

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Newberry County

S.C. SUPREME COURT

Honorable B. Alex Hyman, Circuit Court Judge
—————

CLIFTON CURTIS BOOZER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2024-000920
—————

APPENDIX
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HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 actually within his reach. He set it down on the ground.

2 Q All right. State's 61, do you recognize that?

3 A That's correct. It's a Tracphone that we
4 recovered from him.

5 Q That is Mr. Boozer's phone is your testimony?

6 A That's correct.

7 MR. DANIEL: Your Honor, I would offer State's
8 61 for admission into evidence.

9 MR. VERNER: No objection.

10 THE COURT: All right, State's 61 in evidence.

11 (WHEREUPON, State's Exhibit No. 61 was admitted
12 into evidence.)

13 BY MR. DANIEL:

14 Q Did you get a search warrant to access that
15 phone?

16 A I did.

17 Q Okay. To actually access the physical -- the
18 digital content that's on that phone?

19 A That's correct.

20 Q So, that doesn't involve going through the cell
21 phone company?

22 A No, it does not.

23 Q What kind of cell phone is that? What brand?

24 A I believe it's Alcatel One Touch phone. I
25 believe it's Android based.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 Q Could you get into that phone or anybody from
2 law enforcement get into that phone?

3 A It actually had a pin code or password to get
4 into the phone.

5 Q All right. Were y'all able to get in the phone?

6 A I submitted the phone to SLED with the search
7 warrant. SLED did all they could to get into it, but they
8 were unable to.

9 Q Okay. So, even the SLED tech people couldn't
10 get in the phone?

11 A That's correct.

12 Q Did Mr. Boozer provide the password or a pin
13 code to the phone?

14 A No, he did not.

15 Q Okay. So, we don't know what's on that phone?

16 A We do not.

17 Q And did you obtain a search warrant for the cell
18 phone records for Mr. Boozer?

19 A I did.

20 Q Does the cell phone company maintain records of
21 text messages, conversations, the actual content?

22 A They do not.

23 Q All they can tell you is whether a text message
24 has been sent?

25 A Yes, essentially.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 Q And whether a phone call has been made?

2 A That's correct.

3 Q That was Chris Johnson's department yesterday,
4 correct?

5 A That's correct.

6 Q But you did have a chance to review those cell
7 phone records as well, though?

8 A That's correct.

9 Q That Investigator Bentley testified to?

10 A That's correct.

11 Q Approximately when did you receive those
12 records?

13 A I'm not sure on the exact date. Can I refer to
14 my notes?

15 Q You can give a rough -- it doesn't have to be
16 exact. If you can just give a rough estimation.

17 A I originally did the search warrant for the
18 records for the number that was provided on the Miranda.

19 Q Okay. That number again was -- tell us that
20 number that was on the Miranda form that he provided?

21 A It's (803)924-9661.

22 Q All right. So, you get a search warrant and you
23 figure out what cell phone company that is?

24 A Yes, I believe it was T-Mobile.

25 Q And you send T-Mobile a search warrant saying I

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 want records for this number; is that right?

2 A That's correct.

3 Q Did you receive cell phone records for that
4 number that Mr. Boozer provided you?

5 A Within 24 hours, I received an email back that
6 that account was not opened. It did not belong to him.

7 Q So, that wasn't an active cell phone account?

8 A No, it was not.

9 Q So, that's not an active number?

10 A No, it was not.

11 Q Well, how did you determine what Mr. Boozer's
12 true phone number was?

13 A Through using social media searches as well as
14 investigative software [indiscernible]. And also using
15 SLED analyst, I was able to corroborate from the CAD
16 report that -- the CAD report would be the record that was
17 generated by dispatch as (803)924-6991.

18 Q So, the best way we can confirm that was his
19 true number is that's the number he called 911 from?

20 A That's correct.

21 Q That is --

22 MR. DANIEL: Walter, if you could, that CAD
23 report, that State's No. 1.

24 Q All right. So, I believe at the top right?

25 A That's correct.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 Q Okay. That indicates the number he called 911
2 from?

3 A That's correct.

4 Q And that was 6991?

5 A That's correct.

6 MR. VERNER: Your Honor, this has already been
7 put in evidence. It's not a report this officer
8 created himself. He's just reading what somebody
9 else has already testified to many times before and
10 somebody else created.

11 THE COURT: I understand. They're making a
12 point specific with this witness. So overruled.

13 Go ahead.

14 MR. DANIEL: Thank you, Your Honor.

15 BY MR. DANIEL:

16 Q All right. Once you were learned that this was
17 his number, the 6991, did you get a new search warrant for
18 the phone records associated with that?

19 A That's correct.

20 Q What cell phone company was that?

21 A That would be Verizon Wireless.

22 Q Did Verizon Wireless have records for that
23 number?

24 A They did.

25 Q So, that was an active number?

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 A That's correct.

2 Q All right.

3 MR. DANIEL: Walter, if you could put up State's
4 59. Scroll down to the bottom of it. Up to the
5 first page, sorry.

6 Q All right. Up top, he very clearly says his
7 number is 9661?

8 A That's correct.

9 Q Okay. I want to ask you something, did you have
10 any other occasion to interview Mr. Boozer besides May
11 3rd?

12 A I did. May 5th of 2017 at the Newberry County
13 Detention Center.

14 Q So, two days later, you have another interview
15 with Mr. Boozer?

16 A That's correct.

17 Q All right. And how did that come about?

18 A I had attended the autopsy on May 4th, 2017, and
19 also had an opportunity to gather a little bit more
20 information. So, at that time, I wanted to clarify some
21 information with Mr. Boozer.

22 Q So, this time the interview took place May 5th,
23 two days later at the detention center?

24 And Walter, go to the second page of that
25 Miranda form.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 Now, the second page on this Miranda form,
2 does that relate to the May 5th interview?

3 A That's correct.

4 Q Again, it's almost identical to the May 3rd
5 interview form?

6 A That's correct.

7 MR. DANIEL: Walter, scroll down to the bottom
8 of that second page.

9 Q And again, does Mr. Boozer provide his phone
10 number the second time?

11 A That's correct. He actually handwrote it this
12 time. I did not write that for him. And it was the
13 924-9661 number.

14 Q So 9661?

15 A Yes, sir.

16 Q He provides it a second time?

17 A Yes, sir.

18 Q But again, he called from the 69 number.

19 A That's correct.

20 Q All right. That May 5th interview, that takes
21 place at the jail. What kind of clothing was he wearing
22 when you interviewed him May 5th at the jail?

23 A Mr. Boozer was actually -- I would explain it as
24 like a moving blanket material, but it was like a hospital
25 gown. He was placed on suicide watch. That it only

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 encompassed the front part of his body and it velcroed in
2 the back. His arms were completely exposed and I believe
3 from right below his knees all the way to his feet was
4 exposed, beside his head.

5 Q So, May 3rd on the crime scene, you don't see
6 his arms because they're covered with a jacket, right?

7 A That's correct.

8 Q But then eight hours later, on May 3rd, you see
9 a good portion of his arms?

10 A That's correct.

11 Q When he's in the regular jail jumpsuit?

12 A That's correct. All the way up, roughly about
13 from here to the shoulder.

14 Q But May 5th, he's in a different type of jail
15 attire, is that what you're saying, on May 5th?

16 A That's correct.

17 Q And that just exposes more of his arms?

18 A That's correct.

19 Q Did you see any fresh injuries to Mr. Boozer's
20 arms?

21 A There was no fresh injuries, no bandages.

22 Q And on May 5th, did Mr. Boozer inform you of any
23 fresh injuries to his arms?

24 A No, he did not.

25 Q At any time, May 3rd or May 5th, did Mr. Boozer

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 say he had any type of injuries whatsoever?

2 A No, he did not.

3 Q Okay. All right. And did you continue with the
4 interview on May 5th?

5 A No, we did not. Mr. Boozer elected at that time
6 not to speak with law enforcement.

7 Q So, at that time, the interview is ended at that
8 point?

9 A That's correct.

10 Q Okay. And did Mr. Boozer, was he a cigarette
11 smoker, do you know?

12 A I would assume so. He was walking out of the
13 house with a pack of Pall Mall's in his hoodie whenever I
14 arrived on scene. And also from a DNA report, his DNA was
15 on a cigarette butt that we received.

16 Q So, you had a DNA report about a cigarette butt.
17 Walter, State's 39.

18 What's that marker two?

19 A Marker two is actually the cigarette butt found
20 on the side of house.

21 Q All right. What room are those windows to?
22 Tell us what room is that window on the far left to?

23 A The far left window is actually going to be the
24 bedroom window for Ms. Clatie Stribble.

25 Q Okay. And the other window on the right side?

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 A The one on the right side would be the window to
2 the living room or common area.

3 Q Okay. And that cigarette butt, did you look at
4 that cigarette butt?

5 A I did.

6 Q Was it the same brand of cigarettes as the ones
7 you found on Mr. Boozer's person or near him?

8 A It looked -- it appeared to be the same brand,
9 yes.

10 Q Okay. All right. You've been in law
11 enforcement for how long?

12 A I've been in law enforcement for nine years as
13 of this Friday.

14 Q All right. Yesterday, Dr. Ross testified, I
15 believe Mr. Verner asked her about pain compliance?

16 A That's correct.

17 Q Did they teach you in the academy, law
18 enforcement academy about pain compliance?

19 A They taught us about pain compliance. It was
20 used through the use of pressure point control techniques.

21 Q Pressure point control techniques?

22 A That's correct.

23 Q All right. What part of the body does that
24 involve?

25 A It encompasses the entire body. The entire body

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 has multiple pressure points. Manipulating your pressure
2 points would be a form of pain compliance.

3 Q Is there any pressure points they teach you in
4 the academy around the neck?

5 MR. VERNER: Your Honor, I would argue upon
6 several different -- I don't see the relevance of
7 what the law enforcement academy teaches on subduing.
8 It's commenting on another witness. But just
9 primally relevance of what the law enforcement
10 academy --

11 MR. DANIEL: Your Honor, he made it relevant
12 yesterday.

13 MR. VERNER: Well, in general, I understand
14 that, but now we're going over what the law
15 enforcement academy teaches police officers on how to
16 --

17 THE COURT: I believe it was raised by the
18 defense. I will allow him to explore this. If we
19 get too far afield, though, I think he does have
20 somewhat of a point. I don't think the State's
21 contending that the Defendant has had any law
22 enforcement training, so. You can touch on this, but
23 do not go into too much detail.

24 MR. DANIEL: Yes, sir. I'll be brief, Your
25 Honor.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 BY MR. DANIEL:

2 Q They teach pain compliance techniques at the
3 academy you stated and there's pressure points in the neck
4 they teach you about, correct?

5 A That's correct.

6 Q And what does that involve doing?

7 A Striking the -- it's call brachial plexus
8 origin. It's placed on both sides of the neck and it
9 would actually be a strike that you would do to the neck.

10 Q What happened what we referred to earlier as a
11 chokehold or headlock, do they teach you to do that in the
12 academy?

13 A You're not taught any chokeholds.

14 Q Okay. So, even to subdue a very combative
15 subject, they still tell you do not do chokeholds?

16 A That's correct.

17 Q Do they teach you to do manual strangulation
18 with your hands?

19 A They do not.

20 Q Even if somebody is being very combative?

21 A They do not. That would be a deadly force
22 situation.

23 Q All right. And did you do a search warrant for
24 Ms. Clatie's cell phone?

25 A I did.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 Q Or cell phone records?

2 A I did.

3 Q What number did you have associated with
4 Ms. Clatie?

5 A Let me refer to my notes. I apologize. I've
6 got a lot of files in here.

7 Q That's all right. Now, if I represent to you
8 (803)597-0624, does that sound accurate?

9 A That's correct. That's actually what I have
10 right here.

11 Q What was the cell phone carrier?

12 A That would be T-Mobile MetroPCS.

13 Q And did you send a search warrant and receive
14 records from T-Mobile?

15 A That's correct?

16 Q I'm going to hand you what's been marked as
17 State's 64, do you recognize that?

18 A I do.

19 Q All right. Is that Ms. Stribble's cell phone
20 records from T-Mobile?

21 A That's correct.

22 MR. DANIEL: Your Honor, I would offer State's
23 64 for admission into evidence.

24 MR. VERNER: No objection.

25 THE COURT: Excuse me, I think that's 63.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 MR. VERNER: It would have to be.

2 MR. DANIEL: State's 63, my apologies.

3 THE COURT: Sixty-three in evidence.

4 (WHEREUPON, State's Exhibit No. 63 was admitted
5 into evidence.)

6 BY MR. DANIEL:

7 Q All right. And I want to go back to the cab
8 drive briefly. Once you interviewed Mr. Boozer, you
9 discovered who the cab driver was in this case?

10 A That's correct.

11 Q Did you have occasion to interview this cab
12 driver?

13 A I did. I met her at the cab stand on First
14 Street in Newberry.

15 Q And that was -- was it Vanissia Wright who
16 testified yesterday?

17 A That's correct.

18 Q All right. And did you get her to identify her
19 fare that morning?

20 A That's correct. I submitted to SLED for a six
21 person photo array to be made up for us. SLED uses it off
22 of facial recognition, things of that sort.

23 Q So, you compiled a photo lineup for Ms. Wright
24 to identify the individual who rode in her cab that
25 morning?

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 A That's correct.

2 Q Okay. And she gives you a physical description
3 first?

4 A That's correct.

5 Q All right. And how do you -- how does this
6 photo lineup come about? Is it based off DMV records or
7 license records?

8 A I'm not 100 percent how SLED compiles the photo
9 arrays. I know they're able to pull those from DMV, jail
10 photos, any other data -- government database.

11 Q All right. And so, it's basically individuals
12 who look similar to Mr. Boozer, who have the same race,
13 build --

14 MR. VERNER: We're not even contesting the photo
15 lineup.

16 THE COURT: The lineup is not being contested.
17 We need to move along. So let's focus on -- let's
18 focus on what she testified to. That's not really an
19 issue. Let's get to the heart of the matter.

20 MR. DANIEL: All right.

21 BY MR. DANIEL:

22 Q She did identify number two in the lineup?

23 A Yes, sir.

24 MR. DANIEL: That's my fault, Your Honor. I
25 apologize. I'm being long winded.

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 All right. Beg the Court's indulgence.

2 Walter, State's 58.

3 Q All right. This is in evidence. This is an
4 aerial. Do you recognize all this? You can step down if
5 you need to.

6 A Yes, I do.

7 Q All right. That red pin drop, what is that?

8 A That is actually Conifer Drive right here.

9 Q And the yellow pin drop is what?

10 A That would be 188 Conifer Drive, which is Clatie
11 Stribble's house.

12 Q All right. And that's a pretty heavily wooded
13 area, correct?

14 A That's correct.

15 Q As you're facing Clatie's house, what's to the
16 left of that?

17 A You're referring back over here?

18 Q No, no. Is there another house beside Clatie's
19 house as you're facing it to the left?

20 A That's correct. That's a -- I believe it's a
21 disability home right next to it.

22 Q It's a group home?

23 A That's correct.

24 Q And there's another house to the right of
25 Clatie's house, too, as well?

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 A That's correct. It's a blue duplex.

2 Q All right. In the interview, correct me if I'm
3 wrong, you ask about the bed sheets?

4 A That's correct.

5 Q And it was kind of muffled on my end, but what
6 did Mr. Boozer say about the bed sheets, why there were no
7 bed sheets on Clatie's bed?

8 A He explained to me that he didn't want to talk
9 about it. At the time, he placed his head down and was
10 basically talking at that time to the floor at that point.

11 Q Okay. Did his body language change when you
12 mentioned the sheets?

13 A At that point, he seemed to get a little bit
14 more anxious or nervous during the interview.

15 Q All right. So, you can't account for where the
16 sheets are?

17 A I cannot.

18 Q Okay. Did Mr. Boozer refuse to answer that
19 question?

20 A That's correct.

21 Q He described a black-handled steak knife as
22 well?

23 A That's correct.

24 Q In the interview with him, did he indicate where
25 it was, where it would be?

HARRY BODIFORD-FURTHER REDIRECT BY MR. DANIEL

1 A He explained that it was in the room, in the
2 bedroom.

3 Q Did you find it in the bedroom?

4 A We did not.

5 Q And he's indicating that's the knife that Clatie
6 attacked him with?

7 A That's correct.

8 Q All right. What about -- and then, of course,
9 the cell phone, could you find Clatie's cell phone?

10 A I could not.

11 Q So, those are three items that were unaccounted
12 for when you processed the crime scene?

13 A That's correct.

14 Q Bedsheets, cell phone and the black-handled
15 steak knife?

16 A That's correct.

17 Q Did you do a thorough search of the area?

18 A We did. We actually enlisted the Prosperity
19 rescue squad so we would have the manpower as well as
20 everybody with our department came out to search the area.
21 During this canvas -- this is where the home is. Back
22 behind it, there is a -- there's a sewer easement road
23 that leads to a sewage pond over here to the left of the
24 screen. We pushed to that sewer easement and we also
25 pushed to that side of the Williams Wood community.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Pushed all the way down toward Cedar Lane, which is right
2 down here. We also pushed up to the backside of all these
3 house checking all the trash cans on Conifer Drive as well
4 as check the wood line or check the woods themselves.

5 Q Heavily wooded area and there's a sewage pump
6 station not too far from the house?

7 A That's correct.

8 Q What about trash cans?

9 A There were trash cans. I believe Mondays are
10 trash days. A lot of people don't usually pull their
11 trash cans in like they're supposed to, but we checked all
12 the trash cans that were out to the road at the time.

13 Q Okay. What about the crawlspace underneath the
14 house?

15 A We did. I actually sent one of my officers into
16 the crawlspace and we also checked the attic of the house
17 as well.

18 Q What about prescription medication? Did you
19 find any prescription medication for Clatie Stribble in
20 the house?

21 A I did not see any prescription medication.

22 MR. DANIEL: Please answer any questions

23 Mr. Verner has Officer Bodiford. Thank you.

24 THE COURT: Mr. Verner.

25 CROSS-EXAMINATION

HARRY BODIFORD-CROSS BY MR. VERNER

1 BY MR. VERNER:

2 Q Mr. Bodiford, you're the active chief of the
3 Propriety Police Department?

4 A Interim, yes, sir.

5 Q Okay. The -- would it insult you if I ask
6 you -- call you Chief Bodiford while I ask you questions?

7 A No, sir, that's fine.

8 Q Assuming just for instance that you had bed
9 sheets in evidence, what value to the jury would that
10 offer more than what you've already got? You've already
11 got the mattress cover with blood on it, right?

12 A That's correct.

13 Q You've got a comforter with blood on it on the
14 couch?

15 A That's correct.

16 Q You've got the pillows?

17 A That's correct.

18 Q You've got blood on the carpet around the bed?

19 A That's correct.

20 Q Just if there were bed sheets -- are you a
21 hundred percent sure there are bed sheets or you just
22 think more likely than not there are probably bed sheets?

23 A More likely than not, there are bed sheets.

24 Q It's possible there may not have been bed
25 sheets, right?

HARRY BODIFORD-CROSS BY MR. VERNER

1 A It is possible.

2 Q Sometimes even with bed sheets, I'll sleep on
3 top of the bed or just under a comforter. That's fairly
4 common for people to do that, right?

5 A I wouldn't exactly say it's common.

6 Q But you don't see a lot of college students or
7 lower income people who just sleep on a comforter or
8 blankets?

9 A I see it. I wouldn't exactly say it's common,
10 though.

11 Q I saw what's depicted of the house, there were
12 like couches with blankets on them that somebody was
13 clearly sleeping on?

14 A That's correct.

15 Q Okay. But just for the sake of argument, if we
16 had bed sheets here for the jury to examine, what further
17 evidence or what would that solve for them that we don't
18 already have as evidence?

19 A The bed sheets would actually be the barrier in
20 between the comforter and the memory foam pillow top
21 mattress that you have there. It would probably be a
22 little bit more saturated with blood than what the memory
23 foam would be or the mattress.

24 Q Okay. So, you would have another bed clothing
25 article with blood on it?

HARRY BODIFORD-CROSS BY MR. VERNER

1 A That's correct.

2 Q But there was already blood on the bed?

3 A That's correct.

4 Q Is there any reason to think that where you
5 found the blood on the egg crate would not be the location
6 where she bled?

