 A. From Amhurst, Ohio.

14 Q. How did you end up in South Carolina?

15 A. I came down here, moved down here, thirty-five
16 years ago. I've been here, made it my home since, raised
17 my children.

18 Q. And what do you do for a living?

19 A. I am a master upholsterer, seamstress, and
20 cutter, fabricator, at the shop.

21 Q. Been doing that for a while?

22 A. I've been on the same job for eighteen years.

23 Q. And where do you live?

24 A. I live on Johns Island on --

25 Q. What's the address?

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1 A. --

2 Q. Ms. Eaton, do you know the defendant,
3 Mr. Flores?

4 A. Yes, ma'am.

5 Q. Can you point him out to me?

6 A. Right there [indicates].

7 Q. What's he wearing?

8 A. He's got a yellow shirt on and khaki pants.

9 Q. And how do you know him?

10 A. I met him May, 2010.

11 Q. How did you meet him?

12 A. A friend of mine had called for him to come work
13 on my car and he worked on my car because my car had broke
14 down at the time.

15 Q. Did you strike up a conversation at any point?

16 A. Well, we kind of talked and kind of got together
17 a little while later after that.

18 Q. And when you say get together, what do you mean
19 by that?

20 A. We started going out, seeing each other. It was
21 kind of -- it was -- it was kind of strange for me because
22 I had not dated since my husband passed away.

23 Q. And when had he passed away in comparison to
24 when you met Mr. Flores?

25 A. To the exact day that my husband died is the day

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1 I met Mr. Flores.

2 Q. And what did you think about that?

3 A. I feel as if the stars was telling me thank God,
4 someone -- for sending me someone for me.

5 Q. And so you guys started dating --

6 A. Yes, ma'am.

7 Q. -- you and Mr. Flores?

8 And tell me about the relationship from the
9 beginning.

10 A. Oh, it was great. It was great. I was happy.
11 All my friends and everybody that's known me thought that
12 I had finally found somebody that was -- that I was happy.
13 They could see I was happy when I was with Tony.

14 Q. And how long did y'all date in total?

15 A. I think we seen each other back and forth for
16 probably about two months, maybe three months, before we
17 decided that he would move in with me.

18 Q. So y'all lived together?

19 A. Yes.

20 Q. How long had y'all lived together prior to the
21 incident that we're here for today?

22 A. It was probably about eight months maybe. Eight
23 or nine months. Somewhere within that area.

24 MS. BALDWIN: May I approach, Your Honor?

25 THE COURT: You may.

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1 Q. [Ms. Baldwin] I'm going to show you what's been
2 marked as State's Exhibit 1 for identification. Can you
3 tell me what that is?

4 A. That's my home.

5 Q. Okay. On

6 A. Yes. That's where I live.

7 Q. Okay.

8 MS. BALDWIN: Your Honor, at this time I would
9 like to admit State's Exhibit 1.

10 THE COURT: Any objection?

11 MS. RUNEY: No, Your Honor.

12 THE COURT: State's Exhibit 1 into evidence
13 without objection.

14 [Whereupon, State's Exhibit Number 1 is admitted
15 into evidence by the Court]

16 MS. BALDWIN: Thank you, Your Honor. May I
17 publish it to the jury?

18 THE COURT: You may.

19 MS. BALDWIN: Will you look up there for me,
20 Rosanne?

21 Q. [Ms. Baldwin] And that's your house?

22 A. Yes, ma'am.

23 Q. And whose car is that outside?

24 A. That's my car.

25 Q. So you guys lived together for about eight

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1 months you said?

2 A. It was about that long.

3 Q. And was the relationship always great?

4 A. It was good for a while and then it started
5 going downhill. I wasn't feeling as comfortable with our
6 relationship. And it just kept getting worse and worse.

7 Q. And what did you do as a result of that?

8 A. I knew that it -- it was something that we were
9 not going to be able to stay together longer because it
10 just got to the point to where I was like, okay, you know,
11 we need to separate and go our separate ways.

12 Q. Did you still -- what did you do about that?

13 A. I had -- a couple of weeks ahead of that I had
14 told him June 1st; you know, I would appreciate it if you
15 could just go ahead and get you a place and move out on
16 June 1st.

17 Q. And why did you pick June 1st?

18 A. It was a few weeks away and I just picked it off
19 the top of my head as just as some date that he can start
20 over.

21 Q. So tell me about the day before, May 31st, 2011.

22 A. I had went to work that day. And on the way
23 home from work, I picked Tony up from McDonald's. We went
24 home, watched a little bit of TV.

25 I noticed that he was -- he was drinking at the

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1 time. When I picked him up, I noticed that he was -- had
2 had a few beers or so.

3 Q. Where did you pick him up at?

4 A. McDonald's.

5 Q. And how could you tell that he had been
6 drinking?

7 A. I could tell. I could smell it on him and, you
8 know, you could -- I could tell that he was drinking.

9 Q. So you picked him up. You could tell he was
10 drinking. What did you do after that?

11 A. We went home and watched a little bit of TV.
12 That's about it. It was not too much conversation going
13 on between us because, like I said, things had just gotten
14 to where we were disconnected from each other. We -- it
15 was basically, you know, just a matter of time of how we
16 was going to separate.

17 Q. And what did you do after you watched some
18 television?

19 A. I'm usually in bed by nine, ten o'clock. So it
20 was real hot. It was in the hundred-degree weather. My
21 central heat and air had went out in my mobile home so I
22 had gotten a little small window unit that I kept in my
23 living room, just enough to keep it cool enough in there.

24 I had went and laid down about nine o'clock. I
25 went back in the room to lay down, just so I'd get some

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1 rest before morning. Right around about ten o'clock or so
2 he had come in the room and was kind of pushing on me and,
3 you know, wanting to get in the bed and stuff, and I told
4 him no, that's not happening, to leave me alone.

5 And finally I just got aggravated with it and I
6 got up and I grabbed my stuff off the bed, my blanket, my
7 pillow and everything, and I went to go lay down and make
8 me a bed in the living room.

9 Q. Why did you get aggravated?

10 A. Because he was just -- he was poking at me. You
11 know, shoving at me. You know, come on, move over. He
12 was wanting to get in the bed. And I just didn't want to
13 lay with him that night.

14 I didn't want him in my bed. So I got
15 aggravated. I said, okay, you want to sleep in the bed,
16 then I'm sleeping in the living room where it's much
17 cooler anyhow; you go ahead and sleep in the room.

18 Q. And what did you do after that?

19 A. I went in the living room. Well, that sparked
20 up the arguing back and forth. We had started arguing.

21 Q. What was he saying?

22 A. He was mad because he was telling me, you're not
23 going to kick me out of my bed. And I was telling him,
24 you're in my bed. Back and forth with that.

25 And I was making my bed on the floor off the

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1 cushions from my love seat that's in the living room and I
2 had seen him twisting the body pillow and I didn't know --
3 I thought he was just aggravated, twisting --

4 Q. Where --

5 A. -- on it.

6 Q. Where was he when he was twisting on the pillow?

7 A. He was behind me on the sofa. And my sofa is
8 here and my love seat is here [indicates]. He's behind me
9 as we're arguing back and forth and I'm not seeing him.

10 I see him twisting the pillow, but I'm making my
11 bed in the process of putting something on the floor to
12 lay down.

13 Q. And what happened after you saw him twisting the
14 pillow?

15 A. We had words back and forth.

16 Q. When you say words back and forth, what do
17 you --

18 A. Just hollering at each other back and forth.
19 Arguing.

20 Q. Was this unusual? I mean, did it seem like a
21 different argument than y'all had argued before?

22 A. Well, it's -- that's -- the relationship started
23 going downhill and the arguing was more and more over --
24 you know, as it was going sour.

25 And so we were arguing. And as I was making my

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1 bed, he had hit me from behind with the pillow with such
2 force that it hit me about right here [indicates] and I
3 hit my head on the floor and fell down. And at that time,
4 I knew that this was way out of control, the situation was
5 way out of control, I had to get out of there.

6 He's very big, very strong, and he hit me with
7 such force that it -- it hurt when I went down and hit my
8 head on the floor.

9 Q. About how tall are you?

10 A. I'm five seven.

11 Q. And how -- what's your weight?

12 A. I'm about one eighty-five.

13 Q. And Mr. Flores, at the time that this incident
14 occurred, about how big was he?

15 A. He was two eighty-five. And I believe he's six
16 two, six three, maybe.

17 Q. So after -- you said he knocked you down?

18 A. Yes, ma'am.

19 Q. And you knew you needed to get out of there?

20 A. Yes.

21 I knew once that that had happened that I had --
22 I had to separate from the issue because it's -- it was
23 getting bad. It had scared me so bad that I knew I had to
24 get out of there. I had to get away from him.

25 Q. So what did you do?

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1 A. I got up off the floor. I run back to my room
2 to get my purse.

3 My daughter is the closest person to me. She's
4 ten minutes away down the road from me and I knew if I
5 could hurry up and get out at that time, that I would be
6 able to get help.

7 When I come -- I went in the bedroom and got my
8 pocketbook, which hangs on my closet door. I grabbed my
9 purse and I come run -- walking -- well, walking pretty
10 fast trying to go through the kitchen. And when I did, I
11 had to get my keys. My keys hang right on a shelf that's
12 in my kitchen.

13 And at that time I seen him getting up off of
14 the sofa -- because he was -- he had sat back down on the
15 sofa. But I could not figure out why he was holding my
16 ottoman in his lap. I couldn't figure out what -- what
17 is he holding my ottoman for.

18 Q. Was he saying anything while all of this was
19 going on?

20 A. Yes.

21 It was still the fussing and the hollering and
22 the cussing back and forth.

23 And before I had known anything, by the time I
24 had took two or three more steps, he had come at me. He
25 had got up off the sofa and come at me and held the

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1 ottoman up chest high and he had just totally rammed it
2 into my face.

3 At that time -- it knocked me so hard that when
4 I hit the floor, I felt myself about to go out. I almost
5 felt myself go unconscious and I was like, please, Lord,
6 let me stay alive to get out of here.

7 So when he had knocked me down on the floor, I
8 heard something crack. I knew something bad had happened
9 to my face. It wasn't just a little knock in the face.
10 It hit me so hard that I was -- I was -- I couldn't get my
11 bearings for a minute.

12 And he had gotten on top of me and put one knee
13 on my chest and one knee on my leg. He had kind of pinned
14 me down and was wrestling with me and telling me I wasn't
15 -- I wasn't going nowhere, that you're not going no where.
16 I kept telling him, Tony, let me up; I've got to get out
17 of here. And he wouldn't let me up.

18 And somehow I -- we had wrestled around and I
19 had managed to get up off the floor. When I got up off
20 the floor, my first thing was to see what damage was done
21 to my face.

22 Q. So what did you do?

23 A. I jumped up off the floor and I run straight
24 back to my bedroom to look in my bedroom mirror to see
25 what happened.

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1 Q. And what did you see?

2 A. Well, as I was running to my bedroom, I was
3 holding my hand like this [indicates] because I felt as if
4 I couldn't feel nothing. I didn't know if my jaw was
5 hanging or what. I just went running like this. And the
6 blood was dripping as I went into the bedroom. And I
7 looked into the mirror and I was like, oh, my God.

8 And then as I was looking in the mirror, I seen
9 him, the reflection straight to my kitchen, and he was
10 moping up my kitchen floor. And I couldn't figure out
11 that, my God, why is this man moping up my kitchen floor.

12 And I'm -- about that time, I had turned around,
13 still standing in the bathroom, and when he come walking
14 back there to me. And he's taller than me so he grabbed
15 my jaw and turned it up to him. And I didn't know if he
16 was going to hit me again or what.

17 He took my jaw and he looked up to me he said,
18 oh, we'll just put some ice on it and you'll be okay. And
19 I said, Tony, I need help; I need to go to the emergency
20 room; I need to get out of here, Tony. I said, I'm
21 getting out of here.

22 Q. What was going through your head at that time?

23 A. I'm going to get killed here tonight. That was
24 the only thing.

25 I didn't -- in my house I couldn't call 911. I

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1 only have a cell phone. For me to stand by the window
2 long enough to get a signal -- I only got a signal by the
3 windows -- I wouldn't have had time to call 911 at the
4 window for them to get there. I was scared that they
5 would not get there before I got hurt anymore.

6 So I left out of the bedroom and went and picked
7 up my pocketbook and my keys again and I told him, I said,
8 Tony, I said, I'm getting out of here, I'm going, I'm
9 going. And he was standing there saying, oh, no, you're
10 not going nowhere, you're not leaving this house.

11 And at that time I didn't know what I was going
12 to do at that moment because all of a sudden I looked at
13 him and his whole face changed. It went from complete
14 total rage to total calmness. And he looked at me. He
15 said, oh, no. He says, matter of fact, I'm going with
16 you; if you're going to the emergency room, I'm going with
17 you. I said, Tony, you had better hurry up because I'm
18 leaving.

19 And I knew at that time that would be my escape,
20 that would be my minute to get out of there and get away
21 from him before I got hurt.

22 Q. Were you planning on him coming with you?

23 A. No, ma'am. No, ma'am.

24 I knew by the time he got -- he was in his
25 boxers. I knew by the time he got back to my bedroom and

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1 got him some clothes on and got back out to that front
2 door, that my car would already be gone, I would already
3 have my car cranked up and I would be on my way out of the
4 driveway. I had no intentions of him getting in that car
5 with me at that time.

6 Q. So what did you do?

7 A. I tried to call my daughter on the way to her
8 house. Well, as I was backing up -- because I have to
9 pull out -- I have to pull out my driveway and back up to
10 go back out my driveway. And as I had backed up and I was
11 facing -- I had looked in my rearview mirror and I seen
12 him come out on my front porch, which is right there at
13 the front door, and a bunch of cussing, bunch of throwing
14 up with the arms, everything. He was dressed and had a
15 bag packed with him.

16 And I just took off. I just took off. I don't
17 have a signal on my phone until I get to the end of my
18 road. Once I turn on I'll pick up a signal on
19 my phone. At that time I called my daughter and --

20 Q. Let me -- let me stop you right there.

21 When you said he was cussing and screaming on
22 the front porch, could you make out anything he was
23 saying?

24 A. Oh, yeah.

25 Q. And what was he saying?

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1 A. I don't know that I can say what he was saying
2 in the words he was saying. I don't think that's proper
3 for me to be talking like that in here.

4 Q. I'm going to back you up a little bit,
5 Ms. Eaton. And just so the jury can get a better idea of
6 the layout -- because you can see your home on the
7 outside. But I would like to ask --

8 MS. BALDWIN: May I approach the witness, Your
9 Honor?

10 THE COURT: You may.

11 Q. [Ms. Baldwin] If you could, Ms. Eaton, I'm
12 going to open up this dry-erase board here. If you could
13 just draw a diagram for us -- here are some markers -- of
14 the layout of your house.

15 A. Like an overhead view?

16 Q. Yeah.

17 A. Looking down?

18 Q. Yes.

19 A. Okay. This is the front door, living room. The
20 wall is here.

21 This is the hallway.

22 That's the bedroom and there's a bedroom --

23 MS. BALDWIN: If you'll just make sure to speak
24 up, Ms. Eaton, so the court reporter can hear you.

25 THE WITNESS: Okay.

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1 A. This is my front door.

2 This is going down my hallway to the back.

3 This is the television, fireplace.

4 At that time my love-seat was here, my sofa was
5 here, my ottoman was here.

6 I've got a bar right here that separates my
7 kitchen. This is my kitchen sink. I've got a little wall
8 here. And I've got a kitchen table. Then I have a hutch.

9 This is the back door.

10 Okay. This is my bedroom and the bedroom door.

11 This is -- my bathroom is here but I've got two
12 double doors in my bathroom.

13 This is my bed.

14 This hutch right here is where my keys hang, on
15 that hutch, on the end.

16 Q. [Ms. Baldwin] So where were you and where was
17 he when the incident of the body pillow occurring?

18 A. Well, I had left my bedroom, got up and left,
19 went in here, and I was getting the cushions off of my
20 love seat here and I was placing them on the floor.
21 Because my AC is right here, so I wanted to be where I was
22 going to be blowed on with some cool air.

23 I had to get sleep. I had to get up on the
24 morning for work.

25 So I was taking all the cushions. There's four

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1 cushions on my love seat, two on the back, two on the
2 seat. And I had took my pillows and blankets off my bed
3 with me.

4 As I'm coming in here making my bed -- Tony was
5 sitting here as I was making my bed on the floor right
6 there.

7 Q. And after he had hit you, where did you go?

8 A. I fell straight back. My head was here. I hit
9 square dead in the middle of my head.

10 Q. And then where did you go?

11 A. I had jumped up and ran back to my bedroom. I
12 had run in my door, got my pocketbook off of my closet.

13 This is my closet here. It's a walk-in closet.
14 I had went here, got my pocketbook, turned around, come
15 this way, was fixing to grab my keys.

16 I had grabbed my keys and the next thing you
17 know he -- when I got about right here getting my keys, I
18 seen him pick up my ottoman and was holding it while he
19 was sitting in the sofa. I couldn't figure out why he was
20 holding my ottoman.

21 Q. I want to stop you real quick.

22 MS. BALDWIN: May I approach, Your Honor?

23 THE COURT: You may.

24 MS. BALDWIN: Thank you.

25 Q. [Ms. Baldwin] I'm going to show you what's been

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1 marked as State's Exhibit 5. Do you know what that is?

2 A. Yes.

3 That's a picture out of -- that's standing at
4 the foot of my bed looking out into my living room.

5 That's my closet door where my pocketbook is.

6 MS. BALDWIN: Okay. At this time I would like
7 to admit State's Exhibit 5 into evidence.

8 THE COURT: Any objection?

9 MS. RUNEY: No.

10 THE COURT: State's 5 into evidence without
11 objection.

12 [Whereupon, State's Exhibit Number 5 is admitted
13 into evidence by the Court]

14 Q. [Ms. Baldwin] I'm going to look -- direct you
15 to look behind you, Ms. Eaton.

16 Now, where is your pocketbook in that picture?

17 A. It's hanging on my closet door.

18 Q. And what's that view of?

19 A. That is standing at the foot of my bed, looking
20 out towards my living room. Because it's a straight shot
21 from my bedroom looking straight through the house.

22 Q. So you went out into the kitchen?

23 A. Yes.

24 MS. BALDWIN: May I approach, Your Honor?

25 THE COURT: You may.

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1 Q. [Ms. Baldwin] I'm going to show you what's been
2 marked as State's Exhibit 2. Can you tell me what that
3 is?

4 A. That is a picture standing in my living room
5 looking the opposite way. Same picture as that, but
6 that's standing on the other end.

7 MS. BALDWIN: Your Honor, at this time I would
8 like to admit State's Exhibit 2 into evidence.

9 THE COURT: Any objection?

10 MS. RONEY: No, Your Honor.

11 THE COURT: State's 2 into evidence without
12 objection.

13 [Whereupon, State's Exhibit Number 2 is admitted
14 into evidence by the Court]

15 Q. [Ms. Baldwin] If you'll look up there, Ms.
16 Eaton. Where is your kitchen in there? Can you point
17 it out?

18 A. That is my kitchen right there. That's my
19 kitchen table and my chairs.

20 Q. So you're in the kitchen. And then what
21 happened?

22 A. When I went to the kitchen, when I got -- before
23 I got to the bar, before I got here, I had seen that he
24 was holding my ottoman in his lap. And I didn't know why
25 he was holding my ottoman. As I was walking through here,

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1 he had jumped up off the sofa, picked up the ottoman and
2 turned it upside down. He held it chest-high and he
3 rammed me in the face about right here. And I fell back
4 and my head -- this is where I went down on the ground at.

5 MS. BALDWIN: May I approach, Your Honor?

6 THE COURT: You may.

7 Q. [Ms. Baldwin] I'm going to show you what's been
8 marked as State's Exhibit 3. Can you tell me what that
9 is?

10 A. That's the pictures of the night it happened.
11 That's my ottoman and that's the sofa he was sitting on.
12 The blind was tore down after I had left the home.

13 MS. BALDWIN: Your Honor, at this time I would
14 like to admit State's Exhibit 3 into evidence.

15 THE COURT: Any objection?

16 MS. RUNEY: No, ma'am.

17 THE COURT: State's 3 into evidence without
18 objection.

19 [Whereupon, State's Exhibit Number 3 is admitted
20 into evidence by the Court]

21 Q. [Ms. Baldwin] Is that your ottoman?

22 A. Yes, ma'am.

23 Q. That's how it looked that night?

24 A. Yes. And with the blood on it and stuff.

25 That was -- this picture was taken after I had

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1 left the house. What happened between me and Tony was
2 only like a thirty-minute window. All this was after.

3 Q. When you say all this, you mean -- what do you
4 mean?

5 A. The blinds broken down.

6 There's a police officer standing there. They
7 had to bust the window out in order to put in something to
8 see if they could locate him in the house or something. I
9 was in the emergency room at this time waiting on
10 emergency surgery.

11 Q. And you mentioned blood. Where do you see blood
12 on there?

13 A. You can see the red all over. You would be able
14 to tell the difference between now and when that is. You
15 could see the difference in the pattern and blood.

16 It's actually a slipcover that's on top of the
17 ottoman. Because I do upholstery, I do a lot of
18 slipcover. So this cover comes off of my ottoman.

19 Q. I'm going to show you what's been marked as
20 State's Exhibit 9 for identification. Can you tell me
21 what this is?

22 A. That's my ottoman.

23 MS. BALDWIN: Okay. Your Honor, may I ask the
24 witness to step down from the stand?

25 THE COURT: She may.

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1 Q. [Ms. Baldwin] Ms. Eaton, if you could just
2 demonstrate to the jury how Mr. Flores was holding this
3 and how he did it.

4 A. He held it chest high to him. This board down
5 here, this two-by-four, is what caught me straight across
6 my face here. He had picked it up and was like this when
7 he rammed me. It was chest high. It was right about my
8 face, right about there, because he's taller than I am.
9 And he didn't just throw it at me. He came at full force
10 and rammed it in my face.

11 Q. Was he running or walking?

12 A. He wasn't -- I think he was moving swiftly. I
13 don't know if you would call it running. He wasn't
14 walking. He came -- he had this for the intention, I
15 guess, to do what he did.

16 Q. And just show the jury for me real quick what
17 part hit you in the mouth.

18 A. It was this two-by-four on the bottom of it.
19 That's what cracked me straight across this area.

20 MS. BALDWIN: All right. That's good. You can
21 have a seat.

22 [Whereupon, the witness complies]

23 Q. [Ms. Baldwin] And so after that happened, after
24 it hit you in the mouth, what did he do?

25 A. When it hit me, I went down backwards.

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1 It almost knocked me out because I -- I felt
2 almost like I was about to go unconscious. And I was just
3 praying to myself to please don't let me go unconscious
4 right now.

5 Q. And you managed to escape from Mr. Foreman?

6 A. I managed to get up. We wrestled around on the
7 floor for a little bit with him on top of my chest.

8 Which I have -- I'm a severe asthmatic and it
9 was hard for me to breathe, also, as I was down on the
10 ground.

11 Q. And where did you go?

12 A. I had got up and I went back to see what damage
13 was done to my face.

14 MS. BALDWIN: May I approach, Your Honor?

15 THE COURT: You may.

16 Q. [Ms. Baldwin] I'm going to show you what's been
17 marked as State's Exhibit 4. Can you tell me what that
18 is?

19 A. That is a picture: you're actually standing in
20 my bedroom -- in my bathroom now. This is looking out of
21 my bathroom with the one door shut. Because, see, it's
22 two -- two doors that open. And this is one door that's
23 closed right there.

24 Q. So you looked at your face in the mirror. And
25 what else did you see?

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1 A. I just seen a lot of blood, a lot of spit, a lot
2 of just -- stuff just dripping all out of my mouth. And I
3 couldn't really feel it. I didn't know if my jaw was
4 broke.

5 I just kept my hand like this I guess to hold
6 the blood or -- you know, it was just -- just because I
7 didn't know. I couldn't feel.

8 Q. And could you see what Mr. Flores was doing?

9 A. At that time, yes. He was mopping my kitchen
10 floor.

11 Q. Why was he mopping the kitchen floor?

12 A. Ma'am, I don't know why.

13 It struck me strange, too, why he would be
14 mopping the blood up off my floor at that time. I just
15 knew I had to get out of there.

16 Q. And could you -- could you see Mr. Flores in
17 your mirror, or how could you tell what --

18 A. Yes, I could.

19 I was looking in the mirror. I was standing
20 right when [phonetic] that picture was taken but I was
21 facing the other way towards the mirror and I could see
22 exactly what you're looking at right there in my mirror.

23 Q. So after you got out of the house you said you
24 went over to your daughter's house?

25 A. Yes.

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1 Q. And what did you do at your daughter's house?

2 A. Once I turned on I knew I would get a
3 signal on my phone. I called my daughter. And I couldn't
4 speak very well. I couldn't talk and tell her too much
5 other than, I need help, Neenie; I need help; help me,
6 Neenie. And I cut -- then I shut the phone -- you know,
7 cut it off.

8 Q. You said Neenie?

9 A. Neenie. That's what I call my daughter, Neenie.

10 Q. And what did you do after that?

11 A. I was -- it was hard to see. It was about 10:30
12 at night going down and it's very dark.

13 I'm doing the best I can to get down it the
14 whole time, holding to make sure -- I don't know why I
15 kept holding my hand like this [indicates]. I guess I was
16 afraid my jaw was going to drop or something and -- and to
17 catch the blood that I was spitting out of my mouth.

18 I went down My daughter knows that
19 it takes ten minutes to get from my house. As soon as I
20 pulled in her -- well, I accidentally passed her house,
21 which that don't never happen. I couldn't see very well
22 and I missed the turnoff. She lives off

23 So I was going down and I was passing it and my
24 daughter called me on the phone and I answered it and she
25 said, Mama, where you at. She knows that I have asthma

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1 attacks. And she said, Mama, where you at; you should be
2 here by now. And I said, Neenie, I passed your house; I'm
3 coming, I'm coming.

4 Q. Do you know about what time of night this was?

5 A. It was about 10:30-ish, somewhere around there.

6 It all started about ten o'clock when he come in
7 my bedroom and I was already to my daughter's house by
8 10:30 or so. 10:30, 10:45, right in -- I don't really
9 know.

10 Whenever the -- she called 911 as soon as I
11 pulled in the driveway and I opened up my door and the
12 light went on in my car and she looked at me -- because
13 she was standing outside of her yard. As soon as she
14 looked at me, she was on 911 and she called 911.

15 Q. And did any doctors show up or any ambulances
16 show up as a result of her calling 911?

17 A. She had got me in the house and sat me down to
18 try to calm me down because she didn't want my asthma to
19 kick in at the same time and have to deal with that, too.
20 I was having a hard time breathing, anyhow.

21 I had a mouth full of muck just coming out my
22 mouth. And I couldn't feel nothing, neither, when I
23 talked. It was numb. I was slurring talking. I couldn't
24 manage to talk too much. So she was relaying to the
25 officer what was going on.

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1 The officer showed up at her house, thinking
2 that the incident had happened there. And they had to
3 clear the house before the EMS came in because they
4 thought the incident happened there. So the police I
5 guess had to make sure everything was okay before they let
6 the EMS in to come get me. The EMS guy came in there.

7 And then my daughter was trying to help me
8 translate to every -- you know, what -- trying to tell
9 them what happened, that it happened at my home.

10 The EMS were doing their job and stuff. They
11 wanted to lay me on the gurney thing. They automatically
12 put the braces on and everything and they wanted to lay me
13 down on the bed itself and I -- I can't have that because
14 I can't breathe if --

15 I was scared to death for them to lay me down
16 and this stuff to be -- go down the back of my throat.
17 And I can't breathe good anyhow. And I told them please
18 don't lay me flat. So they went ahead and sat me up in
19 the seat to where I wasn't laying flat on my back.

20 Q. And then what happened? Where did you go?

21 A. As I was -- they was -- after they put me in the
22 EMS, I hollered at my daughter, because she was at the
23 door of the EMS when they was loading me up. And she was
24 saying, Mama, I'm coming, I'm coming, I'm following you.

25 And I asked her if she had her inhaler on her.

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1 I said, because I can't breathe too good. And that's -- I
2 guess she didn't have one on her or something, or
3 anything, and the EMS people said, you know, they got me
4 and I'll be okay.

5 So they took me to the Medical -- they asked me
6 where I wanted to go.

7 Q. MUSC?

8 A. Yes, ma'am.

9 Q. When you got there, you saw a doctor?

10 A. When I got there, yes. There was many doctors.

11 My daughter had the flu that night and bless her
12 heart, she stayed with me until about 5:00, six o'clock in
13 the morning.

14 And I was due in emergency surgery at seven
15 o'clock in the morning.

16 Q. I'm going to show you what's been marked as
17 State's Exhibits 6 and 7 for ID. Can you tell me what
18 those are? What are those?

19 A. That's the pictures that the officer took of me
20 when I was in the hospital.

21 MS. BALDWIN: Your Honor, I would like to move
22 State's 6 and 7 into evidence.

23 THE COURT: Any objection?

24 MS. RONEY: No, ma'am.

25 THE COURT: 6 and 7 into evidence without

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1 objection.

2 [Whereupon, State's Exhibit Number 6 is admitted
3 into evidence by the Court]

4 [Whereupon, State's Exhibit Number 7 is admitted
5 into evidence by the Court]

6 Q. [Ms. Baldwin] And that's State's 6, for the
7 record. State's 7.

8 Ms. Eaton, I know you said you were bleeding
9 quite a bit. Did they clean you up once you got to the
10 hospital?

11 A. Yes, ma'am.

12 Q. And when were those pictures taken?

13 A. They had wiped the blood off my face. I had
14 some scratches on my face and stuff. But they had wiped
15 me down and cleaned me up a little bit so that they can
16 see what damage was done.

17 Q. And what damage was done?

18 A. He busted up my mouth. I didn't know to what
19 extent until the next morning when I went into emergency
20 surgery.

21 My face looked like that for about two weeks.
22 They had to remove eight of my teeth and then some kind of
23 stitching on the roof of my mouth or so.

24 Q. Which eight of your teeth did they have to take
25 out?

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1 A. The top four and the bottom four in the front.

2 Q. Now, it looks like you've got those teeth in
3 there today. What are those?

4 A. These are temporary dentures. I had these done
5 within three weeks after the accident.

6 I had temporaries put in and made, and I still
7 have to go back and have permanent ones made. Because at
8 that time the swelling and the damage done to my mouth,
9 they had to wait for it to heal up for a while before I
10 would get permanent dentures.

11 MS. BALDWIN: Beg the Court's indulgence.

12 [Whereupon, Ms. Baldwin and Mr. Finch confer]

13 MS. BALDWIN: I want to double-check it out.

14 Has State's 4 been entered into evidence?

15 THE COURT: No.

16 MS. BALDWIN: No? Okay. Your Honor, I would
17 like to admit State's 4 at this time.

18 THE COURT: And 9, Ms. Baldwin?

19 MS. BALDWIN: Your Honor, actually, may we
20 approach on 9, please?

21 THE COURT: No objection to 4?

22 MS. RONEY: No. No, ma'am. I'm sorry. I
23 didn't hear you.

24 THE COURT: State's 4 is admitted without
25 objection.

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1 [Whereupon, State's Exhibit Number 4 is admitted
2 into evidence by the Court]

3 [Whereupon, an off-the-record bench conference
4 is held]

5 MS. BALDWIN: Your Honor, I would like to admit
6 State's 9 into evidence.

7 THE COURT: Any objection?

8 MS. RUNEY: No, Your Honor.

9 THE COURT: State's 9 into evidence without
10 objection. Thank you.

11 [Whereupon, State's Exhibit Number 9 is admitted
12 into evidence by the Court]

13 Q. [Ms. Baldwin] Now, Ms. Eaton, have you --
14 are you -- have you continued this relationship with
15 Mr. Flores?

16 A. No, ma'am.

17 Q. You don't have a relationship with him anymore?

18 A. No, ma'am.

19 Q. And why are you testifying today?

20 A. Because he didn't have to do this to me. I have
21 to live with this the rest of my life. He didn't have to
22 come at me in that manner.

23 I don't think any woman, or man, for that
24 aspect, deserves to be rammed in the mouth with a two-by-
25 four.

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1 MS. BALDWIN: Ms. Eaton, that's all the
2 questions I have for you. If you could just answer any
3 questions Ms. Runey would have for you. Okay?

4 THE COURT: Ms. Runey?

5 MS. RUNEY: Thank you, Your Honor.

6 Good afternoon, Ms. Eaton. I want to go over
7 your testimony a little bit more.

8 THE WITNESS: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MS. RUNEY:

11 Q. You said that the fight began in your bedroom?

12 A. Yes.

13 Q. And was that a verbal altercation, or had it
14 become physical at that point?

15 A. No, ma'am. It was an argument.

16 It was him wanting to get in the bed and me not
17 wanting him there.

18 Q. And at that point you moved into the living room
19 and made yourself a bed?

20 A. Yes, ma'am.

21 Q. And did he follow you out there, or he was
22 already on the sofa there?

23 A. I don't know. I cannot remember if he followed
24 me in there or if he had already been walking into the
25 kitchen.

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1 I just know that I was giving him the option to
2 sleep in that hot bedroom if he wanted to, because he kept
3 telling me, oh, you're not kicking me out of my bed. And
4 I'm like --

5 Q. After the argument --

6 A. -- you can sleep in it.

7 Q. -- in the bedroom, you both moved at some point
8 to the den/living-room area?

9 A. To the living room. Yes, ma'am.

10 Q. And I believe you testified today that that was
11 when you saw him holding the body pillow?

12 A. Well, when I was making my bed I seen he was
13 holding the body pillow, at that time sitting on the sofa
14 just twisting it.

15 It was -- I thought he was aggravated and was
16 just twisting it up.

17 Q. And when you gave a statement to the police, did
18 you tell them about that episode?

19 A. The statement that I gave to the police was in
20 the hospital when they had come into my emergency room and
21 asked me to write down the best that I could to explain
22 what happened to me.

23 Q. So you remember giving that statement?

24 A. Yes, ma'am, I do.

25 Q. And it was fairly short?

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1 A. I'm surprised I could see the paper I was
2 writing on at that time. I'm surprised -- when I seen the
3 statement that I had wrote, I'm surprised that I had done
4 that well on it because I didn't think you would be able
5 to read it.

6 Q. Yes, ma'am.

7 So since then you've gone back and reviewed that
8 statement?

9 A. Yes, ma'am.

10 Q. And your testimony today is a lot more detailed
11 than what you were able to give them the night it
12 happened?

13 A. Yes, ma'am.

14 At that time I was very -- in a very bad way
15 when I had to write that statement in the hospital.

16 Q. And after the incident happened with the body
17 pillow, is that when you tried to leave?

18 A. When he had hit me with the body pillow, it hit
19 me with such force, I mean, it wasn't just -- I mean, it
20 was a boom.

21 And I -- I'm a plus-size woman. I went down
22 hard. And he hit me hard enough for me to hit my head
23 straight on the floor. I went straight to the floor. The
24 back of my head hit.

25 Q. Is that a linoleum floor?

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1 A. No, ma'am.

2 I have asthma, so I pulled all the carpet out of
3 my house. And I'm in the process of trying to get my
4 floors redone, so it's plywood floors --

5 Q. Wood.

6 A. -- right now.

7 Q. So when you were hit with that body pillow, your
8 head hit that floor pretty hard?

9 A. Yes, ma'am.

10 Q. Were you able to tell the police about that
11 incident?

12 A. I -- when I had wrote the incident down that
13 night, I was concentrating more or less on what happened
14 with this.

15 To me the body pillow was the beginning of it.
16 When I wrote the statement, I could not go move-for-move
17 and word-for-word because I was in hysterics -- I was
18 hysterical. I was --

19 Q. So you're admitting that you didn't tell them
20 about the incident with the body pillow?

21 A. I didn't write it down in the statement at that
22 time. No, I didn't.

23 Q. But it was a pretty bad fall?

24 A. Yes, it was.

25 Q. And you --

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1 A. That is what --

2 Q. -- hit your head?

3 A. -- told me that I needed to get out of there at
4 that time.

5 Q. And because your head hit so hard, you were
6 going to get out of there?

7 A. Yes, ma'am.

8 He has -- he was very raged. He was -- I have
9 never seen him like that before. He -- there was -- he
10 had no control and I knew -- I'm wise enough to know the
11 best thing for me to do is separate myself from anybody in
12 that condition as soon as possible.

13 Q. And that disagreement and that physical
14 altercation happened in your living-room area?

15 A. Yes, ma'am.

16 Q. And I believe what you're telling me,
17 Ms. Eaton, -- I'm not trying to put words in your
18 mouth -- is that when you gave the statement to the
19 police, you basically went and focused on what happened
20 with the footstool?

21 A. Yes, ma'am. That's why I was at the emergency
22 room.

23 Q. And not the fall where you hit the floor in the
24 living room?

25 A. No, I did not.

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1 I tried to give the quickest explanation I could
2 to what happened to me. I was not even able to see the
3 paper. I told the officer I believe that I don't even
4 know if I could write anything down.

5 Q. And when you were leaving your room, the
6 altercation moved into the kitchen area?

7 A. When I was leaving my bedroom?

8 Q. Yes, ma'am.

9 A. Yes, ma'am.

10 As I got my pocketbook and was leaving and
11 walking back through to leave my home, I was walking
12 through the kitchen when he come out --

13 Q. And is that a wood floor, as well?

14 A. It's linoleum --

15 Q. Linoleum.

16 A. -- with plywood under it. It's a mobile home.

17 Q. So, again, like in the living room, when you hit
18 that floor that's a hard fall?

19 A. Yeah.

20 But this one, it about made be go out -- my -- I
21 could feel myself about to go unconscious at that time.

22 Q. And was that from the footstool or from his
23 holding you down on the floor?

24 A. It was from the initial impact from when he hit
25 me and I went straight back to the floor. Straight back.

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1 Q. And I believe what you testified to is not that
2 he threw it at you but he --

3 A. He rammed it with all his might and his force
4 and his size.

5 Q. And he's a big man. Yes, ma'am.

6 A. Yes, ma'am.

7 Q. Okay. And at that point you fell on that
8 linoleum floor?

9 A. Yes.

10 Q. And did Mr. Flores hold you down on that floor?

11 A. Yes, ma'am, he did.

12 Q. Was his knees on your chest?

13 A. One knee on my chest. His right knee was on my
14 chest.

15 His left knee, because my other leg was like
16 this, was right here on the inside of my thigh. And
17 that's the way --

18 And then he had his arms wrestling my arms on
19 this side.

20 Q. And you wrestled. And you were able to get up
21 from that?

22 A. Yes, ma'am.

23 I had managed -- he had backed off for a minute.
24 I managed to get up.

25 Q. And your pocketbook was on the floor?

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1 A. Yes, ma'am.

2 Q. That keys were in the kitchen?

3 A. The keys were on the hook.

4 Q. You didn't run out at that point?

5 A. No.

6 I did not run out the front door. I don't know
7 why -- my first instinct was to look and see what he done
8 to me. I wanted to see --

9 Q. Back in your bedroom at the end of the house?

10 A. Where the mirror is.

11 Q. Yes, ma'am.

12 And Mr. Flores said to you, I will take you to
13 the emergency room?

14 A. No, ma'am, he did not say --

15 Q. You said, I need to go to --

16 A. -- he would take me.

17 He can't drive. He had no driver's license.

18 Q. You said, I need to go to the emergency room?

19 A. I told him, I need emergency; I'm going, I'm
20 leaving, I'm getting out of here; Tony, leave me alone; I
21 need help; I got to get out of here.. And he told me,
22 you're not going nowhere. Matter of fact, he said, oh,
23 no; you're not going anywhere; you're not leaving this
24 house.

25 Q. And then he said, I'll go with you to the

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1 emergency room?

2 A. Yes.

3 But it was like a change of his whole
4 expression. He had went from a total range and maniac
5 situation to just like a -- like that. And then he looked
6 at me and with a solid, straight face and said, oh, no;
7 matter of fact, I'm riding with you.

8 Q. And was that after you said -- I think your
9 testimony was that he was mopping the kitchen floor?

10 A. He was mopping the kitchen floor when I got up
11 off the kitchen floor. And the blood went everywhere.
12 And I was dripping blood back to my bedroom to look in my
13 mirror to see what kind of damage. Because when I heard
14 it crack and it popped, I thought he had broke my jaw and
15 my -- my face was hanging because I couldn't feel it.
16 That's why I went --

17 Q. But there would have been a path of blood?

18 A. There was drops of blood going through. The
19 initial blood was in the kitchen area where I went down.

20 Q. Yes, ma'am.

21 And it was strange to you that he was mopping
22 the floor?

23 A. Yes, ma'am.

24 I -- for just that one split second I was like,
25 well, what is he doing mopping my kitchen floor.

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1 Q. And, again, I know you gave a short statement to
2 the police when you were in the emergency room. But you
3 didn't tell them that night how strange it was that he was
4 mopping the blood off the kitchen floor?

5 A. No, ma'am.

6 At that time I was in such hysterics that all I
7 wanted to know is -- if he was still in my house or not,
8 whether they was going to release me at the emergency room
9 and send me back home and what was I going to do if he was
10 still there.

11 Q. Yes, ma'am.

12 And your testimony today about going to the
13 hospital is when you were at your daughter's house and EMS
14 was going to take you to the hospital, they automatically
15 put that brace on your neck?

16 A. Yes, ma'am.

17 Q. Yes, ma'am.

18 And your testimony here today is that your
19 injuries were to your mouth?

20 A. Yes.

21 I -- over a period of a week, I had popped up
22 with bruises on my leg and a couple on my arms. I had one
23 about this big [indicates] where his knee was imprinted on
24 the inside of my thigh. You could still see like a shadow
25 of it. It was solid black for about a month on the

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1 inside. That was the worst bruise. And a couple of them
2 would pop up on my arm and my legs.

3 Q. Were you able to document those?

4 A. I had had some pictures and my daughter had lost
5 them on her phone. They were on her cell phone, because
6 she had took pictures. I had to stay with her. She
7 wouldn't let me go home for about two --

8 Q. Yes, ma'am.

9 A. -- two weeks, other than to go home and feed my
10 cat.

11 Q. And your treatment at the hospital was to your
12 mouth?

13 A. Yes, ma'am.

14 MS. RONEY: Beg the Court's indulgence.

15 [Whereupon, Ms. Runey and Ms. Frayer confer]

16 Q. [Ms. Runey] Ms. Eaton, after this incident
17 occurred, you petitioned the family court to get an order
18 of protection from Mr. Flores?

19 A. Yes, ma'am.

20 Q. Which means that he can't come around you?

21 A. Absolutely.

22 Q. And the sheriff's office is notified of that?

23 A. Yes, ma'am.

24 Q. And I guess what I mean by that is that they are
25 given documentation and that's put on record?

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1 A. Yes.

2 Q. Okay.

3 A. I imagine the courts do that.

4 I also went myself to the nearest -- my nearest
5 fire department, and I also went to the James Island
6 substation, and also showed them a copy of my order of
7 protection and let them know this is what -- what is about
8 with this. If they was to get another call --

9 Q. And so --

10 A. -- I wanted them to be aware that I don't want
11 this man around me; if they ever get a call out to my
12 house, come quick.

13 Q. And you've been given a copy of that order of
14 protection?

15 A. Yes, ma'am.

16 Q. And that was at your request? You asked the
17 court to do that?

18 A. Yes, ma'am.

19 Q. And the judge signed an order that you were hit
20 by a bat?

21 A. That was what Tony had told the judge while we
22 were sitting there stating both of our sides.

23 The judge had looked and said that -- I think
24 her remarks was, I don't think that a footstool can do
25 this much damage. Because at that time it was a week

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1 after it happened and my face still looked like them
2 pictures --

3 Q. The judge said that --

4 A. -- just about.

5 Q. -- she didn't think a footstool --

6 A. She didn't think that a footstool would have
7 done that much damage, so she figured that he had bust me
8 in the face with a bat --

9 Q. So the actual --

10 A. -- because he kept hollering about a bat.

11 Q. Yes, ma'am.

12 So the actual order of protection says that you
13 were hit with a bat causing injuries?

14 A. That's what she had put down on the paperwork
15 due to what he had sat there and told her.

16 MS. RONEY: That's all I have. Thank you,
17 Ms. Eaton.

18 THE WITNESS: You're welcome.

19 MS. BALDWIN: Just a couple of questions, Your
20 Honor.

21 REDIRECT EXAMINATION

22 BY MS. BALDWIN:

23 Q. Ms. Roney was asking you a lot about the
24 statement that you gave the police, Ms. Eaton?

25 A. Yes.

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1 Q. What was going through your head when you were
2 writing that down?

3 A. That I didn't want them to kill Tony in my
4 house.

5 Because I knew he -- he wouldn't come out, and I
6 didn't want them to kill -- to try to kill him at my
7 house.

8 Q. And you said you were hysterical?

9 A. Yes.

10 Q. Were you thinking straight?

11 A. All I knew is I tried to put the best I could
12 down on that piece of paper at that time, and I didn't
13 want them to kill Tony in my house to get him out.

14 Q. And Ms. Runey asked you about the order of
15 protection. You got that because you were fearful?

16 A. Yes, ma'am.

17 I cared deeply for Tony when we were together,
18 but I do know now that I can't have him around me. I'm
19 scared to death of him.

20 Q. And the judge found that there was abuse?

21 A. Yes, ma'am.

22 Q. Found that Tony had injured you?

23 A. Actually -- excuse me. Actually, when I had
24 went to go get that order of protection, I didn't have my
25 teeth yet and when I was talking to the judge, I was

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1 talking like this [indicates] because I didn't want her to
2 see me or nobody to see me.

3 MS. BALDWIN: The Court's indulgence.

4 [Whereupon, Ms. Baldwin and Mr. Finch confer]

5 MS. BALDWIN: Those are all the questions I have
6 of you.

7 THE COURT: Ms. Runey?

8 MS. RUNEY: No further questions. Thank you,
9 Your Honor.

10 THE COURT: You may step down. Thank you.

11 [Whereupon, Ms. Eaton is excused and exits the
12 witness stand]

13 THE COURT: This would be an appropriate time to
14 take a mid-afternoon break. Do y'all wish for a break?
15 All right.

16 Please do not begin your deliberations. Do not
17 discuss this case amongst yourselves. You may leave
18 your notepads in your chair. If you'll just let the
19 bailiffs know when you're ready and we'll receive you
20 back in the courtroom.

21 Please rise for the jury.

22 [Whereupon, the jury exits the courtroom at
23 3:48 p.m.]

24 THE COURT: Thank you. Be seated.

25 Take about ten minutes, because they're on the

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1 other hall, so that will be -- don't go far. We're at
2 ease.

3 [Whereupon, a recess is taken from 3:48 p.m. to
4 4:00 p.m.]

5 THE COURT: Ms. Baldwin, anything before we
6 bring in the jury?

7 MS. BALDWIN: No, Your Honor, I don't believe so
8 at this time.

9 THE COURT: All right. Where is your next
10 witness?

11 MS. BALDWIN: She's right out in the hallway,
12 Your Honor.

13 THE COURT: All right. Go ahead and have your
14 next witness in the courtroom.

15 Are they right there?

16 THE BAILIFF: They're ready.

17 THE COURT: All right. Then bring them on in.

18 [Whereupon, the jury enters the courtroom at
19 4:02 p.m.]

20 THE BAILIFF: All present, Your Honor.

21 THE COURT: Thank you. Please be seated.

22 Call your next witness.

23 MR. FINCH: The State calls Jeanie Shea.

24 THE COURT: Please come forward and be sworn.
25 Thank you.

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1 [Whereupon, Ms. Shea comes forward]

2 THE CLERK OF COURT: Raise your right hand,
3 placing your left on the Bible, please.

4 [Whereupon, Ms. Shea is duly sworn by the clerk
5 of court as follows: do you swear or affirm that the
6 testimony you shall give be the truth, the whole truth,
7 and nothing but the truth, so help you God]

8 THE WITNESS: I do.

9 THE CLERK OF COURT: Please be seated.

10 [Whereupon, Ms. Shea takes the witness stand]

11 THE CLERK OF COURT: State your full name,
12 spelling your last name for the record, please.

13 THE WITNESS: Jeanie Shea. S-H-E-A.

14 MR. FINCH: Thank you, Your Honor. May it
15 please the Court.

16 Good afternoon, Ms. Shea.

17 - - - - -

18 JEANIE SHEA,

19 Having Been First Duly Sworn,

20 was Examined and Testified as Follows:

21 DIRECT EXAMINATION

22 BY MR. FINCH:

23 Q. If you would tell the jury where it is that
24 you're employed.

25 A. At Food Lion.

MIA PERRON, CVR-CM

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- 1 Q. And how long have you been at Food Lion?
- 2 A. Almost two years.
- 3 Q. And what do you do there?
- 4 A. I'm a customer service manager.
- 5 Q. And do you have any children?
- 6 A. [Indicates negatively]
- 7 Q. Are you married?
- 8 A. Yes.
- 9 Q. And what part of town do you live in?
- 10 A. Johns Island.
- 11 Q. How long have you lived in Johns Island?
- 12 A. About five years now.
- 13 Q. Are you familiar with Mr. Flores?
- 14 A. Yes.
- 15 Q. And how do you know him?
- 16 A. That's the -- my mom's boyfriend.
- 17 Q. Are they still together?
- 18 A. No.
- 19 Q. And who's your mom?
- 20 A. Rose Eaton.
- 21 Q. If you would tell the jury and Court: what's
- 22 your relationship like with your mom?
- 23 A. Now it's great. We call --
- 24 Q. You say now it's great?
- 25 A. We call each other every day to have lunch.

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1 Q. Was it always like that?

2 A. It was until Tony got in the picture.

3 Q. And what changed?

4 A. I hardly talked to my mom. There was a couple
5 of months I would -- I would go without talking to her.

6 Q. But prior to that you talked about every day?

7 A. [Indicates affirmatively]

8 Q. What kind of stuff did you talk about?

9 A. Mother-and-daughter stuff. She was somebody
10 that I could talk to.

11 Q. I want to talk to you about May 31st of 2011.

12 Was that a time that you were talking to your mom
13 regularly or was that --

14 A. No.

15 Q. Do you remember what you did that day?

16 A. What I did?

17 Q. Yes. Well, just earlier in the day, not the
18 whole day.

19 A. I was actually sick, so I was home from work.

20 Q. Were you working at Food Lion --

21 A. Yes.

22 Q. -- at that time?

23 But you were home sick. Was that at your house?

24 A. Yes.

25 Q. And where is that house?

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1 A. Maybank. Johns Island.

2 Q. Do you know your mom's address?

3 A.

4 Q. And that's in Charleston County?

5 A. Johns Island.

6 Q. And about how far away is that from your house
7 to your mom's house?

8 A. Roughly about five minutes, if not a little bit
9 longer.

10 Q. Depending on traffic?

11 A. Yeah.

12 Q. So five, ten minutes? Is that what your --

13 A. Yes.

14 Q. -- testimony is?

15 Okay. Now, later on that night did you receive
16 a phone call from your mom?

17 A. Yes.

18 Q. And what time was that? Do you recall?

19 A. Right about -- a little before 10:00, because I
20 was about to go to bed. I had called my husband.

21 Q. Where was your husband?

22 A. He was out of town. He was actually in New
23 Jersey heading to New York. He left that morning.

24 Q. So you got off the phone with your husband and
25 then your mom called you?

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1 A. I was actually on the phone with him when she
2 beeped in. And it was unusual for her to call me that
3 late.

4 Q. Was it also unusual for her to call you during
5 that time period?

6 A. Yeah.

7 Q. And do you remember, generally, the content of
8 that call?

9 A. I told my husband my mom's calling in, let me
10 see what's -- she needs. And I answered it and alls I
11 heard was, I need help, I'm on the way.

12 Q. Okay. If you can, without saying what your mom
13 said to you, if you can -- can you describe -- let me back
14 up.

15 How many times -- how many times had you spoken
16 to your mom on the phone, do you think, prior to that?

17 A. Maybe once a month then.

18 Q. But in general? Was it a lot of times
19 throughout your times --

20 A. Oh, yeah. Every day I would talk to her.

21 Q. So what was -- what's -- how did your mom sound
22 when you picked up that phone and talked to her?

23 A. Honestly, I thought she was having an asthma
24 attack because I couldn't hardly understand her.

25 Q. And had you heard or seen your mom have an

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1 asthma --

2 A. Yes.

3 Q. -- attack before?

4 And just describe to us what that is like,
5 physically, for your mom to have an asthma attack.

6 A. She can't hardly breathe. It's hard to catch
7 her breath and it's just hard to talk because you're
8 trying to catch that breath.

9 Q. And does she use any medication for that?

10 A. Yes.

11 Q. And what's that?

12 A. She has a home stabilizer-inhaler thing that she
13 does every night and every morning, and a squirting --
14 albuteral in another.

15 Q. And so when you first answered the phone, you
16 thought your mom was having an asthma attack?

17 A. Yes.

18 Q. And did you tell her to do anything?

19 A. No, because the phone hung up.

20 Q. And when was the next time you spoke to your
21 mom?

22 A. It felt like -- because I went and put on a
23 shirt real quick and I was waiting outside and --

24 Q. Why did you go outside?

25 A. Because it was dark and I have a spotlight that

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1 comes on, so I went outside to turn it on.

2 Q. It's a motion sensor?

3 A. Yeah.

4 Q. And were you expecting your mom to come to your
5 house?

6 A. She said that she was on her way, but she -- me
7 outside, expected her right there.

8 Q. So she -- you said she was out of breath. But
9 she said she was on her way so you went outside to wait on
10 her?

11 A. Yeah.

12 Q. How long did you wait outside?

13 A. It felt like forever, but I would say a couple
14 of minutes.

15 Q. And what did you do while you were waiting out
16 there?

17 A. And I was wondering where she was at because
18 usually she -- if she comes by, she calls right before she
19 pulls in.

20 So I called her back, to see where she was at,
21 and she said that she passed my driveway, she had to turn
22 around. Which she's never passed my driveway.

23 Q. At this time how did your mom sound on the
24 phone?

25 A. I couldn't hardly understand her.

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1 She was -- sounded like she was -- couldn't
2 catch her breath, crying.

3 Q. And about how long from the time that you called
4 her did she show up in your driveway?

5 A. Soon as I -- as soon as we hung up, she was
6 pulling in, she started to pull in.

7 Q. And at this time was the light on --

8 A. Yes.

9 Q. -- outside?

10 And where did the car go relative to the light?
11 Was it under the light or near the light?

12 A. It was right in front of the light.

13 Q. Were you able to --

14 A. I have a --

15 Q. Go ahead.

16 A. I have a horseshoe driveway.

17 Q. Were you able to see into the car when your mom
18 drove up?

19 A. Yes.

20 Q. If you could describe for the jury what it is
21 you saw when you looked into the car.

22 A. Soon as she parked, she turned her head this way
23 and had a towel and it was just blood and saliva coming
24 out her mouth. I didn't know what was going on.

25 Q. Was she still crying at that time?

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1 A. Yes.

2 Q. How was her breathing?

3 A. It was hard for her to catch her breath.

4 Q. Did you still think she might be having an
5 asthma attack?

6 A. She could have had it, because that's what I was
7 worried about. Tried to get her calmed down.

8 Q. And did she get out of the car?

9 A. Yes.

10 Q. At that time was she still holding a towel?

11 A. Yes.

12 She had -- she always kept that towel right
13 there. And she couldn't swallow and the blood and the
14 saliva was just coming out. She had the towel there to
15 catch it all.

16 Q. And was she able to speak to you at that time?

17 A. In and out, barely.

18 Q. Did you say anything to her?

19 A. I asked her what happened and she looked at me
20 like this and said, Tony; Tony hit me. And that's when I
21 called 911.

22 Q. And when you called -- you called 911 from your
23 cell phone?

24 A. Yes.

25 Q. And do you remember how long you were on the

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1 phone with 911?

2 A. To me it felt like at least thirty minutes.

3 Q. While you were on the phone with them, what were
4 you doing?

5 A. Trying --

6 Q. What kind of information --

7 A. Trying to get my mom to calm down, because I
8 know how bad her breathing is. I was just trying to calm
9 her down, and trying to get the blood to stop.

10 MR. FINCH: May I approach?

11 THE COURT: You may.

12 MR. FINCH: Thank you, Your Honor.

13 Q. [Mr. Finch] Ms. Shea, I'm going to show you
14 what's been marked as State's Exhibit 8 for ID purposes
15 only. Can you identify what that is?

16 A. That's the 911 call.

17 Q. And how do you know that that's the 911 call?

18 A. Because I initialed it in your office.

19 Q. And had you listened to this --

20 A. Yes.

21 Q. -- before you initialed it?

22 And when you listened to that in our office,
23 was that a true and accurate representation of the
24 conversation you had with the 911 operator?

25 A. Yes.

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1 MR. FINCH: Your Honor, at this time the State
2 would move for the admission of State's 8.

3 THE COURT: Any objection?

4 MS. RUNEY: No, ma'am.

5 THE COURT: State's 8 into evidence without
6 objection.

7 [Whereupon, State's Exhibit Number 8 is admitted
8 into evidence by the Court]

9 THE COURT: You may publish.

10 MR. FINCH: Thank you, Your Honor. I'll wait
11 for that to warm up.

12 Q. [Mr. Finch] When you were calling 911, where
13 was your mother?

14 A. [No response]

15 Q. I'm sorry?

16 A. She was getting out of the car.

17 Q. When you started the phone call?

18 A. Yeah.

19 [Whereupon, State's Exhibit Number 8, 911 call,
20 is played for the jury from 4:13 p.m. to 4:23 p.m.]

21 [Tape is not transcribed by the court reporter]

22 Q. [Mr. Finch] Ms. Shea, after you started that
23 911 call, did you and your mom go inside or did you stay
24 outside?

25 A. No. We went inside.

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1 Q. Okay. And where did y'all go inside the house?

2 A. In the kitchen.

3 Q. Do you remember what your mom was doing when she
4 was in the kitchen?

5 A. She sat down at the kitchen table.

6 Q. Was she sitting leaning back or was she leaning
7 forward or --

8 A. She was leaning like this [indicates], with the
9 towel in her hand.

10 Q. And what was happening while she was sitting
11 there?

12 A. She had to hold the towel there because she
13 couldn't hardly swallow and the blood and the -- her spit
14 was just draining out of her mouth.

15 Q. And do you remember your mind-set at that time?
16 You just -- you kind of hear it on the call. But do you
17 remember what was going through your mind at that time?

18 A. I was mad, but I wanted to get help to my mom
19 and I didn't want her to have an asthma attack and make it
20 any worse before the EMS got there.

21 Q. And it sounded like you were talking to other
22 people other than 911. Do you remember who else was
23 around your house?

24 A. That was my little brother.

25 Q. Was there anybody else?

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1 A. No.

2 Q. Did anybody -- did you call anybody else besides
3 911 at that time?

4 A. At that time, no.

5 Q. Did your brother call anybody else?

6 A. Yes. I told him to call my husband.

7 Q. Did anybody else call your house?

8 A. No.

9 I only had my cell phone. I don't have a land
10 line.

11 Q. No other calls going through?

12 A. No.

13 Q. At the end of what we just listened to, do you
14 recall who showed up on scene?

15 A. Who got there first?

16 Q. Fire? EMS?

17 A. Yes. It was -- I think it was EMS got there
18 first, then cops and the fire truck.

19 Q. And did the EMS go right in?

20 A. No. They waited --

21 Q. Why not?

22 A. They didn't know if Tony was there at my house
23 or they didn't -- that's why I told them that it happened
24 at my mom's house. And my brother was in the back yard
25 and they seen him standing back there.

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1 Q. And after EMS and the police arrived, did you
2 call anybody else?

3 A. After I got off the 911 call, I called my aunt.

4 Q. And why did you call her?

5 A. To get my mom's next-door neighbor's phone
6 number to have them to look out to see if Tony was still
7 at my mom's so I could let the cops know.

8 Q. Would they be able to see your mom's house
9 from --

10 A. Yes.

11 Q. -- that house?

12 A. They're right next door.

13 Q. And were you able to get the neighbor's phone
14 number?

15 A. No.

16 Q. Do you know what happened next after that call?

17 A. That's when my mom -- they was loading my mom up
18 to go to the hospital and I went to the -- got to the
19 hospital.

20 I couldn't go straight back to see my mom so I
21 went outside to call my aunt to see if she got ahold of
22 the next-door neighbor and she actually showed up at my
23 mom's.

24 Q. When you went to the hospital, did you get an
25 understanding of what your mom's injuries were?

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1 A. No, not then. Not until I went back there.