7 A Anytime I respond to a crime scene, I would like
8 to try to get as much evidence as possible while I'm
9 there.

10 Q It's another piece of the puzzle, but in the
11 grand scheme of things, it's probably not the lynch pin of
12 the case?

13 A I would agree with you.

14 Q Okay. On the issue of Mr. Boozer's cell phone,
15 you've had the phone in your custody since May 3rd of
16 2017, right?

17 A That's correct.

18 Q Okay. He clearly handed you the phone on that
19 date?

20 A The phone was actually left on the ground.

21 Q Or he put it down when you came up?

22 A That's correct.

23 Q Okay. The same phone he used to call 911?

24 A That's correct.

25 Q Is it fair to say if I hand you a phone that I

HARRY BODIFORD-CROSS BY MR. VERNER

1 would assume that you know the phone number? If you got
2 my phone, I would assume you got my phone numbers and you
3 can access the phone?

4 A The phone was not handed to me. It was left in
5 the driveway whenever he was placed in custody.

6 Q When you were approaching him and he was getting
7 down on the ground for you to arrest him?

8 A Yes, but he never handed me the phone. He laid
9 the phone down in the driveway.

10 Q Okay. And you say that you haven't been able to
11 get inside the phone to actually read the texts and
12 whatnot?

13 A That's correct.

14 Q You know, there's the statement in the Koran if
15 Mohammed won't come to the mountain, the mountain has to
16 come to Mohammed --

17 MR. DANIEL: Your Honor, objection.

18 BY MR. VERNER:

19 Q Is there any reason you couldn't have -- did you
20 ever like walk next door to the prosecutor's office and
21 ask us for the pin code?

22 A I did not. At that time, I had no clue that he
23 was being represented by Mr. Verner.

24 Q Did you ever ask anybody for the phone pin code?

25 A I did not.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q Do you know of anybody else who would have like
2 asked us or emailed us or said hey, do y'all want to see
3 what's in the phone?

4 A As I previously stated, I had no clue he had a
5 public defender until about a month before trial.

6 Q Okay. Now, it's clear that Clifton, in his
7 statement, testified he was out there about 8:00 o'clock?

8 A That's correct, in his statement.

9 Q But he also said it could have been earlier and
10 I came there by the blue taxi?

11 A That's correct.

12 Q That's true, isn't it?

13 A That's correct.

14 Q So, he's on foot. Was there evidence that there
15 was another car that he could have left the scene in?

16 A It's a gravel road. There's a lot of ruts on
17 the road.

18 Q But, I mean, did you see a car in the driveway
19 that he could have used to run errands in?

20 A Not at Ms. Stribble's house, but the house that
21 was located less than 20-yards away, there was a Chevy
22 Colorado pickup.

23 Q Theoretically, he could have stolen the
24 neighbor's car?

25 A I guess you could say that.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q Was there any evidence that he stole the
2 neighbor's car?

3 A There was not.

4 Q So, that's probably unlikely that he stole the
5 neighbor's car?

6 A That's correct.

7 Q Okay. Did y'all call out the blood hounds?
8 Newberry County Sheriff's Department has blood hounds,
9 don't they?

10 A They do.

11 Q And they are extremely good at what they do of
12 tracking people on foot?

13 A I would assume so.

14 Q Okay. You ever used the bloodhounds?

15 A I have with previous agencies, but not
16 Prosperity.

17 Q Okay. But Newberry Sheriff's Department was
18 coordinating, I assume, this investigation with
19 Prosperity?

20 A They actually just assisted us on scene. And
21 then as of, I would say, probably about 10:00 a.m. on May
22 3rd, it was completely in the Town of Prosperity's hands.

23 Q Okay. Now, when the prosecutor was asking you
24 all these questions about the statement that was already
25 played into evidence and he asked you that you talked

HARRY BODIFORD-CROSS BY MR. VERNER

1 about the pink shirt and you said, I think I did. But
2 that's not accurate, is it?

3 A What, about talking about the pink shirt?

4 Q The prosecutor was just asking you questions
5 about did you do this and you just said yes. But there's
6 nowhere on that audio that you said why was that pink
7 shirt on the kitchen floor?

8 A I didn't ask about the pink shirt. I did ask --
9 well, I did speculate about the shirt being on the floor
10 and been ripped off.

11 Q You did say that you thought that there were
12 clothes in the kitchen or clothes that had been taken off,
13 but you didn't say anything about a pink shirt being found
14 in the kitchen?

15 A I do not believe I said pink.

16 Q Okay. And I think you indicated when we were
17 talking about this -- what law enforcement calls pain
18 compliance, but, you know, a lot of other people just call
19 submission holds, the -- you're trained not to use the
20 chokehold on somebody as a police officer?

21 A That's correct.

22 Q And I would assume that's because even
23 unintentionally that could lead to more serious harm than
24 you intended to cause somebody?

25 A That's correct.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q But you would agree with me that the neck is a
2 vulnerable area on a person's body?

3 A Yes, there are a lot of arteries that carry
4 blood to the brain.

5 Q In fact, law enforcement teaches you to
6 strike -- you can strike the side of neck would be a
7 pressure point for somebody?

8 A That's correct. It would be with an opened
9 palm.

10 Q Right. But not to choke or apply pressure?

11 A That's correct.

12 Q And you would agree with me that that's good law
13 enforcement training?

14 A That's correct.

15 Q If you're trying to subdue somebody, you want to
16 use enough force to stop them from fighting you, but not
17 so much that you cause irreparable damage?

18 A The minimal amount of force necessary to bring
19 an unlawful situation under control, correct.

20 Q Would you agree with me, though, sometimes the
21 rules go out the window -- the tougher the fight is
22 sometimes, the rules go out the window?

23 A From a law enforcement standpoint, I would say
24 no. We have a one plus one method that we actually
25 follow.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q I understand that it's not your watch and this
2 didn't happen under your watch or your jurisdiction, but
3 didn't I see in New York where the police officer used a
4 chokehold on Eric Garner?

5 MR. DANIEL: Your Honor, I object. This is not
6 relevant.

7 MR. VERNER: Well, he's saying that law
8 enforcement doesn't use a chokehold.

9 THE COURT: I think we agreed that South
10 Carolina law enforcement they're trained not to use
11 chokeholds.

12 MR. VERNER: Right.

13 BY MR. VERNER:

14 Q I mean, that Garner situation, perhaps, that's
15 the reason they don't, so. Well, that's the point, the
16 rules go out to window sometimes in a fight?

17 A I can't speak to what New York State teaches at
18 their academies.

19 Q And -- well, I'm talking about just average --
20 I'm not talking about a trained law enforcement officer,
21 I'm talking about just Joe blow on the streets, in a dirty
22 fight or in a hard fight, sometimes --

23 A You would see a chokehold in those dirty fights
24 like that, especially in mixed marital arts type venues as
25 well as you see -- those type, if it's a little bit more

HARRY BODIFORD-CROSS BY MR. VERNER

1 brutal.

2 Q It's not a law instructed authorized or approved
3 way, but in a fight, a chokehold is sometimes a way that
4 somebody uses to end a fight? It's a pain compliance
5 or -- it ends a fight?

6 A In law enforcement, from the law enforcement
7 perspective, no, unless deadly force is justified.

8 Q I'm not talking about in law enforcement. I'm
9 talking about when you -- I assume you've examined or
10 you've investigated or arrested people for fights
11 routinely throughout nine years as a police officer?

12 A That's correct.

13 Q And chokehold is not a fairly -- I'm not saying
14 in every fight, but it's not a fairly common event?

15 A I would say for the regular Joe Blow, it could
16 be fairly common.

17 Q Okay. I'm not talking about with a police
18 officer, but just when a lay person gets in a fight, if
19 they use a chokehold, it's fair to say that they're either
20 using it to kill somebody or seriously hurt somebody or
21 they're using it to win the fight, is that fair to say?

22 A It could be.

23 Q Okay. And, in fact, I think you kind of alluded
24 to that when you talked everybody who had a little brother
25 or sister that they've been in a fight with and you were

HARRY BODIFORD-CROSS BY MR. VERNER

1 talking about you put them in a headlock chokehold?

2 A That's correct.

3 Q And that's the same general idea, isn't it?

4 A That's correct.

5 Q You got control of the person that you're
6 choking?

7 A That's correct.

8 Q Okay. Now, you've had Clifton Boozer's clothing
9 and all his personal effects since he was arrested on
10 May 3rd of 2017, right?

11 A I haven't physically had them. SLED actually
12 took all of that off the scene and they actually tagged it
13 in their evidence locker, so we received it back a few
14 months prior to trial.

15 Q But by you, I mean you, the police, law
16 enforcement?

17 A Law enforcement has had it, yes.

18 Q Okay. Have y'all looked at his keys to see if
19 any of them match Ms. Clatie's door?

20 A There was one key and by the time we were able
21 to get that back, there was already another tenant in the
22 house and the locks had been changed.

23 Q So, you weren't able to confirm or deny whether
24 that's the key or not?

25 A Correct.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q But you did see some damage to the door frame to
2 Ms. Clatie's only door to her house?

3 A That's correct.

4 Q Did you see -- I'm not a police officer, but
5 just out of common sense and prior trials, if you see a
6 door kicked in and the door frame is shattered open, you
7 will typically find paint or broken chards of wood,
8 splinters of wood in the kitchen area behind the door.
9 Did you find any of that?

10 A Not all the time, especially if you've had a
11 little bit of time to tidy things up a little bit.

12 Q Did it look anybody was tidying that house?

13 A The bed sheets were missing at the time.

14 Q Still, that would be -- assuming your theory is
15 correct that somebody takes the time to vacuum or sweep up
16 the door, but leaves a shirt in the middle of the kitchen?

17 A That's correct.

18 Q Okay. Again, my question is did you observe any
19 shards or wood splinters or paint chips that were
20 immediately behind the door?

21 A Along the side of the wall, yes.

22 Q On the floor?

23 A No, on the side of the wall.

24 Q Again, my question is on the floor?

25 A Not on the floor, no.

HARRY BODIFORD-CROSS BY MR. VERNER

1 Q Is that something if it was there, you think you
2 probably would have noticed it?

3 A We would have noticed it if it was there.

4 Q Certainly, all the officers who were on the
5 scene, that's a pretty common thing to look for when
6 you've got a possible question about how somebody got in
7 this house?

8 A That's correct.

9 Q Okay. The sheers, you call them curtains, but
10 they're really more like sheers that were on that window?

11 A That's correct.

12 Q And it appear to me to be a really light weight
13 fabric?

14 A That's correct.

15 Q From the photograph, it looked like it was --
16 the bottom end of it was slightly under Ms. Clatie's body?
17 I'm not sure which end. But did it appear like the bottom
18 part of it was underneath or touching Ms. Clatie?

19 A Yes, it was touching.

20 Q And the pole that it was -- or the rod that it
21 was on the wall on appeared to me to be a fairly thin,
22 light piece of metal?

23 A That's correct.

24 Q Is it possible if Ms. Clatie's fell or was
25 pushed off the bed that that could have been the cause of

HARRY BODIFORD-CROSS BY MR. VERNER

1 the sheer coming down?

2 A It's possible. Not only was the rod down, but
3 it was actually -- you could tell where it was secured
4 into the wall, the right-hand side at the top, and that
5 was actually ripped out as well.

6 Q But it's a light rod, so it would have been
7 secured by small tacks or nails?

8 A I would assume so. I'm a police officer, not a
9 builder.

10 Q And only one end of it came down, the end that
11 was touching Ms. Clatie body?

12 A That's correct, the right side.

13 Q The fact that you found -- was it voluminous
14 blood or just kind of clear blood splotches or splatter --
15 I won't say splatter, but droppings or blood smudges in
16 several areas of the room?

17 A It was a mixture of all. I mean, you had large
18 droplets of blood everywhere. You had small droplets.
19 You actually had smearing of blood on the wall. So, it
20 would basically cover everything.

21 Q Okay. And the fact that you found several
22 different locations of the blood, the -- on the floor and
23 on the furniture and on the wall, would that indicate to
24 you -- what does that indicate to you?

25 A That indicates to me that Ms. Stribble moved to

HARRY BODIFORD-CROSS BY MR. VERNER

1 different places throughout the room.

2 Q There was a violent struggle?

3 A That's correct.

4 Q It would be kind of inconsistent with jumping on
5 somebody on a bed and killing her on the bed?

6 A I don't believe he said that he killed her on
7 the bed. I think he said he strangled her on the floor in
8 between the bed and the wall.

9 Q Well, that's another question I've got. The
10 prosecutor asked you which side of the bed he was sitting
11 on when he choked her. He didn't say that. He just said
12 we were on the bed. You pointed out and said he did it
13 between the wall and the bed and that's not at all on his
14 audio confession, is it?

15 A On the audio confession, if I recall, she sat
16 back on the bed after she had stabbed herself. And then,
17 ultimately, she was strangled on the floor in between the
18 bed and the wall.

19 Q He didn't say she stabbed herself, did he? He
20 said we were fighting over the knife that we had together
21 and that's how she got stabbed and we both fell on the
22 couch?

23 A That's correct. But it would --

24 Q I understand that's different than saying I
25 stabbed her, but he didn't say she just grabbed the knife

HARRY BODIFORD-CROSS BY MR. VERNER

1 and stabbed herself?

2 A That's correct.

3 Q He said we were fighting over a knife and that's
4 when she got stabbed?

5 A That's correct.

6 Q When we landed on the couch. And he was
7 cooperating -- did he cooperate with you when you first
8 arrested him?

9 A Yes.

10 Q In terms of surrender to you peacefully?

11 A He did, yes.

12 Q He's actually the one who called the police in
13 the first place?

14 A That's correct.

15 Q And he cooperated with the SLED agents as they
16 took photographs of him?

17 A That's correct.

18 Q Okay. And then on the same day, he agreed to
19 meet you and be interviewed by you?

20 A That's correct.

21 Q Okay. And I understand in your statement that
22 you indicate to him that you don't necessarily believe
23 everything he's telling you?

24 A That's correct.

25 Q Okay. And also on the same day that Ms. Clatie

HARRY BODIFORD-CROSS BY MR. VERNER

1 was killed, I believe you spoke to Vanissia Wright?

2 A Let me look back. Vanissia Wright?

3 Q Yep.

4 A I believe it may have been the very next day.

5 Q Or May 4th, perhaps?

6 A Let me check my notes real quick.

7 Q Well, I'll hand you the note.

8 A That would be May 4th.

9 Q Right. As part of your duties as an
10 investigator, you're required to make fairly
11 contemporaneous reports when you investigate crimes?

12 A That's correct.

13 Q Okay. Part of that is to refresh your
14 recollection if you have to go down the line and look back
15 at something?

16 A That's correct.

17 Q Do you try to be accurate when you record what
18 people tell you?

19 A Yes, sir.

20 Q That's important, isn't it?

21 A That's correct.

22 Q And you make your notes fairly close in time?
23 You don't go back six months later and try to put together
24 a case, you make them fairly close to the date that the
25 events happen?

HARRY BODIFORD-CROSS BY MR. VERNER

1 A That's correct.

2 Q Okay. Vanissia Wright was the taxi driver?

3 A That's correct.

4 Q That Clifton told you about, that's how he got
5 there?

6 A He told me about Blue Cab.

7 Q It was fairly easy to contact Blue Cab and ask
8 who was on duty?

9 A That's correct.

10 Q And she met with you?

11 A That's correct.

12 Q She told you where she dropped him off on
13 May 3rd was where she dropped him off every time?

14 A That's correct.

15 Q Okay. So, the question about whether she went
16 into the driveway or not, she says I usually don't go into
17 the driveway?

18 A I believe what she said was every time -- she
19 would drop him off at the same spot every time, on Conifer
20 Drive every time due to Boozer always making a different
21 excuse not to pull into the yard.

22 Q Right. Okay. And that's what she told you on
23 May 4th of last year?

24 A That's correct.

25 Q Okay. Did Ms. Wright appear to have any kind of

HARRY BODIFORD-CROSS BY MR. VERNER

1 biases in favor of trying to protect anybody in your
2 opinion?

3 A No, she did not. She was actually worried that
4 she was going to be an accessory to this homicide.

5 Q Well, that's right. When you've got a situation
6 like this, it causes stress on a lot of people. Not just
7 people who get arrested, but everybody, right?

8 A That's correct.

9 Q And meeting with you, I would assume would be
10 stressful. You understand that when you meet people who
11 are in jail that that's a stressful situation for them?

12 A I can see where it can be.

13 Q And particularly, when you got a person's death
14 and you're the suspect in it, the lead suspect?

15 A That's correct.

16 Q Okay. Were you familiar with Clatie -- let me
17 go -- the prior address that Clifton Boozer gave you was
18 that he lived on Feather Run address?

19 A That's correct.

20 Q Are you familiar with whether that's also Clatie
21 Stribble's prior address?

22 A I got her DMV records. I can tell you what her
23 --

24 Q I'm only asking you if you know from personal
25 knowledge?

HARRY BODIFORD-REDIRECT BY MR. DANIEL

1 A Just from what I heard yesterday.

2 Q Okay.

3 A I believe her previous address was going to be
4 910 Gilbert Street.

5 Q Do you know whether Clatie Stribble smoked
6 cigarettes?

7 A I do not.

8 Q And the fact that Clifton was in a suicide gown,
9 you don't know whether that's just jail policy when
10 somebody gets a murder charge whether they automatically
11 go under observation for a period of time?

12 A I'm not sure of that. That would have to be a
13 question for Newberry County Detention Center.

14 Q Okay. But my question, whether that's just an
15 automatic jail policy or whether Clifton Boozer was
16 actually suicidal?

17 A It could be their standard operating procedure.

18 Q Okay. All right. Just out of curiosity --

19 MR. VERNER: Well, I think I'll close up. Thank
20 you. See if the prosecutor has anything.

21 THE COURT: Redirect?

22 MR. DANIEL: Very briefly.

23 REDIRECT EXAMINATION

24 BY MR. DANIEL:

25 Q Mr. Verner asked you about the 8:00 a.m. arrival

HARRY BODIFORD-REDIRECT BY MR. DANIEL

1 time that Mr. Boozer stated in his interview.

2 A That's correct.

3 Q At the Conifer address. He said -- now,
4 Mr. Verner seemed to suggest that 8:00 a.m. was an
5 approximation, it could have been earlier?

6 A That is correct.

7 Q All right. You reviewed Mr. Boozer's phone
8 records, correct?

9 A That's correct.

10 Q What time does his phone records indicate he
11 called the Blue Cab number?

12 A I believe in my notes he notified Blue Cab at
13 0457, which is 4:57 in the a.m.

14 Q All right. Would you agree that the difference
15 between 4:57 a.m. and approximately 8:00 a.m. is a big
16 difference?

17 A It's about three hours.

18 Q Okay. All right. Mr. Verner asked you about
19 what's the significance of not finding the bed sheets. Is
20 getting rid of evidence at a crime scene, is that --
21 that's a crime in and of itself, too, isn't it?

22 A It is.

23 Q So. Would that be significant to you?

24 A Yes, sir.

25 Q And, in fact, tell me if this is correct,

HARRY BODIFORD-REDIRECT BY MR. DANIEL

1 between 32 and 33 minutes into the interview is when
2 Mr. Boozer discusses the bed sheets?

3 A That's correct.

4 Q And correct me if I'm wrong, did Mr. Boozer say
5 I got rid of the sheets?

6 A That's correct.

7 Q And then you said his demeanor changed at that
8 point?

9 A That's correct.

10 Q Did he elaborate any further?

11 A He did not.

12 Q Okay. Mr. Verner asked you about MMA
13 chokeholds, things of that nature, what happens -- do you
14 watch MMA or familiar with it?

15 A Off and on.

16 Q What happens when --

17 MR. VERNER: Your Honor, this is recross. I
18 never said anything about MMA or anything, I said
19 just a fight.

20 THE COURT: What is MMA?

21 MR. VERNER: That's the mix where they fight
22 without the boxing gloves I assume is what the
23 prosecutor --

24 MR. DANIEL: Your Honor, he said mixed martial
25 arts, MMA is the acronym.

HARRY BODIFORD-REDIRECT BY MR. DANIEL

1 MR. VERNER: I never mentioned MMA, but I did
2 say a fight.

3 THE COURT: I'm going to sustain that. We've
4 had enough about that kind of thing, okay.

5 MR. DANIEL: Yes, sir.

6 BY MR. DANIEL:

7 Q All right. Lieutenant Bodiford -- all right,
8 between 36 to 38 minutes roughly you asked Mr. Boozer
9 where did you strangle Clatie, right?

10 A That's correct.

11 Q And I'm kind of unclear where exactly did
12 Mr. Boozer indicate she was strangled?

13 A I believe it was in the recording that it was on
14 the floor in between the bed and the wall.

15 Q Okay. All right. But they initially fell on
16 the knife -- or Clatie fell on the knife opposite side
17 near the couch?

18 A The opposite side of the room, yes.

19 Q Okay. And according to Mr. Boozer, which came
20 first?

21 A The struggle over the knife.

22 Q Okay. And you said -- Mr. Verner asked you
23 about Mr. Boozer's level of cooperation, you indicated he
24 cooperated?

25 A That's correct.

HARRY BODIFORD-RE CROSS BY MR. VERNER

1 Q What were Mr. Boozer's first words to you when
2 you arrived on the scene?

3 A Things went too far.

4 Q Did he mention at that point in time Clatie
5 attacked me with a knife?

6 A He did not.

7 Q Okay.

8 MR. DANIEL: Thank you.

9 THE COURT: Any recross?

10 MR. VERNER: Your Honor, just one question.

11 RE CROSS - EXAMINATION

12 BY MR. VERNER:

13 Q Two questions. One, what you heard Clifton
14 Boozer say to you was the same thing that was played for
15 the jury?

16 A That's correct.

17 Q They can hear exactly what you could hear from
18 it, right?

19 A That's correct.

20 Q Okay. So, your recollection of what he said is
21 not necessarily better than what we just heard when that
22 hour long interview was played for us?

23 A I guess we're hearing all the same thing.

24 Q Okay. And he clearly told you in the interview,
25 I don't know when I came, it was after the kids went to

HARRY BODIFORD-RECROSS BY MR. VERNER

1 school. You didn't hear him saying I got there after the
2 kids went to school?

3 A I believe he said something to the effect that
4 the kids were already on the bus.

5 Q Okay. But whatever he said is clearly on the
6 tape and we all heard it?

7 A Yes.

8 MR. VERNER: Okay.

9 THE COURT: All right sir, you can step down,
10 please. Thank you very much.

11 Let me meet over here to the side with the
12 attorneys, please.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury but out of the hearing of
15 the jury.)

16 THE COURT: Ladies and gentlemen of the jury,
17 we'll take a brief break. We're going to be finished
18 with this case at the latest at 1:00 today. I got
19 drug court this afternoon and I'm trying to get to a
20 visitation for a member of my church. But adjourn to
21 the back for a few minutes, let's see what else I can
22 squeeze in today, okay. Don't talk about the case.

23 (WHEREUPON, the jury left open court at
24 approximately 12:13 p.m.)

25 (WHEREUPON, a short break was taken.)

HARRY BODIFORD-RE CROSS BY MR. VERNER

1 THE COURT: We'll go back on the record. Before
2 the jury comes out, Mr. Verner, you want to explain
3 the objection that you're making to the testimony of
4 the witness who yesterday I asked her to step off the
5 stand. I think she's going to testify, based on what
6 I've heard, that about two weeks prior to this
7 incident, the decedent informed her that she was
8 concerned that he --

9 What exactly is the nature of the statement
10 again that you plan on eliciting?

11 MR. DANIEL: Your Honor, generally, that the
12 victim expressed that she was afraid, she was in fear
13 of Mr. Boozer. That's really it.

14 THE COURT: You're introducing that for purposes
15 of?

16 MR. DANIEL: It's a state of mind exception 803
17 subsection three just to show the victim was in fear
18 of the Defendant. And I cite the Weston case, that's
19 367 S.C. 279, where they found this line of testimony
20 was permissible.

21 THE COURT: Mr. Verner.

22 MR. VERNER: Usually, Your Honor, the present
23 sense impression state of mind is made when the
24 declarant is under distress or under the emotion of
25 the event that causes the statement. But -- and

HARRY BODIFORD-RE-CROSS BY MR. VERNER

1 also, Your Honor, in the Weston case, it is a
2 factually different case. In that case, the
3 Defendant claimed that the woman was killed by --
4 completely by accident. I do take exception with the
5 Court saying that the reasoning fairly easily led the
6 Court to include self-defense into that mix. And I
7 would disagree because it's really not contested.
8 There was a struggle between the two of them.
9 Accident and self-defense are not similar in the
10 sense that one is just saying this was completely
11 unintentional and the State is saying well, she was
12 scared of you and the other one was saying we were in
13 a mutual fight when she was killed. So, I don't
14 think it meets the Weston standard.

15 Secondly, Your Honor, it is certainly just that
16 there's a nebulous foundation for it to be laid. Of
17 course, Weston pretty much says that it has to be
18 nebulous because we don't want you to get into any
19 specific statements. It's hearsay and it violates
20 403. And I don't think -- I do think the danger of
21 prejudice substantially outweighs the probative value
22 of the statement, Your Honor, given the strength of
23 the State's case.

24 THE COURT: I understand Weston. And Weston, I
25 read it, that was an accident case. The defendant in

HARRY BODIFORD-RECROSS BY MR. VERNER

1 that case was claiming it was an accidental shooting,
2 I believe. In this case, my understanding so far,
3 based on what was on that recording is that the
4 Defendant would be entitled to a self-defense
5 instruction.

6 You want to speak to that, Solicitor?

7 MR. SCOTT: Yes, sir. One of the -- we've been
8 unclear at this point whether it's going to be
9 accident or self-defense because we understand them
10 to be mutually exclusive. However, if it is
11 self-defense, one of the elements we would be
12 disproving is that he was not at fault. And that he
13 was -- I think he's going to say he came there with
14 the consent of Ms. Stribble. Some of these prior
15 statements by some of these people who knew her best
16 was that she was in fear of the guy. And the
17 inference would be that he would not have had her
18 consent to be there. Then we've got him waiting, of
19 course, waiting for the children to leave before he
20 entered. We have some damage to the door that would
21 show that he did not enter consensually. Therefore,
22 that would kind of eviscerate our strategy that would
23 eviscerate his self-defense claim. In other words,
24 he did not show up at the behest of Ms. Stribble.
25 Therefore, if he is illegally in somebody's house,

HARRY BODIFORD-RE-CROSS BY MR. VERNER

1 how can he claim self-defense? We find the story
2 implausible, frankly.

3 So, I think we're entitled to her state of mind
4 regarding Mr. Boozer when we argue later he did not
5 have consent to be there. We got the door being
6 broken. We've got her mentioning multiple times that
7 she's scared of the guy. Res gestae kind of occurs
8 to me, it's painting the whole case -- we've already
9 talked about the relationship was on again off again.
10 It just sort of paints the picture of what leads us
11 to May 3rd of 2017. It would be the State's theory
12 that he was not there with anyone's consent.
13 Therefore, he was not -- or he was at fault in
14 bringing on the difficult.

15 THE COURT: My problem is, first sense
16 impression, that all you're resting your hat on, is
17 usually under the heading of res gestae or excited
18 utterance type of thing versus seeing the events at
19 the time the events are occurring. Clearly, that
20 can't be the case in this case because it was two
21 weeks prior.

22 MR. SCOTT: That would be excited utterance,
23 that's not what we're arguing. It's her present
24 sense impression. In the -- you know, the case we
25 cite is State v. Lee. That was one we sent last

HARRY BODIFORD-RECROSS BY MR. VERNER

1 night that stands for the proposition of evidence of
2 previous threats. We think it's admissible to show
3 malice.

4 THE COURT: Is that the 1971 case?

5 MR. VERNER: It is, but it's still good law.
6 It's an old case.

7 MR. DANIEL: It's nice to have a 40 year old
8 case too, Your Honor.

9 MR. SCOTT: Try the Blake v. State is a 2004
10 case. So, malice and intent are going to be things
11 that the State has to show. I think he's already
12 laid out his version of events. These are just
13 pieces of evidence that the State has to counter his
14 version of events.

15 MR. VERNER: Just briefly, Your Honor. As the
16 Court noted present sense impression, how the
17 declarant was perceiving the event or condition or
18 immediately thereafter is the rest of the definition.
19 And my understanding is res gestae is typically
20 Lyles, some bad act, it's not impression of a person,
21 but it's events that need to be used to explain the
22 whole case. Res gestae is more than bad acts brought
23 in on statements or present sense impressions.

24 MR. DANIEL: Your Honor, Weston the '06 case,
25 that does reference Garcia 1999 case. Garcia was a

HARRY BODIFORD-RE-CROSS BY MR. VERNER

1 domestic violence case. The only problem with Garcia
2 they found is they were allowed to explain why the
3 victim was in fear. They said that went too far. It
4 would have been fine to say the victim expressed fear
5 of the defendant, you can't say why. And that's all
6 we're interested in saying, that she expressed fear
7 and leave it at that.

8 THE COURT: All right. Based upon the statement
9 that the Defendant offered, the last witness, the
10 Defendant's version of the events are essentially
11 that he arrived at the victim's dwelling, at roughly
12 8:00 o'clock, they engage in consensual intercourse.
13 And then after intercourse, for lack of a better
14 characterization, the victim just lost it, went crazy
15 on him and he had to act in self-defense. And the
16 stab wounds were accidental. They were struggling
17 over the knife. Based upon that version of the
18 events, it would appear that if jury were to believe
19 that, the defense would be entitled to self-defense
20 instruction. But then comes an issue of State
21 disproving self-defense as Mr. Scott points out.
22 Along those lines, motive and intent are, in fact,
23 relevant. And the Weston case seems to make that
24 quite clear.

25 So, the Court will rule subject to the

HARRY BODIFORD-RECROSS BY MR. VERNER

1 defendant's objection that the testimony of the
2 witness is admissible as to the statement the victim
3 made two weeks prior that she was afraid of the
4 Defendant. Again, under Weston, you can't go into
5 why or anything specific. But in this case, the
6 Defendant has stated, the State has discussed
7 evidence that he was not the initial aggressor, the
8 victim was and that give rise to the need of
9 self-defense. Obviously, the State has the burden of
10 disproving self-defense. As the State correctly
11 points out, this is another a piece of evidence along
12 those lines that the victim in this case -- you know,
13 obviously, he's not being tried for criminal sexual
14 conduct or anything. Clearly, there was intercourse
15 of some kind between the victim and the Defendant. I
16 don't know where that's going or I don't know how
17 that's going to be played out. But the Court will be
18 allowing that evidence from the witness more as it
19 relates to motive and intent.

20 I do understand how arguably it would be present
21 sense impression. But now that the Defendant has
22 essentially said that I was not at fault, she was the
23 initial aggressor, the fact that she was afraid of
24 the Defendant is certainly relevant. The Court
25 concludes that the probative value of the fear that

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 she expressed a mere two weeks prior to this
2 incident, the probative value with that information
3 outweighs any unfair prejudicial. That will be the
4 ruling of the Court under Weston under 803.

5 Let's have the jury, please.

6 This will probably be your last witness, I would
7 assume?

8 (WHEREUPON, the jury came into open court at
9 approximately 12:39 p.m.)

10 THE COURT: All right, the jury is back and
11 seated.

12 Solicitor, you want to recall a witness from
13 yesterday?

14 MR. DANIEL: Yes, sir, Jennifer Brokob.

15 THE COURT: Ma'am, you're still under oath from
16 yesterday, of course.

17 Go ahead, Solicitor.

18 MR. DANIEL: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MR. DANIEL:

21 Q Ms. Brokob, so you met Clatie, you testified to
22 yesterday, I think you said 2013; is that correct?

23 A Yes.

24 Q Okay. And you met her through -- how did you
25 met her again?

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 A My son's father was her roommate.

2 Q You met her through your son's father, who was
3 Clatie's roommate at the time. And y'all became friends
4 after that, correct?

5 A Yes, sir, when we started working together.

6 Q Then eventually, didn't y'all move in together,
7 you testified to?

8 A Yes.

9 Q Where did y'all move into?

10 A We lived 190 Pine Hills, then moved to Feather
11 Run.

12 Q What address exactly, Feather Run?

13 A 121 Feather Run.

14 Q Approximately when did you move in with Clatie
15 at Feather Run?

16 A We moved from Pine Hills in July.

17 Q What year?

18 A 2014.

19 Q And you testified to yesterday that you knew
20 Clatie and Clifton, you knew him as Cliff, to be dating
21 during that time?

22 A On and off, yes.

23 Q And on and off, do you mean they would stay
24 together for weeks and then you wouldn't see them or what
25 do you mean?

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 A Sometimes just days, sometimes weeks, sometimes
2 days.

3 Q Okay.

4 A He came and went.

5 Q But he would often stay the night with you guys
6 at Feather Run?

7 A Yes.

8 Q And both of y'all had your kids there, you and
9 Clatie, at Feather Run?

10 A Yes.

11 Q All right. And how would you describe their
12 relationship? Was it a healthy relationship, a good
13 relationship?

14 A No, it was definitely toxic.

15 Q And it was on and off again, correct?

16 A Yes.

17 Q All right. So, how long did y'all stay at
18 Feather Run together? How long did you live there with
19 Clatie?

20 A About ten months.

21 Q So, early 2015, you move out first?

22 A Yes.

23 Q Okay. And Clatie and the kids stay there?

24 A Yes.

25 Q Do you know if she continued to see Cliff after

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 that?

2 A Yes.

3 Q She did. All right. And did you maintain close
4 contact with Clatie even after you moved out of Feather
5 Run?

6 A We had a little bit of a rough patch right when
7 I moved out, but then we reconnected.

8 Q From the time you moved out of Feather Run up
9 until she was killed, May 3rd of last year, were you
10 pretty much still in contact with her?

11 A Yes.

12 Q Continuously would you say?

13 A Yes.

14 Q Do you know her still to be seeing Cliff during
15 this period?

16 A Like I said, I saw him one time and that was
17 almost two months prior to this incident.

18 Q You saw --

19 A I saw Cliff one time over at her house. But
20 they weren't together to my knowledge.

21 Q Okay. All right. When's the last time you saw
22 Clatie before she died?

23 A It was a month prior that I saw her, set eyes on
24 her.

25 Q April of 2017?

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 A Yes.

2 Q Okay. Did Clatie discuss anything about her
3 relationship with Cliff with you?

4 A A lot of stuff, yes.

5 Q Would she go into great detail?

6 A Yes.

7 Q So, you knew the dynamics about the
8 relationship?

9 A Yeah.

10 Q All right. So, the last time you saw her was in
11 April. Did y'all have a conversation in person in April
12 about Cliff?

13 A Yes.

14 Q Okay. At that time, did Clatie express what was
15 her state of mind regarding Cliff?

16 A She always just said she was done. She was done
17 with the relationship.

18 Q Did she express --

19 MR. VERNER: Your Honor, that's -- I object.

20 That's not what we talked about prior and that's not
21 the point of this witness.

22 THE COURT: Y'all approach over here.

23 (WHEREUPON, a bench conference was held in the
24 presence of the jury but out of the hearing of the
25 jury.)

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 THE COURT: Ladies and gentlemen of the jury,
2 please disregard that last answer from the witness.
3 It wasn't responsive to the question that the
4 solicitor was asking through no one's fault.

5 I understand you do object the next question,
6 the reasons we have already been over with.

7 Ask the next question.

8 MR. DANIEL: Thank you, Your Honor.

9 BY MR. DANIEL:

10 Q All right, Ms. Brokob, you last saw her in
11 April of 2017, at that time, did Clatie express to you any
12 fear of Mr. Boozer?

13 A Yes.

14 Q In other words, she's expressing that she was
15 afraid of Clifton Boozer at that time?

16 MR. VERNER: Your Honor, asked and answered.

17 THE COURT: Sustained. She answered pretty
18 clearly.

19 BY MR. DANIEL:

20 Q Ms. Brokob, that was the last time you saw her
21 in person. When was the last time you talked to her,
22 either by phone, text message, social media, whatever?

23 A Over the phone.

24 Q When was that?

25 A Two weeks prior.

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 Q Two weeks prior to Clatie's death, you talked to
2 her on the phone?

3 A Yes.

4 Q At that time on the phone to Clatie, did she
5 express she was afraid of Mr. Boozer?

6 MR. VERNER: Asked and answered for the third
7 time.

8 MR. DANIEL: This is a different question.

9 MR. VERNER: Was it the same incident or same
10 conversation or different?

11 MR. DANIEL: On the phone, it's a different
12 time.

13 MR. VERNER: I think that exceeds the Court's
14 ruling, but.

15 THE COURT: It does.

16 Ladies and gentlemen of the jury, the last
17 discussion about the in-person meeting in October,
18 disregard that, please. Adjourn to the back for just
19 a few moments. Don't talk about the case. I need to
20 have a discussion with the attorneys, okay. Go back
21 there. Okay. Thank you.

22 (WHEREUPON, the jury left open court at
23 approximately 12:47 p.m.)

24 THE COURT: All right. Maybe we should have
25 proffered this testimony earlier. Mr. Daniel, the

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 Court has a problem with the fact that I thought I
2 was dealing with only one statement that took place
3 two weeks prior, now we're talking about something
4 that happened in April, a meeting in April between
5 this witness and the decedent. You never told me
6 about that.

7 MR. DANIEL: Your Honor.

8 THE COURT: You never told me about that. I
9 didn't have a chance to rule on whether that's too
10 remote. And Mr. Verner, I think, was under the
11 impression, correct me if I'm wrong, but we're
12 dealing with only a statement that took place two
13 weeks prior to the homicide. That's what the Court
14 is having a problem with. What happened?

15 MR. DANIEL: Your Honor, I understand the
16 Court's frustration. It is a misunderstanding. The
17 murder happens -- or the killing happened May 3rd.
18 Two weeks prior, that was elicited yesterday, two
19 weeks prior, that would have been April. I didn't
20 specify in my question yesterday whether it was in
21 person or on the phone I don't think. But now
22 Ms. Brokob is indicating there were two different
23 conversations where she expresses fear. One in
24 person in April and one on the phone. Both
25 conversations still take place in April. That's

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 what's going on here. So, it's kind of a
2 misunderstanding.

3 THE COURT: Well, going forward with any of
4 these witnesses, if you intend to introduce and based
5 upon the clustered that's happened with this witness,
6 I may not allow any additional testimony about any
7 sort of prior bad acts between the Defendant and the
8 decedent because, clearly, the State's not clear on
9 what that testimony going to be about. So, I'm
10 probably not going to be allowing much in the way of
11 any additional testimony. I do think that this is
12 still relevant under the question of motive and
13 intent. So, I'll let you ask this witness about
14 those two prior incidents.

15 But Solicitor, if you think that you're going to
16 have the opportunity to introduce any prior
17 incidents, perhaps, not even the Restraining Order or
18 the domestic violence thing that took place in 2013,
19 I mean, that's probably -- you lost that opportunity
20 because I was not made aware that we were talking
21 about two different incidents. So, this is going to
22 be it as far as any prior bad act evidence. We're
23 not talk about that Restraining Order or the domestic
24 abuse, we're not talk about anything in family court
25 through 2013. Because I have to be absolutely

JENNIFER BROKOB-DIRECT BY MR. DANIEL

1 certain what this testimony is going to be before it
2 is introduced. And in this case, the State didn't
3 help me out a lot on that.

4 So, you can ask her about the meeting in April.
5 You can ask her about the conversation on the phone
6 two weeks prior. But that's pretty much all we're
7 going to be talking about as far as the incidents
8 that took place prior to this homicide.

9 MR. DANIEL: Yes, sir.

10 THE COURT: Let us have the jury.

11 MR. DANIEL: Your Honor, did you want to
12 proffer?

13 THE COURT: No, I think we already got it.
14 There was an incident in April where she met her and
15 there was an incident two weeks prior where they were
16 talking on the phone. You can ask her about those
17 two things and let's leave it at that.

18 Let us have the jury.

19 (WHEREUPON, the jury came into open court at
20 approximately 12:50 p.m.)

21 THE COURT: Let the record reflect that the jury
22 is back and seated.

23 Sorry for the delay, ladies and gentlemen.

24 Solicitor, you can ask this witness about those
25 two conversations and those two conversations only.

JENNIFER BROKOB-CROSS BY MR. VERNER

1 MR. DANIEL: Yes, sir, Your Honor. Thank you.

2 BY MR. DANIEL:

3 Q I'm sorry, I asked you a question yesterday and
4 I may have gotten my questions confused. When was the
5 last time you spoke to Clatie Stribble?