2 Q. And then -- when you went to the back to --

3 A. Yeah.

4 Q. -- see your mom?

5 And did you -- that's when you learned what her
6 injuries were?

7 A. Yeah.

8 Then they would have to wait until the dentist
9 opened up because she would have to have surgery on her
10 mouth.

11 Q. And how late did you stay at the hospital?

12 A. I was there up until like six o'clock that
13 morning.

14 Q. And then?

15 A. I went home and not even -- because they didn't
16 know when they was going to take my mom to surgery, so I
17 was going to go and get a little bit of sleep, and my mom
18 called me about 6:45 to come back because they was taking
19 her right --

20 Q. And that was at MUSC downtown?

21 A. Yes.

22 Q. And at that time you were just -- you just knew
23 about injuries to her mouth --

24 A. Yes.

25 Q. -- correct? Did other injuries appear later?

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1 A. Yes.

2 Q. And what were those?

3 A. She had a knee print this big [indicates] right
4 here on the inside of her thigh. It was black. And then
5 she had a couple --

6 Q. If you would just stand up and just show the
7 jury what you're talking about.

8 A. It was right on the inside right here, perfect
9 knee print from him holding her down.

10 MR. FINCH: I think you've got tissues, if you
11 need them. Tissues there.

12 [Off the record momentarily]

13 Q. [Mr. Finch] Were there any other injuries that
14 you noticed on your mom?

15 A. She had a couple of bruises across her chest,
16 from him putting his legs across, because he straddled her
17 to hold her down so she couldn't leave.

18 Q. After your mom -- well, how long was your mom in
19 the hospital?

20 A. We left the hospital about -- it was after her
21 surgery. I want to say 8:00, 8:30 that morning.

22 Q. Immediately after surgery she was able to go
23 home?

24 A. Yes.

25 Q. Did she go home with you?

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1 A. Yeah. And we went --

2 Q. And where did she go? Did you just take her
3 back to her house?

4 A. First we went and got her medicine filled. Then
5 we went back to her house to -- because the cops told us
6 that they had busted the windows -- busted a window and I
7 wanted to make sure everything was secured so nobody
8 wouldn't go in the house.

9 Q. And then did your mom stay at her house or --

10 A. No, she --

11 Q. -- did she come with you?

12 A. -- stayed at my house for three weeks after.

13 Q. What did -- do you know what happened during the
14 surgery?

15 A. During the surgery?

16 Q. I mean, after the surgery what -- did your mom
17 lose teeth?

18 A. Yeah. When --

19 Q. Do you know how many?

20 A. -- she came out -- because I was waiting in the
21 waiting room, and she came out crying because she had to
22 take -- they had to take all of her front teeth out. They
23 couldn't replace them.

24 Q. And when she stayed with you at that time, was
25 she working or not working?

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1 A. Yes, she was -- well, she has a job but she
2 couldn't work until her face went down.

3 MR. FINCH: No further questions at this time.
4 Please answer any questions that Ms. Runey may have.

5 THE COURT: Ms. Runey?

6 MS. RUNEY: Thank you, Your Honor.

7 THE COURT: Thank you.

8 CROSS-EXAMINATION

9 BY MS. RUNEY:

10 Q. This is an event or events that you and your
11 mother have talked about often; right?

12 A. On what?

13 Q. This was a traumatic event?

14 A. Yes.

15 Q. And so y'all have discussed this many times?

16 A. I know what happened when my mom got to my
17 house.

18 Q. Yes, ma'am.

19 And then y'all have talked about that since?

20 A. About what Tony -- what had happened?

21 Q. What happened. Yes, ma'am

22 A. Yes.

23 MS. RUNEY: That's all I have. Thank you.

24 THE COURT: Redirect?

25

- - -

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REDIRECT EXAMINATION

BY MR. FINCH:

Q. Have you told us the truth today?

A. Yes.

MR. FINCH: No further questions.

THE COURT: Recross?

MS. RUNEY: No, ma'am. Thank you.

THE COURT: You may step down. Thank you.

[Whereupon, Ms. Shea is excused and exits the
witness stand]

THE COURT: For scheduling, do you have a brief
witness?

MS. BALDWIN: I'm sorry, Your Honor?

THE COURT: Do you have a brief witness that
will end in the next --

MS. BALDWIN: Yes, Your Honor. Yes, Your Honor,
we have a quick witness.

THE COURT: All right. Thank you.

MS. BALDWIN: The State calls Dr. Kelly Lybrand.

THE COURT: And, counsel, just for scheduling,
if you will approach.

[Whereupon, an off-the-record bench conference
is held]

THE COURT: Please come forward and be sworn.

[Whereupon, Dr. Lybrand comes forward]

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1 THE CLERK OF COURT: Place your left hand on the
2 Bible and raise your right hand, please.

3 [Whereupon, Dr. Lybrand is duly sworn by the
4 clerk of court as follows: do you swear or affirm that
5 the testimony you shall give be the truth, the whole
6 truth, and nothing but the truth, so help you God]

7 THE WITNESS: I do.

8 THE CLERK OF COURT: Please be seated.

9 [Whereupon, Dr. Lybrand takes the witness stand]

10 THE CLERK OF COURT: Can you state your full
11 name, spelling your last name for the record, please.

12 THE WITNESS: Okay. My name is Kelly Suzanne
13 Lybrand. That's L-Y-B-R-A-N-D.

14 MS. BALDWIN: Good afternoon, Dr. Lybrand.

15 - - - - -

16 KELLY S. LYBRAND, D.D.S.

17 Having Been First Duly Sworn,

18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MS. BALDWIN:

21 Q. If you would just tell us -- the jury what your
22 occupation is.

23 A. I'm an oral and maxillofacial surgeon.

24 Q. And what is that?

25 A. That is a dentist that specializes in the

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1 treatment of surgical oral and facial injuries and
2 procedures.

3 Q. Such as what?

4 A. Treatment of tumors, trauma to the face, removal
5 of teeth, and dental procedures.

6 Q. And what does one have to do to become this type
7 of --

8 A. Surgeon?

9 Q. -- surgeon?

10 A. I attended four years of college, four years of
11 dental school, two years of general-practice residence,
12 and four years of oral and maxillofacial surgery
13 residency.

14 Q. And where are you working now?

15 A. I work at the Medical University of South
16 Carolina.

17 Q. Did you have an occasion to treat the victim in
18 this case, Ms. Eaton?

19 A. I did.

20 Q. On what day?

21 A. I would have to refer to my notes for the exact
22 day.

23 MS. BALDWIN: May I approach, Your Honor?

24 THE COURT: You may.

25 [Whereupon, the witness reviews documents]

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1 A. On June the 1st, 2011.

2 Q. [Ms. Baldwin] And what did you see Ms. Eaton
3 for?

4 A. We saw her for evaluation and treatment of
5 dental injury.

6 Q. What type of injury was it?

7 A. It would appear that she had some swelling of
8 the lips, tearing of the gum tissue, and mobility of her
9 upper and lower incisors.

10 Q. And for everybody's sake, what are the incisors?
11 Which teeth are those?

12 A. The incisors are the upper four front teeth and
13 the lower four front teeth.

14 Q. And when you say they had mobility, how -- what
15 type of mobility did they have? How mobile were they?

16 A. According to my notes here, they were
17 significantly mobile, class three mobility meaning with
18 your fingers you could easily displace these teeth.

19 Q. Pull them out?

20 A. Nearly.

21 Q. To you, what did -- how did that present as?
22 Could somebody trip and fall and have that type of
23 mobility?

24 A. No.

25 These teeth we noted were non-salvageable,

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1 meaning we did -- this was an extreme amount of dental --
2 tooth mobility.

3 Q. And you said she suffered a tear?

4 A. That's correct.

5 Q. What size tear was that?

6 A. We noted here four millimeters.

7 Q. And is that a big tear, a small tear?

8 A. Everything in the mouth is small so relative to
9 the mouth, that's a relatively large tear of the gingiva,
10 gums.

11 Q. How would you get that type of injury?

12 A. This type of injury I would expect from some
13 form of blunt-force trauma.

14 Q. From what direction?

15 A. Forward. Straight forward.

16 Q. And as a result of when you assessed her, what
17 treatment plan did you do?

18 A. We ended up removing all eight of those teeth.

19 Q. Because they weren't salvageable you said?

20 A. That's correct.

21 They were too mobile to leave them in position,
22 and they were not able to be saved with any other form of
23 treatment.

24 MS. BALDWIN: Those are all the questions I have
25 for you, Doctor. If you'll just answer any questions

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1 Ms. Runey has.

2 THE WITNESS: Okay.

3 THE COURT: Ms. Runey?

4 MS. RUNEY: Thank you, Your Honor.

5 Good afternoon, Dr. Lybrand.

6 CROSS-EXAMINATION

7 BY MS. RUNEY:

8 Q. As a result of you treating Ms. Eaton, you did
9 an examination of her?

10 A. That's correct.

11 Q. And your notes reflect that she did not have any
12 facial lacerations?

13 A. That's correct.

14 Q. And she did have some periodontal disease?

15 A. That's correct.

16 Q. There was also a CT scan done on Ms. Eaton?

17 A. That's correct.

18 Q. And there were no facial fractures?

19 A. That is correct.

20 Q. You have testified today that this was likely a
21 result of some blunt-force trauma?

22 A. That's correct.

23 Q. But there's no way for you to know what type of
24 object caused these injuries?

25 A. That's correct.

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1 MS. RONEY: That's all I have. Thank you.

2 THE COURT: Redirect?

3 MS. BALDWIN: No redirect, Your Honor.

4 THE COURT: Is this witness excused?

5 MS. BALDWIN: She is, Your Honor.

6 THE COURT: Any objection, Ms. Roney?

7 MS. RONEY: No, Your Honor.

8 THE COURT: Dr. Lybrand, you are excused.

9 Feel free to remain with us, but you are also
10 free to leave. Thank you.

11 [Whereupon, Dr. Lybrand is excused and exits the
12 witness stand]

13 THE COURT: Call your next witness.

14 MS. BALDWIN: The State calls Donna Medders.

15 [Whereupon, Ms. Medders comes forward]

16 THE CLERK OF COURT: Can you place your left
17 hand on the Bible and raise your right hand, please.

18 MS. MEDDERS: Sure.

19 [Whereupon, Ms. Medders is duly sworn by the
20 clerk of court as follows: do you swear or affirm that
21 the testimony you shall give be the truth, the whole
22 truth, and nothing but the truth, so help you God]

23 THE WITNESS: Yes.

24 THE CLERK OF COURT: Please be seated.

25 [Whereupon, Ms. Medders takes the witness stand]

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1 THE CLERK OF COURT: Please state your full
2 name, spelling your last name for the record, please.

3 THE WITNESS: Donna Medders. M-E-D-D-E-R-S.
4 - - - - -

5 DONNA MEDDERS,

6 Having Been First Duly Sworn,
7 was Examined and Testified as Follows:

8 DIRECT EXAMINATION

9 BY MS. BALDWIN:

10 Q. Ms. Medders, what do you do for a living?

11 A. I'm a K-4 assistant teacher.

12 Q. Where at?

13 A. At Blessed Sacrament School.

14 Q. How long have you been doing that?

15 A. Eight years.

16 Q. Are you married?

17 A. Yes, I am.

18 Q. What's his name?

19 A. Tony Medders.

20 Q. What's his full name?

21 A. Ronald.

22 Q. Do you know the victim, Ms. Eaton?

23 A. Yes, I do.

24 Q. And how do you know her?

25 A. That is my sister-in-law.

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1 Q. Current sister-in-law? How are y'all related?

2 A. She was married to my brother, who's deceased
3 now.

4 Q. Are y'all close?

5 A. Yes.

6 Q. Talk often?

7 A. Yes.

8 Q. You know why we're here today?

9 A. Yes, I do.

10 Q. Do you know Mr. Flores, the defendant?

11 A. I've seen him, but I do not know him.

12 Q. You haven't spoken with him a lot?

13 A. No.

14 Q. Can you tell me about what you know about this
15 incident that occurred on May 31st of last year?

16 A. Well, I got a telephone call from my niece,
17 Jeanie, who said her mother was on the way to the hospital
18 and that she had been beaten up and was on her way to the
19 hospital, her teeth were knocked out. And then, you know,
20 I talked to Rose the next day and saw her.

21 Q. And after you got a call from her daughter, what
22 did you do?

23 A. Well, my husband and I went over to her house
24 and we pulled up into the driveway, not all the way up, to
25 her door and my husband tapped on the -- or knocked on the

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1 end of the trailer, where he came out and was yelling,
2 cussing. Said, get out of the yard, he was going to shoot
3 us. Which I was already on the phone with the police,
4 saying that he was at the residence.

5 Q. And what did you do as a result of what he said
6 to you?

7 A. Got out of the yard quickly.

8 Q. Where did you go?

9 A. Down the street.

10 The cop that I was speaking to on the telephone
11 said, you know, go down. So we were like at the end of
12 the street waiting on them.

13 Q. And did you hear anything after --

14 A. Yes.

15 Before we could get out of the driveway, I heard
16 pow, pow.

17 [Whereupon, Ms. Baldwin and Mr. Finch confer]

18 Q. [Ms. Baldwin] When you saw Mr. Flores, when he
19 came out on the porch you said he was yelling and cussing?

20 A. Uh-huh.

21 Q. What was his behavior like?

22 A. Wild.

23 Q. And how does a wild person act?

24 A. Well, you know, all that cussing, couldn't
25 hardly make out anything he was saying except, you know,

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1 get out of the yard, I'm going to get my gun, I'm going to
2 shoot you, where he had went back into the house.

3 Q. And where were you?

4 A. In the car. I was in the car. I never got out
5 of the car.

6 Q. And so about how far away from the porch do you
7 think you were?

8 A. Like from me to that gentleman right there.

9 Q. When you said her house, you were speaking about
10 your --

11 A. My sister-in-law's --

12 Q. -- your sister-in-law?

13 A. -- house.

14 MS. BALDWIN: Okay. I have no further questions
15 for you. Please answer any questions Ms. Runey has.

16 THE COURT: Ms. Runey?

17 MS. RUNEY: I don't have any questions for this
18 witness.

19 THE COURT: Is this witness excused? Any
20 objection?

21 MS. RUNEY: No, ma'am.

22 THE COURT: You may step down.

23 Feel free to remain with us, but you're free to
24 leave.

25 THE WITNESS: Thank you.

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1 [Whereupon, Ms. Medders is excused and exits the
2 witness stand]

3 THE COURT: Call your next witness.

4 MS. BALDWIN: The State calls Ronald Medders.

5 THE COURT: Please come forward and be sworn.
6 Thank you.

7 [Whereupon, Mr. Medders comes forward]

8 THE CLERK OF COURT: Place your left hand on the
9 Bible and raise your right hand, please.

10 [Whereupon, Mr. Medders is duly sworn by the
11 clerk of court as follows: do you swear or affirm that
12 the testimony you shall give be the truth, the whole
13 truth, and nothing but the truth, so help you God]

14 THE WITNESS: Yes.

15 THE CLERK OF COURT: Please be seated.

16 [Whereupon, Mr. Medders takes the witness stand]

17 THE CLERK OF COURT: Please state your full
18 name, spelling your last name for the record.

19 THE WITNESS: Ronald Medders. The last name is
20 spelled M-E-D-D-E-R-S.

21

22

23

24

25

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1 RONALD MEDDERS,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MS. BALDWIN:

6 Q. Mr. Medders, you said your first name is Ronald.
7 But do you go by another name?

8 A. Tony.

9 Q. Okay. And what do you do for a living?

10 A. I'm a painter.

11 Q. Okay. And what is your relationship with Donna
12 Medders?

13 A. My wife.

14 Q. Do you know Ms. Eaton?

15 A. Sister-in-law.

16 Q. Tell me what you know about this incident that
17 occurred on May 31st of last year.

18 A. We was home in bed asleep. Got a phone call
19 that Rose had gotten beaten up and she was on her way to
20 the hospital.

21 Q. And so what did y'all do?

22 A. I went over that way.

23 Q. When you say that way, what do you mean?

24 A. Went over to their house and --

25 Q. And -- go ahead.

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1 A. -- knocked on the front of the trailer, you
2 know. And he come storming out telling us to get your
3 Mother-Fucking ass off the property. And I said, this
4 ain't your property. He said, well, I'll shoot your
5 goddamn ass. He run back in the house, I got in the car.

6 Q. And you said what he said, but how was he
7 acting?

8 A. Oh, irate. Like an idiot.

9 Q. Did he seem sober?

10 A. Ma'am?

11 Q. How did he seem? Did he seem like he was sober?

12 A. Oh. No. He was drunk. Shot down.

13 Q. And why do you think that?

14 A. Because of by the way he was acting.

15 Q. And when you said you knocked on the trailer,
16 did you go up on the front porch?

17 A. Oh, no. Huh-uh.

18 Q. Where did you go?

19 A. In front of the trailer by the road.

20 Q. So about how far away from the front porch were
21 you?

22 A. A good forty feet. Forty, fifty feet.

23 Q. And you said as -- after he went inside, what
24 did y'all do?

25 A. Whenever he said he was going to shoot, that's

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1 whenever we got in the car and left. And then we heard a
2 pow, pow.

3 Q. Did you see Ms. Eaton the next day?

4 A. Yes, ma'am.

5 Q. And how did she look to you?

6 A. She was messed up good. Mouth --

7 Q. And when --

8 A. -- all swoll up. She was bruised up everywhere.

9 Q. And when you say bruised up everywhere, what do
10 you mean?

11 A. Her face, her arms, her chest.

12 MS. BALDWIN: I don't have anymore questions
13 for you, Mr. Medders. Please answer any questions from
14 Ms. Runey.

15 CROSS-EXAMINATION

16 BY MS. RUNEY:

17 Q. Mr. Medders, did you call the police that night?

18 A. No, ma'am.

19 Q. Do you remember giving a statement to the
20 police?

21 A. Sure do.

22 Q. And they responded to the scene?

23 A. Yes, ma'am.

24 MS. RUNEY: Permission to approach the witness.

25 THE COURT: Yes, ma'am.

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1 Q. [Ms. Runey] Does this look familiar to you?

2 [Whereupon, the witness reviews documents]

3 A. Yes, ma'am.

4 Q. [Ms. Runey] Is that your handwriting?

5 A. Yes, ma'am.

6 Q. And that's the statement that you gave on May
7 the 31st?

8 A. Uh-huh.

9 Q. And in that statement did you tell the police
10 that -- or did you write down that you called the police?

11 A. No. My wife called. She was on the phone with
12 the police.

13 Q. All right. So your wife called the police?

14 A. Yes.

15 MS. RUNEY: That's all I have. Thank you.

16 THE COURT: Ms. Baldwin?

17 MS. BALDWIN: Beg the Court's indulgence.

18 [Whereupon, Ms. Baldwin and Mr. Finch confer]

19 MS. BALDWIN: No questions, Your Honor.

20 THE COURT: Is this witness released?

21 MS. BALDWIN: He is, Your Honor.

22 MS. RUNEY: No objection.

23 THE COURT: You are free to go; you're free to
24 remain with us. Thank you.

25 THE COURT: Counsel, just for scheduling,

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1 approach.

2 [Whereupon, an off-the-record bench conference
3 is held]

4 THE COURT: Ladies and gentlemen, we're going to
5 go ahead and break for the evening. I typically try to
6 break around 5:00, so this is a good time for us to
7 break.

8 Do not begin your deliberations. Do not discuss
9 this case amongst yourselves. Please do not read,
10 watch, listen to any news accounts regarding this case,
11 should there be any, and do not do any independent
12 investigation.

13 Please make sure you leave your notepads with
14 the bailiff and we'll hand those back out to you.

15 Please be back in your jury room at 9:00 a.m.
16 We will begin promptly once all thirteen of you are
17 here. Thank you.

18 Please rise for the jury.

19 [Whereupon, the jury exits the courtroom at
20 4:49 p.m.]

21 THE COURT: Please be seated. I'll see you guys
22 in the morning. Thank you.

23 MR. FINCH: Thank you, Judge.

24 MS. RUNEY: Thank you, Judge.

25 [JURY TRIAL ADJOURNS AT 4:48 P.M.]

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Monday October 25, 2012.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 26th day of March, 2013.

Mia Perron

Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM

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[Exhibits pre-marked by counsel unless otherwise noted in
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MARKED/ADMITTED

STATE'S

State's Exhibit Number 10 / 197
[X-ray]

State's Exhibit Number 11 222 /
[Rap Sheet]

Court's Exhibit Number 296
[Note From the Jury]

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PROCEEDINGS

THE COURT: All of our jurors are here.

Anything before we bring in the jury? Ms. Baldwin?

MS. BALDWIN: Nothing from the State, Your Honor.

THE COURT: Ms. Runey?

MS. RUNEY: No, ma'am.

THE COURT: All right. Thank you.

[Whereupon, the jury enters the courtroom at 9:02 a.m.]

THE BAILIFF: All seated, Your Honor.

THE COURT: Thank you. Please be seated.

Ms. Baldwin, call your next witness.

MS. BALDWIN: Thank you, Your Honor.

The State calls Deputy Mike Middleton.

[Whereupon, Mr. Middleton comes forward]

THE CLERK OF COURT: If you would raise your right hand, placing your left hand on the Bible, please.

[Whereupon, Mr. Middleton is duly sworn by the clerk of court as follows: do you swear or affirm that the testimony you shall give be the truth, the whole truth and nothing but the truth, so help you God]

THE WITNESS: I do.

THE CLERK OF COURT: Please sit down.

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1 [Whereupon, Mr. Middleton takes the witness
2 stand]

3 THE CLERK OF COURT: State your full name,
4 spelling your last name for the record, please.

5 THE WITNESS: Full name is Michael Middleton.
6 Last name is spelled M-I-D-D-L-E-T-O-N.

7 MS. BALDWIN: Good morning, Deputy.

8 - - - - -

9 MICHAEL MIDDLETON,
10 Having Been First Duly Sworn,
11 was Examined and Testified as Follows:

12 DIRECT EXAMINATION

13 BY MS. BALDWIN:

14 Q. What's your occupation?

15 A. For right now I'm assigned to the special ops
16 division. That's --

17 Q. What -- what agency?

18 A. Charleston County Sheriff's Office.

19 Q. Okay. Back in 2011, May and June of 2011, what
20 were you doing?

21 A. I was assigned to the patrol division of the
22 Charleston County Sheriff's Office.

23 Q. And how long have you worked for the sheriff's
24 office?

25 A. Five years.

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1 Q. When you were doing patrol could you just tell
2 this jury a little bit about what your duties were?

3 A. Well, my duties were to answer calls for service
4 and to conduct preliminary investigations.

5 Q. When you say conduct preliminary investigations,
6 what do you mean by that?

7 A. We, you know, answer calls for service,
8 determine, you know, if we need to call a detective out.
9 We do everything, you know, first off, firsthand.

10 Q. Do you remember responding to a call on May 31st
11 of last year?

12 A. Yes.

13 Q. Where?

14 A. At

15 Q. And what did you see when you arrived there?

16 A. I saw the victim, Ms. Eaton. She was crying
17 hysterically, bleeding from the mouth heavily.

18 Q. And you're referring to something up there.
19 What are you referring to?

20 A. This is my incident report.

21 Q. Your incident report?

22 A. Yes.

23 Q. You respond to a lot of calls?

24 A. Yes.

25 Q. Sometimes the incident report helps you

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1 remember?

2 A. Exactly.

3 Q. You said the victim was crying hysterically?

4 A. Yes.

5 Q. How did she appear?

6 A. She was, you know, out of it. You know, just
7 crying hysterically, bleeding from the mouth heavily.

8 Q. So what did you do when you got there?

9 A. Well, I tried to talk to her and find out
10 exactly what happened, you know, to see where we need to
11 go from.

12 Ended up having to go to MUSC. She was
13 transported by the EMS to MUSC hospital.

14 Q. Why did you have to go to MUSC?

15 A. Just to, you know, do a preliminary
16 investigation; you know, try to find out what exactly
17 happened; to determine what the crime was.

18 Q. She couldn't really tell you when you were at
19 the house?

20 A. No.

21 Q. And why is that?

22 A. Because she was just upset.

23 Q. Did she tell you anything at the house?

24 A. She just said that Tony hit her in the mouth.

25 Q. So you went to the hospital? You went to MUSC?

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1 A. Yes.

2 Q. And what did you do when you got there?

3 A. I got a written statement from her.

4 Q. When you say you got a written statement from
5 her, what did that involve?

6 A. Just, you know, telling me exactly what
7 happened. You know, trying to figure out, you know, what
8 exactly happened. The details.

9 Q. How was she at MUSC?

10 A. She was starting to calm down.

11 Q. About how long was it from when you first
12 responded to when you got the statement?

13 A. Not long. About -- I got there in about
14 fifteen, twenty minutes, something like that.

15 Q. How long did it --

16 A. I stayed there --

17 Q. -- take her to calm down?

18 A. It took her about, you know, ten minutes.

19 Once she figured out that she was out of, you
20 know, harm's way and everything --

21 Q. You're talking about once you got to the
22 hospital?

23 A. Yeah.

24 Q. But at the house she was still --

25 A. Yes.

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1 Q. Okay. So you took a statement from her?

2 A. Yes.

3 Q. Did you write the statement?

4 A. No.

5 Q. Did you just hand her a piece of paper?

6 A. Yeah. I handed her a piece of paper and asked
7 her, you know, tell me exactly what happened. You know,
8 try to walk you through it but I need to know exactly what
9 happened.

10 Q. Did you do anything else?

11 A. Just got a written statement from her.

12 Q. Take any photographs of her?

13 A. Yeah, I took some photos of --

14 Q. With what?

15 A. -- her injuries with my digital camera.

16 Q. Did -- through the course of your investigation,
17 did you determine where the incident location was?

18 A. Yes.

19 Q. And where was that?

20 A. It was Johns Island,
21 South Carolina.

22 Q. Is that in Charleston County?

23 A. Yes.

24 Q. And how did you eventually figure out where the
25 incident location was?

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1 A. Once I started talking to her.

2 Q. Was there any other way?

3 A. No.

4 Q. So what did you do after you left the hospital?

5 A. Well, the radio was an emergency status, which
6 means we had a very, you know, hot call went out and we
7 had people on scene at this residence and --

8 Q. When you say this residence, what do you mean?

9 A. It determined that the residence was the
10 residence.

11 Q. Okay. And what was going on there?

12 A. We had deputies surrounding the house --

13 Q. Why is that?

14 A. -- where the defendant -- saying that the
15 defendant was inside, that he may have a gun.

16 Q. So where did you go after you left the hospital?

17 A. I went to the address.

18 Q. And what did you do when you got there?

19 A. I just got there. I just took my position on
20 the perimeter and hang tight.

21 We had deputies try to call him out on the P.A.
22 system, you know.

23 Q. Were they just patrol deputies?

24 A. Yes, at the time.

25 Q. And did somebody else eventually come?

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1 A. Yeah.

2 My supervisor got in contact with his supervisor
3 and we called out the Charleston County SWAT team.

4 Q. And how long was SWAT at the incident location?

5 A. They were out at the incident location
6 approximately till 4:00 in the morning.

7 Q. What time did you get there?

8 A. I was there probably around 11:00 or so.

9 Q. So about five hours --

10 A. Yes.

11 Q. -- SWAT was there?

12 And did SWAT eventually make contact with the
13 defendant?

14 A. Yes.

15 Q. And how -- did you eventually make contact with
16 the defendant?

17 A. Yes.

18 Q. And how did you make contact with him?

19 A. Well, they just turned over -- turned him over
20 to me. They had flex-cuffs on him, took them off, put two
21 sets of handcuffs on him because he's a big guy so --

22 Q. Wanted him to be comfortable?

23 A. Yes.

24 Q. Would you need two sets of handcuffs?

25 A. For him, yes.

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1 Q. For yourself? Safety --

2 A. Yeah. Yeah, I would actually need two sets,
3 too.

4 Q. How did the defendant appear when you took him
5 into custody?

6 A. Well, he was just -- you know, just saying that
7 he didn't expect all this excitement to be for him, you
8 know. Just thought that we were just going to go away.

9 Q. How did he look?

10 A. He was -- he looked fine.

11 Q. Any injuries?

12 A. No injuries.

13 Q. Did anybody collect any evidence that night?

14 A. When I left, the SWAT team was still on scene.

15 Q. To your knowledge, crime scene didn't --

16 A. Yes.

17 Q. -- get called out?

18 A. No, crime scene didn't.

19 So they were taking pictures of the residence.

20 Q. SWAT took pictures of the residence?

21 A. Yes.

22 Q. Once again, when you were dealing with the
23 victim when you responded to that -- about how long after
24 the call went out did you respond to the residence on
25

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1 A. Let's see. The call went out at 22:51 and I
2 arrived at 22:56. So I was in the area.

3 Q. About five minutes later?

4 A. Yes.

5 Q. And how was the victim when he arrived?

6 A. She was just out of it, crying hysterically,
7 bleeding from the mouth heavily, and very scared for her
8 life.

9 Q. So -- and you were at the residence for a little
10 bit of time?

11 A. Yes.

12 Q. About how long, do you think?

13 A. I stayed at the residence on
14 probably -- probably about fifteen minutes. Because we
15 all got there at the same time. EMS and fire got there
16 right after I did so --

17 Q. So that fifteen minutes when you were there, you
18 couldn't get her -- the victim to calm down?

19 A. No.

20 Q. And at the hospital it took about --

21 A. Yes.

22 Q. -- fifteen minutes to get her to calm down
23 enough for you to be able to --

24 A. Yeah. Talk to her.

25 MS. BALDWIN: Beg the Court's indulgence.

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1 THE COURT: Take your time.

2 [Whereupon, Ms. Baldwin and Mr. Finch confer]

3 Q. [Ms. Baldwin] When you put the handcuffs on the
4 defendant, where -- what did you do with him? Where did
5 you take him?

6 A. Oh. He was -- he was placed in the rear of my
7 patrol vehicle and he was taken to the Charleston County
8 Detention Center.

9 Q. Did you talk to him at all? Mirandize him?

10 A. No, didn't Mirandize him. Didn't say anything
11 to him.

12 Q. You were just transporting him?

13 A. Yes.

14 MS. BALDWIN: Deputy Middleton, I don't have any
15 further questions for you. If you could just answer
16 any questions from Ms. Runey.

17 THE WITNESS: All right.

18 THE COURT: Ms. Runey.

19 MS. RUNEY: Thank you, Your Honor.

20 Good morning, Deputy Middleton.

21 THE WITNESS: Good morning.

22

23

24

25

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CROSS-EXAMINATION

BY MS. RUNEY:

Q. When you responded to you
wanted to talk to Ms. Eaton to find out what happened and
so you took down notes from what she told you?