6 A Two weeks prior to the murder.

7 Q And at that time two weeks prior to Clatie's
8 death, that would be in the month of April?

9 A Yes.

10 Q She was killed on May 3rd, two weeks prior to
11 that would be in the month April?

12 A Yes.

13 Q At that in April, sometime in April -- you don't
14 know the exact date, do you?

15 A No.

16 Q Did she express that she was afraid of Clifton
17 Boozer?

18 A Yes.

19 MR. DANIEL: Okay, thank you.

20 THE COURT: Mr. Verner.

21 CROSS-EXAMINATION

22 BY MR. VERNER:

23 Q Good afternoon, Ms. Brokob. Do you still live
24 in Newberry?

25 A Prosperity.

JENNIFER BROKOB-CROSS BY MR. VERNER

1 Q Newberry County?

2 A Yes.

3 Q Okay. And my understanding -- I believe you
4 testified briefly yesterday?

5 A Yes.

6 Q That you met Ms. Clatie Stribble around 2013?

7 A Yes.

8 Q Through your son's father?

9 A Yes.

10 Q Okay. And that y'all moved in together to the
11 Feather Run address?

12 A Yes.

13 Q Were you pregnant at that time?

14 A In 2014, yes.

15 Q When you moved in together?

16 A Yes.

17 Q The son's father was -- you mention a man named
18 Jake who was killed, is that the man you're talking about?

19 A Motorcycle wreck, yes, sir.

20 Q Was it Mark Stribble who was killed?

21 A Mark Stribble was my son that I was pregnant
22 with father.

23 Q And he's not the one that introduced you to
24 Clatie?

25 A No.

JENNIFER BROKOB-CROSS BY MR. VERNER

1 Q But he was a Stribble, wasn't he?

2 A There are different lines. Clatie is adopted
3 and he's adopted.

4 Q Same general family, but they were both adopted
5 into it?

6 A Yes.

7 Q Were they friends or close?

8 A Not really.

9 Q But it was actually the Jake who was killed
10 early who actually introduced you?

11 A Yes.

12 Q So, it was you, Clatie and your son who were
13 living together?

14 A Yes.

15 Q Were Clatie's daughters living with you?

16 A Yes.

17 Q The whole time?

18 A When we moved.

19 Q Okay. Did Clifton ever stay there, too?

20 A Sometimes.

21 Q Okay. And did Mark ever move in with you there,
22 too?

23 A Yes.

24 Q Okay. And you had a good friendship with Clatie
25 while you were living with her?

JENNIFER BROKOB-CROSS BY MR. VERNER

1 A Yes.

2 Q And I don't need the details of it, but you
3 indicated to the jury just a few minutes ago that you
4 left -- you had a rough patch with Clatie and you left?

5 A We had a rough patch after I left.

6 Q After you left. I don't need the details, but
7 what was the rough patch?

8 A Financial.

9 Q Okay. Did Ms. Clatie take any kind of
10 medication while you lived with her?

11 A Not that I'm aware of.

12 Q Did you know her well?

13 A Pretty well, yes.

14 Q Okay. Did you know her in 2011 or 2012?

15 A No.

16 Q Okay. You don't know if she took any medicine
17 for bipolar mental illness?

18 A Not that she ever expressed to me.

19 Q Okay. What about depression, did she take any
20 medicine for depression?

21 A No prescription drugs that I'm aware of.

22 Q I know you're not a psychiatrist, but did she
23 ever exhibit mood swings or evidence of being depressed?

24 A I mean, we're women, so yeah, we all have mood
25 swings.

JENNIFER BROKOB-CROSS BY MR. VERNER

1 Q I understand we y'all grow up with family and
2 have girlfriends and different people react differently,
3 but did she ever exhibit uncharacteristic mood swings?

4 A Not that I would say, no.

5 Q Okay. And you knew Clatie intimately for about
6 ten month.

7 A Living together, yeah.

8 Q Were she and Cliff exclusively seeing each other
9 during that time?

10 A No.

11 Q Did anybody else come and live with you during
12 that time?

13 A No.

14 Q Okay. Clatie was about your size, height?

15 A A little shorter.

16 Q A little shorter. It is fair to say she wasn't
17 small, was she? Not by height, I'm talking about she was
18 not skinny and small?

19 A She was thick. She wasn't skinny, no.

20 Q Do you know if she was strong?

21 A In what context?

22 Q Just as a physical person, you know?

23 A She was emotionally and mentally strong.

24 Q Okay. Did she exhibit any jealousy of Clifton
25 Boozer seeing other women?

JENNIFER BROKOB-CROSS BY MR. VERNER

1 A Not to me, no.

2 Q The last time you had physically seen Clatie was
3 about a month prior to her death?

4 A Yes.

5 Q Okay. Was that about how often you would see
6 her, once or month, give or take?

7 A No. My nurse went out -- my son's nurse went
8 out because she had surgery, so that's why I hadn't seen
9 her the month prior.

10 Q Okay. Prior to that date, how often would you
11 see her?

12 A At least once a week, if not more.

13 Q At her home or?

14 A Yes.

15 Q Okay. Did you and Cliff have a good
16 relationship?

17 A I would have never called it good, no.

18 Q Okay. I mean, if you went over to her house --
19 I know you testified you saw him on Conifer, I think you
20 said?

21 A One time.

22 Q I think you said about two months prior to
23 Clatie's death?

24 A It was two months prior to me last seeing her.

25 Q Okay. But y'all weren't close enough friends

JENNIFER BROKOB-CROSS BY MR. VERNER

1 where y'all would hang out and drink with each other,
2 socializing, would you?

3 A Not by choice, no.

4 MR. VERNER: Let me double check, but I think
5 that's it. Let me check. All right. Thank you,
6 Ms. Brokob.

7 THE COURT: Any redirect?

8 MR. DANIEL: No, sir, Your Honor.

9 THE COURT: Ma'am, thank you very much. You can
10 step down, you're free to go.

11 Ladies and gentlemen, we're going to go ahead
12 and break for the day. Let me speak to the attorneys
13 over here to the side before I tell you what time to
14 be back.

15 (WHEREUPON, a bench conference was held in the
16 presence of the jury but out of the hearing of
17 the jury.)

18 THE COURT: Ladies and gentlemen of the jury, it
19 had been my hope to finish the State's case in chief
20 by this morning. There's still just a few additional
21 witnesses, but I anticipate finishing the State's
22 case sometime tomorrow morning. If you would, please
23 be back in the jury room -- well, let's do this.
24 I've got one hearing at 9 o'clock, it shouldn't take
25 long. Report to the grand jury room downstairs, if

JENNIFER BROKOB-CROSS BY MR. VERNER

1 you would, go straight to the grand jury room and
2 hang out there until we can bring you up here. Be
3 down there at 9:30 tomorrow morning. All right?

4 I apologize my obligations in Greenwood are
5 causing us to have to break, but we have drug court
6 every two weeks and I've got to be there. Not much
7 court without a judge. Don't talk about the case
8 while we're on break this afternoon. Be back in the
9 jury room at 9:30 tomorrow and I will see you all
10 then. Okay, enjoy your afternoon. Thank you for
11 your understanding. You're excused.

12 (WHEREUPON, the jury came into open court at
13 approximately 1:02 p.m.)

14 THE COURT: All right. We'll be at ease until
15 9 o'clock tomorrow. Okay.

16 Solicitor, if you would, go ahead and email
17 myself -- I think all the jury is out. Solicitor, if
18 you could, just email myself and Mr. Verner a
19 synopsis of what you anticipate the minors'
20 testifying to.

21 Mr. Verner, I'm assuming that the children who
22 are going to be testifying, I believe it's in my
23 discretion, that I don't need to inquire of them
24 about their understanding of the obligation to tell
25 the truth.

JENNIFER BROKOB-CROSS BY MR. VERNER

1 Mr. Scott, they're teenagers, right, close to
2 it?

3 MR. SCOTT: 12 and 14.

4 THE COURT: I think we'll be all right.

5 MR. VERNER: I think.

6 THE COURT: See y'all tomorrow morning. Y'all
7 be here latest by 9:15. I have a minor settlement at
8 9:00.

9 (WHEREUPON, the proceedings were concluded for
10 the day to be reconvened on August 9, 2018.)

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JENNIFER BROKOB-CROSS BY MR. VERNER

1 August 9, 2018

2 THE COURT: All right, let's go back on the
3 record in the case of The State vs. Mr. Boozer.
4 Mr. Boozer is present with counsel. The jury is in
5 the jury room. The solicitor did send a brief
6 synopsis last night of the anticipated testimony of
7 the next witnesses.

8 Solicitor, was there a desire to, perhaps,
9 proffer that testimony this morning or where are we?

10 MR. SCOTT: Yes, sir, the Hobby girl, I
11 definitely think we would need to proffer her.

12 MR. VERNER: What?

13 MR. SCOTT: The lady. She's not here yet, but I
14 do have Brandy Counts here, I think we can briefly
15 proffer her. She would be pretty quick. Then when
16 Hobby gets here, which should be momentarily, we can
17 proffer her as well.

18 THE COURT: All right. Why don't we go ahead
19 and handle that then. You want to go ahead and call
20 her up?

21 MR. SCOTT: Yeah, Brandy.

22 THE CLERK: Place your left hand on the Bible.

23 BRANDY COUNTS, after being duly sworn, testified
24 as follows:

25 THE CLERK: Have a seat, state your name for the

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 record.

2 THE WITNESS: My name is Brandy Counts.

3 MR. SCOTT: Your Honor, I'm going to just focus
4 on the -- what we talked about in our email with
5 Ms. Counts.

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. SCOTT:

9 Q Brandy, Clatie Stribble and you knew each --
10 y'all were friends, correct?

11 A Yes, sir.

12 Q How long had you known her?

13 A I had known Clatie for 17 years, but befriended
14 her in the last nine years.

15 Q Do you think during that amount of time, you
16 knew her fairly well?

17 A Yes, sir.

18 Q And did you know Mr. Boozer? Clifton Boozer?

19 A Yes.

20 Q Why did you have to think about that?

21 A Due to the fact that it wasn't by choice.

22 Q Okay. But you knew him, though?

23 A Yeah, through her.

24 Q Okay. And you worked with -- May of last year,
25 you worked with Clatie at the Sonic in Chapin?

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 A Yes, sir, I did.

2 Q Had you been around Clatie and Mr. Boozer at the
3 same time in the past?

4 A Yes, sir.

5 Q Okay. Were you kind of familiar with the
6 dynamics of their relationship?

7 A Yes, sir.

8 Q All right. I want to just talk about May 3rd of
9 last year. Did you guys work at the Sonic that night?

10 A Yes, sir, we did.

11 Q Okay. And now Clatie, did she have her car
12 operating at that time?

13 A She did not, sir.

14 Q Do you know where her car was?

15 A I was told that her car was in Newberry. That
16 she broke down in Newberry.

17 Q And so, what time did y'all get off at Sonic
18 that night?

19 A It was probably about 1:30, 1:45.

20 Q And from Chapin up to Prosperity, about how long
21 did it take y'all?

22 A I would say it's about 20 minutes, but we did
23 make a stop at the gas station that night.

24 Q Okay. So, you got off 1:30, 1:45, stop at the
25 gas station to get what?

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 A She needed cigarettes and I think she got like a
2 two-liter drink.

3 Q Okay. Then up to --

4 A Then we went to her home so I could drop her
5 off.

6 Q Did y'all have food from Sonic that y'all
7 brought with you?

8 A Yes.

9 Q Once y'all got to the house, was the door
10 locked?

11 A Yes, sir, she opened it with a key.

12 Q Did you go inside with her?

13 A Yes, because I had to use the restroom.

14 Q How long were you there with her?

15 A I was probably there for about 15 minutes. I
16 was working another job and had to be up by 6:00, so I
17 wasn't there very long.

18 Q Do you know approximately what time you left?

19 A I want to say that I left at 2:30.

20 Q Okay. Were the girls awake when you left?

21 A Evelyn did awaken when we entered the home.

22 Q Okay. Where was she?

23 A She was laying on the couch.

24 Q Okay. Did Clatie have her phone with her that
25 time?

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 A Yes, sir, she did.

2 Q What kind of phone did she have?

3 A She had LG. I just remember it was gray, but
4 she had like a purple case on, I think.

5 Q Gray with purple case, okay. When you left,
6 where was Clatie?

7 A She was sitting on her bed, sir.

8 Q How was she sitting?

9 A She was sitting Indian style.

10 Q You've known her for, what did you say, 17
11 years?

12 A Yeah.

13 Q Was she acting any way that was significant to
14 you when you were leaving that night?

15 A Yes.

16 Q Okay, how so?

17 A When I came out of the restroom, she was sitting
18 on the bed and she seemed concerned and worried.

19 Q Okay. And that was just something you picked up
20 on knowing her for 17 years that you could tell --

21 A I could tell by the look on her face, yes, sir.

22 Q Okay. Then did she make any statement to
23 indicate what was her concern or what was on her mind?

24 A Yes, sir, because I said, Clatie, what's wrong?
25 And she was like, I wonder when Cliff will get to point

BRANDY COUNTS-CROSS BY MR. VERNER

1 where he will hurt me.

2 Q Was that the last thing that y'all talked about
3 for the most part?

4 A Yes, sir.

5 Q Then you left and that was 2:30?

6 A Yes, sir.

7 MR. SCOTT: Okay, Your Honor, as far as the --
8 that's pretty much the extent as far as the issue at
9 hand that she'll testify to. There would be other
10 collateral things she would testify do, but I don't
11 think anything that we need to proffer her on.

12 THE COURT: Okay. I assume you don't have any
13 questions for her at this point, Mr. Verner?

14 MR. VERNER: I would just have a very few.

15 THE COURT: Go ahead then.

16 CROSS-EXAMINATION

17 BY MR. VERNER:

18 Q You were -- by friends, I take it that meant
19 that I've known Ms. Clatie for 17 years, but for the last
20 nine years, I was able to visit her in her home and
21 likewise?

22 A Yes, sir.

23 Q You may have known her from school or town or
24 other friends, but not really --

25 A Personally, correct.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q -- going to her home visiting her? Okay. Had
2 you ever spent the night at her home?

3 A No, sir.

4 Q So, how she -- her sleeping arrangements, you
5 don't know of?

6 A What do you mean?

7 Q Had you been in her home when she had Cliff
8 there or other friends?

9 A No.

10 Q So, it's just I know her through work, friends
11 through work or?

12 A No. Mr. Boozer has been at the home when I have
13 come to visit. But as far as like how she slept, no.

14 Q Okay. Did you -- were you social friends with
15 Ms. Clatie outside the home or just kind of --

16 A We have been out in public together.

17 Q Okay. Did you notice the condition of the door
18 when you went there?

19 A Yes, sir.

20 Q Had it already been damaged?

21 A I think like right at the top of it, it had been
22 to a prior incident.

23 Q So, there was already damage prior to your
24 visiting that day?

25 A Yes, sir.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Okay. How long before that day had you visited
2 her?

3 A I think a week before.

4 Q Okay. So, you were in her home about how often?

5 A At least, three times a week.

6 Q Okay. Did you follow her on social media
7 accounts?

8 A Yes.

9 Q Okay. Did you and she talk about Cliff or other
10 friends or boyfriends of hers?

11 A Yes.

12 Q Okay. Was she seeing other people other than
13 Cliff?

14 A No.

15 Q Okay. Never during the nine years that you've
16 known her?

17 A Not while they were together, sir.

18 Q Okay. Do you know if Ms. Clatie slept with a
19 knife under her pillow?

20 A Yes, she did and one beside her bed.

21 Q Okay. And Cliff was not around her when she
22 made that statement, right?

23 A No.

24 Q Just you two in private?

25 A Yes, sir.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Okay. And Eve sleeps on the couch?

2 A No, she did not. She was just --

3 Q Just at that time?

4 A Yes.

5 Q Was anybody in the home other than you,
6 Ms. Clatie, and two or three -- how many children?

7 A All the children are home. Evelyn --

8 Q Is it three or four?

9 A It's three.

10 Q Okay. Had she indicated the last time she saw
11 Cliff?

12 A No, not to me.

13 Q Okay. The --

14 A Or excuse me, yes, she did, that Monday, excuse
15 me.

16 Q Okay, just a couple -- when you said the car was
17 in Newberry, do you know where it was in Newberry?

18 A I do not, sir.

19 Q Did Ms. Clatie smoke?

20 A What do you mean?

21 Q Cigarettes?

22 A Yes, she did.

23 Q Do you know what brand she smoked?

24 A I think it was like Pall Mall Blacks or
25 something like that.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Okay. How long had you been working together at
2 the Sonic in Chapin?

3 A Roughly, a month.

4 Q Okay. Did Ms. Clatie also have other concerns,
5 like financial concerns or other?

6 A At times, yes, sir.

7 Q Okay. So, she didn't say that Cliff had made a
8 specific threat to her, just in general, it was getting to
9 the point where she was getting concerned?

10 A That night, she only made that statement.

11 MR. VERNER: Thank you, Ms. Counts.

12 THE COURT: You can step down.

13 All right. Any additional discussion about this
14 witness' testimony or any concerns?

15 MR. SCOTT: No, Your Honor. I think that
16 statement regarding her state of mind and her
17 concerns would come in under Weston. In the
18 alternative, it does not meet that Garcia exception.
19 We could possibly limit it to the fact that she was
20 scared of Cliff, but not necessarily to the extent of
21 I'm wondering when he's going to hurt me. But I
22 think her state of mind obviously is relevant. I
23 think this Weston case for the reasons I've indicated
24 in my email, I think it would be permitted. Again,
25 this is just a matter of hours before she's killed,

BRANDY COUNTS-CROSS BY MR. VERNER

1 she's expressing concern.

2 Again, so the -- if the defense says I came over
3 there to work things out, I was there with consent,
4 that kind of flies in the face of that witness's
5 testimony that she was frightened of him. I think
6 the argument would be that she would not have let him
7 the house while being alone. And again, if he's
8 raising self-defense issues, I think that is a highly
9 relevant piece of information for the jury.

10 MR. VERNER: My only concern, Judge, is that it
11 does step a little beyond Weston in terms of this is
12 an actual statement as opposed to Weston was a state
13 of mind. I'm in fear of the Defendant. Where this
14 is they're actually eliciting the actual statements
15 for the truth of the matter asserted. So, I do think
16 it goes beyond what Weston addressed in that case, a
17 specific statement as opposed to state of mind.

18 MR. SCOTT: I think, Your Honor, just to be
19 safe, we were just discussing, too, we would say not
20 the reason for her fear, but we could limit it to the
21 fact that she knows her, something seemed to be
22 concern for her. She had some anxiety when asked
23 what's wrong and she indicated that she was afraid.
24 So, I think we can limit it to that and that would
25 comply with Weston. So, she wouldn't be attributing

BRANDY COUNTS-CROSS BY MR. VERNER

1 that fear to any specific thing.

2 THE COURT: Right. I think she can testify
3 about her fear generally of the Defendant and that's
4 acceptable. I would suggest you deal with that as a
5 leading question, perhaps, when the jury is out here,
6 that might be the best way to handle it.

7 MR. SCOTT: Yes, sir.

8 MR. VERNER: Your Honor, I don't want to speak
9 to the witness, but just so I understand and the
10 witness can understand, the Court's ruling is that if
11 the solicitor asks the question, she's entitled to
12 say that Ms. Clatie expressed that she was fear of
13 Clifton Boozer, but not allowed to give the actual
14 quote.

15 THE COURT: Correct.

16 MR. VERNER: Hearsay statement.

17 MR. SCOTT: I would lead her with did she
18 indicate she was in fear of Mr. Boozer?

19 MR. VERNER: Okay, the witness seems to
20 understand the Court's ruling. She's nodding
21 affirmation, Your Honor.

22 THE COURT: Very good.

23 Anything else before we resume with testimony at
24 this time?

25 MR. SCOTT: Your Honor, Ms. Hobby, the witness,

BRANDY COUNTS-CROSS BY MR. VERNER

1 might just be a mute point. We can't find her.
2 She's cut her phone off now, so maybe we'll just
3 exclude her. She's under subpoena, so we would ask
4 possibly a bench warrant. At any rate, we're ready
5 to go, Your Honor, with Brandy Counts being our next
6 witness. We may only be calling the two girls after
7 that.

8 THE COURT: All right. In that case, if you
9 want a bench warrant, you probably need to go ahead
10 and ask for it now because I get the impression your
11 case is going to be --

12 MR. SCOTT: If you would grant a bench warrant,
13 Your Honor. We asked this woman to be here. She
14 indicated she was coming. She indicated something,
15 what, 30 minutes ago she was at the Newberry exit and
16 thereafter, she's cut her phone off.

17 MR. VERNER: Might be because she's in the
18 courthouse.

19 THE COURT: Before I issue the bench warrant,
20 let's do a quick check around the courthouse if y'all
21 know what the lady looks like. Maybe you can find
22 her. Maybe, perhaps, she had a flat tire.

23 MR. VERNER: I don't want to speak for the
24 State, but possibly a soft bench warrant, such as a
25 pickup order or an encouragement to come type.

BRANDY COUNTS-CROSS BY MR. VERNER

1 THE COURT: Let's see if -- take a look -- we'll
2 take about five minutes, take a look around the
3 courthouse and see if you can find the lady. Maybe
4 she's in the annex. People have actually, because
5 they're only experience is domestic relations, they
6 run to the annex thinking that's the only courthouse
7 because that's where Family Court is. So, we'll beat
8 around the bushes for about five minutes and then
9 we'll go back on the record. We're at ease.

10 (WHEREUPON, a short break was taken.)

11 THE COURT: We're back on the record. If we
12 could, let's have the jury out, please.

13 MR. VERNER: Yes.

14 MR. DANIEL: We'd like to proffer Heather Hobby
15 as our next witness.

16 THE COURT: Ms. Hobby, come on up.

17 THE CLERK: Raise your right hand, place your
18 left hand on the Bible.

19 HEATHER HOBBY, after being duly sworn, testified
20 as follows:

21 THE CLERK: State your name for the record.

22 THE WITNESS: Heather Hobby.

23 MR. DANIEL: Your Honor, just -- I'm going to
24 put this on the record. I have been provided
25 Ms. Hobby's rap sheet. For Mr. Verner, she does have

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 a forgery, a 2018 conviction for forgery and she's
2 currently on conditional discharge for possession of
3 meth this year. I provided the rap sheet to
4 Mr. Verner so he has that for impeachment purposes.

5 THE COURT: Sure.

6 DIRECT EXAMINATION

7 BY MR. DANIEL:

8 Q Ms. Hobby, you knew Clatie Stribble, correct?

9 A Yes.

10 Q How did you first meet Clatie?

11 A Well, 25 years ago.

12 MR. VERNER: I can't hear.

13 THE WITNESS: Twenty-five years ago, I met her
14 at the skating rink here in Newberry.

15 BY MR. DANIEL:

16 Q Twenty-five years ago, so how old were y'all
17 when y'all met?

18 A First time, we were 14.

19 Q Y'all were 14 years old?

20 A Yes.

21 Q Speak up and into the microphone, please. So,
22 y'all knew each other since you were teenagers?

23 A Correct.

24 Q At some point, did y'all move into together; is
25 that correct?

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 A Yes, we did, many times.

2 Q When did you first start living with Clatie, how
3 old?

4 A It would have been after my daughter was born in
5 2005, so 2006, 2007.

6 Q Okay. And y'all lived together on and off
7 throughout the years essentially?

8 A Many years, on and off.

9 Q Okay. Did you consider Clatie to be your best
10 friend?

11 A Absolutely.

12 Q And did you know Clifton Boozer?

13 A I did.

14 Q Okay. When did you first meet Clifton Boozer?

15 A It was October of 2000 and -- I don't know.

16 Q You don't have to be specific.

17 A I don't know exactly what year it was, but eight
18 years ago.

19 Q Eight years ago. So it would have been about
20 2010 maybe, roughly?

21 A Right.

22 Q Did you know Clifton and Clatie to be girlfriend
23 and boyfriend at any point in time?

24 A They had a relationship, yes, sir.

25 Q And you were familiar with their relationship?

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 A Very.

2 Q Okay. And how would you describe their
3 relationship?

4 A Hot to cold.

5 Q Hot to cold. On and off again, would that be
6 accurate?

7 A On and off again.

8 Q I want to fast forward, prior to Clatie's death,
9 did you ever -- within a few months or so of Clatie's
10 death, did you ever witness Clatie and Mr. Boozer arguing?

11 A Yes.

12 Q All right. Do you recall any arguments that
13 stick out in your mind?

14 A Yes.

15 Q When and where did this argument that sticks out
16 in your mind occur?

17 A At my home on Hams Landing, Christmas one year.

18 Q No, no, the year Clatie died, which was last
19 year.

20 A Oh, okay.

21 Q Do you recall any arguments right before she
22 died or within months of her death?

23 A Last time that I saw her at her home, they were
24 arguing. We were there. I was there with my boyfriend.
25 They were arguing.

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 Q Okay. Clatie and Cliff, you and your boyfriend
2 were at Clatie's house?

3 A Correct.

4 Q Roughly, when was this?

5 A It was March 27th, actually?

6 Q March 27th of last year?

7 A Of last year.

8 Q Why do you know it's March 27th?

9 A Text messages that correspond with the date with
10 her. . .

11 Q Because that's how you know the exact date?

12 A That's right.

13 Q Do you recall Cliff saying anything to Clatie
14 that would be threatening, anything like that?

15 A They were arguing back and forth, bickering, he
16 just made the statement that he -- if he ever saw her with
17 so and so, he would shoot them, you know, whatever. Then
18 she made the comment, she said, Well --

19 Q Don't tell me what she said, what did Cliff say
20 to her?

21 A He just said he'd slit her throat and beat the
22 blood out of her.

23 Q So, you essentially hear three different
24 threats? He's threatening to shoot her?

25 A Uh-huh.

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 Q Threatening to slit her throat?

2 A Uh-huh.

3 Q And threatening to do what again?

4 A Beat the blood out of her.

5 Q Beat the blood out of her. And that was when --
6 that was March 27th at Clatie's house?

7 A Correct.

8 Q And you personally witnessed this argument?

9 A Yes.

10 Q All right. I want to fast toward. When was the
11 last time you saw Clatie in person?

12 A It was the Saturday before she died at Sonic.
13 She is working at Sonic.

14 Q The Saturday before she died?

15 A Correct.

16 Q So, she died on May 3rd, so this would have been
17 late April when you saw her?

18 A Right.

19 Q And at that time, did Clatie express any fear of
20 Mr. Boozer to you?

21 A She told that -- she came --

22 Q Yes or no?

23 A Yes.

24 Q Okay. So, she said she was afraid of him?

25 A Yes.

HEATHER HOBBY-CROSS BY MR. VERNER

1 Q Okay. All right. I don't need to know
2 specifically what she said, just yes or no on that
3 question.

4 MR. DANIEL: Your Honor, that's what we would
5 essentially proffer.

6 MR. VERNER: Just briefly, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. VERNER:

9 Q Okay, Ms. Hobby, we're just here for a proffer
10 right now so the Judge can put limits possibly or not on
11 your testimony. So, what was the statement, while we're
12 out of jury's presence, that you said?

13 A That he would slit her throat and beat the blood
14 out of her.

15 Q There was to another statement that you were
16 saying that Clatie told Cliff. You started to say she
17 said something and then --

18 A When I saw her at Sonic?

19 Q I'm sorry?

20 A When I saw her at Sonic?

21 Q Yes, ma'am.

22 A She said that he had been following her from
23 work and taking pictures of her name tag and her car and
24 sending them to her phone.

25 Q Okay. That was her statement to you?

HEATHER HOBBY-CROSS BY MR. VERNER

1 A Uh-huh.

2 Q Okay.

3 A And that she was scared.

4 Q Okay. How long did you live with Clatie
5 Stribble?

6 A At least, for ten years on and off.

7 Q How many years?

8 A Ten years, on and off.

9 Q Ten years?

10 A Yes.

11 Q How many of these years overlap when she was in
12 a relationship with Clifton Boozer?

13 A Probably about seven.

14 Q About seven out of those ten?

15 A Yes.

16 Q Okay. Did Clifton Boozer ever live with you,
17 too?

18 A He stayed there. I don't know if that makes a
19 difference.

20 Q I'm taking that as maybe not he actually lived
21 there --

22 A He didn't pay any bills. He wasn't on the
23 lease, but he did stay there.

24 Q Okay. And I understand you said it was off and
25 on, but throughout that seven years, he was her roommate

HEATHER HOBBY-CROSS BY MR. VERNER

1 or lived with her?

2 A Correct.

3 Q Okay. Did you have other people live with you,
4 too?

5 A Just one.

6 Q So, you had your boyfriend and she had her
7 boyfriend?

8 A Uh-huh.

9 Q Okay. Did she see anybody else other than Cliff
10 during that time?

11 A No.

12 Q Did you follow her social media accounts, too?

13 A What do you mean?

14 Q Did you follow each other on social media, like
15 Facebook or other apps like that?

16 A Yes.

17 Q When did you stop living with Clatie? When did
18 y'all move out, probably for the last time?

19 A Hams Landing.

20 Q Hams Landing?

21 A Hams Landing Road.

22 Q I apologize.

23 A I'm sorry, Hams landing.

24 Q When was that, though?

25 A I don't know, 2015, '16.

HEATHER HOBBY-CROSS BY MR. VERNER

1 Q Sometime between 2015 and '16 is when you got
2 your own place for good. Was that at the Conifer Drive
3 address?

4 A I never lived there.

5 Q Did you visit her there?

6 A Yes, sir.

7 Q Okay. How often would you see her possibly a
8 week or a month while she was at the Conifer Drive?

9 A I only been there one time.

10 Q You only been to Conifer one time?

11 A I been to Conifer one time.

12 Q Okay.

13 A She didn't live there long.

14 Q Okay. How about the Feather Fun address?

15 A I went there several times.

16 Q Did you ever see Cliff over there?

17 A I did.

18 Q Did you ever -- on the one time you went to
19 Conifer, was Cliff over there?

20 A Yes.

21 Q Okay. So, if I live with somebody for 10 years
22 off and on, I'm pretty familiar with their routine, is
23 that fair to say?

24 A (There was no response.)

25 Q You get pretty familiar with Ms. Clatie's

HEATHER HOBBY-CROSS BY MR. VERNER

1 routine?

2 A Yeah, I would say so.

3 Q Did the girls live there with you? How many of
4 those years did the girls live with you?

5 A If they were living with me, the girls were
6 usually there.

7 Q For the bulk of that ten years, the girls were
8 there, too?

9 A (The witness nods.)

10 Q All the time, continuously?

11 A Yes.

12 Q And so, that meant that you would have started
13 living with Ms. Clatie sometime around 2005, 2006?

14 A Yeah.

15 Q Maybe a little bit earlier, maybe a little bit
16 later, but in that ball park?

17 A Yes.

18 Q Did you living together continuously or did you
19 have short periods of time --

20 A Like, short periods of time until she could
21 maintain still to live on her own.

22 Q Okay. So, at that time, I might have moved off
23 and stayed with somebody else?

24 A Correct.

25 Q Then within a matter of months, maybe a year,

HEATHER HOBBY-CROSS BY MR. VERNER

1 you were back with Clatie staying?

2 A (There was no response.)

3 Q So, that's not a full continuous ten years?

4 A Right, it was on and off again.

5 Q But for the better part of ten years?

6 A Right.

7 Q It's a fact that Clatie usually slept naked,
8 right?

9 A I didn't sleep with her.

10 Q Well, I understand that, but you're still in the
11 home. You don't know whether she slept in the nude?

12 A I mean, she had said that before, but I didn't
13 actually witness that, honestly.

14 Q Okay. As far as the proffer, you don't know
15 whether Ms. Clatie was seeing other men? She never saw
16 any other person since you've known her in the last 25
17 years other than Cliff?

18 A She told me she was afraid to.

19 Q Okay, but you never saw her?

20 A No. Witnessed her, no. No.

21 Q And you didn't see her for the past week prior
22 to her death?

23 A No.

24 Q You don't know where she was the day before?

25 A No.

1 MR. VERNER: Okay, thank you, Ms. Hobby.

2 THE COURT: All right, ma'am, you can step down.

3 Thanks.

4 All right. Any argument to any of the
5 testimony? Any concerns to anyone?

6 MR. DANIEL: Your Honor, I just cite State v.
7 Lee, it's 255 S.C. 309, it stands for the proposition
8 of evidence of previous threats by the Defendant is
9 admissible to show malice as well as being admissible
10 as evidence of intent. And that's per Rule 404(b).
11 Also, there's a Blakely v. State, it's a 2004 case,
12 360 S.C. 636, and it references several other cases
13 with that similar proposition. Malice, of course,
14 being a murder case, so that's why we would show
15 these threats. And then the same argument for the
16 present state of mind exception on Clatie expressing
17 fear of Mr. Boozer. As per the other witness, Brandy
18 Counts, as well, same argument.

19 THE COURT: Mr. Verner, any thoughts?

20 MR. VERNER: Just -- I mean, the first concern,
21 Your Honor, is the danger of the unfair prejudice of
22 the -- I guess that March 27th is the date of the
23 alleged statement?

24 MR. DANIEL: Yes, threatening statements.

25 MR. VERNER: Okay. Your Honor, I do submit that

1 the danger of unfair prejudice toward Clifton Boozer
2 does, in this case, outweigh the probative value
3 given the state of our defense where he's not denying
4 he was responsible for her death. He is saying it
5 was in a self-defense posture. But again, we're not
6 in a situation where he's saying I'm not the person,
7 you got the wrong person or -- and it really hasn't
8 been contested. We haven't had a chance to testify
9 yet, but it really hasn't been contested the nature
10 of the relationship being up and down. That has
11 largely come out through other witnesses as well.

12 So, it would be primarily 403. I understand his
13 statement is not hearsay. But the -- and it's not
14 really a prior bad act. She's just saying a mutual
15 argument. Although, certainly, a threat can be a bad
16 act. So, I do think we do have it under 404 context,
17 that somebody made a threat, supposedly a statement
18 and it's a bad act of making the threat. So, I think
19 that there may be a clear and convincing standard for
20 the judge to let it in. A threat in of itself would
21 be a bad act in my legal opinion. Then you've got
22 the compounded nature that it's an actual statement
23 as well.

24 THE COURT: All right. Well, we are dealing
25 with the statement of the Defendant. So, you're

1 correct, Mr. Verner, that, perhaps, we are in
2 somewhat of a different posture than that of Brandy
3 Counts, who testified earlier. Clearly, Ms. Hobby
4 can testify as to any fear that the victim had of the
5 Defendant, that's along the same lines of the Court's
6 ruling on Counts. If that testimony is elicited,
7 let's do it by leading.

8 As it relates to the Defendant's statement to
9 the extent that the Court needs to engage in a
10 prejudicial effect, probative value sort of analysis,
11 what the Court is focusing on here is, again, the
12 oral statement that the Defendant gave, taped
13 statement, which we heard yesterday, which,
14 essentially, he claims self-defense, or that she fell
15 on the knife herself. We have a statement here where
16 he threatened to slit her throat, took place maybe a
17 few weeks, maybe a month or two before the homicide
18 that we're trying here today. So, clearly that has
19 probative value in the sense that it proves that
20 there was intent to, perhaps, cut her throat. It
21 goes against the Defendant's version of events that
22 any stabbing was self-inflicted by the victim. It
23 does show intent and malice that existed prior to the
24 date in question.

25 So, the Court does conclude that it's probative

1 value outweighs any prejudicial effect to Mr. Boozer.
2 To the extent that it may constitute a threat in and
3 of itself may constitute a prior bad act, can you
4 site me any authority that's previously been found
5 that a threat in of itself is a bad act? Typically,
6 bad acts are an affirmative action, spoken or verbal
7 words.

8 MR. VERNER: Just a threat would be a criminal
9 offense, Your Honor. If I said that someone
10 assaulted -- well --

11 THE COURT: I see it more as it was a
12 situation -- based upon what Ms. Hobby testified to,
13 that it was a condition if he ever saw her with
14 somebody else, he would slit her throat. It wasn't
15 I'm going to slit your throat right now. It was if I
16 ever catch you with another man is how I kind of take
17 her statement. Then I'll slit your throat, which
18 presupposes the condition precedent where he could
19 engage any further slitting.

20 MR. VERNER: As a defense lawyer, I will be
21 arguing that to the Judge and jury that it was not an
22 imminent peril situation. Or -- I don't know quite
23 the circumstances of the argument, but I would --
24 certainly, if someone threatened a schoolteacher,
25 would that be considered a prior bad act? I

1 certainly --

2 THE COURT: Definitely because that's a specific
3 statutory offense where you can't threaten a
4 schoolteacher. People in romantic relationships, I'm
5 sure they often say things that they do not mean. In
6 heated arguments, that's frequently the case, that's
7 something I think you can argue. I doubt any jury
8 would be materially surprised that people who are
9 married or otherwise in a relationship might get into
10 arguments where things are said.

11 Mr. Daniel, you've got a case or something you
12 want to bring to my attention?

13 MR. DANIEL: Yes, sir. That Blakely case I
14 cited, Blakely v. State, 360 S.C. 636, it's an '04
15 case. I know it's in a PCR context, but they do
16 consider threats to be prior bad acts under 404(b).
17 That's how they justify it's admissibility. But
18 again, it becomes even more relevant if you consider
19 Mr. Boozer's interview and the jury will be now
20 entitled to figure out who the primary aggressor is.
21 So, that even adds to the relevancy of it as well.

22 THE COURT: Well, the Court has had the
23 opportunity to view Ms. Hobby's testimony. The Court
24 does find the testimony to be credible. And it
25 comports with the volatile relationship that's

1 already been testified, so that gets over the issue
2 of reliability. So, the Court is satisfied that the
3 State has proven the bad act or prior threat that
4 took place a few weeks before, a couple months
5 before. So, I'll permit her to testify to that
6 subject to the Defendant's objection.

7 All right. We're ready to bring the jury out?

8 MR. SCOTT: Yes, sir.

9 THE COURT: Let's have them.

10 (WHEREUPON, the jury came into open court at
11 approximately 10:22 a.m.)

12 THE COURT: All right, let the record reflect
13 the jury is back and seated. Thank you for your
14 continued patience. Thank you for being here on
15 time. There were a few housekeeping matters we had
16 to address regarding this case that hopefully will
17 help maybe expedite a little bit of testimony here
18 today. So, that's the reason I kept you waiting,
19 sorry about that. I didn't anticipate having to deal
20 with that this morning, but I did.

21 Of course, we're still in the State's case in
22 chief.

23 Mr. Scott, if you'll call the next witness,
24 please.

25 MR. SCOTT: The State calls Brandy Counts.

1 THE CLERK: Raise your right hand, place your
2 left hand on the Bible.

3 BRANDY COUNTS, after being duly sworn, testified
4 as follows:

5 THE CLERK: Have a seat, state your name for the
6 record.

7 THE WITNESS: My name is Brandy Counts.

8 DIRECT EXAMINATION

9 BY MR. SCOTT:

10 Q Brandy, Clatie Stribble, how did you know her?

11 A Me and Clatie were friends.

12 Q How long had you known her?

13 A I've known Clatie for 17 years, but we have been
14 close friends for nine years.

15 Q Okay. And y'all were social acquaintances,
16 close friends or what?

17 A Yes, sir.

18 Q But y'all were also co-workers?

19 A Yes, sir, we worked at Sonic together.

20 Q The one in Chapin?

21 A The one in Chapin, yes, sir.

22 Q Did you know her pretty well over those nine
23 years?

24 A Yes, sir.

25 Q Y'all were close friends, is what you're saying?

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 A Yes, sir.

2 Q Had you been to her home many times?

3 A Yes, sir.

4 Q Okay. And over those nine years of being close
5 friends, did you get to know Mr. Clifton Boozer?

6 A Yes, sir.

7 Q Do you see Mr. Boozer here?

8 A Yes.

9 Q Where is he?

10 A He's sitting right here, sir.

11 Q Were you aware -- what was the relationship
12 between Mr. Boozer and Ms. Stribble?

13 A On again, off again.

14 Q Okay. How would you characterize their on
15 again, off again relationship?

16 A Honestly, toxic.

17 Q Okay. Let's just -- I want to get, I guess, to
18 the night of the incident. Let's go to May 3rd, 2017. Do
19 you remember that date?