A. I took down notes, actually, from -- at the
hospital in --

Q. Okay.

A. Yeah. There was no getting any notes from her
at the house.

Q. So when she had calmed down at the hospital is
when you were able to take some notes about what happened?

A. Well, she wrote me a written statement about --

Q. And you also wrote a report in this case; is
that correct?

A. Yes.

Q. And that report was based on what she told you
that night at the hospital that night --

A. Yes.

Q. -- correct?

And the charges that were brought against
Mr. Flores were based on what she told you that night?

A. Yeah.

It was based on what she told me and the
elements of the crime, as well.

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1 Q. Okay. And when you saw her at the hospital, she
2 had swelling to her lips and some damage to her teeth; is
3 that correct?

4 A. Yes.

5 Q. And as a result of that injury, you took
6 photographs of her?

7 A. Yes.

8 Q. And those photographs have been part of this
9 case, meaning that you gave them to the solicitor's office
10 and they've been handed over to me?

11 A. Oh. I actually turned it into evidence and they
12 subpoenaed it.

13 Q. All right. So those photographs are in
14 evidence?

15 A. Uh-huh.

16 Q. Okay. When you responded to the house, your
17 mission at that point was to take Mr. Flores into custody?

18 A. You talking about the address?

19 Q. Yes, sir.

20 A. Yeah.

21 When I responded to the house, deputies were
22 already on the scene so --

23 Q. After Mr. Flores was arrested, did you ever
24 return to the house on

25 A. No.

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1 Q. And you as a deputy sheriff have access to a
2 crime-scene team; is that correct?

3 A. Crime-scene team?

4 Q. I guess what I'm asking you is that if you
5 wanted crime scene to respond as the responding officer,
6 you could make a phone call and have them there?

7 A. I can't make a phone call. My supervisor can.

8 Q. Okay. So you can contact somebody to get crime
9 scene out --

10 A. Yes.

11 Q. -- out there?

12 Okay. And you can also call detectives, as
13 well?

14 A. Yeah. The supervisor does that.

15 Q. Supervisor.

16 But you, at all times, have access to a
17 supervisor?

18 A. Yes.

19 Q. And if that supervisor wanted to, he could
20 attempt to get a search warrant for this home, couldn't
21 he?

22 A. He could have.

23 Q. Was a search warrant obtained in this case?

24 A. No. It wasn't needed.

25 Q. And was any kind of sweep or search done on this

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1 house, other than to arrest Mr. Flores?

2 A. SWAT, they handled all that.

3 I was just on the perimeter. They backed us off
4 once their team arrived. So --

5 Q. So SWAT's job is to take a person into custody?

6 A. Exactly.

7 Q. Their job is not to investigate a crime --

8 A. Yeah.

9 Q. -- is that correct?

10 A. They just -- you know, they were just there
11 for -- you know, for support.

12 Q. For purposes of taking a person into --

13 A. Yeah.

14 Q. -- custody? Okay.

15 So they wouldn't be in charge of collecting
16 evidence?

17 A. No.

18 Q. And they didn't collect any evidence?

19 A. No.

20 Q. They took some pictures of this home, didn't
21 they?

22 A. They took pictures because of what they've done.
23 They have to always document, you know, an incident of
24 what they got called out to.

25 Q. So any damage that they may do to --

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1 A. They have to do --

2 Q. -- a home or a business?

3 A. -- an incident report and take pictures.

4 Q. So the pictures that are involved in this case
5 only deal with what damage they did to the home on
6 Edenborough?

7 A. The pictures they took.

8 The pictures I took was involving Ms. Eaton.

9 Q. And those were pictures of her injuries at the
10 hospital?

11 A. Yes.

12 Q. And you never went back and took pictures of
13 this home?

14 A. No.

15 Q. Did you ever collect any swabs of blood from
16 this home?

17 A. No.

18 Q. Did you ever ask anybody to do so?

19 A. No.

20 Q. And crime scene is available to collect blood;
21 correct?

22 A. Yes.

23 Q. Did you ever find a gun in this house?

24 A. No, there was no gun in there.

25 Q. And was a search -- a search was never done on

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1 Ms. Eaton's car, was it?

2 A. No.

3 Q. And no search warrant --

4 A. Not to my knowledge.

5 Q. -- was taken out?

6 MS. RUNEY: Beg the Court's indulgence.

7 THE COURT: Take your time.

8 [Whereupon, Ms. Runey and Ms. Frayer confer]

9 Q. [Ms. Runey] Detective -- or Deputy Middleton,
10 did you ever take into evidence the weapon that was used
11 for this injury --

12 A. Yeah --

13 Q. -- for this assault?

14 A. The pistol [phonetic] wasn't took into evidence.
15 I think pictures was taken of it, though.

16 Q. Are you referring to an ottoman?

17 A. Yeah. For the ottoman. I'm sorry.

18 Q. And that was never taken into custody?

19 A. No, I didn't take it into custody. I don't know
20 if somebody else on scene did, but I didn't take it into
21 custody.

22 Q. And you never called your supervisor to do any
23 further investigation?

24 A. Well, he was still on scene at the residence at
25 the time.

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1 Q. Is that the SWAT supervisor?

2 A. No. My supervisor.

3 Q. And are you aware of your supervisor doing any
4 further investigation?

5 A. No.

6 MS. RUNEY: Thank you.

7 MS. BALDWIN: One moment, Your Honor.

8 [Whereupon, Ms. Baldwin and Mr. Finch confer]

9 REDIRECT EXAMINATION

10 BY MS. BALDWIN:

11 Q. Deputy, did anybody provide you -- any of the
12 parties in this case, anybody, provide you with any
13 information or your supervisor with any information that
14 something other than what Ms. Eaton had told you had
15 happened?

16 A. No.

17 Q. Had that occurred, would you have --

18 MS. RUNEY: Objection, Your Honor.

19 THE COURT: What's the basis?

20 MS. RUNEY: May we approach?

21 THE COURT: You may.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 THE COURT: Rephrase your question. Thank you.

25 MS. BALDWIN: Thank you, Your Honor.

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1 Q. [Ms. Baldwin] Deputy, was there any other
2 information received, any additional information received,
3 regarding what happened that night?

4 A. Not from -- not from my part.

5 MS. BALDWIN: Thank you, Your Honor. I have no
6 further questions.

7 THE COURT: Ms. Runey?

8 MS. RUNEY: No further questions. Thank you.

9 THE COURT: You may step down. Thank you.

10 [Whereupon, Mr. Middleton is excused and exits
11 the witness stand]

12 THE COURT: Call your next witness.

13 MR. FINCH: The State calls Lieutenant Kevin
14 Whited.

15 [Whereupon, Mr. Whited comes forward]

16 [Off the record momentarily]

17 THE COURT: Go ahead and swear him. Thank you.

18 THE CLERK OF COURT: Raise your right hand.

19 [Whereupon, Mr. Whited is duly sworn by the
20 clerk of court as follows: do you swear or affirm that
21 the testimony you shall give be the truth, the whole
22 truth, and nothing but the truth, so help you God]

23 THE WITNESS: I do.

24 THE CLERK OF COURT: Please be seated.

25 [Whereupon, Mr. Whited takes the witness stand]

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1 THE CLERK OF COURT: State your full name,
2 spelling your last name for the record, please.

3 THE WITNESS: Kevin Whited. W-H-I-T-E-D.

4 THE COURT: Mr. Finch?

5 MR. FINCH: Thank you, Your Honor. May it
6 please the Court.

7 Good morning, Lieutenant.

8 THE WITNESS: How are you doing, sir?

9 MR. FINCH: I'm doing well.

10 - - - - -

11 KEVIN WHITED,

12 Having Been First Duly Sworn,

13 was Examined and Testified as Follows:

14 DIRECT EXAMINATION

15 BY MR. FINCH:

16 Q. If you would, tell the jury where it is that
17 you're employed.

18 A. Charleston County Sheriff's Office.

19 Q. And what's your position with the sheriff's
20 office?

21 A. I'm currently a lieutenant over the warrants
22 division.

23 Q. And in May, June of 2011, was that your capacity
24 at the sheriff's office?

25 A. At that time, in 2011, I was actually over the

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1 K-9 unit.

2 Q. And what are some of the duties and
3 responsibilities you had as a member of the K-9
4 unit?

5 A. Just the overall operations of K-9 activities.
6 Vehicle searches, scheduling, and things of that nature.

7 Q. Did you have any other special duties at that
8 time?

9 A. Yes, sir.

10 Q. What were those?

11 A. Also the commander over the SWAT team.

12 Q. Are you still in that capacity?

13 A. Yes, sir.

14 Q. And what are some of the duties and
15 responsibilities as the commander of the SWAT team?

16 A. Obviously, monthly training and calls for
17 services any time there is a hostage situation, barricaded
18 subjects, VIP dignitary escorts.

19 We respond basically to incidents in which your
20 normal patrol deputy is not trained or equipped to handle.

21 Q. And if you would, tell us what SWAT stands --
22 it's an acronym; correct?

23 A. Special Weapons And Tactics.

24 Q. And you alluded to it a little bit. But if you
25 could just tell us the difference between SWAT being

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1 called out and -- or a regular patrolman deputy being
2 called out.

3 A. Basically there is a matrix that we go by,
4 depending on the seriousness of the crime: a subject or
5 suspect's past criminal history, the circumstances in
6 which we are going to this residence. It may not always
7 be a residence, it could be a vehicle. You have to take
8 all that into consideration and weigh that against sending
9 an untrained deputy into a situation as opposed to a type
10 one, which is the highest standard that you can have. A
11 type-one tactical team.

12 Q. Type -- and that would be a SWAT team?

13 A. There's three different types in the state of
14 South Carolina, type one being the most trained and
15 basically the best.

16 Q. Is that the SWAT team?

17 A. Yes, sir.

18 Q. Okay. And on May 31st, into the morning of June
19 1st of 2011, did you as a member of the SWAT team respond
20 to a call for service?

21 A. Yes, sir.

22 Q. And can you tell us how that happens? And in
23 this case, I guess in other cases, how does a call for
24 service for SWAT happen?

25 A. Basically, on this particular incident I was

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1 home, as probably eighty-five percent of the team. I
2 don't know if we covered that. But SWAT for Charleston
3 County is collateral so every member of the team has a
4 primary duty, also. I was actually at my residence. I
5 received a phone call from the patrol supervisor -- I
6 believe that was Lieutenant Conkey [phonetic -- and he
7 told me of an incident at

8 Q. And from the time you got that call, about how
9 long did it take you to get to the incident location?

10 A. Per protocol, myself or the number two in
11 command responds directly to the scene.

12 It probably took me forty-five minutes for
13 myself to get there. And we also deploy -- the snipers
14 goes directly to the scene, also. The rest of the team
15 goes to the SWAT office where they prepare gear and
16 vehicle.

17 Q. And do you use a special vehicle in SWAT?

18 A. Yes, sir.

19 Q. What's that vehicle?

20 A. It's made by Lanco. It's called the Bear Cat.
21 But it's an armored personnel carrier.

22 Q. So people and equipment go in back?

23 A. Well, we actually have two vehicles. But people
24 go on the back of the what we refer to as the Bear Cat.

25 And then we have an equipment truck, also.

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1 Q. Okay. And then when you got on the scene: if
2 you can tell the jury what was happening at the scene at
3 when you arrived.

4 A. When I got there, I was briefed about the facts
5 and circumstances further. Obviously, I got most of that
6 from the phone call.

7 But when I got on scene, I had more specific
8 information: who was this individual, why did we think he
9 was barricaded. And responses that I got is that it was a
10 Mr. Flores, Darrell Flores.

11 And I was advised that the incident began around
12 11:00 p.m. the night before, I guess -- because I got
13 there actually on the 1st, so on May 31st -- that there
14 was a physical altercation between Mr. Flores, Mr. Flores
15 and his girlfriend, and that she was assaulted and that
16 she was currently at the hospital or in route to the
17 hospital, I'm not positive.

18 And at some point a witness -- and I'm not sure
19 of the relationship with the victim or Mr. Flores --
20 responded to the address and either, well,
21 confronted Mr. Flores, at which time I was advised that he
22 was -- that the witness was threatened by Mr. Flores. I
23 believe he actually said that he would shoot him or kill
24 him, at which point Mr. Flores went into the residence at
25 and the witness relayed that he believed that

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1 he heard a gunshot.

2 Q. And when deputies -- patrol deputies, that is --
3 arrived at the scene, were you aware of any actions they
4 had taken to contact Mr. Flores?

5 A. I was advised prior to my arrival that they were
6 attempting to contact Mr. Flores via the public address
7 system. And upon my arrival, I actually heard that
8 occurring.

9 Q. And what types of things were being said over
10 the P.A.?

11 A. And this is all from memory. I didn't write
12 verbatim what was said. But basically Mr. Flores, or
13 maybe his full name, please exit the residence through the
14 front door with your hands in the air. And it was just
15 repeated numerous times.

16 Q. And that's identifying yourselves as the
17 sheriff's office?

18 A. Correct.

19 Q. Or somebody was identifying --

20 A. And there was blue lights all around the --

21 Q. And at that point when you arrived, how many
22 other deputies were there, to your memory?

23 A. There was quite a few. Actually, visually
24 seeing these deputies -- because you have to understand
25 that they were set up on a perimeter around the structure.

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1 Q. What's the point of setting up that perimeter?

2 A. Just to make sure that the individual doesn't
3 escape out of a back door or a window, and to keep other
4 people, other residences [phonetic], neighbors, away from
5 the scene.

6 Q. And when you got there, the -- was the
7 information that you had that Mr. Flores was still inside
8 the residence?

9 A. Yes.

10 Q. Because no one had seen him leave through the
11 perimeter?

12 A. Correct.

13 I was told that the rear perimeter was quickly
14 established and that they did not believe that there was
15 any way that he could have gotten out.

16 Q. So after you arrived on scene, do you know how
17 long that the patrol deputies had been using their P.A.
18 system?

19 A. I would estimate at least an hour, and maybe an
20 hour and a half.

21 Q. And that was before you had gotten the call to
22 come out until you had gotten there?

23 A. Correct.

24 Q. So you're there ahead of the rest of the SWAT
25 team, or most of the members of the SWAT team, with the

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1 Bear Cat and et cetera. What happens when they arrive?

2 A. When they arrive we take control of the
3 structure itself. In other words, any patrolman that
4 is -- that was assigned to a perimeter station is relieved
5 of duty and then we push them out even farther to what we
6 refer to as an outer perimeter.

7 Our tactical team takes the inner perimeter.
8 And then at that point, once that's locked down, then we
9 start -- we begin to formulate a plan, one of which -- one
10 of the planning processes, how do we contact this
11 individual. I mean, we don't want to go into the house.
12 I mean, that's first and foremost. We don't want to. We
13 always want them to come out because once you enter the
14 structure, the danger element triples, quadruples.

15 Q. The danger element for who?

16 A. For both the suspect and the officers.

17 Q. So what -- in order to get Mr. Flores out, what
18 was the plan put in place by SWAT?

19 A. The plan was similar to -- well, it's not
20 similar. It was exactly the same. Because there was
21 no -- I was not made aware of any land line or house
22 phone to call, I was not made aware of a cell phone that
23 Mr. Flores may have had, so that wasn't an option. So the
24 only option we had was to, again, utilize the P.A. But
25 this time it was ten feet from the front door, maybe

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1 fifteen, the Bear Cat.

2 Q. So you're using the P.A.s on the Bear Cat?

3 A. Yes, sir.

4 Q. And you said it was ten feet from the front
5 door. What position is that vehicle in relative to the
6 structure? The house. Did you drive it up to it?

7 A. Oh. Yes, sir. It was driven.

8 The front end -- the front end of the Bear
9 Cat -- and I don't know if this is making any sense, is
10 directly in front of the front door.

11 Q. I show you what's been marked previously as
12 State's 1. Would that help you identify --

13 A. Yes.

14 MR. FINCH: I'm going to put that up on the
15 screen here and then you can --

16 THE WITNESS: Okay.

17 MR. FINCH: -- point to it, if you could.

18 Q. [Mr. Finch] Now, I'm showing you what's been
19 marked previously and admitted into evidence as State's
20 Exhibit Number 1. And I'm just going to identify here.
21 This being the front door?

22 A. Yes, sir.

23 Q. About how far away from that was the Bear Cat
24 positioned?

25 A. It was pretty much exactly where that white

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1 vehicle is, kind of on an angle out -- with the front of
2 the Bear Cat pointing at the front door.

3 Q. Okay. So it would be driven up similarly to how
4 that car is driven up with the front end --

5 A. Correct.

6 Q. -- at the house?

7 Once that's in place, are there any other
8 officers? Where are the officers placed, then, in that
9 tactical position?

10 A. I had -- to be specific, I had two officers
11 on the -- well, we refer to it -- we refer to it by
12 numbers -- or by letters, the alpha side being the front
13 door, bravo side being the short side of the trailer, the
14 Charlie side being the rear side, and the delta as being
15 the short side on the right. Does that make sense?

16 Q. It does.

17 A. So it's counterclockwise. I had two operators
18 on the bravo-Charlie, two operators on the alpha-bravo,
19 and two operators on the Charlie-delta, and the sniper was
20 set up on the delta side, approximately seventy-one yards.

21 Q. Okay. And you're referring to two different
22 letters. So they're kind of on the corners?

23 A. Exactly.

24 Q. Okay. So alpha-delta would be -- kind of be in
25 that -- this sort of --

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1 A. Correct.

2 Q. -- corner?

3 A. Right.

4 Q. And at some point does SWAT decide that it has
5 to enter either a structure or a house or a car?

6 A. Yes.

7 Q. And what makes that determination?

8 A. If there -- if an individual is speaking to us,
9 then there won't be any tactical solution unless there's a
10 hostage. As long as this person remains communicating, we
11 will normally allow it to go as long as it needs to go.

12 But in this case there was no communication.

13 Q. So you had not heard anything from anybody from
14 inside the house?

15 A. That's correct.

16 Q. Other than what had been reported to you by
17 others?

18 A. Previous. Yes, sir.

19 Q. And you mentioned the house. For anything,
20 that's -- how -- what do you refer to that? Is there a
21 point of entry? Or what do you -- what would that be
22 called?

23 A. It's just called an entry. But where we enter
24 is referred to as the breach point.

25 Q. And at this point, had you established where

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1 that breach point was going to be?

2 A. We had primary and secondary breaches.

3 Q. What was the primary?

4 A. Primary was that door.

5 Q. And is that the reason the Bear Cat was in
6 place?

7 A. Yes, sir.

8 Q. All right. When you're preparing to breach a
9 structure like this, and in this case, what did you do in
10 order to make a breach?

11 A. Well, in this instance, since there was a small
12 possibility that Mr. Flores left through the rear or left
13 in some fashion, we elected to deploy what's called a
14 throwbot. It's a small cylinder-like robot and you can
15 actually throw it. It might be a foot, foot and a half
16 across.

17 And what we did is we conducted what we called a
18 break and rake on the window, just to the left of that
19 door, and threw the throwbot inside and you can actually
20 drive it through the structure. And that's what occurred.

21 Q. And as you're driving it through the structure,
22 are you able to also get video feedback?

23 A. Yes.

24 Both myself and the command center and the
25 entry-team element can view video from the throwbot.

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1 Q. So after you deployed the throwbot, did you then
2 make a sweep with that --

3 A. Yes, sir.

4 Q. -- device?

5 And what did you see inside the house?

6 A. We saw -- the only thing -- the only living
7 thing that we saw was a cat.

8 Q. And were you able to look into every area of the
9 house?

10 A. You cannot.

11 It doesn't open doors, it won't go upstairs, it
12 can't -- it might be maybe two, three inches off the
13 ground so to see elevations is difficult, i.e. on top of
14 beds. You can't see on top of a bed. Obviously, I've
15 already stated closed doors. If somebody was laying down
16 in a bathtub, you wouldn't be able to see that.

17 But it clears the majority -- it just makes it
18 more safe for the officers. It clears the breach point.

19 Q. And at that point, then, had you made a decision
20 then to breach into the residence?

21 A. Once we realized that there was nobody directly
22 on the other side of the breach points, that's when a
23 decision was made.

24 Q. After that decision was made, tell us what
25 happened.

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1 A. We got the throwbot up to where we could see
2 down the long hallway. And the purpose of this -- it's
3 playing percentages, but most people will flee to where
4 they feel most comfortable. And being that obviously a
5 residence for a person is most comfortable, but even
6 more -- if you fine-tune that down even more, people are
7 more comfortable in their bedrooms. So I assumed that
8 that's probably where he was, if he was there.

9 Q. I'm going to show you what's been previously
10 admitted into evidence as State's Exhibit Number 2. Can
11 you tell us what that photograph reflects?

12 A. That's pretty much what the Bear Cat -- as I was
13 just explaining -- what the throwbot, where it was
14 positioned upon entry.

15 Obviously this is not a picture from the
16 throwbot, because it would be much lower. But that's
17 pretty much the living-room area from the front door or
18 the breach point.

19 Q. So you were able to have that view through the
20 throwbot --

21 A. Yes, sir.

22 Q. -- while you were out in the command center?

23 A. It's not as crystal clear as that, but, yes.

24 Q. What is it? Is it infrared?

25 A. It's I.R.

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1 And it was a low-light situation that night, so
2 it's more of a green haze. But that is it. You can make
3 it out.

4 Q. And you would -- you kept the throwbot there for
5 officer safety?

6 A. I kept the throwbot there because my -- the
7 entry team guys exited from the Bear Cat. And during that
8 time between the Bear Cat and the front door, they had no
9 visual so I watched it for them while they breached the
10 front door.

11 Q. And that, again, was for the safety of the
12 officers and to the suspect?

13 A. Absolutely.

14 Q. After the officers entered, are you
15 communicating with the officers on the inside?

16 A. There is -- while they're clearing, there is no
17 communications.

18 Q. Okay. What was the next --

19 A. Let me rephrase that. They are able to
20 communicate but we don't.

21 Q. Okay. And what happened then after the officers
22 entered the residence?

23 A. They performed what we refer to as slow and
24 deliberate, checking every corner, until they methodically
25 clear the entire residence.

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1 Q. And was a suspect located in the residence?

2 A. Yes.

3 Mr. Flores was located in a closet in the master
4 bedroom.

5 Q. Was that closet door closed?

6 A. It was.

7 Q. Do you know who opened the closet door?

8 A. [Whereupon, the witness reviews documents]

9 I can't testify to who actually opened it, but I
10 can tell you that the entry team leader advised as soon as
11 contact was made. I don't know if he opened it or not.

12 Q. [Mr. Finch] Okay. And they advised -- they
13 advised you that somebody was in custody?

14 A. And all it is is a simple contact.

15 Q. And what happened next after contact was made
16 with the suspect?

17 A. Mr. Flores was placed on the ground and secured
18 with plastic handcuffs.

19 Q. And then after that was he removed from the
20 residence?

21 A. Yes.

22 Q. Did your officers do any interrogation on the
23 inside of that residence?

24 A. We do not.

25 Q. Didn't ask him any questions?

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1 A. No, sir.

2 Q. Do you know if he had said anything to your
3 officers?

4 A. I don't know. I don't believe so.

5 Q. And after SWAT removes anybody -- but in this
6 case, Mr. Flores -- from the residence, what happens next?

7 A. He was turned over to the patrol division. And
8 I'm fairly confident that that person was Deputy
9 Middleton.

10 Q. And so at no time did your officers or the
11 officers under your command SWAT team read him his Miranda
12 rights?

13 A. No.

14 Q. Didn't place him under arrest or charge him?

15 A. Correct.

16 Q. That was handled -- he was turned over to
17 Middleton?

18 A. Yes, sir.

19 Q. And after that, what does the SWAT team do?

20 A. We leave.

21 Q. Did you take some photographs --

22 A. Well, I'm sorry. Yeah, we will -- I'll do a
23 walkthrough with the element leaders just to make sure
24 that -- from my report that I understand what they're
25 speaking of. They may say, you know, the door next to the

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1 bathroom and if I didn't go in the residence, I wouldn't
2 know what they were talking about.

3 Q. And so that's for reporting purposes?

4 A. Yes, sir.

5 Q. And you take some photographs of damage done --

6 A. Correct.

7 Q. -- because sometimes it's a messy --

8 A. Yes.

9 Q. -- getting in the windows and doors?

10 Just to recap: SWAT doesn't respond -- what is
11 the reasoning that SWAT responds to any call?

12 A. SWAT responds primarily to save lives.

13 And that's not to sound -- it's not to make
14 light of anything, but it really is true. If you send an
15 ill-prepared deputy up to a door, both the suspect and the
16 deputy are in jeopardy. In other words, the deputy might
17 make the wrong move and discharge a weapon when it didn't
18 need to happen. They're not equipped with less lethal,
19 they're not equipped with throwbots, they're not equipped
20 with rams, they're not equipped with shields, they don't
21 have armed personnel carriers, the Bear Cat. They don't
22 have these things.

23 Q. And that is in a minority of cases that SWAT is
24 called out?

25 A. Absolutely.

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1 Q. And is that because most call-outs are not to a
2 level where SWAT is needed?

3 A. That's right.

4 Q. And one was needed in this case.

5 A. Absolutely.

6 MR. FINCH: I have no further questions at this
7 time. Please answer any questions that Ms. Runey has.

8 THE COURT: Ms. Runey.

9 MS. RUNEY: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. RUNEY:

12 Q. Lieutenant Whited, you responded with your SWAT
13 team because Mr. Flores wouldn't come out from command
14 from a --

15 A. P.A.

16 Q. -- I can't think of what to call those things.

17 Anyway, the deputies out there hollered at him
18 to come out, and he's not coming out, so SWAT team is
19 called in?

20 A. Yes, ma'am.

21 Q. So your job that night was to get him out of
22 there?

23 A. Yes, ma'am.

24 Q. Not to investigate?

25 A. No, ma'am.

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1 Q. You didn't find a gun on Mr. Flores?

2 A. Not on is person, no, ma'am.

3 Q. And you didn't search the house for any weapons?

4 A. We -- I don't want to use the term search. But
5 we will -- if it's in plain view, then it is relayed to
6 me.

7 But, no, ma'am, we did not find a weapon.

8 Q. And your walkthrough of the residence after
9 Mr. Flores is taken into custody is simply to report on
10 what damage your team has done?

11 A. It's just simply so I can conduct an after-
12 action report related to the specific tactical assignment.

13 Q. And your reports are very detailed?

14 A. Yes, ma'am.

15 Q. And also in your report you and your team
16 address problem areas for the SWAT team?

17 A. Yes.

18 Q. So you use these reports as a learning device
19 for your team?

20 A. Absolutely.

21 Q. And that is what a lot of your walkthrough and
22 after-investigation is for --

23 A. Yes.

24 Q. -- is so you can improve your techniques and
25 tactics?

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1 A. Correct.

2 Q. And a window was broken in this case and you
3 documented that?

4 A. Yes, ma'am.

5 Q. But at no point in this case were you involved
6 in any investigation as to the facts?

7 A. No.

8 Q. And you didn't seek out any search warrants
9 involving this case?

10 A. No, ma'am.

11 MS. RONEY: That's all I have. Thank you.

12 THE COURT: Mr. Finch?

13 MR. FINCH: Nothing further, Your Honor.

14 THE COURT: You may step down. Thank you.

15 THE WITNESS: Thank you.

16 [Whereupon, the witness is excused and exits the
17 witness stand]

18 THE COURT: Call your next witness.

19 MR. FINCH: The State calls Dr. Thomas Kays.

20 MS. RONEY: Judge, may we approach?

21 THE COURT: You may.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 THE COURT: Ladies and gentlemen, there is a
25 matter that I need to take up outside of your presence.

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1 Do not begin your deliberations. Do not discuss
2 this case amongst yourselves.

3 Please rise for the jury.

4 [Whereupon, the jury exits the courtroom at
5 9:48 a.m.]

6 THE COURT: Thank you. Be seated.

7 We'll take ten minutes. Thank you.

8 MS. RONEY: Thank you, Your Honor.

9 MR. FINCH: Thank you, Your Honor.

10 [Whereupon, a recess is taken from 9:49 a.m. to
11 9:53 a.m.]

12 THE COURT: We took a break. It's a little out
13 of order but I'm going to go ahead, since we're on a
14 break.

15 Please swear Mr. Flores.

16 THE CLERK OF COURT: Please raise your right
17 hand.

18 [Whereupon, Mr. Flores is duly sworn by the
19 clerk of court as follows: do you swear or affirm that
20 the testimony you shall give be the truth, the whole
21 truth, and nothing but the truth, so help you God]

22 THE WITNESS: I do.

23 - - -

24 - - -

25 - - -

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DEFENDANT'S RIGHTS

1
2 THE COURT: Mr. Flores, the State informs me
3 that they're going to rest after this witness. So what
4 that means, that after that witness that you will have
5 reached the stage in the trial where you may present
6 your own defense so I'm going to take this opportunity
7 to explain to you your rights.

8 Do you understand that?

9 MR. FLORES: Yes.

10 THE COURT: Is that a yes?

11 MR. FLORES: Yes.

12 THE COURT: All right. Please take your hands
13 out of your pocket. Thank you.

14 You have the right to claim the protections
15 given to you by the fifth amendment to the constitution
16 of the United States. This amendment states in part
17 that no person shall be compelled in any criminal case
18 to be a witness against himself.

19 Do you understand that?

20 MR. FLORES: Yes, I do.

21 THE COURT: This means that you cannot be
22 required to testify. You have the right to testify on
23 your own behalf; however, no one can make you testify.
24 This is your personal right and no one can waive this
25 right except for you.

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1 Do you understand that?

2 MR. FLORES: Yes, I do.

3 THE COURT: If you decide to testify, you will
4 be subject to the same rules that govern other
5 witnesses and you may be examined and cross-examined on
6 any relevant issue in this case.

7 If you have any convictions involving dishonesty
8 or false statement or for crimes punishable by
9 imprisonment for more than one year and this court
10 determines that the probative value of admitting this
11 evidence outweighs its prejudicial effect, the
12 solicitor will be able to introduce your record to
13 attack your credibility.

14 What do you plan to introduce, Ms. Baldwin?

15 MR. FINCH: Your Honor --

16 THE COURT: I'm sorry, Mr. Finch.

17 MR. FINCH: He has a 2003 conviction for robbery
18 second; 2004 theft confession -- conviction. That's
19 out of Montana. 2003 is out of California. A South
20 Dakota convictions for fraud, false impersonation,
21 possession of stolen property and theft. And then
22 South Carolina convictions for two counts of false
23 information receiving -- and one receiving stolen
24 goods.

25 THE COURT: All right. Ms. Runey --

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1 MR. FINCH: I don't know about -- I'm sorry. I
2 don't --

3 THE COURT: -- Ms. Runey, did you go over all of
4 those conversations with your client?

5 MS. RUNEY: We have gone over his record before
6 and --

7 THE COURT: And do you agree those convictions
8 would be appropriate for impeachment purposes should
9 your client decide to testify.

10 MS. RUNEY: I did.

11 Those are all theft-related offenses that I do
12 believe would be able to come in under the rules of
13 evidence.

14 THE COURT: All right. Mr. Flores, all of those
15 convictions that the solicitor just indicated to me
16 have been given to your attorney pursuant to discovery
17 material, and she concurs that they do qualify for
18 impeachment purposes.

19 Do you understand that, sir?

20 MR. FLORES: Not quite.

21 [Whereupon, Ms. Runey and Mr. Flores confer]

22 THE COURT: Did you go over impeachment and
23 the use of his convictions to attack his credibility,
24 Ms. Runey?

25 MS. RUNEY: Yes, ma'am.

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1 And I just explained that to him again, and he
2 understands that.

3 THE COURT: So do you understand there's -- that
4 would be one of the consequences to your decision to
5 testify is that you have a prior criminal record that
6 the State will be able to use to attack your
7 credibility, your believability?

8 Do you understand that?

9 MR. FLORES: Yeah.

10 THE COURT: Is that a yes?

11 MR. FLORES: Yes.

12 THE COURT: Thank you.

13 If you decide to testify, this decision on your
14 part must be freely, voluntarily, and intelligently
15 made with the knowledge of the protections given to you
16 by the fifth amendment and the consequences of your
17 decision to testify.

18 If you decide not to testify, I will instruct
19 the jurors that they cannot give the fact that you did
20 not testify any consideration whatsoever and that there
21 is to be absolutely no prejudice to you if you did not
22 testify. It is left entirely up to you whether you
23 testify. You may talk with your attorney, your
24 friends, your family members, or anyone else, but the
25 final decision is left entirely up to you.

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1 Do you understand what I have explained to you?

2 MR. FLORES: Yes.

3 THE COURT: Do you have any questions about what
4 I have explained to you?

5 MR. FLORES: No.

6 THE COURT: All right. You may be seated.

7 All right. And let's go ahead and -- Dr. Kays
8 is ready to testify. I apologize. You came in right
9 at the break, Dr. Kays. I just had some procedural
10 matters -- I'm sorry -- Kays. Sorry. Had some
11 procedural matters. Thank you.

12 Let's bring in the jury.

13 [Whereupon, the jury enters the courtroom at
14 9:58 a.m.]

15 THE COURT: Thank you. Be seated.

16 Call your next witness.

17 MR. FINCH: The State calls Dr. Thomas Kays.

18 THE COURT: Dr. Kays, please come forward.

19 [Whereupon, Dr. Kays comes forward]

20 [Off the record momentarily]

21 THE CLERK OF COURT: Please raise your right
22 hand and place your left hand on the Bible, please.

23 [Whereupon, Dr. Kays is duly sworn by the clerk
24 of court as follows: do you swear or affirm that the
25 testimony you shall give be the truth, the whole truth,

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1 and nothing but the truth, so help you God]

2 THE WITNESS: Yes, ma'am.

3 THE CLERK OF COURT: Please be seated.

4 [Whereupon, Mr. Kays takes the witness stand]

5 THE CLERK OF COURT: Please state your full
6 name, spelling your last name for the record.

7 THE WITNESS: My name is Dr. Tom Kays. K-A-Y-S.

8 MR. FINCH: Good morning, Doctor.

9 THE WITNESS: Good morning.

10 - - - - -

11 THOMAS KAYS, D.M.D.,

12 Having Been First Duly Sworn,

13 was Examined and Testified as Follows:

14 DIRECT EXAMINATION

15 BY MR. FINCH:

16 Q. If you would tell the jury what kind of doctor
17 you are.

18 A. I am a general dentist, with a Doctor of Dental
19 Surgery degree and a master's degree, and I practice West
20 Ashley, 1040 Savannah Highway.

21 Q. How long have you been a dentist?

22 A. Forty-two years.

23 Q. In your practice -- you said general dentistry.

24 And what are those things? What's encompassing general
25 dentistry?

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1 A. Well, general dentistry encompasses restorative.

2 My practice is limited to primarily restorative
3 dentistry. I don't perform any surgery any longer, and so
4 it's all just isolated to restoring people's mouths.

5 Q. And when you say restoring, what's the scope of
6 that? Cavities as well as --

7 A. It could be cavities, it could be replacing
8 teeth, it could be placing -- restoring implants. It's
9 confined to that area.

10 Q. And in your time as a dentist, about how many
11 patients do you have -- have you seen?

12 A. Thousands.

13 Q. You have a fairly broad active --

14 A. Over -- over --

15 Q. -- patient caseload?

16 A. -- forty-two years. Yes, sir.

17 Q. In June, 2011, did you have occasion to see a
18 Ms. Rose Eaton?

19 A. I did. On June 13th.

20 Q. And had you seen Ms. Eaton prior to this date?

21 A. I have no record of seeing Ms. Eaton prior to
22 that day.

23 Q. Did you know her prior to that date?

24 A. I did know her prior to that day.

25 Q. And how was that?

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1 A. She did upholstering work for my family and
2 myself in our home.

3 Q. And so she did some --

4 A. She worked, you know, restoring furniture in our
5 home.

6 Q. Okay. But you had not seen her as a patient
7 previously?

8 A. No, sir.

9 Q. But she was aware of your practice?

10 A. Yes, sir.

11 Q. Okay. And on June 13th, what was the nature of
12 Ms. Eaton's visit to your clinic?

13 A. It was a visit to replace or to evaluate the
14 damage where she had lost all her upper and lower anterior
15 teeth.

16 Q. And so those are the ones right in front?

17 A. The four interior, four front, top and bottom.

18 Q. And in your treatment of Ms. Eaton, what are
19 some of the things that you did?

20 A. Well, we initiated an examination, x-rays, then
21 we made diagnostic casts, and then we made her an interim
22 removable partial denture, top and bottom. In other
23 words, we replaced those teeth so she could be seen in
24 public.

25 Q. And to that point, had she reported to you

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1 whether or not she had been at work?

2 A. No, she had not been at work, as I remember,
3 prior to that.

4 Q. And is that the reason for the --

5 A. Correct.

6 Q. Because those weren't permanent dentures you
7 were making?

8 A. No.

9 Those were just to get her by so that she could
10 be seen in public and go back to work.

11 Q. Okay. I'm going to show you what's been marked
12 for ID purposes as State's Exhibit Number 10. Can you
13 identify that?

14 A. That was a panoramic radiograph taken in my
15 office.

16 Q. Can you tell us what a panoramic --

17 A. It's a radiograph that gives you an explanation
18 and a picture of all her teeth.

19 But the focus was primarily on those anterior
20 teeth.

21 Q. And if you take a look at that, is that a true
22 and accurate representation of the radiograph you took of
23 Ms. Eaton's mouth?

24 A. That is as normal and true and as accurate as
25 you can get with a panoramic x-ray. Correct.

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1 MR. FINCH: At this time the State would move
2 for the admission of State's 10 into evidence.

3 THE COURT: Any objection?

4 MS. RUNEY: No, ma'am.

5 THE COURT: State's 10 into evidence without
6 objection.

7 [Whereupon, State's Exhibit Number 10 is
8 admitted into evidence by the Court]

9 THE COURT: You may publish.

10 MR. FINCH: Thank you, Your Honor.

11 Q. [Mr. Finch] And, Doctor, if you could please
12 help us understand what it is we're looking at here.

13 A. What you are looking at is you're looking at an
14 x-ray that has shown that the -- the black areas are
15 basically the areas where the teeth have been removed.
16 You can see remnants --

17 THE WITNESS: Do you have a pointer? Do you
18 have a laser?

19 THE COURT: We do not have a pointer because
20 they do not --

21 THE WITNESS: Can I walk up there?

22 THE COURT: You can, but I need you to just stay
23 right there. Don't open the door.

24 THE WITNESS: Don't open the door?

25 THE COURT: Thank you.

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1 A. Obviously, the teeth on the top are the upper
2 arch teeth. On the bottom are the lower arch.

3 Q. [Mr. Finch] Do you mind indicating where the
4 upper teeth are?

5 A. Right there. Move -- right there. Just go
6 right over there to your right.

7 Q. All right.

8 A. Right in that area right there.

9 Q. That's where --

10 A. That black space is where they were.

11 Q. Where they were.

12 Below that, would that be indicating, then,
13 where the lower teeth were?

14 A. Were.

15 And you can see some posterior teeth. And
16 that's pretty much a picture of what it looked like.

17 Q. And just to help us all understand what we're
18 talking about: anterior mean the front teeth, posterior
19 mean the back teeth?

20 A. Right. Correct.

21 Q. And so we're looking at some back-teeth molars?

22 A. Yeah. They were still there.

23 Q. But the front teeth or the incisors were missing
24 when she arrived at your office?

25 A. Correct. Yes, sir.

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1 Q. Once she arrived at the office, you said she --
2 you made some casts?

3 A. Yes, sir.

4 Q. And what was the next process you made?

5 A. Well, we have the laboratory fabricate an
6 appliance to replace those missing teeth. And that's what
7 we went ahead and did.

8 Q. And how would you classify this kind of injury
9 as it comes into your office?

10 A. Well, based on the appearance of Ms. Eaton and
11 the narrative that she gave us, it was the result of a
12 traumatic injury.

13 Q. Well, would you consider that -- anybody
14 presenting with this as an injury, as opposed to a disease
15 -- would that be a serious injury?

16 A. I would consider it a serious injury if somebody
17 had knocked out my eight anterior teeth.

18 Q. And in your practice, how many other times have
19 you seen that?

20 A. None. Maybe I had a gunshot wound. But that
21 was totally irrelevant. Nothing -- I've never seen
22 anything in forty-two years that resembled this.

23 MR. FINCH: Thank you. I have no further
24 questions. Please answer any questions that Ms. Runey
25 may have.

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1 THE WITNESS: Yes, sir.

2 THE COURT: Ms. Runey.

3 MS. RUNEY: I don't have any questions. Thank
4 you.

5 THE COURT: Thank you. You may step down. You
6 are free to leave but you're also free to remain with
7 us. Thank you.

8 THE WITNESS: All right. Thank you.

9 [Whereupon, the witness is excused and exits the
10 witness stand]

11 THE COURT: Call your next witness.

12 MS. BALDWIN: Your Honor, at this time the State
13 rests.

14 THE COURT: Ladies and gentlemen, that indicates
15 to the Court that the State has presented all of the
16 evidence that it will be presenting at this time.

17 Ms. Runey, preserving all motions and matters,
18 are you prepared to call your next witness -- your
19 first witness?

20 MS. RUNEY: Beg the Court's indulgence.

21 THE COURT: Yes.

22 [Whereupon, Ms. Runey and Mr. Flores confer]

23 [Whereupon, Ms. Runey and Ms. Frayer confer]

24 MS. RUNEY: The defense calls Darrell Flores.

25 THE COURT: Mr. Flores, please come forward and

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1 be sworn. Thank you.

2 [Whereupon, Mr. Flores comes forward]

3 THE CLERK OF COURT: Can you raise your right
4 hand, placing your left hand on the Bible, please.

5 [Whereupon, Mr. Flores is duly sworn by the
6 clerk of court as follows: do you swear or affirm that
7 the testimony you shall give be the truth, the whole
8 truth, and nothing but the truth, so help you God]

9 THE WITNESS: I do.

10 THE CLERK OF COURT: Please sit down.

11 [Whereupon, Mr. Flores takes the witness stand]

12 THE CLERK OF COURT: State your full name,
13 spelling your last name for the record.

14 THE WITNESS: Darrell Flores. F-L-O-R-E-S.

15 MS. RONEY: Good morning, Mr. Flores. I'm going
16 to ask you to speak up so the jury can hear you. Okay?

17 THE WITNESS: Yes, ma'am.

18 - - - - -

19 DARRELL FLORES,

20 Having Been First Duly Sworn,

21 was Examined and Testified as Follows:

22 DIRECT EXAMINATION

23 BY MS. RONEY:

24 Q. How old are you?

25 A. Forty-one.

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1 Q. And you're not from South Carolina, are you?

2 A. No.

3 Q. Where are you from originally?

4 A. I was born in California.

5 Q. And do you have family there?

6 A. Yes.

7 Q. What kind of work do you do?

8 A. Out here I was just getting handyman jobs. But
9 I'm a master painter and auto restoration.

10 Q. And you've traveled the country looking for
11 work, haven't you?

12 A. Yes.

13 Q. Tell me where you've been.

14 A. Washington, Idaho, Montana, South Dakota, North
15 Dakota, Minnesota, Kansas, Oklahoma, Texas, Florida,
16 Georgia, and here.

17 Q. And how do you travel?

18 A. How do I get from place to place?

19 Q. Uh-huh.

20 A. Bus.

21 Q. Okay. And when you get to those places, you
22 look for a place to live?

23 A. Yes.

24 Q. Have you ever had to live in a shelter or on the
25 streets?

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1 A. Yeah, a couple of times.

2 Q. So when that happens, life is pretty tough;
3 right?

4 A. It's what you make it --

5 MR. FINCH: Objection, Your Honor.

6 THE COURT: What is the relevance?

7 MS. RUNEY: Judge, I can move on, but I was just
8 establishing what he's done.

9 THE COURT: Thank you.

10 Q. [Ms. Runey] And once you get to a place, you
11 try to find a place to live and --

12 A. Find work first. Yeah.

13 Q. -- and work?

14 Okay. And what brought you to Charleston?

15 A. Work.

16 Q. And when did you come here?

17 A. About four years ago.

18 Q. Okay. And what kind of work -- did you find
19 work when you came?

20 A. I was called here for somebody that was going to
21 hire me.

22 Q. For a company?

23 A. Yes.

24 Q. And what kind of work were you doing?

25 A. Well, I worked for somebody that owns a stall

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1 and they sell gifts and paraphernalia for the market
2 downtown.

3 Q. And did you do that job?

4 A. Yes.

5 Q. And did you later get a job working on cars?

6 A. I did that on the side.

7 Q. Okay. And what kind of -- you've done that
8 throughout your life?

9 A. Yes.

10 Q. And is that how you met Ms. Eaton?

11 A. Yes.

12 Q. And did you work on her car?

13 A. Yes.

14 Q. And begin to date?

15 A. Yes.

16 Q. Did you move in with Ms. Eaton?

17 A. After a few months, yes.

18 Q. And how was your relationship?

19 A. Fine.

20 Q. And y'all got along well?

21 A. Yeah.

22 Q. And you loved her?

23 A. Yeah.

24 Q. Had there been some talk -- I'm going to move
25 forward to May of 2011. Had there been some talk about

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1 you moving out of that house?

2 A. Well, we started -- she started getting real
3 controlling and she -- she wanted me to stay home and
4 after a couple of months I got tired of it and I wanted
5 to, you know, get out. And she was real, like, who you
6 talking to, you're going to go see somebody or, you know.
7 So she started getting really funny-acting.

8 Q. Was she afraid that you were having a
9 relationship with someone else?

10 A. Definitely.

11 Q. And were you going out to look for work --

12 A. Yes.

13 Q. -- more work? Did you find a new job?

14 A. Yes, I did.

15 Q. And did you tell Ms. Eaton about that?

16 A. Yes, I did.

17 Q. And how did she feel about that?

18 A. She reacted very strangely to it, like as if she
19 didn't really want me to actually get a job. But yet she
20 was complaining about me not having one.

21 Q. And so this led to the decision that you would
22 move out?

23 MR. FINCH: Objection. Leading.

24 THE COURT: You may answer.

25 Just remember this is your witness.

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1 MS. RUNEY: Yes, ma'am.

2 THE COURT: Thank you.

3 Q. [Ms. Runey] Did y'all have a discussion about
4 you moving out?

5 A. Yeah.

6 We had an argument one time and she says, well,
7 I want you to move. I said, well, you can't just throw me
8 out. I said, you've got to give me some time. So I --
9 she said, okay, I'll give you a couple of weeks and in
10 that time you should find a job and whatever money you
11 make you should keep it because on the first I want you to
12 move out. I said, fine.

13 So it was the 30th I believe I got hired as a
14 handyman for some -- an elderly couple that owns a lot of
15 property in Charleston. And I informed her of this and
16 she didn't like that at all. And that's the night that
17 all this happened.

18 Q. How did the argument begin that night?

19 A. We were watching TV and she eventually went to
20 the bedroom to go lay down and I stayed in the front room
21 watching TV.

22 And then after a while -- I knew I had to get up
23 in the morning to go, so I went to the back to lay down --

24 Q. In the bedroom?

25 A. In the bedroom.

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1 Q. Okay.

2 A. And I was getting in bed and she basically told
3 me to get the fuck off me, is what she told me. I said,
4 all right.

5 And I went into the front room and laid on the
6 couch, where I was already previously watching TV. And
7 then Ms. Eaton came in there and she started making a --
8 it was too hot in the bedroom, because the air-condition
9 is in the front room.

10 So she came out and she started putting pillows
11 and stuff on the floor. And then she was upset about a
12 sexual episode we had previously a day or two before, and
13 she was complaining about that.

14 Q. She was upset that y'all had had sexual
15 intercourse?

16 A. She was upset about the episode of the way it
17 went down.

18 Q. Okay. Explain that to me a little bit more.
19 Did you force yourself on her?

20 A. No.

21 She was just -- well, her exact words were,
22 grudge [phonetic].

23 Q. So in the time that you had decided that you
24 would move out, or she told you you were going to move
25 out, did you have a sexual relationship?

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1 A. Oh, yeah.

2 Q. Did you think your relationship was over?

3 A. Well, you know, we were kind of -- she didn't
4 say anything for a while. She says, well, we'll -- we'll
5 play it out and we'll see how it goes, when the time
6 started getting close to the 1st. She didn't say, oh,
7 you're not packing up or nothing. Because the 1st was the
8 next day. And she didn't say anything. And I was like,
9 well, I guess I'll go to work. She says, all right, you
10 know.

11 MR. FINCH: Objection. Hearsay.

12 THE COURT: Sustained.

13 Q. [Ms. Runey] What happened next in the living
14 room?

15 A. Oh, she -- she kept arguing to me about the
16 sexual thing and I got tired of her and I hit her with the
17 pillow, the body pillow, from the couch. I just hit her
18 in the head.

19 Q. Did she fall to the ground?

20 A. No, ma'am.

21 She -- she did like this and went forward a
22 little bit. And I kind of laughed at her and she got real
23 mad and she ran back to the bedroom.

24 Q. Did she stay in the bedroom?

25 A. For a minute or so.

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1 Q. Did you hear anything in the bedroom?

2 A. I heard a big thump, like -- like something was
3 hitting the mattress.

4 Q. Did you think she had fallen?

5 A. I didn't know what it was. It sounded like a
6 stick was hitting the mattress.

7 Q. And what did you do?

8 A. I didn't do anything. I laid there and I was
9 wondering what that was.

10 Q. And what happened next?

11 A. And then the next thing you know -- it's a
12 trailer, so the floor is wood. So I heard her walking
13 back in. I'm laying on the couch facing the TV. The
14 bedroom is in back of me. So when I sit up, I turn
15 this way, and Ms. Eaton's like two steps away from me with
16 the --

17 Q. She was coming towards you?

18 A. Towards me. With a bat in her hand.

19 I had all but two seconds, so the first thing I
20 did is I grabbed the ottoman and I held it up like this.
21 And when I stood up, I threw it at her to knock this bat
22 out of her hand. As soon as I did that, I ran behind the
23 ottoman. I threw it first and I was behind it. And
24 before I noticed that her lip was busted, then I pushed
25 her on the ground. I didn't jump on her. I didn't do

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1 anything else to her. And then I noticed that her lip was
2 bleeding, her mouth was bleeding.

3 Q. At that point did she drop the bat?

4 A. Yeah. The bat fell after that.

5 Q. And you saw that she was injured?

6 A. Then -- then after she was on the ground I said
7 get up. And then I gave her my hand and I picked her up.
8 And she was holding her mouth and was bleeding and I said,
9 go in the bathroom and put a towel on it and look at it --

10 Q. Did you mean for that to happen?

11 A. Not at all. I'm very sorry that that happened.
12 I had no intentions of hurting her to that degree. I just
13 wanted to knock that bat out of her hands.

14 Q. Did you think that this argument would have
15 turned physical?

16 A. Not at all.

17 I was shocked because she -- I didn't even know
18 where she got that bat from. I never --

19 Q. And you --

20 A. After all this time of living in this house, I
21 never seen it.

22 Q. And you admit that you hit her with the body
23 pillow?

24 A. Yes.

25 I didn't try to hurt her. I just hit her with

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1 the pillow. It's just a pillow.

2 Q. How did you feel after this happened?

3 A. Terrible.

4 I didn't -- I didn't have no intentions of
5 hurting her at all, not like that. I just wanted to knock
6 that bat out of her hand.

7 Q. Did you have any discussion about what you would
8 do next?

9 A. She was in the -- she went into the -- to the
10 bathroom in the back, in the master bathroom, and she was
11 looking at her lip. And I was -- I got the mop and
12 started mopping the blood up because I didn't want it to
13 track all over the place.

14 And she was telling me, oh, I got to go to the
15 emergency room because my lip's busted. I says, well,
16 hang on; we ain't going nowhere yet; let me look. And
17 then I went to the back and she showed me her lip and it
18 was split. And I was like, yeah, that's pretty bad. I
19 said, well, hang on, we'll both go. And she says all
20 right.

21 And then she -- when I was getting dressed, she
22 went into the front room and got her purse and her keys
23 and her phone and she ran out of the house and jumped in
24 the car and left me in the house and took off.

25 Q. Were you frustrated by that?

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1 A. Yeah.

2 She took the phone, too. I was going to call
3 her and say, what are you doing and why did you -- why did
4 you leave me; come and get me and take me with you.

5 Q. Did you have a phone?

6 A. Yeah. She took it.

7 Q. She took your phone?

8 A. Yeah.

9 Q. Did you ever leave the house after that?

10 A. No. I was going to. I sat there for a minute
11 and then I was like, well, I'm out of here; I'm not going
12 to be waiting around. And I packed a bag. And then
13 that's when the police showed up.

14 Q. And you didn't -- did you come out when the
15 police showed up?

16 A. No.

17 Q. Why didn't you come out?

18 A. Because I knew they was going to arrest me.

19 Q. You knew you were going to jail?

20 A. For more -- more than likely.

21 Q. Where were you when the police came in?

22 A. What do you mean?

23 Q. When the SWAT team came in your house.

24 A. I was hiding in the closet.

25 Q. Were you angry that you were going to go to jail

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1 about this?

2 A. No.

3 Q. Were you angry when the Medders came over to
4 your house?

5 A. No.

6 Q. Did you tell them to leave?

7 A. Yes.

8 Q. You've been in trouble before, haven't you?

9 A. Yes.

10 Q. And by trouble I mean you've been arrested
11 before, haven't you?

12 A. Yes, ma'am.

13 Q. And when you got in trouble before, did you
14 plead guilty?

15 A. Yes, ma'am.

16 Q. And why did you plead guilty?

17 A. Because I was guilty.

18 Q. Have you ever tried to contact Ms. Eaton since
19 this incident?

20 A. I wrote her a letter stating that I was sorry
21 about everything. I think it was four or five days after
22 I came in here -- or in jail.

23 Q. And did you tell her why you did it?

24 A. To knock the bat out of her hand.

25 I -- I believe that she has a copy and she sent

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1 it to the solicitor, the letter.

2 Q. Were you trying to apologize to her?

3 A. Yeah, she --

4 MR. FINCH: Objection. Leading.

5 THE COURT: Sustained. Rephrase your question.

6 Q. [Ms. Runey] Did you apologize to her?

7 A. Yes. I tried to. That's -- and I did that in
8 the letter.

9 Q. Did you mean for Ms. Eaton to be injured this
10 badly?

11 A. I never intended to hurt her in any kind of way.

12 MS. RUNEY: Beg the Court's indulgence.

13 [Whereupon, Ms. Runey and Ms. Frayer confer]

14 MS. RUNEY: That's all I have. Please answer
15 any questions that Ms. Baldwin or Mr. Finch may have
16 for you.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Mr. Finch?

19 MR. FINCH: Your Honor, may we approach on a
20 matter of law?

21 THE COURT: You may.

22 [Whereupon, an off-the-record bench conference
23 is held]

24 THE COURT: Ladies and gentlemen, there's a
25 matter of law that I must take up outside of your

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1 presence. Do not begin your deliberations. Do not
2 discuss this case amongst yourselves.

3 Stay seated, Mr. Flores.

4 [Whereupon, the jury exits the courtroom at
5 10:25 a.m.]

6 THE COURT: Please be seated.

7 Let's go ahead and let Mr. Flores take a comfort
8 break.

9 We'll take ten minutes.

10 [Whereupon, a recess is taken from 10:25 a.m. to
11 10:41 a.m.]

12 THE COURT: Ms. Runey, did you have plenty of
13 time?

14 MS. RUNEY: I was able to review it on the
15 computer, yes, ma'am.

16 THE COURT: All right. Thank you.

17 Mr. Flores, you can go ahead and have a seat on
18 the stand. Thank you.

19 [Whereupon, Mr. Flores re-takes the witness
20 stand]

21 THE COURT: I remind you that you're still under
22 oath.

23 THE WITNESS: Yes, ma'am.

24 MR. FINCH: Your Honor, I just wanted to bring
25 up as a matter of law regarding some of the defendant's

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1 testimony that I believe opened the door and I want to
2 bring it up outside the presence of the jury so we
3 don't run into any situations.

4 Mr. Flores alluded to the fact that he had been
5 arrested before. Obviously he knew that he was going
6 to be arrested now, but he considered packing up and
7 fleeing. He has convictions in 2008 as a fugitive from
8 justice. He also alluded to the fact that he knew the
9 police were there and wasn't coming out. And he had
10 several arrests and convictions around there for
11 resisting arrest.

12 And I believe that that shows a pattern of his
13 behavior and he knew that -- he knew what to do and
14 he's done the same thing before. And I believe it
15 opened the door to those convictions that the State
16 would intend to introduce to impugn his credibility to
17 impeach him on the stand.

18 THE COURT: Ms. Runey?

19 MS. RUNEY: Judge, I would object to those
20 convictions coming in.

21 We have put on the record those that would be
22 coming in based on 609. I don't think that he opened
23 the door in referring into any past behavior. He was
24 just explaining as to why he did not come out that
25 night.

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1 I don't think those convictions are relevant
2 here, and they would also be prejudicial to Mr. Flores.

3 THE COURT: All right. At this time I agree. I
4 do not believe he has opened the door.

5 If you believe, based upon any response to your
6 question, that he has, if you'll approach and we'll
7 have a discussion regarding that. Thank you.

8 MR. FINCH: Yes, Your Honor. Thank you very
9 much.

10 THE COURT: All right. Anything before we bring
11 in the jury?

12 MR. FINCH: Nothing from the State, Your Honor.

13 THE COURT: All right. Let's bring in the jury.

14 [Whereupon, the jury enters the courtroom at
15 10:44 a.m.]

16 THE BAILIFF: All present, Your Honor.

17 THE COURT: Thank you. Please be seated.

18 Mr. Finch, your witness.

19 MR. FINCH: Thank you, Your Honor.

20 Good morning, Mr. Flores.

21 THE WITNESS: Good morning, Mr. Finch.

22 MR. FINCH: I want to go over your testimony
23 and your responses to the questions from your attorney
24 Ms. Runey.

25

- - -

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CROSS-EXAMINATION

BY MR. FINCH:

Q. You told the Court that you were born in California?

A. Yes, sir.

Q. And then you traveled all over the country?

A. Yes, sir.

Q. Montana?

A. Yes, sir.

Q. North Dakota, Idaho, Washington, all those places?

A. Yes, sir.

Q. Looking for work?

A. Moving from workplace to workplace.

Q. And that in those places -- you're pretty resourceful; correct?

A. Yes, sir.

Q. You found work?

A. Always.

Q. Found places to stay?

A. Yes, sir.

Q. And even states you've never been to before, you could find work and a place to stay?

A. Yes, sir.

Q. And in those places you worked; correct?

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1 A. Yes, sir.

2 Q. Because you're a working man?

3 A. Yes, sir.

4 Q. You also alluded to how you had had some trouble
5 with the law before; is that right?

6 A. Yes, sir.

7 Q. And, in fact, you have several convictions,
8 don't you?

9 A. Yes, I do.

10 Q. You have a second-degree robbery conviction out
11 of California?

12 A. I believe so.

13 Q. Don't you think you would remember that?

14 A. It's been a long time.

15 Q. 2003?

16 A. [No response]

17 Q. Let's move on to Montana. 2004 theft; correct?

18 A. [No response]

19 Q. Is that correct?

20 A. I don't remember.

21 Q. You don't remember being arrested, charged,
22 convicted in 2004 in Montana?

23 A. For a theft, no.

24 Q. For something else?

25 A. Not that I remember.

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1 Q. I'll move on to South Dakota, then. A
2 conviction for fraud, false impersonation, possession of
3 stolen property, and theft?

4 A. I wasn't -- I didn't steal anything in -- over
5 there.

6 Q. Do you remember the false impersonation, false
7 information?

8 A. Yes.

9 Q. Okay. So lying? Essentially, that's just
10 lying.

11 A. Are you asking me?

12 Q. That's a question.

13 A. Yeah.

14 Q. Okay. And that was in 2005. You remember that
15 conviction for lying.

16 How about 2008? Do you remember another false
17 information conviction? That was in South Carolina.

18 A. South Carolina?

19 Q. Uh-huh.

20 A. Here?

21 Q. In this state.

22 A. No.

23 Q. How about a 2009 false information?

24 A. No.

25 Q. You don't remember, then, likely, the receiving

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1 stolen goods in 2009?

2 A. I've never been in trouble in this state before.

3 Q. Never been in any trouble in any state before.

4 MR. FINCH: May we approach, Your Honor.

5 A. In this state.

6 THE COURT: In this state --

7 MR. FINCH: Oh. I'm sorry.

8 THE COURT: -- he said, Mr. Finch.

9 MR. FINCH: May we approach, Your Honor?

10 THE COURT: You may.

11 [Whereupon, an off-the-record bench conference

12 is held]

13 Q. [Mr. Finch] Do you recall getting in trouble

14 for lying to the police in Florida?