20 A Yes, sir.

21 Q Okay. Did you two work at the Sonic that day?

22 A Yes, sir.

23 Q Okay. And that was probably around the time the
24 Sonic opened, was it not?

25 A Yes, roughly a month.

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 Q So, it was -- what was Ms. Stribble's job there?

2 A She was an assistant manager.

3 Q What were you?

4 A I was just a crew member. It was a part time
5 job.

6 Q Okay. Do you remember -- well, let me ask you
7 this, how did she get to work on May 3rd, 2017?

8 A I think one of the coworkers picked her up
9 because her car was broke down.

10 Q You knew she was without a car on that day?

11 A Yes, sir.

12 Q Do you remember what time you two got off?

13 A It was between 1:30 and 1:45.

14 Q Okay. And how was Ms. Stribble planning on
15 getting home that night?

16 A Through me.

17 Q We're talking about 1:45 a.m.?

18 A Yes, sir.

19 Q So, you were going to drive her home. Where was
20 she living at that time?

21 A She was living at 188 Conifer drive in
22 Prosperity.

23 Q Okay. So, did y'all go straight from Chapin to
24 Prosperity?

25 A We stopped at the gas station.

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 Q To get cigarettes and stuff?

2 A Yes, sir.

3 Q Do you know how long y'all were there?

4 A Maybe five minutes.

5 Q Okay. Then about how long would it take you to
6 get from Chapin to her home on Conifer?

7 A I would say anywhere from 15 to 20 minutes.

8 Q So, do you know about what time y'all got to the
9 house?

10 A I was going to say it was like between 2:00 and
11 2:15, something like that.

12 Q Okay. 2:00 to 2:15 a.m. Do you remember, was
13 the door locked when you got there?

14 A Yes. She opened it with a key.

15 Q Okay. Did you go inside with her?

16 A Yes, I did. I had to use the restroom.

17 Q Who did you observe in the house when you got
18 there?

19 A When I walked in, Evelyn was laying on the
20 couch.

21 Q Evelyn, I call her Eve?

22 A Yes.

23 Q She's the older girl. She was asleep on the
24 couch?

25 A Yes, and she woke up when we came through the

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 door.

2 Q Okay. What, if anything, did Clatie bring home
3 to Eve?

4 A She brought home food from Sonic.

5 Q Okay. So, you went in to use the restroom.
6 About how long were you there?

7 A Maybe 10 to 15 minutes.

8 Q Okay. Did you go back to Ms. Stribble's room
9 with her at any time?

10 A When I came out of the restroom, I walked to her
11 bedroom door just to kind of tell her bye and she was
12 sitting on her bed.

13 Q Did she have her phone with her?

14 A Yes, sir, she did.

15 Q Are you sure of that?

16 A I'm positive.

17 Q Okay. And was it on the charger, was it in her
18 hand or where was it?

19 A It was laying on the bed and it was hooked to
20 the charger.

21 Q Where was the charger?

22 A If you walked into her bedroom, it was on the
23 far wall. And there was a socket right -- I think it was
24 a little bit diagonal to the window.

25 Q So, it would be right up under the window in her

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 bedroom?

2 A Yes, sir.

3 Q Let me show you State's 21. What's that?

4 A That's her charger.

5 Q And what is that black thing you kind of see
6 over the charger there?

7 A That looks like a curtain that was over her
8 window.

9 Q Okay. Let me show you State's 19, do you
10 recognize what you're looking at there?

11 A That's her window in her bedroom.

12 Q Okay.

13 MR. VERNER: That last exhibit was 19?

14 MR. SCOTT: This one she's looking at now is 19.

15 MR. VERNER: Okay.

16 MR. SCOTT: The one before would have been 21.

17 MR. VERNER: Thanks.

18 BY MR. SCOTT:

19 Q What are we looking at there?

20 A That's the window to her bedroom.

21 Q Okay. What's that black thing?

22 A That's the curtain.

23 Q Was it like that when you were there?

24 A No.

25 Q So, the charger -- where in relation to picture

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 was the outlet that the charger is plugged into?

2 A Can I hold this up?

3 Q Yeah, we've got it up here, too.

4 A So, it's like right over in this area.

5 Q Can you see the TV? Talking about down here on
6 the wall?

7 A Yes, sir. Yes, sir.

8 Q So, that's where the phone was plugged in and
9 then it was on the bed charging when you left?

10 A Yes, sir.

11 Q All right. Then those curtains were not like
12 that?

13 A No.

14 Q Was the house in disarray?

15 A Absolutely not.

16 Q Okay. Let me ask you to look at State's No. 17,
17 do you recognize that?

18 A That's her bed.

19 Q Is that how it appeared when you were there
20 May 3rd?

21 A No, sir.

22 Q How is that different from how it appeared when
23 you were there?

24 A Her room was completely clean. The curtains
25 were in place and the bed was fully made.

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 Q So, what does it mean for a bed to be fully
2 made?

3 A There were sheets, there was a comforter, there
4 pillow cases and pillows.

5 Q Okay. If we're looking at this picture, to the
6 right of the bed, if you're looking at it from that angle,
7 to the right of the bed, what's over there?

8 A There was a couch there.

9 Q Okay. Let me show you State's No. 28. What's
10 that?

11 A That's a picture of the couch.

12 Q Is that how it appeared when you were there?

13 A No, sir.

14 Q What's different about it?

15 A The stuff that's thrown on top of the couch.

16 Q All that stuff that's piled up was not there?

17 A That was not there, no, sir.

18 Q Okay.

19 MR. VERNER: What number is that again?

20 MR. SCOTT: Twenty-eight.

21 BY MR. SCOTT:

22 Q Okay, I want to show you show you State's No.
23 15. What's that, Brandy?

24 A That's the door to the home.

25 Q Is that how the door appeared when you were

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 there?

2 A No, sir.

3 Q Can you explain to the jury how that's different
4 from what you observed?

5 A The wood was not broken off in the center area.

6 Q Point to -- do you mind stepping down just to
7 show them on the TV? Speak up so the court reporter can
8 hear you.

9 A This area right here was not like this. It had
10 like the, I guess, what you would call a full casing over
11 it. I don't recall the light switch ever being broken and
12 this piece right here was not damaged.

13 Q So, that was not how it appeared when you left
14 at, what did you say, 2:30 a.m. that night?

15 A Correct.

16 Q Okay. And so -- okay, winding down here. But
17 as you were leaving, you poked your head in the room?

18 A Yes, sir.

19 Q And you said she was sitting on the bed?

20 A Yes, sir.

21 Q Let me ask you one more thing, I want to cover
22 that. Did you -- if you remember, this is State's 13, do
23 you recall walking in and that pink thing being --

24 A No, that was not on the floor. The house was
25 spotless.

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 Q Okay. So, this pink thing on the floor right
2 here, do you even know what that is?

3 A I do not, sir.

4 Q But that was not there? You don't remember
5 stepping over that to get through the house?

6 A No, sir.

7 Q All right. So, let me go back to what I was
8 mentioning. She was on the bed. How was she sitting?

9 A She was sitting Indian style.

10 Q All right. We already talked about the phone
11 was there. You're a 100 percent positive?

12 A I'm positive.

13 Q Okay. And you're 100 percent positive the bed
14 was made with sheets on it?

15 A Yes, sir.

16 Q And you've known this woman for nine years as a
17 close friend?

18 A Yes, sir.

19 Q Describe her behavior at that point.

20 A The night of?

21 Q All right. Let's be clear.

22 A Okay.

23 Q You go to the bathroom, you're in the house.
24 You walk to her room after using the bathroom. She's
25 sitting on the bed Indian style. What was her mood at

BRANDY COUNTS-DIRECT BY MR. SCOTT

1 that time?

2 A She just seemed worried.

3 Q Okay. And did you ask her about being worried?

4 A I did.

5 Q Okay. Did she say she was in fear of Clifton
6 Boozer at that point?

7 A Yes, sir, she did.

8 Q Okay. Did you have some more conversation after
9 that?

10 A Yes.

11 MR. VERNER: Subject -- that last question,
12 subject to my prior -- subject to our objection.

13 THE COURT: Subject to prior objection, yes,
14 sir.

15 BY MR. SCOTT:

16 Q Did you have some more conversation after that?

17 A Yes, sir.

18 Q Then did you leave shortly after that?

19 A Yes, sir.

20 Q Okay. Do you remember locking the door or her
21 getting up to lock the door?

22 A She got up and locked the door and cut on the
23 light for me.

24 Q She cut the light on for you?

25 A Yes, sir.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Was that something that was routine for her to
2 do when you would come ever late at night?

3 A Not normally.

4 Q Did she cut the light off after you left?

5 A Once I got in the car and I backed out the
6 driveway, yes, sir.

7 Q Okay. And that was just to have you see your
8 way to the car, I guess.

9 A Yes, sir.

10 Q Was that the last time you saw Clatie Stribble
11 alive?

12 A Yes.

13 MR. SCOTT: Answer any questions Mr. Verner has,
14 please.

15 THE WITNESS: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. VERNER:

18 Q Good morning, Ms. Counts.

19 A Good morning.

20 Q I assume you're talking about the light she cut
21 on for you would be like an outdoor --

22 A Porch light.

23 Q -- porch light?

24 A Yes, sir.

25 Q Do you recall whether that light was on when you

BRANDY COUNTS-CROSS BY MR. VERNER

1 drove her home?

2 A No, it was not.

3 Q And Ms. Clatie had the three daughters who were
4 staying with her at that time, right?

5 A Yes, sir.

6 Q You came home about 2:00, 2:30 in the morning?

7 A Yes, sir.

8 Q Were the lights on in the home?

9 A No, they were not.

10 Q Were any of the lights on?

11 A No, sir.

12 Q And the children were long since asleep?

13 A Yes.

14 Q Okay. And Eve was sleeping on the couch?

15 A Yes.

16 Q I would assume -- when I come home late in my
17 own person life and people are asleep, I don't typically
18 turn on the lights in the home. Do you recall turning on
19 the lights?

20 A She turned on a lamp that was in the living
21 room.

22 Q Okay. Which would be kind of not as quite as
23 bright as putting on the living room lights?

24 A Right.

25 Q What you're calling a curtain, I would call a

BRANDY COUNTS-CROSS BY MR. VERNER

1 sheer, it's really more of a lightweight sheer, isn't it?

2 A Yes, sir.

3 Q It's transparent? It's not as thick or --

4 A Thin curtain, yes.

5 Q And pretty lightweight?

6 A I would assume so, yeah.

7 Q And that would have been pulled over the window?

8 A Yes, sir.

9 Q Okay. And the blinds would have also been
10 closed?

11 A Yes, sir.

12 Q Okay. And she and -- Ms. Clatie and Cliff had
13 been in a sexual relationship for nine years or the bulk
14 of the time that you had known her as a friend?

15 A Yes.

16 Q Okay. Okay.

17 MR. VERNER: Walter, may we have -- Mr. Bentley,
18 sorry, I think it was 21, perhaps, the picture of the
19 couch? I don't know if you still have those. No, it
20 must have been 19. That might be the sheer.

21 THE WITNESS: Twenty-eight.

22 BY MR. VERNER:

23 Q Do you have a picture of the couch?

24 A Yes, it's No. 28.

25 MR. VERNER: Twenty-eight, I'm sorry,

BRANDY COUNTS-CROSS BY MR. VERNER

1 Mr. Bentley.

2 BY MR. VERNER:

3 Q Have you got the picture in front of you?

4 A Yes, sir.

5 Q Just what is the -- do you recognize those items
6 from Clatie's -- Ms. Stribble's bed? Would those have
7 been her bed clothes for the bed?

8 A That may be the comforter --

9 Q What are you talking -- what are you talking
10 about that?

11 A The black.

12 Q On the top, very top?

13 A Yeah, that might be the comforter and this was a
14 pillow that was on the bed.

15 Q What are you talking -- we don't have the
16 pictures, so we don't know.

17 A Okay. This pillow and this comforter right
18 here.

19 Q When you're saying pillow, you're talk about the
20 thing on the far left?

21 A This little blue gray and white --

22 Q Okay. On the far left with kind of the
23 triangle?

24 A Yes.

25 Q Okay.

BRANDY COUNTS-CROSS BY MR. VERNER

1 A And it looks like wrapped up in the black thing,
2 this thing right here, that was the pillow that was on the
3 bed.

4 Q Okay, the white in between the comforter?

5 A Yes, sir.

6 Q What is the black thing on top of the comforter?
7 The comforter itself it a dark color, but then there's a
8 darker black with kind of leopard print around it?

9 A It may have been like a little shawl or
10 something.

11 Q That was more like an article of clothing?

12 A Yeah, that's what it looks like to me.

13 Q Okay. But you don't recognize it necessarily?

14 A Not particularly. I mean, it may be something
15 she wore.

16 Q Okay. Was the couch itself, the leopard that
17 we're looking at, is that the --

18 A No, that was just something she tucked over the
19 couch.

20 Q But that would be something that stayed on the
21 couch?

22 A Yes, sir.

23 Q Okay. And then on the far right, we see kind of
24 a diamond pattern on a white fabric?

25 A I'm not sure what that is.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q The couch is kind of a bluish color?

2 A It's like more of a green.

3 Q Then there's kind of a bluish, light blue thing
4 on the very top right hand of the couch?

5 A I can't really tell what it is because it's
6 balled up.

7 Q You don't recognize whether that's bed clothing
8 or actual clothing?

9 A No. I mean, it looks like maybe a hoodie.

10 Q Okay. And likewise, there's kind of a pink item
11 sticking out?

12 A I see what you're talk about, but I can't
13 identify what it is.

14 Q Okay. Do you recall what Ms. Clatie was wearing
15 on the evening that you were working with her?

16 A We had to wear black pants and she had on her
17 purple Sonic shirt.

18 Q She would have been wearing a work uniform?

19 A Yes, sir.

20 Q And Clatie typically slept naked, didn't she?

21 A I can't answer to that.

22 Q Okay. Did Ms. Clatie smoke cigarettes?

23 A Yes, she did, sir.

24 Q What was her preferred brand?

25 A Pall Mall Blacks.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Okay. Did Ms. Stribble keep any kind of weapons
2 in her bedroom?

3 A Yes, sir.

4 Q What did she keep in her bedroom?

5 A A knife.

6 Q Just one?

7 A It was two to my knowledge.

8 Q Where did she keep her knives?

9 A She kept one under her pillow and one on her
10 dresser?

11 Q Did you ever see them?

12 A Yes, sir.

13 Q Describe the knives that she kept in her
14 bedroom.

15 A I believe the one -- if recall correctly, the
16 one that was on the dresser was like just like a small
17 steak knife type thing.

18 Q Right. Just a regular kitchen knife?

19 A Just like a regular kitchen knife.

20 Q Not like a chef's knife, but the knife that I
21 would eat --

22 A Correct.

23 Q Okay.

24 A But the one that was either on her nightstand or
25 under her pillow was a larger knife. Like one that --

BRANDY COUNTS-CROSS BY MR. VERNER

1 like if you were preparing dinner and needed to cut up
2 meat, it was like that size.

3 Q All right. Bigger than I would eat typically at
4 dinner if I had meat, but -- do you know what color handle
5 it could have had?

6 A I don't recall.

7 Q But the two knives, they were typically kitchen
8 knives?

9 A Yes.

10 Q Okay. How long had Ms. Stribble been working at
11 Sonic?

12 A Roughly, a month.

13 Q Okay. She had already become an assistant
14 manager?

15 A Yes.

16 Q Did she help you get that job or you helped her
17 get that job or you just coincidentally ended up at the --

18 A She got the job first and I was looking for part
19 time work.

20 Q Okay. Do you know where Ms -- how long
21 Ms. Stribble had had her car? Do you know when she bought
22 her car?

23 A Since February, if I'm not mistaken.

24 Q So, she had that car about three or four months
25 prior?

BRANDY COUNTS-CROSS BY MR. VERNER

1 A Yes.

2 Q Do you know where that car was on May 2nd?

3 A I just know that it was in Newberry. I'm not
4 sure of the location.

5 Q You don't know whether -- well, let me ask you
6 about the -- was Ms. Stribble protective of her telephone?

7 A I mean, she kept it with her.

8 Q Okay. We're all sort of protective of our cell
9 phones, aren't we?

10 A Yes.

11 Q Was she concerned that Cliff might go through
12 her cell phone?

13 A Not to my knowledge.

14 Q Okay. You've known Ms. Clatie for about nine
15 years?

16 A Yes, sir.

17 Q But would it be possible that she would have not
18 wanted Cliff to go through her cell phone?

19 A Not to my knowledge at the time, no, sir.

20 Q Okay. So, whether she would have hidden the
21 phone from Cliff, you don't --

22 A I can't answer to that.

23 Q You just don't know?

24 A Uh-huh. Because if she --

25 Q Okay. And the house was kept up, right?

BRANDY COUNTS-CROSS BY MR. VERNER

1 A Yes.

2 Q But I mean, there were clothes lying around the
3 bed?

4 A I mean, there possibly could have been. I mean,
5 there were four women in the house.

6 Q Four women in the house, teenagers and younger
7 kids --

8 A Yeah.

9 Q -- so, I mean, it was kept up, it wasn't
10 clothing throughout the house?

11 A No, not to my knowledge.

12 Q I wouldn't call it a mess, but I would still see
13 signs of people were -- young girls?

14 A Yes, absolutely.

15 Q Do you wear -- when you go to work at Sonic,
16 they make you wear your own black pants?

17 A Yes, sir.

18 Q And those are just personal clothing?

19 A Yes, sir.

20 Q And then they provide you a work shirt?

21 A Yes, sir.

22 Q Okay. Is it kind of a polo shirt or is it a
23 button-up shirt?

24 A It was -- the style that she wore was an actual
25 like polo shirt.

BRANDY COUNTS-CROSS BY MR. VERNER

1 Q Okay. Do you wear that to work or do they
2 supply it to you at the job?

3 A You wear it to work.

4 Q Okay. Do you wear clothing under that shirt or
5 is that just basically -- again, I apologize, was it a
6 polo shirt or a button-up shirt?

7 A It was just a polo shirt, like there was no
8 buttons on it.

9 Q Short-sleeved?

10 A Yes, sir.

11 Q Okay. So, not the type of a frock or heavy
12 clothing that you would typically wear your own clothing
13 underneath and then put like the work clothing on top of
14 it when you got there?

15 A No.

16 Q Okay.

17 MR. VERNER: I think that's it, but may I just
18 double check, Your Honor?

19 THE COURT: Yes.

20 BY MR. VERNER:

21 Q And this is just my last questions. You saw Eve
22 that night because she was sleeping on the couch and she
23 woke up when you --

24 A Yes, sir.

25 Q Did you see the other girls?

BRANDY COUNTS-CROSS BY MR. VERNER

1 A No, they were in the bedroom.

2 Q Okay. And they were all school age, so they
3 would have gotten up the next morning to go to school?
4 This was a weekday?

5 A Yes, sir.

6 Q Okay. Now, the road, Conifer Drive, what kind
7 of road is that?

8 A It's a dirt road and it has a bend right before
9 you get to Clatie's home.

10 Q Okay. Are there a lot of -- is it constantly
11 houses or is it a more wooded area?

12 A When you first enter, it's kind of a wooded
13 area, then you start to approach several houses.

14 MR. VERNER: All right. Unless the prosecutor
15 has follow-up questions, I appreciate your testimony.
16 Thank you.

17 THE COURT: Ma'am, thank you, you can step down.
18 You're free to go.

19 Solicitor, call your next witness, please.

20 MR. DANIEL: Your Honor, the State calls Heather
21 Hobby.

22 THE CLERK: Raise your right hand, place your
23 left hand on the Bible.

24 HEATHER HOBBY, after being duly sworn, testified
25 as follows:

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 THE CLERK: Please state your name.

2 THE WITNESS: Heather Hobby.

3 DIRECT EXAMINATION

4 BY MR. DANIEL:

5 Q All right, Ms. Hobby, make sure you speak into
6 the mic clearly so we can all hear you. Ms. Hobby, did
7 you know Clatie Stribble?