15 A. I didn't lie to the police in Florida.

16 Q. One conviction for false information --

17 A. No.

18 Q. -- in 2008?

19 A. No.

20 Q. One conviction in 2009, false information?

21 A. In Florida?

22 Q. You're Darrell Flores?

23 A. Yes.

24 Q. You're Darrell Anthony Flores?

25 A. [No response]

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1 [Whereupon, Mr. Finch and Ms. Runey confer]

2 Q. [Mr. Finch] What's your date of birth?

3 A.

4 Q. And your social security number?

5 A.

6 [Whereupon, State's Exhibit Number 11 is marked
7 by the court reporter]

8 Q. [Mr. Finch] I'm going to show you what's been
9 marked for ID purposes only as State's Exhibit 11. Do you
10 know what that document is?

11 A. It looks like a history of violations that I
12 made.

13 Q. History of what?

14 A. Violations.

15 Q. That you made?

16 A. [No response]

17 Q. And you know that because your name is on the
18 front of that paper, isn't it?

19 A. On the first part. Yeah.

20 Q. And your date of birth?

21 A. On this piece.

22 Q. Yes, on that piece. The front page.

23 A. This is not my birth date.

24 Q. That's not your birth date?

25 A. No. No, sir.

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1 Q. Would you tell me your birth date again?

2 A.

3 Q. Is that your birth date?

4 [Whereupon, the witness reviews documents]

5 A. That one is.

6 Q. [Mr. Finch] And next to that is your social
7 security number?

8 A. Yeah. I was looking at this top one.

9 Q. Let's move on to the day -- well, let's move on
10 to your time in South Carolina. You said you brought --
11 were brought here for work?

12 A. I came here with a job already in place.

13 Q. Somebody had offered you a job and told you to
14 move here?

15 A. Yes.

16 Q. Or asked you to move here.

17 And what was the nature of that job? What kind
18 of work?

19 A. How can I describe it.

20 Well, I set up their booth at the -- unloaded
21 their truck, set up their booth at the market downtown,
22 and then I went to their home and I was a handyman for
23 them. I repaired -- whatever they needed me to do.

24 Q. You worked for a family?

25 A. Yeah.

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1 They're an elder couple and they needed somebody
2 to help them.

3 Q. And about how long had you been here before you
4 met Ms. Eaton? In the Charleston area, that is.

5 A. About two years.

6 Q. Were you still working for the same family?

7 A. Yeah.

8 Q. And doing some auto repairs on the side?

9 A. Yes, sir.

10 Q. And that's how you met Ms. Eaton? You were
11 going to help her with her car?

12 A. Yes, sir.

13 Q. Did you get it started that day?

14 A. Yes, sir.

15 Q. And after that, y'all started talking?

16 A. A week or so after.

17 Q. You gave her your phone number?

18 A. No. Her friends were matchmakers.

19 Q. Put the two of you guys together?

20 A. Pretty much.

21 Q. And then you dated for several months before you
22 moved in to

23 A. I'd say two months, roughly.

24 Q. And then you lived in the residence of

25 for how long? About eight months?

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1 A. Just about a year.

2 Q. What happened to the job at -- with the family?

3 A. Well, we -- we went out of town like they do
4 once a year. And I go with them. We were gone for like
5 two weeks to different states and different towns. And
6 they're doing arts and crafts shows. And we stay in
7 motels, and this and that and the other, down there.

8 And so they had me in one show in one city, and
9 they needed me in another city for the next day, so they
10 called me and told me on my day off to pack up and they're
11 going to pick me up and bring me back to the other motel
12 in the other city. I said, fine.

13 And when they got me down there, they put me in
14 their room and then they went to their -- to where they
15 were, their arts and crafts show, and then they came back
16 and they told me to go sleep in the truck. They pulled me
17 out of my motel room, brought me to the other city, and
18 told me to go sleep in the truck for the night.

19 And I refused. I says, why don't you get me a
20 room. And they said, no, we're not -- we don't -- we
21 can't pay for you a room. I says, well, what do you mean
22 I got to sleep in the truck, that's -- I'm not going to
23 sleep in the truck. And they says, well, we're not going
24 to get you a room.

25 I says, well, then you're going to need to pay

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1 me, and I quit, and I'll have to go get my own room. And
2 that's when I quit.

3 Q. And then where -- do you remember what city that
4 was?

5 A. I think that was in Charlotte. It was pretty
6 close, because the bus ticket I had to buy was like
7 seventy-five bucks.

8 Q. So you bought your own bus ticket and then came
9 back to

10 A. Well, I came back to the Greyhound out here and
11 Ms. Eaton picked me up from there.

12 Q. But you were back at --

13 A. Yeah.

14 Q. -- Eatonville Road?

15 So you didn't have anymore work at that point?

16 A. No.

17 Q. And about how long had you been out of work
18 when you got this new job, that you testified to, causing
19 Ms. Eaton to react strangely?

20 A. I could say a good four months.

21 Q. Four months?

22 A. At least.

23 Q. But previously you had been able to go all over
24 the country and find work wherever you stopped?

25 A. Ms. Eaton insisted that I stay home and take a

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1 rest for a while because I had worked so hard all my life
2 and --

3 Q. If you would answer the question I asked,
4 please.

5 A. Yes, sir.

6 Q. Previously, though, you were able to go all over
7 the country, places you had never been before, and obtain
8 employment and a place to stay?

9 A. Yes, sir.

10 Q. Okay. And you said that Ms. Eaton became
11 controlling --

12 A. Yes, sir.

13 Q. -- of you; is that correct? She wanted to know
14 where you were at all times?

15 A. She wanted to control my activities in the sense
16 to where I couldn't do anything without her looking over
17 my shoulder.

18 Q. Okay. But she would go to work every day;
19 right?

20 A. Yes, sir.

21 Q. Or every day she was scheduled, at least.

22 A. Right.

23 Q. Worked ten, twelve-hour days?

24 A. No.

25 She would leave at around 8:30. She would go to

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1 work from 9:00 to 4:00 or 9:00 to 5:00 sometimes.

2 Q. And also did side work doing some upholstery?

3 A. Occasionally.

4 Q. But she -- let's talk about the night of the
5 incident, May 31st, 2011. You testified that you guys
6 were in the -- watching TV; right?

7 A. Yes, sir.

8 Q. And then Ms. Eaton decided to go to bed?

9 A. Right.

10 Q. And she went into the bedroom?

11 A. Yes.

12 Q. Right? And then laid down on the bed; right?

13 A. Yep. Yes, sir.

14 Q. She didn't lay down and complain?

15 A. No.

16 Q. She was comfortable in bed; correct?

17 A. As far as I know.

18 Q. And then you came in and started nudging her;
19 right?

20 A. Negative. Never touched her. No.

21 Q. You wanted to get in the bed; right?

22 A. I just climbed in the bed and that's when she
23 told me to get off of it.

24 Q. Told you to leave?

25 A. Yeah.

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1 Q. So she could be back in the same situation she
2 was, alone in bed where she was comfortable; right?

3 A. Right.

4 Q. Okay. So your testimony is that you left and
5 went out to the living room?

6 A. I went back to the couch where I laid -- where I
7 was laying watching TV --

8 Q. And --

9 A. -- out by the window.

10 Q. And when you got back to the couch, that's --
11 your testimony is that Ms. Eaton then came out and you
12 guys started arguing in the living room?

13 A. I wasn't arguing. She came out arguing.

14 Q. Okay.

15 A. It -- it wasn't really an argument. She was
16 just making comments of the past night before, I believe,
17 that she wasn't very happy with.

18 Q. Okay. Well, you testified before that you had
19 an argument and then Ms. Eaton went to the bedroom. And
20 now you're saying it wasn't an argument, just a --

21 A. I don't consider it an argument.

22 Q. -- discussion?

23 Okay. Well, Ms. Runey asked you if you had an
24 argument and you said yes. Did you not mean to say yes
25 when she asked you?

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1 A. Well, you know, a comment or an argument. She
2 keeps saying argument. I believe it was just a comment,
3 so I said argument.

4 Q. Okay. But you were sitting out there the whole
5 time and you could have corrected her when she said
6 argument; right?

7 A. Yeah, I could have.

8 Q. But you just said, yes, is what you said?

9 A. Yeah.

10 Q. Okay. So it's your testimony, then, that
11 Ms. Eaton, who was happy to be in the bed by herself until
12 you came in and tried to get in bed with her, that after
13 you left she took it upon herself to get out of bed, where
14 she was exactly where she wanted to be, to come into the
15 living room? Is that correct?

16 A. That's correct.

17 Q. Okay. And then when she got out there and you
18 were just having a discussion, you decided to take a
19 pillow and hit Ms. Eaton with it?

20 A. Yep. Yes, sir.

21 Q. Because in your mind, that must have made sense
22 when someone's talking to you to just to hit them?

23 A. Well, she was more nagging.

24 Q. Oh. So now it's nagging?

25 A. [No response]

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1 Q. It's not an argument and it's not a discussion.
2 It's nagging now; is that correct?

3 A. Yes, sir.

4 Q. Okay. So after you hit Ms. Eaton for nagging,
5 you laughed at her?

6 A. Yes. That's what pissed her off.

7 Q. Because you think hitting people is funny, don't
8 you?

9 A. I didn't try to hurt her. I hit her with a
10 pillow.

11 Q. The question is you think hitting people is
12 funny, don't you?

13 A. No, it wasn't funny.

14 Q. Then why did you laugh?

15 A. Because of the way she moved when I -- when I
16 hit her with the pillow.

17 Q. Because of the way her body reacted to you
18 hitting her, that was funny to you and that's what made
19 you laugh?

20 A. I was trying to make her feel bad.

21 Q. Trying to make her feel bad.

22 Were you trying to make her feel bad because she
23 had been housing you and feeding you for four months while
24 you weren't working?

25 A. Not at all.

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1 Q. So then it's your testimony, then, that
2 Ms. Eaton went back to the bedroom where she was
3 previously alone and completed satisfied until you came
4 in; right?

5 A. Yes.

6 Q. She went back there. And then you heard a
7 mysterious thumping; right?

8 A. Yes, sir.

9 Q. And then the next thing you knew, Ms. Eaton was
10 charging at you with a bat?

11 A. She wasn't charging. She was walking pretty
12 briskly, though.

13 Q. Walking briskly. So less than a run, more than
14 a walk?

15 A. She was -- she was walking pretty good.

16 Q. Okay. But that --

17 A. It wasn't -- it wasn't -- it wasn't like a -- it
18 wasn't like a casual walk. It was more of a --

19 Q. She had a purpose?

20 A. Exact -- there you go. She had a purpose..

21 Q. She was coming at you with a purpose?

22 A. With a bat.

23 Q. A purpose and a bat?

24 A. Yes, sir.

25 Q. Okay. And she was two steps away from you?

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- 1 A. In two steps she was in -- she was --
2 Q. That's when you saw the bat --
3 A. -- getting ready --
4 Q. -- two steps away?
5 A. -- to hit me with that bat. Yes, sir.
6 Q. And that's your bat like this [indicates]?
7 A. She had it just like this [indicates].
8 Q. Two steps away?
9 A. She was, yep, about two steps away.
10 Q. And you're on the couch?
11 A. Yes, sir.
12 Q. Your first instinct as she's continuing to come
13 at you --
14 A. I had one, two seconds.
15 Q. Let me finish the question.
16 A. Okay.
17 Q. She's coming at you, briskly coming at you,
18 she's two steps away, you reach down and grab this object?
19 A. It was right at my feet. Picked it up.
20 Q. Just picked it up?
21 A. Yep, just like that.
22 Q. And then threw it?
23 A. And threw it.
24 Q. She's coming at you the whole time?
25 A. Yes, sir.

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1. Q. Okay. So in that split second, you reach down
2 and grab the ottoman and throw it at her?

3 A. Yeah.

4 Q. Okay. And then she falls down?

5 A. No. She never fell down.

6 Q. Never fell down?

7 A. Until I pushed her. Then she fell.

8 Q. Oh. So after you hit her with the ottoman, you
9 needed to push her?

10 A. She had the bat in her hand, she's coming at me.
11 All but one and two seconds all this happened. I picked
12 that up and threw it and right after I threw it I ran up
13 on her. And she was holding the -- and then -- and I
14 pushed her. I said, what's wrong with you; why did you
15 come at me with a bat. That's when she fell on the
16 ground.

17 Q. Okay. So you threw the ottoman and hit her in
18 the face. Did it fall down on the ground after that?

19 A. Actually, the ottoman hit the bat.

20 Q. The ottoman hit the bat?

21 A. The bat was in front of her, yes.

22 Q. Okay. She's --

23 A. So the bat's sticking up about this high, so
24 she's got it right here, the bat's -- I don't know. It's
25 a Louisville Slugger. So she had the bat in front of her

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1 face.

2 At that time I wasn't thinking about all that, I
3 was just thinking about knocking the bat out of her hand.
4 I didn't want to get hit with it. I didn't think that it
5 was going to cause that much injury to her, and I never
6 intended for all that to happen but that's unfortunately
7 what happened.

8 Q. So after you hit her with the ottoman, or you
9 throw the ottoman, the ottoman falls to the ground?

10 A. The ottoman hits the bat.

11 Q. Does it fall to the ground?

12 A. Yes.

13 Q. And that would be between you and Ms. Eaton?

14 A. Yes.

15 Q. Did you have to step over the ottoman to push
16 her down?

17 A. No.

18 It fell off and she was standing to the side of
19 it.

20 Q. So you had a clear shot at her so you could
21 shove her down?

22 A. Well, I didn't shove her down. I just pushed
23 her like this.

24 Q. But she fell down?

25 A. Yeah.

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1 Q. You pushed her. She went to the ground.

2 A. Yeah.

3 Q. Okay. And what happened to the bat? You said
4 the bat fell at that point.

5 A. It rolled underneath -- you know how the kitchen
6 and they have overhangs for the counters and it rolls
7 under, there's a slight -- I don't know what you call it.
8 The bat rolled under there.

9 And I was looking around for it. I wanted to
10 get rid of it. So when I found it, she was in the
11 bathroom. And I picked it up and I threw it behind the
12 washer.

13 Q. Okay. That's after you grabbed her arm and you
14 said, get up?

15 A. After I seen her, she was bleeding like that,
16 yeah, I picked her up.

17 Q. Get up?

18 A. Well, she wasn't laying all the way on the
19 ground. She fell on her arse [phonetic].

20 Q. On her what?

21 A. Arse. She fell on her butt.

22 Q. Okay.

23 A. She was sitting on the ground.

24 Q. So you reached down and grabbed her arm and
25 said, get up.

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1 A. I reached down, I said, give me your hand and
2 get up, and I pulled her up.

3 Q. Well, let's go back. Because when you testified
4 you said, get up, like that. Not ever did you say --

5 A. You know --

6 Q. -- give me your hand, get up. Or did you say,
7 get up.

8 A. I said, get up.

9 Q. Put a towel on it; right? Is that what you said
10 to her?

11 A. I said go get a towel from the bathroom and put
12 a towel on it, yes.

13 Q. And then you said you started mopping up the
14 blood on the floor?

15 A. Yes.

16 Q. Because you didn't want it to track through the
17 house?

18 A. Exactly.

19 Q. Because there was a lot of blood?

20 A. It wasn't a lot. It was just quite a few little
21 drops. I wouldn't -- I wouldn't consider it a lot, but it
22 was blood enough to --

23 Q. You didn't use a paper towel?

24 A. No.

25 Q. You used a mop?

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1 A. We didn't have paper towels.

2 Q. You didn't just use a napkin or a piece of
3 tissue or toilet paper?

4 A. I was in the kitchen. The mop was right there.

5 Q. After Ms. Eaton said she needed to go to the
6 hospital, ER, you said hang on, we'll both go.

7 A. Yes, sir.

8 Q. And then she left; right?

9 A. No. We -- I went into the -- I was -- I went
10 into the bathroom where she was. And we talked about
11 her lip and I said, let me see it. And I looked at her
12 and I -- and she was saying, I need to go to the
13 emergency, I need to get stitches. And I says, yeah,
14 that's pretty bad. I said, we'd better go, I'm going with
15 you. And she says, all right. And then she left the
16 bedroom area. And I says, hang on, let me get dressed.
17 And she left.

18 Q. And you testified that once she left, you
19 thought about getting out of there?

20 A. Not immediately.

21 Q. But you did think about getting out of there?

22 A. Yes, sir.

23 Q. So you packed a bag?

24 A. Yes, I did.

25 Q. Got ready to go?

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1 A. Yes, I did.

2 Q. You also said you felt terrible about it.

3 A. I wasn't happy.

4 Q. But you weren't, at that point, planning on
5 sticking around to see what happened, were you?

6 A. I pretty much knew the police were going to come
7 at that point.

8 Q. Well, you say that. But you're also saying that
9 somebody came at you with a bat.

10 A. She did.

11 Q. Okay. But if the police were going to come, you
12 could just tell them that.

13 A. Well, it's too late now. She's left and she's
14 already got the statement into the police and they're
15 going to believe her before they believe me because I'm
16 secondary. It got to me second. I'm not there to --

17 Q. Well, let's back up. She just left.

18 A. I have no way of leaving. I have no car. We
19 live out -- way out there by Kiawah. There's no --

20 You can't even walk down the road down there.
21 You've got to have a car to get out of there. I had no
22 car, no way of leaving. I was going to just go walk and
23 stay in the weeds until morning. That's what I was going
24 to do.

25 Q. And then?

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1 A. Catch the bus in the morning.

2 Q. And get farther away, leave --

3 A. Try to -- try to --

4 Q. -- the situation?

5 A. Well, I was going to go to work. I had a job to
6 go to in the morning.

7 Q. What job was that?

8 A. The job I just got hired for.

9 Q. Which was?

10 A. Being a handyman for another elderly couple that
11 owns a lot of real estate in Charleston.

12 Q. Now, let me go back to when you say Ms. Eaton
13 was coming at you with a bat. You say first you hit her
14 with a pillow; right?

15 A. Yes, sir.

16 Q. That happened first.

17 And then after she came at you with the
18 pillow -- or, I'm sorry -- the bat, then it wasn't
19 impossible for you to just duck out of the way, was it?

20 A. I don't believe so.

21 Q. You don't think it was impossible? It was
22 possible you could have just ducked out of the way; right?

23 A. No. She was right on top of me.

24 Q. Right on top of you.

25 A. [No response]

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1 Q. Two steps away.

2 A. Closer than you are.

3 Q. Closer than me. Closer now?

4 A. About right there.

5 Q. Okay. So from that distance, you would agree
6 she had to be moving pretty quick to make up that distance
7 in two steps? About six feet or so?

8 A. I didn't take consideration of the distance. I
9 just noticed that she was right there.

10 And being that in two steps and you got a bat in
11 your hand, you could pretty much hit the end of this table
12 with -- so -- and you've got to take that into, you know,
13 consideration, as well --

14 Q. And if she got to you with that bat, you didn't
15 think she was going to kill you with the bat, did you?

16 A. Well, at that instant I really didn't want to
17 get hit with the bat. And --

18 Q. But that's --

19 A. -- now that --

20 Q. -- you think you were going to get killed with
21 the bat?

22 A. -- let me finish first. Let me finish.

23 It's possible. If anybody takes a hit with a
24 bat in the head, it's very much possible you can die from
25 that.

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1 And now that I go through all this, I was --
2 been thinking I should have just let her hit me with the
3 bat, honestly.

4 Q. Because at that point in time you're -- you're a
5 lot bigger than Ms. Eaton, aren't you?

6 A. It wouldn't -- regardless of your size, if you
7 get hit in the head with a bat --

8 Q. Are you bigger than Ms. Eaton?

9 A. Yes, sir.

10 Q. A lot bigger; right?

11 A. Yes, sir.

12 Q. And you had never seen the bat before?

13 A. I seen it then.

14 Q. But you never saw it before?

15 A. No.

16 Q. You had never seen her wielding a bat before?

17 A. No.

18 Q. You never saw her smashing up anything with a
19 bat before?

20 A. No.

21 Q. You had never seen her taking the bat to any
22 furniture, animals?

23 A. I never seen the bat before. Never know it was
24 even in the house.

25 Q. All right. So let's get to the point where the

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1 police show up. Well, I'm sorry. Let's back up.

2 When the Merrits show up --

3 A. The who?

4 Q. Maybe the Medders. I'm sorry.

5 A. Oh.

6 Q. When the Medders showed up, you came out on the
7 porch?

8 A. No.

9 Q. You stayed inside the house?

10 A. Yes. I looked out the window.

11 Q. Did you ever say anything to the Medders?

12 A. I went out the back door and told them get out
13 of here.

14 Q. Okay. So you did go out?

15 A. Out the back door. They never seen me.

16 Q. They didn't see you?

17 A. No. They heard me. They never seen me.

18 Q. And you said, get off my land, get off my
19 property?

20 A. Yeah. Yes, sir.

21 Q. And then you went back in the house?

22 A. After I seen them leave.

23 Q. And then eventually the police showed up; right?

24 A. Yes, sir.

25 Q. The blue lights flashing?

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- 1 A. Yes.
- 2 Q. You saw the blue lights?
- 3 A. Yes.
- 4 Q. And you heard them talking to you on the P.A.?
- 5 A. Yes, I did.
- 6 Q. Heard them say, Mr. Flores, sheriff's office --
- 7 A. Yes.
- 8 Q. -- please come out?
- 9 A. Yes.
- 10 Q. But you didn't come out?
- 11 A. No. No, sir.
- 12 Q. Did you open the back door and yell to them?
- 13 A. No.
- 14 Q. But you agree that would have been possible?
- 15 You could have opened the door and yelled?
- 16 A. Very much so.
- 17 Q. And you didn't yell anything to the police, did
- 18 you?
- 19 A. No, sir.
- 20 Q. You didn't ask them how Ms. Eaton was doing, did
- 21 you?
- 22 A. No.
- 23 Q. Didn't ask them if they had called an ambulance,
- 24 did you?
- 25 A. Excuse me?

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1 Q. You did not ask them if they had called an
2 ambulance, did you?

3 A. No, sir.

4 Q. Didn't ask if she was in the hospital, did you?

5 A. No, sir.

6 Q. You didn't -- you didn't ask anything about the
7 condition of Ms. Eaton, didn't you?

8 A. I didn't ask the police anything in any kind of
9 way. Never talked to them.

10 Q. And you never told them anything?

11 A. I never talked to them.

12 Q. When the police are there, you stayed inside the
13 house because you knew you had done something wrong,
14 didn't you?

15 A. I knew I was going to go to jail, so I stayed in
16 the house. Yes.

17 Q. Why did you think you were going to go to jail?

18 A. Because of the actions that -- everything that
19 went down: Ms. Eaton leaving and the police showing up,
20 there's already a complaint, she already had a busted lip
21 and I'm not there to defend myself, so that's already --
22 I'm going to jail. I already know that.

23 Q. But you were at the house?

24 A. Yes, sir.

25 Q. You said you weren't there.

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1 A. I said I wasn't where?

2 Q. You said you weren't there to defend yourself.

3 A. Not when she made a complaint to the police, no.

4 Q. But you agree -- and you've presented today your
5 side of the story. You have a side of the story; right?

6 A. The truth of the side of the story. Yes, sir.

7 Q. You have your side of the story; correct? Yes
8 or no.

9 A. Yes, sir.

10 Q. All right. But you didn't, at any point that
11 night, tell anybody that side of the story?

12 A. When -- after the SWAT team arrested me, I don't
13 know what officer they gave me to but he said, do you want
14 to make a statement and I says, well -- he says, do you
15 want to say your side of the story. I says, well, the
16 only thing that I have to say is she came at me with a
17 bat. He says, well, I'm not going to document that. And
18 then they threw me in a car and brought me down here.

19 Q. And so you're saying that you told that to the
20 police officer?

21 A. After the fact that I was arrested. I didn't go
22 outside the house to ask them anything.

23 Q. And SWAT was there for about five hours?

24 A. I don't know.

25 Q. You just know there was a lot of blue lights out

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1 there?

2 A. Yeah.

3 Q. And you weren't planning on coming out, were
4 you?

5 A. No.

6 Q. They had to come in and get you?

7 A. Yeah. Yes, sir.

8 Q. Because you didn't want to go to jail; right?

9 A. That's correct.

10 [Whereupon, Mr. Finch and Ms. Baldwin confer]

11 Q. [Mr. Finch] How far away did your neighbors
12 live when you were living on

13 A. [No response]

14 Q. Could you walk to the neighbor's house?

15 A. Of course.

16 Q. And they could see to your house

17 A. Two trailers could.

18 Q. Two different trailers?

19 A. There's -- there's two: there's one about, oh,
20 I would say fifty yards away, that can definitely see the
21 trailer; and then there's another one, you know, about 150
22 yards away.

23 Q. But you didn't go to any of those trailers to
24 use the phone to call 911?

25 A. No.

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1 Q. Didn't call for an ambulance?

2 A. No.

3 Q. You didn't call Jeannie to check to see if Rose
4 had gone there?

5 A. No.

6 Q. Didn't borrow anybody's phone?

7 A. I don't know them.

8 No, I didn't borrow anybody's phone.

9 Q. But you've moved around the country and you know
10 people in lots of different states but you were able to
11 find work; right?

12 A. Yes. I just never --

13 Q. You're not afraid of strangers, are you?

14 A. No.

15 I just never -- never talked to them. I've
16 never really seen anybody outside. Only when they were
17 coming to work or leaving.

18 Q. But you agree this was an emergency-kind-
19 of-situation injury?

20 A. I agree that it was an emergency situation, yes.

21 Q. But you didn't take any measures to provide any
22 care for Ms. Eaton, other than say put a towel on?

23 A. No.

24 MR. FINCH: No further questions at this time,
25 Your Honor.

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1 THE COURT: Ms. Runey?

2 MS. RUNEY: Beg the Court's indulgence.

3 [Whereupon, Ms. Runey reviews documents]

4 REDIRECT EXAMINATION

5 BY MS. RUNEY:

6 Q. Mr. Flores, you knew the police were going to
7 come to your house, didn't you?

8 A. Yes.

9 Q. You stayed there?

10 A. Yes, ma'am.

11 MS. RUNEY: Thank you. That's all I have.

12 THE COURT: Recross?

13 RECROSS-EXAMINATION

14 BY MR. FINCH:

15 Q. When they got there, you hid, didn't you?

16 A. No.

17 Q. When the police arrived and when the SWAT team
18 entered, you were in the closet; weren't you?

19 A. Yes, sir.

20 Q. But you don't spend a lot of time hanging out in
21 the closet, do you?

22 A. You said when they got there I hid.

23 Q. I'll rephrase the question. After the police
24 arrived and announced their presence --

25 A. I sat --

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1 Q. -- that's when --

2 A. I sat in the front room.

3 Q. And then you hid in the closet?

4 A. After the -- after the SWAT team threw that
5 robot thing in there, I went into the bedroom.

6 Q. Into the closet?

7 A. Not immediately, no.

8 Q. And hid in the closet?

9 A. Eventually I went in the closet.

10 MR. FINCH: Nothing further, Your Honor.

11 THE COURT: You may step down., Thank you.

12 [Whereupon, Mr. Flores is excused and exits the
13 witness stand].

14 THE COURT: Call your next witness.

15 MS. RONEY: That's all we have. Thank you, Your
16 Honor.

17 THE COURT: Does the State have any rebuttal?

18 MS. BALDWIN: No, Your Honor.

19 THE COURT: Ladies and gentlemen, you have heard
20 all of the testimony that will be admitted in this
21 case. You've also received into evidence all of the
22 exhibits that will be made part of the record in this
23 case.

24 There is a matter of law that I must take up
25 outside of your presence. When we return, you will

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1 hear closing arguments on behalf of counsel and then I
2 will instruct you on the law applicable to this case.

3 Please rise for the jury.

4 [Whereupon, the jury exits the courtroom at
5 11:23 a.m.]

6 THE COURT: Thank you. Be seated.
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MOTION FOR A DIRECTED VERDICT

1
2 THE COURT: Ms. Runey, I know that I've had the
3 benefit now -- normally you would have made your motion
4 for a directed verdict at the close of the State's
5 case, but your client testified so make your motion for
6 a directed verdict based upon the testimony that was
7 presented at the close of the State's case.

8 MS. RUNEY: At the close of the State's -- yes,
9 ma'am.

10 Your Honor, at the close of the State's case the
11 defense would contend that there is a failure of
12 evidence and competent evidence tending to prove the
13 charge in the indictment and then to the Court and to
14 the jury, and for that reason we ask for a directed
15 verdict.

16 THE COURT: Ms. Baldwin?

17 MS. BALDWIN: Your Honor, I believe if you look
18 at the evidence in the light most favorable to the
19 State, we've proven the elements of the case.

20 The victim testified that she was scared the
21 defendant would kill her. She did suffer some
22 injuries. She testified to those. We presented a
23 doctor that testified that she lost all her -- her
24 teeth. There was testimony that they did co-habit,
25 that they both lived in the residence together for an

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1 extended period of time.

2 THE COURT: Anything further, Ms. Runey?

3 MS. RUNEY: No, ma'am.

4 THE COURT: Based upon the testimony that has
5 been presented, Rule 19 of the Rules of Criminal
6 Procedure, my rule is to rule on the evidence in the
7 light most favorable to the nonmoving party, which is
8 the State, and I am concerned only with the existence
9 or nonexistence, not as to the weight of the evidence.

10 Deny your motion for a directed verdict at this
11 time.

12 Ms. Runey, do you need to make -- at the close
13 of the State's case, are there any other motions?

14 MS. RUNEY: Yes, Your Honor.

15 Now that we've heard from Mr. Flores we would
16 renew that motion, in that he has testified that he was
17 acting in self-defense and that he only threw the
18 ottoman when Ms. Eaton came at him with a bat. And,
19 therefore, we would make a motion for a directed
20 verdict.

21 MS. BALDWIN: Your Honor, we would ask that you
22 deny their motion based on my previous argument in the
23 light -- when you view the evidence in the light most
24 favorable to the State you have to look at the elements
25 of criminal domestic violence of a high and aggravated

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1 nature ; serious bodily injury or her fear in serious
2 bodily injury or death, the fact that they do co-habit.
3 And the State does not believe that the defense has met
4 the elements for self-defense --

5 THE COURT: All right. That will be our next --
6 right now it's just a motion for directed verdict.

7 MS. BALDWIN: Thank you, Your Honor.

8 THE COURT: Anything further?

9 MS. BALDWIN: I'm going to shut up.

10 THE COURT: Ms. Runey, anything? Any response?

11 MS. RONEY: No, Your Honor.

12 THE COURT: Again, in the light most favorable
13 to the nonmoving party, concerned with the existence or
14 nonexistence of the evidence, deny your motion for a
15 directed verdict at the close of your case.

16 And now you're making a motion to present --
17 you're requesting self-defense?

18 MS. RONEY: I am, Your Honor.

19 THE COURT: All right. And tell me why I should
20 charge self-defense.

21 MS. RONEY: Your Honor, based on my client's
22 testimony here before the Court today, he testified
23 that he was laying on the sofa in the living-room area,
24 there had been some verbal argument between the two and
25 that Ms. Eaton left that area and came back wielding a

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1 bat and was very close to Mr. Flores swinging the bat,
2 or had the bat held up near him, where he feared that
3 she would hit him in the head and severely injure him
4 and at that point is when he did pick up the ottoman
5 and throw that in any attempt to get her to drop the
6 bat. We believe that self-defense should be presented
7 to the jury, based on his testimony here today.

8 THE COURT: Tell me how your client was without
9 fault.

10 MS. RUNEY: Your Honor, there is some testimony
11 that he had hit her with a pillow. She was not injured
12 by that. And he was laying on the sofa. Other
13 testimony was that they had had a verbal altercation
14 and at that point nothing had escalated to the degree
15 of her wielding the bat. He's faced with her in his
16 face with the possibility of him being hit over the
17 head with the bat, and at that point he reacted to get
18 her to stop and that's when he threw the ottoman at
19 her.

20 THE COURT: Tell me what testimony was that your
21 client actually believed he was in imminent danger.

22 MS. RUNEY: Your Honor, he testified on cross-
23 examination by Mr. Finch that he believed that he could
24 face serious bodily injury by her hitting him over the
25 head with the bat. And she was at close range.

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1 THE COURT: Tell me what evidence there was --
2 or is that there was no other way for him to avoid the
3 danger.

4 MS. RUNEY: Your Honor, he testified that he was
5 laying on the sofa at that time and she was in front of
6 him, very close to him, and that he would not be able
7 to move from that area.

8 THE COURT: All right. Ms. Baldwin?

9 MS. BALDWIN: Your Honor, as to the first
10 element that he's without fault in bringing on the
11 difficulty, he did begin the difficulty. The physical
12 altercation started, if you're to believe his
13 testimony, with him hitting the victim with the pillow
14 and then continuing to taunt her by laughing at her.

15 As to the second element that he actually
16 believed he was in imminent danger of losing his life
17 versus sustaining serious bodily injury, I don't
18 believe he testified, Your Honor, that at that time he
19 actually believed. He stated that nobody wants to get
20 hit with a bat. He stated that after thinking about
21 it, yeah, because I guess if you got hit in the head
22 with a bat it could -- you know, may kill you. But he
23 didn't testify that, at that point in time, he was
24 fearful of being injured and hit in the head with a
25 bat.

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1 As to the third element that a reasonable person
2 of ordinary firmness and courage would have entertained
3 the same belief: the victim -- he never testified that
4 the victim swung the bat at him, that she said anything
5 to the effect of I'm going to hit you with this bat.
6 All he stated was that she turned around and she was --
7 he turned around and she was holding the bat in front
8 of her face.

9 And as to the last element that he had no other
10 probable means of avoiding the danger: well, first of
11 all, Your Honor, he's a rather large man. He testified
12 that he was larger than the victim. He could have used
13 his hands to defend himself to push the bat away. He
14 always had a means of escape. He could have gone out
15 of the front door to another room. He could have
16 gotten up.

17 Once again, the victim never stated that -- or
18 he never stated that the victim was swinging the bat at
19 him, that she had made any motion to attack him with
20 the bat at that time or indicated that she was going to
21 attack him with the bat at that time.

22 THE COURT: All right. Ms. Runey, any response?

23 MS. RUNEY: Your Honor, I would only add that at
24 that point he had a split second to decide what to do.
25 He did testify that she was right in front of him and

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1 that she did have the bat raised to him; therefore, we
2 believe that the Court should charge the jury as to
3 self-defense.

4 THE COURT: And you are requesting CDV as a
5 lesser-included?

6 MS. RONEY: I am, Your Honor.

7 THE COURT: Let me hear from you regarding that,
8 Ms. Baldwin.

9 MS. BALDWIN: We would object, Your Honor, under
10 State v. Golden, which is 732 S.E.2d 175. In that
11 case, Your Honor, it was a similar situation. The
12 defendant testified that -- basically minimized what
13 had happened, Your Honor, so that there really was just
14 a question of either he caused the injury or he didn't
15 cause the injury. And I think that situation is here
16 in this case, Your Honor. Either he caused serious
17 bodily injury, in that he knocked out her front eight
18 teeth, or he didn't. So we would ask that you deny it.
19 I think you either have to charge all CDVHAN or
20 nothing, Your Honor.

21 THE COURT: Ms. Roney?

22 MS. RONEY: Judge, the reason that I'm asking
23 for the CDV charge is not based on the throwing of the
24 ottoman. It is based on the act that Mr. Flores did
25 testify and admit that he hit her with the body pillow.

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1 THE COURT: Well, then, Ms. Runey, then that
2 puts you in a sticky wicket because if that's what you
3 want me to charge CDV in, then that -- then the
4 analysis would then be that he was not without fault.

5 MS. RUNEY: Judge, I don't think that it
6 rises -- my argument would be that they could consider
7 that as CDV. I do understand what the Court is saying.
8 My concern is that it could be considered a separate
9 act in that there was some discussion I believe between
10 them in the room. And it's not quite clear how long
11 that was between him hitting her with the pillow and
12 her leaving to go get the bat. But I do understand the
13 Court's argument.

14 THE COURT: All right. Based upon what I
15 understand the facts to be as presented, I will charge
16 self-defense because if there is any evidence in the
17 record which could reasonably be inferred, I am
18 required to charge it.

19 Under that scenario and under State v. Golden, I
20 am not charging the lesser-included CDV. So it will be
21 -- I will just have the complete defense of self-
22 defense but there will be no lesser-includeds.

23 Anything further? I'm charging voluntary
24 intoxication. There was testimony presented by at
25 least two witnesses that he was intoxicated.

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1 Anything -- any other requests?

2 MS. RONEY: No, ma'am.

3 MS. BALDWIN: Nothing, Your Honor.

4 THE COURT: All right. Are we prepared to go?
5 Do you need a few moments?

6 MS. RONEY: A few minutes would be good. I
7 don't need long, but just a few minutes.

8 THE COURT: All right. If you will come, I'll
9 need to -- if you'll approach, just take a look at the
10 verdict form.

11 [Whereupon, counsel review documents]

12 THE COURT: How long -- just tell me how long
13 you need.

14 MS. BALDWIN: Ten minutes, Your Honor?

15 THE COURT: Is that sufficient?

16 MS. RONEY: Yes, ma'am. That's fine.

17 THE COURT: All right. Ms. Baldwin, you are
18 closing?

19 MS. BALDWIN: I'm going to reserve everything
20 for after Ms. Roney, Your Honor.

21 THE COURT: But it's you, physically, that's --

22 MS. BALDWIN: Oh. Yes, ma'am. Yes.

23 THE COURT: All right. Ms. Roney, you are
24 closing?

25 MS. RONEY: Yes, ma'am.

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1 THE COURT: All right. Thank you. Ten minutes.

2 [Whereupon, a recess is taken from 11:35 to
3 11:57 a.m.]

4 [Whereupon, the jury enters the courtroom at
5 11:57 a.m.]

6 THE BAILIFF: All present, Your Honor.

7 THE COURT: Thank you. Please be seated.

8 Ladies and gentlemen, you will now hear closing
9 arguments on behalf of counsel.

10 Just as I indicated to you what was contained in
11 opening statements is not to be considered evidence,
12 neither is what is contained in closing argument. It's
13 simply the attorney's contention as to what the
14 evidence has shown. After you have heard closing
15 arguments, I will instruct you on the law applicable to
16 this case and you will retire to consider your verdict.

17 Please give your strict attention.

18 MS. RUNEY: Thank you, Your Honor. May it
19 please the Court.

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CLOSING ARGUMENT

MS. RUNEY: Tony treated me like a queen.
That's exactly what Ms. Eaton told you: that they had
a great relationship and she was very happy.

Now, we don't dispute that on May 31st, things
went wrong and Ms. Eaton was injured. But once she
told her family and the police what happened, that was
the end of this. Tony had a feeling that was going to
happen and that's why he knew he was going to be
arrested and he hid in the closet from the police. He
told you that.

He could have run, but he didn't. And he didn't
because things didn't happen the way that Ms. Eaton
told you that they happened.

Deputy Middleton responded to her daughter's
house. And she was upset, and rightly so. Her mouth
was bleeding and her teeth were knocked out. And he
didn't try to ask her what happened then. He waited
until she got to the emergency room, when she had
calmed down and when she could write out a statement to
him. She did write out that statement and she told him
her story, a short story. And now seventeen months
later, you hear a lot more details from that statement
because she had time to decide what to tell you
happened.

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1 And you saw these pictures of Ms. Eaton. And
2 you will have them back there with you. They look bad.
3 We agree. Her mouth looks bad. She had to have
4 reconstructive oral surgery, based on this injury. And
5 Tony told you he's sorry about that and that he never
6 intended for that to happen and if he could go back
7 now, he would change that.

8 But in that split second of time that night, he
9 had to make a decision how to get her away from him.
10 And, yes, he is bigger than her. He's a big guy. And
11 maybe now he's thinking, why didn't I just push her,
12 why didn't I get her away from me, why didn't I try to
13 grab the bat. But in that split second, he reacted and
14 he threw that ottoman. He told you that. He didn't
15 have to do that.

16 He admitted to something very bad, but that does
17 not make him guilty of this charge. The judge will
18 tell you about self-defense and that a person has a
19 right to act in self-defense. And he had no other
20 decision to make at that time and no time to think
21 about making another decision.

22 If Mr. Flores had intended to hurt her this bad,
23 why did he say I'm taking you to the hospital, it looks
24 bad? At first he doesn't see it. He thought that her
25 lip was busted. And he did look at it in the bathroom

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1 and say we need to go to the hospital. And at that
2 point, Ms. Eaton told you, and Darrell told you, too,
3 that she ran. She got in the car and left.

4 As a result of this incident, Ms. Eaton went to
5 the family court in order to keep Tony away from her.
6 He had written her a letter, but they had not lived
7 together since then. And in that hearing, Ms. Eaton
8 told you that the family court judge said that those
9 injuries were not from an ottoman hitting her in the
10 mouth, but a bat. That bat got hit with that ottoman
11 and wacked her in the mouth. And Tony told you the
12 same thing.

13 And you know why we don't have a bat in here
14 today? Because those police did nothing. They did a
15 lot that night to spread out their team around that
16 trailer to get him out, but not to find out what
17 happened. All Deputy Middleton had to do was pick up
18 his phone, pick up his police radio, and call for a
19 supervisor, call for a detective, that could come out
20 to this trailer and find out what happened. Nobody did
21 that. And he told you nobody did it. He told you that
22 the police had the ability to go get a search warrant.
23 Nobody got a search warrant.. Nobody went looking for
24 that bat. Nobody went looking for a gun that everybody
25 said he had.

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1 The Medders came in here and told you that they
2 confronted him, he cussed them out -- yeah, he told you
3 he cussed them out -- and as they were walking away,
4 they thought they heard gunshots. Did these police
5 officers care about finding a gun? Did anybody look
6 for a gun? Did anybody go get a search warrant to find
7 a gun? Maybe they would have found something else that
8 was relevant when they were looking for this gun. But
9 nobody did it.

10 And as I told you when we started this trial,
11 that this was a rush to judgment, a rush to judgment by
12 the police. Again, I'm not saying that nobody was
13 injured. Ms. Eaton was injured. But nobody took the
14 time or made the effort to find out how she was
15 injured.

16 You saw pictures of this trailer that had been
17 taken for this trial. Nobody took any pictures that
18 night, except of the damage that was down by the SWAT
19 team. Now, I'm not faulting the SWAT team for doing
20 damage. They were coming in to arrest him. But don't
21 you think if you could take the time to take pictures
22 of the damage that you did and document that, you could
23 take pictures of the house, of the kitchen and the
24 living-room area where this allegedly happened, take
25 pictures of this ottoman? We saw a picture of the

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1 ottoman with blood on the top. Nobody ever showed you
2 any investigation on what this thing looks like under
3 here. Nobody bothered to take any blood swabs of this
4 two-by-four that she was hit with. They didn't even
5 take the ottoman into evidence.

6 Now, we've heard from Dr. Lybrand, who was the
7 oral surgeon, and she told you that there were no
8 lacerations or bruising on Ms. Eaton's face. And this
9 was a part of her examination once she was going to do
10 the surgery for her. And she did a thorough
11 examination of her face.

12 And when I asked Ms. Eaton about those bruises,
13 she said that those came later and that her daughter
14 lost the pictures of the bruises. Don't you know they
15 would have brought you those bruises -- brought you
16 pictures of those bruises? You haven't been shown any
17 evidence of those. And that's because he didn't hold
18 her down. He threw the bat. And he told you that.

19 He told you that he's been arrested before and
20 that he's been in trouble. And they tried to confuse
21 him about his record. He's not denying that. That's
22 why he packed a bag, thought about getting away from
23 the police. He knows what can happen when you're
24 arrested. And I'm not telling you that Darrell Flores
25 is an angel. He made her mad. He made Ms. Eaton mad,

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1 and that's why she came at him with the bat.

2 They're going to try to make a big deal about
3 that Mr. Flores had never seen this bat before. It's
4 her house. She move with -- he moved in with her. He
5 doesn't know where everything is there. And the SWAT
6 team isn't there to investigator, either. And they
7 didn't call anybody to do it. It would make your job a
8 lot easier if they would have done that for you.

9 A rush to judgment. No investigation. He told
10 you he's dealt with police before. He told you he
11 tried to tell them about the bat. At that point he was
12 on the ground in the trailer being handcuffed and
13 hauled off to jail. He told you what happened that
14 night. Family court thought the same thing: he threw
15 the ottoman at her and the bat hit her in the mouth.

16 It's an unfortunate incident. Darrell told you
17 he was sad that Ms. Eaton was hit with this ottoman.
18 Told you that he regretted making that decision. But
19 he did what he had to do. He acted in self-defense.
20 She was in front of him with the bat in his face. He
21 told you, yeah, I thought she was going to hit me over
22 the head with that. And based on that, you must find
23 him not guilty.

24 THE COURT: Ms. Baldwin?

25

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CLOSING ARGUMENT

MS. BALDWIN: No one should do that to another woman. Or a man, for that matter. Those were the words you heard yesterday out of Rosanne Eaton. And they ring true. No one should do what Mr. Flores did to Rosanne Eaton. No one should take a heavy piece of furniture, pick it up, and ram it directly into her mouth causing her to lose all eight of her front four teeth.

You heard Rose testify. You heard her tell you what happened. It was emotional for her. She was crying. But she had to tell you. She told you that at first things were great with Mr. Flores, she thought it was a sign. She met him three years to the day after her husband passed away. She hadn't been in a relationship since he passed away.

And she said he did treat her like a queen, and then he started to not. And they decided that it was time to go their separate ways. She was being very reasonable and she said, hey, you know, I'll give you some time to get out. Apparently she's very controlling, according to the defendant, but she said, hey, I'll give you -- I'll give you some time to get out if you don't have any place to live.

But that wasn't good enough for the defendant.

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1 He was intoxicated. He got upset. He was the one who
2 continued to push and push. Okay. She went to bed.
3 She's lying peacefully in bed. He comes in the
4 bedroom. She says he starts poking and prodding her.
5 She doesn't want to be bothered. The relationship is
6 over at this point. He's moving out the next day, or
7 at least he's supposed to be. Of course, according to
8 his words, he was just lying next to her. But she
9 said, get off of me.

10 So she tried to diffuse the situation. She
11 says, okay, fine, you don't want -- you want to lay in
12 here, no problem; I'm going to go out and lay down in
13 the living room; it's cooler in there anyway; I can be
14 just as comfortable there. That's not good enough for
15 the defendant. He has to follow, continuing. She says
16 -- he says it was just a discussion. It was such a
17 calming discussion that he decided that it would be a
18 great idea to hit her with a pillow and to escalate
19 things. But he thought it was funny. It wasn't a big
20 deal. Just hit the person that I supposedly care
21 about.

22 She tries to diffuse it again. She says, oh,
23 gosh; okay, he seems really angry; I'm going to get out
24 of here. So she goes to the closet in her bedroom,
25 grabs her purse. You saw a picture of that where her

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1 purse always hangs. Grabs her keys that are in the
2 kitchen and is trying to get out. But, still, that's
3 not good enough for the defendant. He's angrier and
4 angrier. It's escalating and escalating because she's
5 not doing what he wants her to do. And so he picks up
6 that ottoman that was in her living room, picked it up
7 and rammed it into her face.

8 But, still, that wasn't good enough for the
9 defendant because now he's really enraged. And he
10 climbs on top of her and is trying to hold her down,
11 telling her demeaning things. And she tries to escape.
12 Somehow she manages to. And has to trick him in order
13 to get out of the house.

14 And she said, you know, she had to look in the
15 mirror at first to see her injuries. She didn't know
16 what was going on. It sure as heck was more than a
17 bloody lip, though. I mean, you saw the pictures of
18 her. I don't think most people would think those kinds
19 of injuries were just a busted lip when blood is coming
20 out of her mouth.

21 When she's crying -- you heard the 911 call.
22 You heard her crying hysterically. But the defendant
23 said, oh, I just thought it was a busted lip, no big
24 deal, it'll be okay. And he sort of flip-flopped on,
25 oh, well, I said go to the emergency room. No, she

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1 said we should go to the emergency room but, you know,
2 I said I would go with her because I'm a good guy and I
3 felt bad.

4 You know, and you'll see that -- on the ottoman
5 that, you know, there's no -- there isn't any blood on
6 here now. And, yeah, the police didn't collect it that
7 night. But as you'll see in that picture, that there
8 was blood on that ottoman cover. You'll have the
9 pictures back there. You can look over them.

10 So finally Rose manages to get out of the house.
11 She escapes. She runs by tricking him by saying, okay,
12 you -- sure, come -- come with me to the emergency
13 room; you go get dressed, and I'll get out. And then
14 she testified that he was standing on the front porch.
15 Well, she tricked him and managed to escape from her
16 captor. She tricked him and she got out, and he's
17 standing on the porch screaming at her, cursing at her,
18 but she didn't think it was appropriate to tell you
19 guys exactly what he said. She thought, hey, we're in
20 a court setting but it's not the right thing to say in
21 court.

22 And she was fearful of the defendant. And she
23 did get -- go to court and get an order of protection.
24 And there was some talk about what that order of
25 protection was and what it said and there was a bat.

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1 And she explained that. She said, he was yelling
2 something about a bat; I told the judge what happened;
3 I don't know why the judge did that, but the judge did
4 that. But no matter what, you know what the judge did?
5 He granted that order. So there was -- there was some
6 reason to be -- for her to be fearful of the defendant.
7 It wasn't just, oh, it was an accident, just go your
8 separate ways.

9 And Rose left him. And she's not going back to
10 him. She told you she's done with him. She knows that
11 he was no good to her. She knows that he has hurt her
12 and that what he did to her wasn't right. She wants
13 him held responsible for that. And so often in these
14 types of cases you hear how people say you see those
15 victims go back to the person who abused them and the
16 public goes, well, why the heck is she going back to
17 that guy, why the heck is she going back to him. Well,
18 Rose isn't doing that this time. She's not doing it.
19 She's one of the ones that, you know what, logic kicked
20 in; I'm done.

21 She testified that she thought he was going to
22 kill her at that time. He was so angry and so mad that
23 she thought that he was going to kill her.

24 Then you heard her daughter Jeannie testify.
25 Went to her house, the closest house. She could barely

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1 drive. Blood's streaming from her mouth, so she goes
2 over to her house. And hear Jeannie testify that, you
3 know, she had a really close relationship with her
4 mother until Mr. Flores got in the picture. Now Mr.
5 Flores isn't in the picture and they're close again.

6 You heard the 911 call. You heard her daughter
7 trying to calm Rose down saying you're going to have an
8 asthma attack. And you heard Rose crying in the
9 background and all she could say was -- she barely
10 uttered the words that Tony hit her with an ottoman.
11 She's try to say that he hit her with an ottoman.
12 Didn't say he threw the ottoman at her. She said he
13 hit her with an ottoman.

14 You heard Jeannie testify about the bruises that
15 she saw the day after. Sometimes bruises don't appear
16 right away. Sometimes it takes some time. But she
17 said exactly -- Rose said that she had -- that he had a
18 knee here and a knee on her thigh. And Jeannie said
19 she saw a bruise on here and a bruise on her thigh,
20 among other little minor bruises.

21 And then we had Ronald or Tony and Donna
22 Medders. And, you know, they go over to Rose's house
23 and they can see that Mr. Flores is still really
24 enraged. Said he's still screaming at them, cursing,
25 threatening them with a gun. They don't know if he has

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1 a gun, but they sure as heck weren't going to stick
2 around to find out. And so they called the police.

3 Now, if you listen to Mr. Flores' testimony, he
4 calmly walked out of the house and said, get off my
5 land, I don't want you here. But for some reason SWAT
6 got called out, and their call was that a gun was
7 involved.

8 You also heard from two doctors, two dentists --
9 a dentist and an oral surgeon, really -- who treated
10 Ms. Eaton. You heard from Dr. Lybrand, who said that
11 she had -- that Rose had blunt-trauma straight to the
12 face. Now, the defense made a big deal about, oh,
13 well, there weren't any facial fractures, no other
14 lacerations. Well, you think about Mr. Flores'
15 testimony where he said he picked it up; he had only a
16 split second to act -- picked it up, she's holding the
17 bat right here.

18 And at first he says that the ottoman hits her
19 and then he says the bat hit her. But he picked it up.
20 And if you're to believe that she was holding the bat
21 and the ottoman hit the bat and maybe the bat came back
22 and hit him in the -- hit her in the face: if the
23 force of that bat, the ottoman hitting that bat, was
24 strong enough to knock out her eight front teeth, don't
25 you think there might have been a little laceration, a

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1 little -- maybe a fracture? She would have broken her
2 nose? But, no.

3 And you can see in the pictures there's no --
4 well, no broken nose. She wasn't diagnosed with
5 anything else besides her mouth from something, as
6 Dr. Lybrand said, straight on to the mouth. She said
7 she couldn't get it from just tripping and falling, it
8 would have had to be -- had to -- there would have had
9 to have been quite a bit of force. She said that the
10 teeth were weren't salvageable. Hit them so hard they
11 couldn't fix them, they just had to take them out. She
12 said that they're also -- slightly more than that.
13 There was also a tear to her gums from the injury and
14 that that was large for an injury to her mouth.

15 And then you heard from Dr. Kays today about the
16 fact that he's been doing this for forty-two years,
17 been practicing as a dentist, and he -- the only other
18 time he's seen something nearly as bad is when somebody
19 got shot with a handgun. Thousands of patients, and
20 Ms. Eaton's injury was the worst.

21 And you heard from the police, as well. You
22 heard from Deputy Middleton, who was the responding
23 deputy. He said he was there to do initial
24 investigations. He said he did try to get a story from
25 Rose at the house. All she could utter was that, Tony

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1 hit me with an ottoman. She was so hysterical, so
2 upset, that she couldn't get anything else.

3 So he had to follow her to the hospital. And
4 still, even there it took her time to just write
5 something down. You heard her say, I was surprised I
6 was even -- managed to write as legibly as I could.
7 She was just trying to get something down on paper to
8 let the police know what happened. She wasn't in a
9 state of let me think about single details that
10 happened.

11 And you heard -- you know, the defendant says
12 that -- well, this was on cross. He said he told
13 Deputy Middleton that, oh, yeah, I think I did tell him
14 that she came at me with a bat but he didn't want to
15 listen to that. We asked Deputy Middleton did he say
16 anything else other than, all this for me, and Deputy
17 Middleton says, no, he didn't say anything.

18 Deputy -- the only information Deputy Middleton
19 had was what Rose told him and what the injuries he saw
20 were and the defendant's behavior, the fact that he was
21 hiding in the house, not just for a little bit of time,
22 maybe I don't want to come out. For over five hours he
23 was hiding inside that house and would not come out,
24 despite SWAT's repeated attempts to say come out, come
25 out, come out, we want to talk to you. He never came

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1 out. Deputy Middleton doesn't have a dog in this
2 fight. He just knows what he saw and what happened.

3 You also heard from Lieutenant Whited with the
4 SWAT -- a SWAT. You know, the defendant said, oh,
5 initially when they threw in the robot I was sitting
6 down -- I was sitting in the living room just calmly, I
7 just really didn't want to go out there. They threw in
8 the robot. Lieutenant Whited said they didn't see
9 anything when they threw in the robot. There was no
10 person in there. Which is why they had to go inside,
11 why they had to breach, why they had to go locate the
12 defendant hiding in the back of the closet.

13 And, yes, someone -- SWAT did take pictures of
14 the damage to the house. But someone also decided it
15 was pretty important to take a picture of that ottoman.
16 That's why he had it. It covers the window, but it
17 also covers that ottoman. They had some information of
18 what sort of weapon was involved.

19 And I think that maybe we can say that the
20 police should have done a little more investigation.
21 If they had any further information I'm sure they would
22 have, but they only had the information that they were
23 given, which was that he hit her in the face with that
24 ottoman and caused significant injury to her.

25 Now, this is sort of the morning into the

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1 afternoon you heard from the defendant tell his side of
2 the story. And that's his right. But also remember
3 that the defendant is a liar. He's an admitted liar.
4 Mr. Finch asked him, said, that's a lie, and he said,
5 yes. He steals, he robs and he lies. When he --

6 After the incident occurred, he said he didn't
7 mean to, he said he felt really bad about hurting her.
8 But after she left, he never tried to get ahold of her
9 family members to contact them. He says, oh, well, my
10 neighbors are not really that close to try to go borrow
11 a phone from them. But it's an emergency situation. A
12 person that he apparently cares about is injured enough
13 that they were planning to go to the emergency room and
14 yet he couldn't go knock on a door and say, hey, can I
15 borrow your phone, I need to check on her.

16 He was concerned about himself, and himself
17 only, because he knew what he did. He knew that he hit
18 her in the face, that he rammed that into her face, and
19 he knew that the police were going to come. He
20 thought, you know, let me try to get out of here. But
21 then he changed his mind and said, you know, maybe I'll
22 just -- I'll hide out here and maybe eventually they'll
23 go away, you know. And he hid in the closet.

24 He never said -- you know, even when they put
25 him in handcuffs there was never any, hey, it was an

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1 accident, I didn't mean to do it. I think a reasonable
2 person would try to explain things. He stated that,
3 yes, he hit her with the pillow. And he laughed. He
4 stated that after she had her -- apparently only busted
5 lip, that he then pushed her. He pushed her down on
6 the ground. Somebody who was so -- felt so bad about
7 what they did, then pushed their significant other down
8 on the ground and then yanked her up, get up, go get a
9 towel. That sounds like somebody who accidentally hit
10 somebody else and felt real bad about it.

11 He stated that he wasn't working at the time,
12 oh, but he was starting a job on the next day.

13 And, yes, I do think it's important to point out
14 the fact that he says that he never saw that bat. But
15 he has been living in that house for several months.
16 It's not a large residence. You saw the pictures. Not
17 a lot of places to hide things. But supposedly he
18 never saw this phantom bat that just magically
19 appeared. He also apparently had enough time to notice
20 the make of the bat -- he said it was a Louisville
21 Slugger -- but he didn't have enough time to react and
22 get away from the situation.

23 Now, the judge is going to charge you on the law
24 and if I say anything different than what the judge
25 charges you, then you should follow what the judge

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1 says. First, she's going to charge you on the elements
2 of self-defense, the defendant's claim of self-defense.
3 And we only have to disprove one element. But it is
4 our burden to disprove self-defense. But it's only one
5 element so if he doesn't meet one element, then self-
6 defense is not a viable option. We have to disprove --
7 we have to show that -- or for self-defense, that the
8 defendant has to be without fault in the situation.

9 Well you heard by his own testimony that he
10 started the thing. He started it by hitting her and
11 then taunting her by laughing and then -- in his mind,
12 one continuous thing. She was -- they were discussing
13 -- oh, and then she was nagging. But then he continued
14 to think that he hit her. And then after he threw --
15 he says he threw the ottoman at her, he pushed her
16 down.

17 The person has to actually believe that they are
18 in danger of serious -- of imminent peril. Well, he
19 said at first he didn't really think about the bat at
20 first. And then, oh, well, yeah, I guess somebody
21 could get hit in the head by the bat, when he thought
22 about it after the fact. He didn't think about it at
23 that time, according to him.

24 A reasonable person -- the third element is that
25 a reasonable person would have to believe that they're

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1 in danger. Well, he's a lot bigger than she is. He
2 didn't say that she was swinging the bat at him. He
3 didn't say that she said, hey, I'm going to hit you
4 with this bat. He said she was just walking briskly
5 and holding it there and he turned around. He didn't
6 say that she was brandishing it like this. She [sic]
7 didn't say that she was lined up back like this. She's
8 just walking out holding the bat.

9 And the last element would be that he would have
10 no other means of avoiding the situation, no other way
11 to get away. Well, he could have gotten up and run.
12 Like I said, she wasn't leaning back getting ready to
13 hit him. She was just holding it, according to him.

14 Now, Mr. Flores is charged in this case with
15 CDVHAN, criminal domestic violence of a high and
16 aggravated nature. In order to prove that, we first
17 have to prove that there's a basic criminal domestic
18 violence and that the defendant caused or offered
19 physical harm or injury to a member of the defendant's
20 household -- and I'll explain what that means in just a
21 second -- that they had the present ability to cause
22 harm or injury, and that it reasonably created a fear
23 of imminent danger.

24 Well, imminent danger: you heard her say that
25 she was scared of him. She got the order of

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1 protection. She -- he caused physical harm. You heard
2 about the bruises. You heard about the teeth. And
3 he's a household member. It's a spouse -- they're not
4 married. They've never been married, and they don't
5 have kids together, but they're a male and female who
6 are cohabitating or formerly have cohabitated. They
7 lived together. And they did. You heard, by his own
8 admission, they lived together.