8 A Yes, sir.

9 Q Speak up a little bit.

10 A Yes, sir.

11 Q And was she a friend of yours?

12 A She was my best friend.

13 Q So, y'all were best friends?

14 A Yes.

15 Q You're from Newberry?

16 A Little Mountain.

17 Q Little Mountain, okay. When did you first meet
18 Clatie?

19 A At the skating rink when we were 14 years old.

20 Q Y'all are the same age?

21 A Yes.

22 Q Okay. And did y'all become best friends pretty
23 much right off the bat?

24 A Not right away. But we were high school range,
25 we became best friends 16, 17.

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 Q And so, y'all have been best friends since y'all
2 were teenagers?

3 A Yes.

4 Q Okay. Were y'all ever roommates or anything
5 like that?

6 A Yes, we lived together.

7 Q How long did y'all live together?

8 A On and off again for about ten years.

9 Q Okay. Did you remain best friends with Clatie
10 until the day she died?

11 A I did.

12 Q Do you know Clifton Boozer?

13 A Yes.

14 Q Do you know him as Cliff?

15 A Yes.

16 Q All right. How did you first meet Cliff -- or
17 how and when did you first meet Cliff?

18 A It was about 2010, '11, somewhere around there,
19 October of that year.

20 Q Okay. How did you meet him?

21 A I met him through Clatie.

22 Q Okay. And did Clatie and Cliff start dating
23 around that time, 2010, 2011?

24 A Yes, they did.

25 Q So, would you hang out with Cliff and Clatie?

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 A I did.

2 Q How would you describe or how would you
3 characterize their relationship?

4 A On again, off again.

5 Q Okay. Was it a healthy relationship, toxic
6 relationship?

7 A Tumultuous.

8 Q Tumultuous?

9 A Yes.

10 Q Okay. I want to fast forward to 2017, the weeks
11 and months leading up to Clatie's death. Where did Clatie
12 live right before she died?

13 A She lived on Conifer Drive.

14 Q 188 Conifer Drive?

15 A Yes, sir.

16 Q Would you go over there and visit?

17 A I went there one time. She hadn't lived there
18 long.

19 Q Okay. And I guess in 2017, do you recall ever
20 being at Conifer Drive and Cliff and Clatie were there as
21 well?

22 A Yes.

23 Q All right. And why were you -- why was everyone
24 over there at Conifer Drive?

25 A We just got together just to hang out one night,

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 cook out.

2 Q All right. Again, when was this -- and this was
3 one time y'all were hanging out at Conifer Drive?

4 A She hadn't lived there long and she invited me
5 over. Me and my boyfriend went over. It was March 27th.

6 Q March 27 of 2017?

7 A Yes.

8 Q So, a little over a month before she died?

9 A Yes.

10 Q And your boyfriend was there, too?

11 A Yes, sir.

12 Q So, it was just kind of a social gathering?

13 A Uh-huh.

14 Q Do you recall if Cliff and Clatie got into any
15 kind of argument on that particular get-together?

16 A Yes.

17 Q Okay. Do you recall it getting pretty heated?

18 A It did.

19 Q Do you remember Cliff making any type of threats
20 against Clatie at that time?

21 A He did.

22 Q What were some of threatening things he said?

23 MR. VERNER: Subject to my --

24 THE COURT: Subject to your earlier objection.

25 You may continue.

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 THE WITNESS: He said that if he ever saw her
2 with someone else, he would shoot them both. He made
3 the statement that he would slit her throat and beat
4 the blood out of her. He made the statements -- they
5 were arguing back and forth and just escalated to
6 those statements being made.

7 BY MR. DANIEL:

8 Q So, you recall, I guess, three different threats
9 that Cliff made against Clatie that night -- or was it at
10 night?

11 A It was at night.

12 Q Okay. It was one being, if I ever catch you
13 with someone else, I'll shoot you?

14 A Shoot you both.

15 Q Shoot you both. And I'll slit your throat?

16 A (The witness nods.)

17 MR. VERNER: Your Honor, I'll object. It's
18 asked and answered and now he's commenting on the
19 witness's testimony as opposed to asking her
20 questions.

21 THE COURT: Let's stick with questions, please.

22 BY MR. DANIEL:

23 Q All right. But it's three specific threats you
24 recall him making?

25 A Yes.

HEATHER HOBBY-DIRECT BY MR. DANIEL

1 Q Okay. And did you find this exchange
2 disturbing?

3 A We left right after that, yes, I did.

4 Q So, you found it disturbing?

5 A Yes.

6 Q So, let's be clear, this wasn't in jest or
7 joking?

8 A No, not at all.

9 Q That caused y'all to leave the social gathering?

10 A I did, yes.

11 Q How are you so sure this was March 27th?

12 A Well, I have text megasses that correlate
13 between the two of us that day.

14 Q So, that's how you know that occurred on that
15 particular day?

16 A Yes, yes.

17 Q So, that's a little over a month before she
18 died, again. All right. When was the last time you saw
19 Clatie alive?

20 A It was Saturday before she died. She was at
21 work.

22 Q All right. Saturday before she died, so I
23 looked at a calendar, last year's calendar, would that be
24 April 29th?

25 A Yes, it was.

HEATHER HOBBY-CROSS BY MR. VERNER

1 Q Saturday before she died. And where did you see
2 Clatie?

3 A She was at work at Sonic.

4 Q Work at Sonic. All right. At that time, did
5 Clatie express any fear in regards to Cliff?

6 A She did.

7 Q All right.

8 A She said she was scared.

9 Q All right.

10 MR. VERNER: Your Honor, also, subject to my
11 objection earlier.

12 THE COURT: Subject to earlier objection,
13 overruled.

14 BY MR. DANIEL:

15 Q That was the last time you ever saw her?

16 A That was the last time I saw her.

17 Q Was that the last time you ever talked to her?

18 A That was the last time I talked to her, too.

19 Q Last time you talk to her as well, okay.

20 A Yes.

21 MR. DANIEL: Thank you. Please answer any
22 questions Mr. Verner has.

23 CROSS-EXAMINATION

24 BY MR. VERNER:

25 Q Good morning, Ms. Hobby.

HEATHER HOBBY-CROSS BY MR. VERNER

1 A Good morning.

2 Q You had lived with Clatie Stribble not
3 continuously is my understanding, but on again, off again
4 since 2006? Is that when you said you first moved in,
5 2007, 2006?

6 A Yes.

7 Q Okay. And you lived together for the better
8 part of 10 years?

9 A I would say on and off again for 10 years.

10 Q Okay. That was not continuously, but that was
11 pretty -- the bulk of those years?

12 A Yes.

13 Q There may be times when she moved out or you
14 moved out, but you ended up back together?

15 A Yes, sir.

16 Q Okay. What was the year that you and Ms. Clatie
17 Stribble stopped living together? The final year that you
18 lived together?

19 A Probably 2016.

20 Q Okay. Of those years, did Clifton Boozer ever
21 live with you?

22 A He would stay over occasionally.

23 Q How many over --

24 A Often.

25 Q Often?

HEATHER HOBBY-CROSS BY MR. VERNER

1 A Often.

2 Q Over a period of how many years?

3 A Eight.

4 Q Okay. Eight of those ten years, Clifton was
5 often staying over there, too?

6 A Yes.

7 Q In a sexual relationship with Ms. Clatie?

8 A Never saw them have sex?

9 Q But as a roommate, at least?

10 A Yeah. In a relationship, yes.

11 Q On occasion, did you also live with your
12 boyfriend there?

13 A On occasion, yes.

14 Q And I believe the statements you were talking
15 about with the solicitor, they were in March of this year?

16 A Yes.

17 Q Okay. And you characterize that as a mutual
18 argument that got louder and louder?

19 A It was --

20 Q You told the solicitor that?

21 A I said they had an argument, yes.

22 Q Or a confrontation, but they were both going at
23 it pretty emotionally?

24 A I don't think it was both of them.

25 Q I couldn't hear you.

HEATHER HOBBY-CROSS BY MR. VERNER

1 A I don't think it was both of them.

2 Q Well, you said it was a mutual argument?

3 A I said an argument, it escalated.

4 Q Okay. The one time that you went to Conifer
5 Drive, was Cliff there?

6 A Yes.

7 Q Okay. And how long had Ms. Clatie lived on
8 Conifer?

9 A I'm not exactly sure person when she lived into
10 Conifer exactly.

11 Q Okay. When was that that you had gone to Confer
12 Drive?

13 A March 27th.

14 Q Okay. The last you had been to Conifer, the one
15 and only time?

16 A Yes.

17 Q Had you -- prior to that, where was Ms. Stribble
18 living?

19 A Feather Run Trail, I think.

20 Q Who was she living with there?

21 A She lived with Jennifer Brokob.

22 Q Did Cliff ever stay there?

23 A He was there when I went there.

24 Q Okay. Did he --

25 A But there were also times I went there and he

HEATHER HOBBY-CROSS BY MR. VERNER

1 wasn't there.

2 Q Okay. I don't want to step on toes, but is it
3 accurate to say that you were convicted of possession of
4 meth this year?

5 A That's true.

6 Q You're in a program to work through that, but
7 you were convicted?

8 A Convicted, no. I haven't been convicted.

9 Q You pled guilty or were found guilty?

10 A I'm on probation for conditional discharge.

11 Q You're in a program with the solicitor's office
12 and probation to get it off your record?

13 A That's right.

14 Q But you did have to plead guilty to go into that
15 program?

16 A Yes, that's right.

17 Q Okay. Is it fair to say that Ms. Stribble often
18 slept in the nude?

19 A I didn't sleep with her.

20 Q You didn't sleep with her?

21 A I didn't sleep with her, so I don't know.

22 Q You don't know or you're not aware?

23 A I never saw her sleeping nude.

24 Q You never saw in the bedroom?

25 A Uh-huh.

HEATHER HOBBY-CROSS BY MR. VERNER

1 Q Do you know when Ms. Stribble got the tattoo
2 with Cliff's name on it?

3 A Do I know when?

4 Q When?

5 A I don't know exactly when.

6 Q Okay. Did you know Ms. Stribble in 2011?

7 A Yes.

8 Q Were you living with her at that time?

9 A Yes. Yes.

10 Q You were living with her?

11 A Yes.

12 Q That would have been the period you were living
13 with her?

14 A I think that's when we were staying at a
15 friend's house. Both of us were staying at a friend's
16 house.

17 Q Did Ms. Stribble attempt to kill herself when
18 you were there by overdosing of pills?

19 A I'm aware of that, yes.

20 Q Were you present when that happened or living
21 with her at the time?

22 A No, I was not present, no.

23 Q Do you know if Ms. Stribble was ever on any
24 treatment for mental health issues?

25 A Not treatment, no.

HEATHER HOBBY-CROSS BY MR. VERNER

1 Q I apologize?

2 A Not treatment, no.

3 Q I understand -- you haven't testified in the
4 court before, have you?

5 A No.

6 Q Okay. But just these are the people who need to
7 hear, so I'm going to speak to you from over here just so
8 we're clear.

9 A Okay.

10 Q You're aware of the time Ms. Stribble overdosed
11 in 2011?

12 A Yes.

13 Q My question is were y'all living together at
14 that time?

15 A No, we were not living together then, no.

16 Q But you were still seeing her regularly at that
17 time?

18 A Absolutely, yes.

19 Q Did you live with her -- come back to live with
20 her after that time?

21 A Yes.

22 Q Do you recall how shortly after that they
23 started living together with her again?

24 A I want to say it was about six months.

25 Q So, just a matter of months?

HEATHER HOBBY-REDIRECT BY MR. DANIEL

1 A Uh-huh.

2 Q Are you aware of whether Ms. Stribble was taking
3 medication for bipolar condition?

4 A No.

5 Q What about depression?

6 A No, I don't know.

7 Q If she was, you just don't know? That was her
8 private?

9 A Right.

10 Q Okay.

11 MR. VERNER: Thank you, Ms. Hobby. If the
12 prosecutors have any follow up.

13 MR. DANIEL: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. DANIEL:

16 Q That March 27th of last year argument where
17 Cliff made these threats, I think Mr. Verner was asking
18 you were they both going at it pretty good kind of thing;
19 is that correct, he asked you that?

20 A Right.

21 Q Did you say it was kind of one-sided?

22 A It was one-sided.

23 Q What do you mean by that?

24 A He did most of the talking.

25 Q Okay. Did Clatie issue any threats against

HEATHER HOBBY-REDIRECT BY MR. DANIEL

1 Cliff?

2 A No.

3 Q So, it was Cliff just threatening her?

4 A She would say things back like you're being a
5 jerk --

6 MR. VERNER: Your Honor --

7 BY MR. DANIEL:

8 Q Just yes or no, did Cliff -- was it just Cliff
9 saying -- making threats to Clatie?

10 A Yes.

11 Q Did Clatie make any threats in return?

12 MR. VERNER: Again, that's the same as before.
13 We're getting beyond the purpose of what the State's
14 allowed to do.

15 THE COURT: I really think we're good if you
16 want to address anything specific Mr. Verner raised?

17 MR. DANIEL: Yes, sir.

18 BY MR. DANIEL:

19 Q And the suicide or overdose attempt, you were
20 aware of that?

21 A Yes.

22 Q And that was in 2011?

23 A I'm not sure about the exact date, but I do
24 remember the event.

25 Q Was that before or after she met Cliff?

HEATHER HOBBY-REDIRECT BY MR. DANIEL

1 A After.

2 Q Had she ever attempted suicide before she met
3 Cliff?

4 A No.

5 Q So, only after she met Cliff, she attempted
6 suicide?

7 A Right.

8 MR. DANIEL: Thank you.

9 THE COURT: All right. All right, ma'am, you
10 can step down.

11 Solicitor, do you have a brief witness before
12 break?

13 MR. SCOTT: Probably might be a good time for a
14 break.

15 THE COURT: Ladies and gentlemen, we're going to
16 take a few minutes. I know y'all have only been out
17 here about 40 minutes, but we've been out here
18 longer. Be at ease for a few moments. Adjourn to
19 the back, don't discuss the case. I'll be right back
20 with you, okay. Thank you.

21 (WHEREUPON, the jury left open court at
22 approximately 11:05 a.m.)

23 (WHEREUPON, a short break was taken.)

24 THE COURT: We will go back on the record.
25 Let's have the jury, please.

1 (WHEREUPON, the jury came into open court at
2 approximately 11:24 a.m.)

3 THE COURT: All right, let the record reflect
4 the jury is back and seated.

5 Solicitor, you may call your next witness.

6 MR. SCOTT: The State calls Niyla Williams.

7 THE CLERK: Raise your right hand, place your
8 left hand on the Bible..

9 NIYLA WILLIAMS, after being duly sworn,
10 testified as follows:

11 THE CLERK: State your name for the record.

12 THE WITNESS: Niyla Williams.

13 DIRECT EXAMINATION

14 BY MR. SCOTT:

15 Q Niyla, how old are you?

16 A I'm 12.

17 Q Tell me who your sisters are.

18 A Eve Williams and Isis Williams.

19 Q You're the youngest?

20 A Yes, sir.

21 Q Am I right, Eve's the oldest and then Isis is
22 the middle girl, and then you're the youngest?

23 A Yes, sir.

24 Q What did you say, you're still 12 or you turn 13
25 pretty soon?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A I turn 13 this Thursday.

2 Q This Thursday?

3 A Like the one that's coming up.

4 Q Okay. You excited about that?

5 A Kind of.

6 Q Going to be an teenager?

7 A (The witness nods.)

8 THE COURT: That's yes.

9 BY MR. SCOTT:

10 Q All right. So, where are you, are you at
11 MidCarolina Middle School?

12 A Middle school.

13 Q Okay. Very good. And who do you live with now?

14 A Christy and Dale Igener.

15 Q Christy Igener. All right, Eve right there to
16 the far right, that's your older sister. And I don't know
17 who that is, but then that's Christy Igener, who you live
18 with. This is Isis right here. That's who we're talking
19 about?

20 A Uh-huh.

21 Q And who's your father?

22 A My real father?

23 Q Yes.

24 A Scott Williams.

25 Q Okay. And then your mother was who?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A Clatie Stribble.

2 Q Okay. And you know why we're here today and why
3 we've been here all week. So, we're going to be talking a
4 lot about that time. Who is Clifton Boozer?

5 A The man who killed my mom.

6 Q Well, how did you know him?

7 A Through my mom.

8 Q Through your mom. And hey, girl, can you speak
9 up just a little bit more? I know it's not something you
10 want to talk loudly about, but so everybody can hear what
11 you're saying. How -- what was your mother's relationship
12 with Clifton?

13 A They were on and off girlfriend and boyfriend.

14 Q Okay. And what was your relationship with
15 Mr. Boozer?

16 A (The witness shrugs shoulders.)

17 Q Let me put it this way, did you hear his
18 interview yesterday when we played it on the TV?

19 A Uh-huh.

20 Q Remember how he said you were his everything in
21 his world?

22 A Yeah, I wasn't.

23 MR. VERNER: Your Honor, again, when you have a
24 witness -- and I understand that statement's not
25 testimony, the statement, but it's typically improper

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 for one witness to testify about the words of another
2 witness.

3 THE COURT: All right. I think I understand
4 what you're getting at.

5 Solicitor, obviously, under the circumstances,
6 you will be allowed to a certain amount of leading,
7 but, perhaps, it's best to focus on what she actually
8 observed.

9 MR. SCOTT: Yes, sir.

10 BY MR. SCOTT:

11 Q Okay. Clifton Boozer, did he ever permanently
12 live with you at your house in Feather Run?

13 A He was there sometimes, but sometimes he wasn't.

14 Q He was there -- speak up.

15 A He was there sometimes, but sometimes he wasn't.

16 Q Pull that microphone closer to you. Is that
17 better? Lean into it. He was there sometimes and
18 sometimes he wasn't at the Feather Run house?

19 A Uh-huh.

20 Q Was there ever a time when he wasn't supposed to
21 be there anymore?

22 A At Feather Run?

23 Q Yes.

24 A One time, my momma had kicked him out, yes.

25 Q Okay. And do you remember when you guys moved

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 to the Conifer drive house in Prosperity?

2 A (The witness nods.)

3 Q You remember moving there?

4 A Uh-huh.

5 Q Now, say yes or no, too. You can't nod your
6 head. See her typing everything you're saying.

7 A Yes.

8 Q So -- you do, okay. Then who moved from the
9 Feather Run house to the Conifer Drive house?

10 A My mom, me and my sisters.

11 Q Okay. You, Eve, Niyla and your mom?

12 A Me, Eve, Isis and my mom.

13 Q Oh, I'm sorry, okay. Sorry. Did Mr. Boozer get
14 to move in there with y'all at first?

15 A No, sir.

16 Q At some point, did he start showing back up
17 there again?

18 A Yes, sir.

19 Q Did he live there permanently?

20 A No, sir.

21 Q Okay. Well, did he -- did he kind of have all
22 his stuff there? Did he live out of a bag? How was it
23 that --

24 A He had like a bag of clothes there, but never
25 really all his stuff.

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 Q Okay. Tell me, what was the difference just in
2 household when Cliff was there compared to when he wasn't
3 there?

4 A My mom --

5 MR. VERNER: Your Honor, I object. I don't know
6 the relevance of that question. And then are we
7 getting into 404 issues?

8 THE COURT: Repeat the question again,
9 Solicitor.

10 MR. SCOTT: I said what was the difference in
11 the household compared when Cliff was there and when
12 he was not there. The question is asked to show
13 household dynamics.

14 THE COURT: All right, just be careful about it.

15 MR. SCOTT: Yes, sir.

16 BY MR. SCOTT:

17 Q So, you want me to ask the question again?

18 A Please.

19 Q Okay. You said Cliff would be there sometimes
20 and sometimes, he wouldn't be?

21 A Yes, sir.

22 Q Could you -- was there a difference -- I don't
23 want you to say what people would say, but was there a
24 difference you can describe in your house between when
25 Cliff was there and when he wasn't there?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A Yes. My mom, when he wasn't there, she was
2 always herself, she was always laughing, she was always
3 smiling. But like when he came around, she would like --
4 basically, she would shut us out. She would be in the
5 room with him and she would never come out.