9 Now, if you find that there are those basics
10 there, there are additional factors for criminal
11 domestic violence of a high and aggravated nature. You
12 can either have an assault and battery, which involves
13 the use of a deadly weapon or results in serious bodily
14 injury to the victim -- we've would argue that -- I
15 mean, the damage to her mouth is serious injury. You
16 heard Dr. Kays say he thought it was. He's been doing
17 this forty-two years.

18 And then you can have an assault with or without
19 an accompanying battery which would reasonably cause a
20 person to fear imminent serious bodily injury or death.
21 Like she said, she thought he was going to kill her.
22 That's heavy. He had already been violent. She said
23 he was angry. You heard other people say how angry he
24 was. I think a reasonable person would be fearful in
25 that situation. You heard the 911 call where she's

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1 crying, she's scared, she can't utter a word, she's got
2 blood coming out of her mouth.

3 The judge is also going to charge you on
4 reasonable doubt. Now, that's not proof beyond all
5 doubt or every single doubt. It means a reasonable
6 doubt. You use your common sense to determine what
7 happened. The police said that they used their common
8 sense to determine that he hit her in the face with the
9 ottoman, that he rammed it into her, and that he caused
10 serious injury. If you didn't have any doubt, then you
11 would be sitting up in that witness stand like Rose
12 did, like Jeannie did, like the Medders did, and you
13 would be testifying in this case.

14 I started this off by saying that -- by quoting
15 Rose by saying no one should do this to another person.
16 And she's right. No one should lay their hand, much
17 less heavy pieces of furniture, on anybody else. No
18 one should hit somebody and then laugh about it. For
19 that reason, you should hold Mr. Flores responsible.
20 You saw the pictures of her injuries.

21 You heard what she said. You heard about what
22 happened that night. Use your common sense and find
23 Mr. Flores guilty of criminal domestic violence of a
24 high and aggravated nature.

25 - - -

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CHARGE OF THE COURT

THE COURT: Ladies and gentlemen, I remind you that during this trial you and I have had certain duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case. I also have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law in this case. It is your duty as jurors to accept the law and apply the law as I state it to you now. If you have any idea as to what the law is or what the law ought to be and it does not agree with what I tell you now, you must abandon your own idea, because you are sworn to accept the law and apply the law exactly as I state it to you now.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judges of the facts. A trial judge may not make any comment regarding the facts in this case. If I have said anything during the progress of this trial or in ruling upon the admissibility of evidence or anything that I say now during the course of this instruction and you believe that I have an opinion about the facts in this case, the law does not allow me to have an opinion about the facts in this case. This is a matter solely for you to determine. It is your duty to determine the effect, value and weight

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1 and the truth of the evidence that has been presented
2 during this trial.

3 The indictment in this case charges the
4 defendant with criminal domestic violence of a high and
5 aggravated nature. I remind you the fact that the
6 defendant was arrested, charged and indicted in this case
7 is not evidence in this case and cannot be considered by
8 you as evidence in this case, nor does it create any
9 presumption or inference of guilt. An indictment is
10 simply the formal written instrument which contains the
11 charge made against the defendant. It is the formal
12 document by which this case is brought into court. Just
13 as the indictments in this case are not evidence, any
14 terminology or label used to refer to the individuals
15 involved in this case are not to be considered evidence.
16 For example, the use of the word defendant or victim are
17 merely formal labels and may not be considered by you as
18 evidence.

19 The defendant has not -- has pled not guilty to
20 this indictment. A person charged with committing a
21 criminal offense in South Carolina is never required to
22 prove himself innocent. I charge you it is an important
23 rule of law that the defendant in a criminal trial, no
24 matter what the seriousness of the charge may be, will
25 always be presumed to be innocent of the crime for which

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1 the indictment was issued unless guilt has been proven by
2 evidence satisfying you of that guilt beyond a reasonable
3 doubt. This presumption of innocence does not end when
4 you begin your deliberations but it accompanies the
5 defendant throughout the trial until you reach a verdict
6 of guilt based upon the evidence satisfying you of that
7 guilt beyond a reasonable doubt.

8 The presumption of innocence is not mere legal
9 theory. It is not just a legal phrase. It is a
10 substantial right to which every defendant is entitled
11 until you, the jury, are satisfied from the evidence of
12 the defendant's guilt beyond a reasonable doubt.

13 The State has the burden of proving the
14 defendant guilty beyond a reasonable doubt. Some of you
15 may have served as jurors before in civil cases where you
16 were told it's only necessary to prove that a fact is more
17 likely true than not true, such as by a greater weight or
18 preponderance of the evidence. In criminal cases, the
19 State's proof must be more powerful than that. It must be
20 beyond a reasonable doubt. Proof beyond a reasonable
21 doubt is proof that leaves you firmly convinced of the
22 defendant's guilt. There are very few things in this
23 world that we know with absolute certainty and in criminal
24 cases the law does not require proof that overcomes every
25 possible doubt. If based upon your consideration of the

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1 evidence you are firmly convinced that the defendant is
2 guilty of the crime charged, you must find the defendant
3 guilty. On the other hand, if you think there is a real
4 possibility that the defendant is not guilty, you must
5 give the defendant the benefit of the doubt and find him
6 not guilty.

7 There are two types of evidence which are
8 generally presented during a trial: direct evidence and
9 circumstantial evidence. Direct evidence is the testimony
10 of a person who claims to have actual knowledge, such as
11 an eye witness. It is evidence which immediately
12 establishes the main fact to be proved. Circumstantial
13 evidence is proof of a chain of facts and circumstances
14 indicating the existence of a fact. It is evidence which
15 immediately establishes collateral facts from which the
16 main fact may be inferred. Circumstantial evidence is
17 based on inference and not on personal knowledge or
18 observation. The law makes absolutely no distinction
19 between the weight or value to be given to either direct
20 or circumstantial evidence, nor is a greater degree of
21 certainty required of circumstantial evidence than that of
22 direct evidence. You should weigh all of the evidence
23 entered into this case and after weighing all of the
24 evidence if you are not convinced of the guilt of the
25 defendant beyond a reasonable doubt, you must find the

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1 defendant not guilty.

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

18 You have heard evidence that the defendant was
19 convicted of a crime other than the one for which the
20 defendant is now on trial. The evidence may be considered
21 by you, if you conclude it is true, only in deciding
22 whether the defendant's testimony is believable and for no
23 other purpose. You must not consider the defendant's
24 record as any evidence of the defendant's guilt of the
25 charge we are trying today.

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1 Insanity caused by the use of drugs or alcohol
2 may be a defense if the insanity is permanent and destroys
3 the defendant's ability to know right from wrong.
4 However, when voluntary intoxication has not produced
5 permanent insanity, it is not a defense to a crime. A
6 person who voluntarily becomes intoxicated is just as
7 responsible for the acts committed while intoxicated as
8 when the person is not intoxicated.

9 In order to establish criminal liability,
10 criminal intent is required. For example, the mental
11 state required to be proven by the State for a particular
12 crime might be purpose, intent, knowledge, recklessness or
13 criminal negligence. Criminal intent must be proven by
14 the State beyond a reasonable doubt. Criminal intent is
15 always a matter for the jury to determine from the
16 circumstances surrounding the situation. There is no way
17 to prove intent to a mathematical certainty, because there
18 is no way to tell with exact certainty what the person had
19 in mind. The law says that criminal intent may be
20 inferred from the circumstances shown to have existed.
21 This is how you make a determination of whether or not the
22 element requiring intent was present. It is not necessary
23 to establish intent by direct or positive evidence, but
24 intent may be established by inference in the same way as
25 any other fact: by taking into consideration the acts of

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1 the parties and all the facts and circumstances of this
2 case. Criminal intent is a mental state, a conscious
3 wrongdoing. Criminal intent can arise from action or a
4 failure to act. It may arise from negligence,
5 recklessness, or an indifference to duty, or to
6 consequences that is considered by the law to be the
7 equivalent of criminal intent.

8 The defendant is charged with criminal domestic
9 violence of a high and aggravated nature. The State must
10 prove beyond a reasonable doubt that the defendant caused
11 physical harm or injury to a member of the defendant's own
12 household or that the defendant offered or attempted to
13 cause physical harm or injury to a member of the
14 defendant's own household with the apparent present
15 ability to cause harm or injury under circumstances
16 reasonably creating a fear of imminent danger. In
17 addition, the State must prove beyond a reasonable doubt
18 either that the defendant committed assault and battery
19 involving the use of a deadly weapon or resulting in
20 serious bodily injury to a member of the defendant's own
21 household, or assaulted with or without an accompanying
22 battery a member of the defendant's own household, which
23 would reasonably cause a person to fear imminent serious
24 bodily injury or death. A household member is a spouse,
25 former spouse, a parent, child, grandparent, brother or

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1 sister, grandchild, a person with whom the defendant has a
2 child in common, and a person of the opposite sex with
3 whom the defendant is living or has lived in the past.

4 A deadly weapon is any article, instrument or
5 substance which is likely to cause death or great bodily
6 harm. Whether an instrument has been used as a deadly
7 weapon depends upon the facts and circumstances of each
8 case.

9 An assault occurs when a person unlawfully
10 attempts or offers to commit a violent injury upon another
11 person and had the apparent present ability to complete
12 the attempted injury. An assault is the intentional
13 creation of a reasonable fear of immediate bodily harm.
14 It is not necessary that the attempted injury or harm
15 actually takes place. For example, if I walk up to you
16 and when we are within arm's reach I draw back to hit you,
17 that is an assault. A battery is the unlawful touching of
18 another person by a person who has committed an assault.
19 An unlawful touching can be caused by a part of the
20 accused's body or by any object the accused puts in
21 motion. A battery is the completion of the assault by
22 using or applying force to another person, however slight,
23 in a rude, angry, or resentful manner without legal
24 justification for doing so. In my earlier example, if I
25 carry through the assault by hitting you, then that is a

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1 battery.

2 The defendant has raised the defense of self-
3 defense. Self-defense is a complete defense and if it is
4 established, you must find the defendant not guilty. The
5 State has the burden of disproving self-defense by proof
6 beyond a reasonable doubt. If you have a reasonable doubt
7 of the defendant's guilt after considering all the
8 evidence, including the evidence of self-defense, then you
9 must find the defendant not guilty. On the other hand, if
10 you have no reasonable doubt of the defendant's guilt
11 after considering all of the evidence, including the
12 evidence of self-defense, then you must find the defendant
13 guilty.

14 The following elements are required to establish
15 self-defense. First, the defendant must be without fault
16 in bringing on the difficulty. If the defendant's conduct
17 was the type which was reasonably calculated to and did
18 provoke a deadly assault, the defendant would be at fault
19 in bringing on the difficulty and would not be entitled to
20 an acquittal based on self-defense. The second element of
21 self-defense is that the defendant was actually in
22 imminent danger of death or serious bodily injury or that
23 the defendant actually believed he was in imminent danger
24 of death or serious bodily injury. If the defendant was
25 actually in imminent danger, it must be shown that the

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1 circumstances would have warranted a person of ordinary
2 firmness and courage to strike to prevent death or serious
3 bodily injury. If the defendant believed he was in
4 imminent danger of death or serious bodily injury, it must
5 be shown that a reasonably prudent person of ordinary
6 firmness and courage would have had the same belief. In
7 deciding whether the defendant actually was or believed he
8 was in imminent danger of death or serious bodily injury,
9 you should consider all of the facts and circumstances
10 surrounding the crime, including the physical conditions
11 and characteristics of the defendant and the victim. The
12 relative size, age, and weights of the defendant and the
13 victim may be considered in deciding the apparent or
14 actual need for self-defense force and the amount of force
15 needed. The final element of self-defense is that the
16 defendant had no other probable way to avoid the danger of
17 death or serious bodily injury than to act as the
18 defendant did in this particular instance. A person
19 cannot be required to make an exact calculation as to the
20 degree or amount of force which may be needed to avoid
21 death or serious bodily harm. Therefore, in self-defense
22 the defendant has the right to use the force needed to
23 avoid death or serious bodily harm. The force used in
24 self-defense does not have to be limited to the degree or
25 amount of force used by the victim. The defendant has the

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1 right to use so much force as appeared to be necessary for
2 complete self-protection in which a person of ordinary
3 reason and firmness would have believed to be needed to
4 prevent death or serious bodily harm.

5 Ladies and gentlemen, I am now going to go over
6 the verdict form with you. Please remember there is
7 absolutely no significance in the way that I read the
8 verdict form. It's simply something must go on the paper
9 first. Mr. Foreman, you are responsible for completing
10 the verdict form. In the Court of General Sessions, Ninth
11 Judicial Circuit, 2011-GS-10-6509, we, the jury, find the
12 defendant not guilty, or, we, the jury, find the defendant
13 guilty, of criminal domestic violence of a high and
14 aggravated nature.

15 Mr. Foreman, it must be a unanimous decision,
16 meaning all twelve of you must agree. Once you have
17 reached a unanimous decision, you will sign the verdict
18 form, date it, then you will knock on the jury room door,
19 indicating to the bailiff that you have reached a verdict.

20 Ladies and gentlemen, do not begin your
21 deliberations. Do not discuss this case amongst
22 yourselves. We will be gathering the evidence to go back,
23 as well as the verdict form, and once that is accomplished
24 the bailiff will tell you you may begin your
25 deliberations.

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1 Madam Alternate, this completes your service at
2 this time to this case, but I'm going to ask that you
3 remain with us for just a few moments.

4 And, again, do not discuss this case with
5 anyone. Do not begin your deliberations. If there is any
6 one of my twelve that feels that they cannot complete
7 their service to this case, I will need to know at this
8 time or you may alert the foreman before you begin your
9 deliberations.

10 Thank you. You are excused.

11 Please rise for the jury.

12 [Whereupon, the jury exits the courtroom at
13 12:47 p.m.]

14 THE COURT: Any objection or correction to the
15 charge as read?

16 MS. BALDWIN: No, Your Honor.

17 MS. RONEY: No, Your Honor.

18 THE COURT: All right. And check the verdict
19 form one more time. And get the evidence. All right.
20 And we'll be at ease. Thank you, Mr. Flores. We'll
21 receive you back in once we have a verdict.

22 MS. RONEY: Your Honor, I know that you have
23 ruled on all of my objections and motions, but I would
24 just renew all of those motions at this time.

25 THE COURT: And any response to the renewal --

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1 MS. BALDWIN: Our position is the same, Your
2 Honor.

3 THE COURT: I have heard nothing since the Court
4 has charged the jury that would make me change any of
5 my initial rulings. Thank you.

6 MS. RONEY: Thank you, Judge.

7 [Whereupon, evidence goes to the jury at
8 12:51 p.m.]

9 THE COURT: Ms. Roney, we already have a note.
10 Any objection to sending my charge back?

11 MS. RONEY: No, ma'am.

12 MS. BALDWIN: No, ma'am.

13 THE COURT: This will be Court's 1.

14 [Whereupon, a recess is taken from 12:53 p.m. to
15 1:25 p.m.]

16 THE COURT: Ms. Baldwin, I understand we have a
17 verdict. Anything before we bring in the jury?

18 MS. BALDWIN: Nothing from the State, Your
19 Honor.

20 THE COURT: Ms. Roney?

21 MS. RONEY: No, ma'am.

22 THE COURT: All right. Counsel on behalf of the
23 State, I just wish to thank you for your
24 professionalism.

25 And Ms. Roney and Ms. Frayer, you were very

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1 zealous advocates on behalf of Mr. Flores and I thank
2 you for that.

3 I do not know what the verdict is. I have
4 no anticipation. But whatever the verdict will be,
5 both -- the victim had very zealous representation on
6 behalf of the State, as well. So I appreciate --
7 everyone's courtesy and professionalism to each other
8 is also very important.

9 Let's bring the jury in.

10 MR. FINCH: Thank you, Your Honor.

11 THE BAILIFF: Do you want to bring the
12 alternate, too, Your Honor?

13 THE COURT: Please do.

14 She has been -- because I had another -- just so
15 no one panics, she has been separated. We ordered
16 lunch and she has been eating lunch and so she has
17 maintained a separate position from the twelve, since I
18 had another matter that I was tending to, so she is
19 here.

20 Yes, bring her in. She can sit back in her
21 alternate seat.

22 I didn't -- when they all come back in, I didn't
23 want you to think that she had been deliberating.

24

25

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VERDICT

[Whereupon, the jury enters the courtroom at
1:29 p.m.]

THE BAILIFF: All present, Your Honor.

THE COURT: Thank you. Please be seated.

I understand you have reached a verdict. If you
will please hand the form to the bailiff. Thank you.

[Whereupon, the foreperson proffers documents to
the bailiff. The bailiff proffers documents to the
Court]

[Whereupon, the Court reviews documents]

[Whereupon, the Court proffers documents to the
clerk of court]

THE COURT: Madam Clerk.

Mr. Flores, please rise.

[Whereupon, Mr. Flores complies]

THE CLERK OF COURT: In the Court of General
Sessions, Ninth Judicial Circuit, case number 2011-GS-
10-6509, State of South Carolina versus Darrell Anthony
Flores, we, the jury, find the defendant guilty of
criminal domestic violence of a high and aggravated
nature. Signed by Mr. Harman -- Raymond Dangerfield,
juror number 62, on October 26th, 2012.

Mr. Foreman, ladies and gentlemen of the jury,
if this is your verdict, please raise your right hands.

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1 THE COURT: Thank you. Anything further
2 required of the jury?

3 MS. RONEY: No, not of the jury. No, Your
4 Honor.

5 MS. BALDWIN: Nothing from the State, Your
6 Honor.

7 THE COURT: All right. Thank you.

8 Ladies and gentlemen, this completes your
9 service to this matter. It also completes your service
10 for the week. If you would please retire to your jury
11 deliberation room. I will be there in just a few
12 moments to personally thank you for your service.
13 Thank you.

14 Please rise for the jury.

15 [Whereupon, the jury exits the courtroom at
16 1:30 p.m.]

17 THE COURT: Thank you. Be seated.

18 Outside the presence of the jury, anything
19 further, Ms. Baldwin?

20 MS. BALDWIN: No, Your Honor.

21 THE COURT: Prepared for sentencing?

22 MS. BALDWIN: I believe we just need to run back
23 to our office and get a sentencing sheet, Your Honor.

24 THE COURT: All right. Anything further?

25 Y'all may have a seat.

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1 MS. RUNEY: No, Your Honor.

2 I just renew -- once again -- I know that I've
3 already done that, but out of an abundance of caution I
4 would like to renew my previous motions.

5 THE COURT: All right. And anything else you
6 wish for me to consider?

7 MS. RUNEY: No.

8 I would like to address the Court as to
9 sentencing. Would you like to hear from me now?

10 THE COURT: Not at this time. They'll go ahead
11 and get the sentencing sheet.

12 Just as a procedural housekeeping matter,
13 we'll need to make sure 9 -- we take a picture of 9 and
14 then -- so that 9 does not -- it's not -- that the
15 clerk is not responsible for 9.

16 MS. BALDWIN: Okay.

17 THE COURT: All right? So a picture of 9 needs
18 to go.

19 MS. BALDWIN: Okay.

20 THE COURT: We'll be at ease until the State
21 gets the sentencing sheet. So if you need a few
22 moments to talk to your client --

23 MS. RUNEY: Can he stay out here?

24 THE COURT: He may. Any objection?

25 [Off the record momentarily]

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1 THE COURT: And any objection to releasing this
2 jury? Ms. Baldwin?

3 MS. BALDWIN: No, Your Honor.

4 THE COURT: Ms. Runey?

5 MS. RUNEY: No, Your Honor.

6 THE COURT: All right. Thank you. I'm going to
7 release the jury.

8 [Whereupon, a recess is taken from 1:32 p.m. to
9 1:42 p.m.]

10 THE COURT: You may be seated.

11 All right. Some of the jurors wished to remain
12 for sentencing so we're just going to bring them in.

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SENTENCING

THE COURT: Mr. Flores, you may have a seat.
I'm going to give you all the time in the world, but
I'm going to hear from the State first and then
whomever.

[Off the record momentarily]

THE COURT: Ms. Baldwin, I'll be happy to hear
from you.

MS. BALDWIN: Thank you, Your Honor.

I won't belabor the facts of the case. We've
been in trial. You've heard the facts and
circumstances. You've heard from the victim.

I will say that the State did offer a cap of
seven years in this case and it was rejected. We would
ask that something similar, or more than that, be given
to Mr. Flores. I can read you his entire record, if
you wish.

THE COURT: I would like to hear his entire
record, along with any sentence.

MS. BALDWIN: I will have to look up his
sentence, Your Honor.

THE COURT: Let me hear the record.

MS. BALDWIN: Your Honor, from California in
1995 he had -- property damage and assault with force
and in 2003 a robbery second degree.

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1 THE COURT: Do you know who the victim was or
2 the relationship with the victim?

3 MS. BALDWIN: It doesn't indicate, Your Honor.

4 From South Dakota in 2005, entering or refusing
5 to leave, fraud, false impersonation, possession of
6 stolen property, petty theft and resisting arrest.

7 In 2008, in Florida, a fugitive from justice.

8 In Montana -- I'm going back a little bit.

9 Sorry, Your Honor. 2004, theft and disorderly conduct.
10 2005, misdemeanor assault.

11 And in North Dakota, in 2006, resisting arrest
12 and criminal mischief.

13 We're looking up the sentences right now, Your
14 Honor.

15 THE COURT: All right. Does the victim wish --

16 MS. BALDWIN: She would like to --

17 THE COURT: -- address the Court?

18 MS. BALDWIN: -- address the Court, Your Honor,
19 at this time.

20 THE COURT: All right. She may stand right at
21 the bar.

22 MS. BALDWIN: I believe she has a letter she
23 would like to read, Your Honor.

24 THE COURT: Okay. Thank you.

25 MS. EATON: [Reading] Your Honor, the night of

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1 May 31st, Tony struck me in the face with an ottoman
2 and beat me like I was a man. This was not something
3 anyone should have to be a victim to, especially not a
4 woman. Honestly, I believe that if I would have not
5 have found a way to get away from Tony that night that
6 he would have killed me. So now, for the rest of my
7 life, I have to be constantly looking over my shoulder
8 and behind every door in fear of it happening again.
9 On the morning on June 1st I had to have emergency
10 surgery on my mouth and face in an attempt to repair
11 the destructive damage that he had done. The surgeon
12 had to remove a total of eight of my teeth. It was
13 very unsettling for me to know that I would have to
14 wear false teeth for the rest of my life, not to
15 mention that I still am under doctor's care and will
16 still have to endure more work done to my mouth and my
17 teeth, as well as having final corrective teeth made.
18 The anxiety that I have had to go from hiding from the
19 public in fear for anyone to see me in that manner,
20 learning how to talk, learning how to eat again, these
21 are all things that can never be mentally repaired. My
22 self-esteem has been hit hard and my feelings of safety
23 even worse. Every morning I have to wake up and look
24 at myself in the mirror as a constant reminder of what
25 happened to me that night. Tony is a master

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1 manipulator who is capable of manipulating anyone
2 without any hesitation. When I met this man, I knew
3 he -- he knew I was newly widowed and that I was going
4 out with someone for the first time when I agreed to
5 see him; however, he took none of this into
6 consideration and completely manipulated me. He
7 managed to alienate all of my friends, as well as my
8 two grown children. I fear that he has done this to
9 many women in the past and I wish for myself to be the
10 last. It scares me to think that he might one day be
11 on the same very streets that I have to live. The
12 night of May 31st is a night that will haunt me for the
13 rest of my life. It is a horrible feeling to come home
14 every day and have to check the house to be sure that
15 there is no one there to harm me like it was that
16 night. The damage that Tony has done to be will never
17 be something that I can put behind me. It is something
18 that I will have to deal with for the rest of my life.
19 Therefore, I beg the courts not to allow him to
20 manipulate them now and to rule accordingly to his
21 wrongful crime. I also beg the courts that if for any
22 reason he is to be put back on the streets, that I ask
23 and pray that I be contacted immediately. This at
24 least would allow me to get and live somewhat of a
25 normal life until that dreaded phone call comes. I

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1 have to trust in God to repair the damage that Tony has
2 done to me physically, mentally, emotionally and
3 financially. However, I am now vesting my trust in the
4 courts, too, so that Tony gets the sentencing he
5 deserves for this crime. Lastly, and most important, I
6 would like to thank God for allowing me to be here
7 today. I would also like to thank God for the family
8 and friends I have been so lucky enough to regain after
9 this incident and who have been here to support me and
10 help me get through all this. I would also like to
11 thank all of my victim advocates, the people who have
12 helped me somewhat manage to work through this awful
13 incident. Thank you for your time and consideration
14 for this matter. And I have bestowed my trust in the
15 court system that they will ensure to keep me safe.
16 Thank you.

17 THE COURT: Thank you.

18 Anything further?

19 MS. BALDWIN: Nothing further, Your Honor.

20 THE COURT: Ms. Runey, I'll be happy to hear
21 from you, or anyone, regarding sentencing.

22 MS. RUNEY: Thank you, Your Honor.

23 Darrell has told the Court a little bit about
24 himself when he testified here today. He is forty-one
25 years old. He was born and raised in California. He

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1 graduated from high school there. His grandparents and
2 mother are still there. I have been in contact with
3 his grandfather, who is certainly concerned about him
4 and also tells me of the life that Darrell has lived
5 traveling across the country to many states to find
6 work.

7 He does have a record. He has gotten in trouble
8 living on the streets and in shelters across the
9 country while he is there to find work. From the
10 record read to you, although it is lengthy, most of it
11 has been I think what would be equivalent to our
12 magistrate level charges: lots of trespassings,
13 receiving stolen goods, resisting arrest type charges.

14 What Darrell tells me is that the longest
15 sentence that he has ever served in a prison is when he
16 was eighteen years old. And that was quite some time
17 ago. He has been in our detention center here in
18 Charleston for 514 days, which has been a significant
19 time for him.

20 When he is released, he plans to leave South
21 Carolina and go elsewhere. He knows that will be for
22 his best benefit, as well as Ms. Eaton's benefit. He
23 does not plan to stay in Charleston or to be around
24 her, knowing that that is a concern.

25 Your Honor, I have asked him not to say anything

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1 today, as I normally do with my clients who have been
2 to trial, so I ask the Court not to hold that against
3 him. But I ask you to consider the fact that he does
4 not plan to stay here and when he can, he will leave.
5 And, you know, he is able to do so. He is not stuck
6 here. He's always traveled by bus, he tells me, and
7 can get out and go somewhere different.

8 THE COURT: You have advised your client of his
9 appeal rights?

10 MS. RONEY: Yes, ma'am, I have.

11 THE COURT: Mr. Flores, you have the right to
12 appeal this sentence that I'm about to impose, but you
13 or your attorney must do so within ten days.

14 Do you understand that, sir?

15 MR. FLORES: Yes, ma'am.

16 THE COURT: Ms. Runey, did you also explain to
17 him that this is classified as a violent offense?

18 MS. RONEY: I'm sure that we have discussed that
19 before, but I would like to tell him about that.

20 [Whereupon, Ms. Runey and Mr. Flores confer]

21 MS. RONEY: Yes, Your Honor. And I would ask
22 you also to take that into consideration when
23 fashioning a sentence for Mr. Flores.

24 THE COURT: All right. Mr. Flores, it is the
25 order of the Court on 2011-GS-10-6509 that you be

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1 committed to the State Department of Corrections for a
2 term of eight years. I give you credit for 514 days.
3 Good luck to you, sir.

4 Anything further, Ms. Runey?

5 MS. RUNEY: No, Your Honor.

6 MS. BALDWIN: No, Your Honor.

7 THE COURT: Thank you.

8 [JURY TRIAL CONCLUDES AT 1:53 P.M.]
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C E R T I F I C A T E

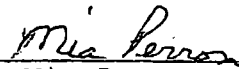
STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Kristi L. Harrington, on Friday, October 26, 2012.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 26th day of March, 2013.



Mia Perron, CVR-CM-M
Circuit Court Reporter
9th Judicial Circuit

MIA PERRON, CVR-CM

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WITNESSES

Deputy Middleton
Charleston County Sheriff

AGENCY CASE NUMBER

2011008465B

ARREST WARRANT NUMBER

M611641

DATE OF ARREST

June 1, 2011

ACTION OF GRAND JURY

J. O.
Foreperson of Grand Jury
Date:

OCT 03 2011

VERDICT

Guilty

Foreperson of Petit Jury

Date:

INDICT.DOT

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2011

THE STATE

vs.

DARRELL ANTHONY FLOREZ

DOB:

W/M

Indictment for

Criminal Domestic Violence Of A High And
Aggravated Nature

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

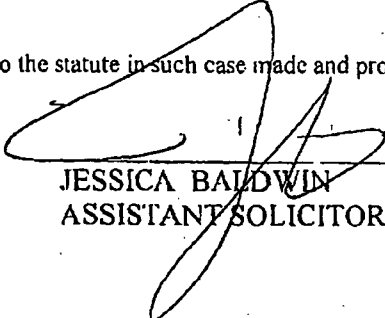
INDICTMENT

At a Court of General Sessions, convened on October 3, 2011 the Grand Jurors of Charleston County present upon their oath:

Criminal Domestic Violence Of A High And Aggravated Nature

That in Charleston County, South Carolina, on or about May 31, 2011, the Defendant, DARRELL ANTHONY FLOREZ, did cause physical harm or injury to the victim, Rozane Eaton, a household member of the Defendant, or did offer or attempt to cause physical harm or injury with apparent present ability under circumstances reasonably creating fear of imminent peril to Rozane Eaton. Said assault or battery involved the use of a deadly weapon, resulted in serious bodily injury to the victim or would reasonably have caused a person to fear imminent serious bodily injury or death; all in violation of Section 16-25-65 of the South Carolina Code of Laws (1976) as amended.

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

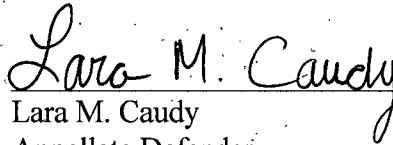


JESSICA BALDWIN
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 10, 2013



Lara M. Caudy
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Kristi Lea Harrington, Circuit Court Judge

RECEIVED

SEP 10 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DARRELL FLOREZ,

APPELLANT

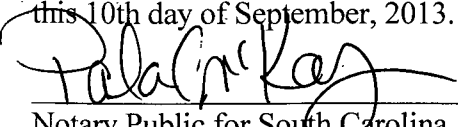
APPELLATE CASE NO. 2012-213369

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; this 10th day of September, 2013.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 10th day of September, 2013.


(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.