6 Q So, you feel like you didn't get as much
7 attention from your mom when he was there?

8 A Yes, sir.

9 Q And you're just saying they would kind of
10 retreat to another room?

11 A Yes, sir.

12 Q Okay. But when he wasn't there, she was more
13 outgoing with you guys?

14 A Yes, sir.

15 Q Let me see what I want to ask you. All right.
16 You remember the day your mom passed away?

17 A Yes, sir.

18 Q That was a Wednesday?

19 A Yes, sir.

20 Q Do you remember the Monday before that, two days
21 before?

22 A Yes, sir.

23 Q Okay. And your mom was having some car trouble
24 that day, right?

25 A Yes, sir.

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 Q And something about the battery kept dying, do
2 you remember that?

3 A Yes, sir.

4 Q May of last year, what kind of sports were you
5 involved in at school?

6 A Cheerleading.

7 Q Then you remember that Monday because what did
8 you have to do in regards to your cheerleading?

9 A I had to get a physical.

10 Q Okay. Where was that?

11 A At Doctors Care.

12 Q Talking about that Doctors Care that's up Wilson
13 Road towards Clinton? Do you know where it is? If you
14 don't know, that's okay.

15 A Uh-huh.

16 Q Was it the Doctors Care in Newberry?

17 A Yes, sir.

18 Q Okay. Tell me what you remember about when you
19 left the Doctors Care and you were heading back towards
20 Prosperity?

21 A I remember we broke down like at a red light.

22 Q Uh-huh.

23 A And we kind of coasted in to Cliff's sister's
24 house because that was the closest place we could leave
25 the car.

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 Q Was your mom -- were you all excited to be at
2 Clifton's sister's house or was -- you're saying that was
3 just the closest place?

4 A Yes, sir. I wasn't excited. No reason to be.

5 Q Was -- did you talk with Clifton Boozer's
6 sister?

7 A No, sir.

8 Q Okay. Do you know her name?

9 A I don't remember.

10 Q Okay. Natasha, is that what her name is?

11 A Something like that.

12 Q Okay. Well, did you see her that day?

13 A No, sir.

14 Q Okay. Did y'all leave your car at her house,
15 though?

16 A Yes, sir.

17 Q Do you remember seeing Clifton Boozer there?

18 A Yes, sir.

19 Q How was he acting?

20 A He was drunk.

21 Q Well, did your mom and he talk with one another?

22 A Yes, sir.

23 Q Was it a happy conversation or not happy
24 conversation?

25 A No, it wasn't happy.

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 Q Okay. Did he -- so the car had to get left
2 there, so how did y'all get home?

3 A My mom called a cab.

4 Q Okay. Did Clifton get in the cab with you guys?

5 A No, sir.

6 Q Who was with you that day?

7 A It was me, my mom and Eve.

8 Q Okay. Where was Isis?

9 A She was at home.

10 Q Okay. So, y'all took a cab from Newberry,
11 Clifton's sister's house, on back to Prosperity?

12 A Yes, sir.

13 Q Okay. I want to ask you, do you remember
14 earlier that morning something happening at the house,
15 Monday morning?

16 A Yes, sir.

17 Q Okay. But you were asleep through a lot of
18 that?

19 A Yes, sir.

20 Q Okay. All right. Let me ask you about that
21 Wednesday morning, okay, when everything happened. The
22 night before, so Tuesday night going into Wednesday
23 morning. Are you a heavy sleeper or light sleeper?

24 A I'm light.

25 Q Light?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A Yes, sir.

2 Q Do you remember something that night waking you
3 up or something like that?

4 A Yes, sir. It was like a loud noise that woke me
5 up.

6 MR. VERNER: Your Honor, just can I briefly be
7 heard, possibly sidebar?

8 THE COURT: Come on up.

9 (WHEREUPON, a bench conference was held in the
10 presence of the jury but out of the hearing of
11 the jury.)

12 MR. VERNER: I apologize, Your Honor.

13 THE COURT: Solicitor, please continue.

14 BY MR. SCOTT:

15 Q Okay. I know what I was asking you, Tuesday,
16 the night before. You said you were a pretty light
17 sleeper. Tell me what happened. You said something woke
18 you up?

19 A I woke up around 5:30, 5:45 because I heard a
20 loud noise.

21 Q Do you know what it was?

22 A No, sir.

23 Q What did you do after you heard that loud noise?

24 A I woke up. I looked around the house. I looked
25 in my mom's room to see if she was in there and she was,

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 she was asleep.

2 Q Well, let's get this out of the way. Your mom
3 slept in the nude sometimes?

4 A Yes, sir.

5 Q So, that was not unusual for her to sleep like
6 that?

7 A No, sir.

8 Q Well, let me ask you this, when you went in
9 there, did she have sheets on her bed?

10 A Yes, sir.

11 Q Did you ever figure out what that noise was that
12 you heard?

13 A No, sir.

14 Q Okay. Could you tell where it came from?

15 A Outside.

16 Q Okay. Did you go outside?

17 A No, sir.

18 Q I don't blame you. Okay. And then you said
19 that was 5:50, 5:45. What time do y'all typically wake
20 up -- do you ride the bus or how do you get to school?

21 A I rode the bus.

22 Q Okay. What time did the bus typically pick up?

23 A Around 6:45.

24 Q You probably didn't go back to sleep after
25 hearing the noise if that was about an hour before the

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 bus?

2 A I don't remember going back to sleep, no.

3 Q Well, tell me what -- the rest of that morning,
4 you're getting ready, I guess, for school. And was Eve
5 awake?

6 A Yes, sir.

7 Q Okay. Did Isis wake up, too?

8 A Yes, sir.

9 Q Did your mom just stay in the bed?

10 A Yes, sir.

11 Q What time -- if the bus picks up about 6:45 --
12 your bus stop's up by Laura Kneece's house?

13 A Yes, sir.

14 Q I think she said that's the corner of Brown and
15 Conifer, is that what you remember?

16 A Yes, sir.

17 Q How long did it take you to walk up to the
18 school bus?

19 A Probably about five minutes.

20 Q Five minutes. Were you typically waiting at the
21 bus stop for a while for the bus to get there or were
22 y'all kind of chasing after it before --

23 A Most of the time, we were just sitting and
24 waiting.

25 Q Okay. Do you remember about what time you would

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 have let the house to catch that 6:45 bus?

2 A I don't remember.

3 Q Okay. Do you remember if you had to wait that
4 day or you got there around the time it was arriving?

5 A Yes, sir.

6 Q What was it?

7 A I got there around the time it was arriving.

8 Q Okay. And you said it was about five minutes,
9 so you think you left the house around 6:40 maybe,
10 somewhere in that time?

11 A (There was no response.)

12 Q It's not a trick question. If the bus got
13 picked up 6:45, what time do you think you left your
14 house? If you don't know, you don't know.

15 A I don't know.

16 Q Okay. That's fine. Before you left, did you go
17 say good-bye to your mother?

18 A Yes, sir.

19 Q Okay. And what did you see in her room?

20 A Well, I walked in there and I seen her. She was
21 asleep and she was laying on like the side towards the
22 couch.

23 Q Uh-huh.

24 A She was laying on that side of the bed.

25 Q Okay. Did she have a comforter on the bed?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A Yes, sir.

2 Q What did that look like?

3 A It was black and white.

4 Q Okay. And did she have sheets on the bed?

5 A Yes, sir.

6 Q Did your mom sleep with sheets on her bed?

7 A Yes, sir.

8 Q Okay. What about what kind of curtains did she
9 have in that room?

10 A She had like a black curtain.

11 Q Black curtain?

12 A Uh-huh.

13 Q How did that look to you? Did it look like it
14 normally did or was there anything different about it?

15 A When I walked in, it was usually how it was.

16 Q It was how it usually was?

17 A Yes, sir.

18 Q So, it was hanging up like a normal curtain?

19 A Yes, sir.

20 Q Okay. Tell me -- all right, so did you talk to
21 your mom, though?

22 A Yes, sir.

23 Q Did you tell her good-bye for the day?

24 A I walked in there, I said, Good-bye, momma, I'm
25 fixing to go.

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 She said, I love you.

2 I said, I love you, too.

3 She said, It's the second day of try-outs,
4 do good.

5 And I said, I love you.

6 And she said, I love you, too.

7 And then I walked out the door.

8 Q All right. You told her you loved her and she
9 said she loved you, right?

10 A (The witness nods.)

11 Q You need a break?

12 A No, sir.

13 Q Okay. All right. So, then you got to get out
14 of the house pretty quick to catch the bus. Tell me about
15 locking -- do you remember whether y'all locked the door
16 that morning?

17 A No, sir.

18 Q Was that something that y'all were in the habit
19 of doing, though?

20 A Yes, sir.

21 Q Okay. So, it's kind of like I'm in the habit of
22 locking my car door. I don't always remember doing it,
23 but it's just kind of -- was that habit for y'all, though?

24 A Yes, sir.

25 Q Okay. Let me show you something, this is

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 State's No. 15.

2 A Okay.

3 Q What's that look like, Niyla?

4 A A part of the door, like the door.

5 Q Speak up so the Judge can hear you and speak up
6 so the court reporter can hear you.

7 A A part of the door.

8 Q A part of your door?

9 A Yes, sir.

10 Q And we talked about this with some other people,
11 but many doors were in that house?

12 A One.

13 Q Okay. So, you said that's a that part of a
14 door, that's a part of whose door?

15 A Mine.

16 Q Okay. Is that how it looked when you left the
17 morning of May 3rd?

18 A No, sir.

19 Q Okay. Can you show -- do you mind stepping
20 down?

21 A (The witness complies.)

22 Q All right, show me what's different because --
23 I'm going to call it casing of the door. Do you recognize
24 what this part is right here around the door, the frame,
25 the casing around it?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A (The witness nods.)

2 Q Was the casing on it when you left or off of it?

3 A It was off.

4 Q It was off. I mean, that was already off the
5 door?

6 A Yes, sir.

7 Q But there's a difference with how it looked --
8 show me what was different about it?

9 A This was broke right here. This wood --

10 Q Yell at me like I'm over here.

11 A The wood right here was not like that.

12 Q What's different about it?

13 A It wasn't like -- it wasn't out, like I couldn't
14 see the actual wood itself.

15 Q Was it split like it is in that picture? Or you
16 just couldn't see that wood is what you're saying?

17 A I couldn't see the wood, like, period.

18 Q All right. Was it covered with paint or
19 sheetrock or do you remember?

20 A (The witness shook her head.)

21 Q It just looked different, that part right there
22 with the exposed wood was different. Show me what else is
23 different.

24 A This right here and that.

25 Q Okay. That light switch, the plastic part

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 busted out and then that area around the light switch was
2 not like that?

3 A No, sir.

4 Q Anything else look different?

5 A No, sir.

6 Q Okay. You can sit back down.

7 A (The witness complies.)

8 Q I want to show you, this is State's 42 and 38.

9 A Okay.

10 Q Have you ever seen those before?

11 A No, sir.

12 MR. SCOTT: Walter, go ahead, let me have either
13 one.

14 Q All right. What's on the screen, that State's
15 42. What is that?

16 A A knife.

17 Q A knife?

18 A (The witness nods.)

19 Q You say you've never seen that knife before?

20 A I haven't, no, sir.

21 Q Would you know how it got to be in your
22 backyard?

23 A No, sir.

24 Q Let me show you State's 38. Do you recognize
25 that?

NIYLA WILLIAMS-DIRECT BY MR. SCOTT

1 A No, sir.

2 Q Have you ever seen it?

3 A No, sir.

4 Q Do you know how that got to be in your yard?

5 A No, sir.

6 Q All right. What kind of phone did your mom
7 have?

8 A She had a Galaxy.

9 Q Do you remember seeing it that morning when you
10 talked to your mom?

11 A No, sir, I don't remember.

12 Q You don't remember, okay. That pink -- you
13 remember that pink shirt we were looking at earlier on
14 State's No. 13?

15 A Uh-huh.

16 Q Was that on the floor when you left?

17 A No, sir.

18 Q Okay.

19 MR. VERNER: What number exhibit is that?

20 MR. SCOTT: I think I said 14.

21 BY MR. SCOTT:

22 Q Did Cliff have any clothes over at the house?

23 A That morning, no.

24 Q No?

25 A Uh-huh.

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 Q Okay. Was he supposed to be at your house on
2 May 3rd?

3 A No, sir.

4 Q Okay. Okay. Was he allowed to be over there
5 that time around May of 2017?

6 A No, sir.

7 Q I'm looking for it, but picture of the TV we
8 were looking at earlier. You remember that picture of
9 your mom's TV in her bedroom?

10 A Yes, sir.

11 Q This is State's No. 31. Have you ever seen that
12 writing on that TV before?

13 A No, sir.

14 Q So, you don't know how that got there?

15 A No, sir.

16 MR. SCOTT: Hold on one second. I think I'm
17 just about done here.

18 Okay. Thank you, Niyla. Answer any questions
19 Mr.Verner has for you.

20 THE COURT: Mr. Verner.

21 CROSS-EXAMINATION

22 BY MR. VERNER:

23 Q Well, since it's up, where did the TV set in
24 your mother's room come from?

25 A I'm not sure.

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 Q Did you have it when you were living at the
2 house on -- did you live with your mother on Feather Run?

3 A Yes, sir.

4 Q Okay. Just so I know, how long did you live in
5 this new house in Prosperity?

6 A How long did I live there?

7 Q How long had it been since you moved to the
8 house on Conifer?

9 A I'm not sure.

10 Q A few months or you been there for a few years?

11 A A few months.

12 MR. VERNER: Thank you, Walter, I'm through.

13 Q Did the TV set come from the house on Feather
14 Run or was it new for the house you just moved into, in
15 your mother's bedroom?

16 A I'm not sure.

17 Q Okay. You don't know how long she had that TV
18 set?

19 A No, sir.

20 Q Was it an old TV or new TV?

21 A I don't know.

22 Q Do you remember her buying it?

23 A No.

24 Q Okay. Now, I'm -- you told the prosecutor Cliff
25 kept a bag at the house of his clothing articles and

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 personal effects?

2 A Can you repeat your question?

3 Q You said he didn't use a closet, but he kept his
4 stuff in a -- like a suitcase, I take it, or a bag in the
5 home?

6 A Just a regular bag.

7 Q Okay. Were there clothes in the bag?

8 A Some.

9 Q Okay. The knives that you looked out for the
10 prosecutor just a second ago on those pictures, were those
11 the knives that your mother kept in her bedroom?

12 A No, sir.

13 Q Did she keep knives in her bedroom?

14 A Yes, sir.

15 Q Okay. Could they have been old kitchen knives
16 from your house?

17 A No, sir.

18 Q Okay. When you woke up about 5:30, 5:40 that
19 morning, is it possible you heard a taxi or a car driving
20 down that gravel road?

21 A No, sir.

22 Q It wasn't a car sound?

23 A No, sir.

24 Q Okay. Are you the middle sister or the younger
25 sister?

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 A I'm the baby.

2 Q You're the baby?

3 A Yes, sir.

4 Q Usually, with my kids, the older child kind of
5 takes the lead, particularly when the parents are not
6 there, and say, you know, everybody, we need to get ready
7 for school, you know, make sure everybody's fed and
8 clothed. Who does that for you and your sisters?

9 A Eve.

10 Q Eve. When mom's not around, Eve's the one kind
11 of saying hurry up and finish up breakfast and that type
12 thing?

13 A Yes, sir.

14 Q Okay. Typically, with my kids, they look at the
15 wall and, you know, it's 6:30, y'all need to be in the
16 car, but there's a certain time where the mom says y'all
17 need to be gone by X amount of time. Is there a certain
18 time that y'all know you have to be out of the house by?

19 A There is, but I don't remember.

20 Q But usually, Eve would say, you know, it's 6:30
21 or 6:35, we've got to be heading down towards the bus
22 stop, right?

23 A Yes, sir.

24 Q So, I mean, you don't just go at a different
25 time every morning, every morning one of the sisters looks

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 at the clock on the wall and that's the time we got to be
2 out of the house?

3 A Can you repeat your question?

4 Q Do you leave the house typically when the clock
5 hits a certain number every morning?

6 A Yes, sir.

7 Q What time do you leave the home now to go to
8 school -- you're in summer break right now, aren't you?

9 A Yes, sir.

10 Q And you had to get a physical last year so that
11 you could try out for the cheerleading quad?

12 A Yes, sir.

13 Q Did you make the squad?

14 A Yes, sir.

15 Q Good. Where is Doctors care and what is -- I
16 know you don't know the address probably, but what is that
17 near? Was it near a grocery store or any kind of other --

18 A It's near the tractor place.

19 Q Okay. It's near the -- is that near the
20 Wal-Mart?

21 A Yes, sir.

22 Q Or is it more towards the Food Lion and Bi-Lo
23 area.

24 A The Wal-Mart.

25 Q Okay. Is it in the parking lot of the Wal-Mart

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 or is it near the CVS and the Rite-Aid pharmacy?

2 A I don't know.

3 Q Okay. Do you know where the CVS is in Newberry?

4 A Yes, sir.

5 Q It's across the street from the Rite-Aid?

6 A Yes, sir.

7 Q Then there's that gas station kind of on the
8 other corner?

9 A Yes, sir.

10 Q And the Wal-Mart behind there?

11 A Yes, sir.

12 Q If I was going to leave here right now and go to
13 Doctors Care, where would I -- if I got to Wilson Road
14 would I turn left? If I went straight towards Newberry
15 High School and if I turned right towards Prosperity or I
16 turned left towards the Food Lion, which way would I go at
17 the intersection?

18 A I'm not sure.

19 Q Okay.

20 MR. VERNER: Thank you, Niyla.

21 THE COURT: You can step down.

22 Solicitor, call your next witness, please.

23 MR. SCOTT: The State calls Eve Williams.

24 EVE WILLIAMS, after being duly sworn, testified
25 as follows:

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 THE CLERK: State your name for the record.

2 MR. VERNER: Just prior, Your Honor, on that
3 issue, can we just very briefly? This is without a
4 proffer?

5 THE COURT: Right. You want to take just a
6 brief break to put it on the record or you want to
7 put a footnote here where you're objecting and put it
8 on the record later on?

9 MR. VERNER: If that's appropriate, the Court's
10 ruling is in place, but the -- but I don't think the
11 Court's made any kind of finding.

12 THE COURT: Let's do this, ladies and gentlemen
13 of jury, out of an abundance of caution, I want to
14 address one last matter. I think this may be the
15 State's last witness.

16 MR. SCOTT: Yes, sir.

17 THE COURT: So, I'm going to ask that you
18 adjourn to the jury room for just a few minutes.
19 I'll be back out here in just a few minutes. Okay.
20 Thank you.

21 (WHEREUPON, the jury left court at approximately
22 11:54 a.m.)

23 THE COURT: All right, the record should reflect
24 that at a sidebar, it's my understanding that this
25 witness is going to be testifying about an incident

NIYLA WILLIAMS-CROSS BY MR. VERNER

1 that took place about three days earlier in which the
2 decedent left for work and instructed the children to
3 lock the door behind her. For whatever reason, they
4 didn't do so. Immediately, subsequently, the
5 Defendant entered the home, at which point, the
6 children called the victim who related to the
7 children that the Defendant was not supposed to be
8 there. The kids told the Defendant to leave the
9 home. He went to the back bedroom then left the
10 house. The victim did a U-turn and returned home.

11 Is that essentially what you're going to elicit
12 from this witness?

13 MR. SCOTT: It is, Your Honor. With the Court
14 and defense help, I'll lead a little bit through
15 that. I don't plan on eliciting any statements made
16 by Ms. Stribble. Just I'd reference her state of
17 mind upon hearing that information, but not any
18 specific statement made by her. Then I'll ask Eve,
19 you know, basically, as a result of the conversation
20 with your mother, what did you do? I expect her to
21 say something to the effect I told him he needed to
22 leave right then. And then, essentially,
23 Ms. Stribble comes back, talks with them, there's a
24 brief, I think, conversation between she and
25 Mr. Boozer. Thereafter, he leaves and the mother

EVE WILLIAMS-DIRECT BY MR. SCOTT

1 goes back to work sometime later.

2 THE COURT: This witness wasn't privy to the
3 conversation between the Defendant --

4 MR. SCOTT: No. I won't elicit it. I think it
5 was something to the effect of Stribble's inside
6 yelling at him to leave or she's calling the police,
7 but we don't -- I'll stay away from that even.

8 THE COURT: Okay, Mr. Verner.

9 MR. VERNER: I don't doubt that it is the
10 correct proffer, Your Honor. And I don't want to be
11 labor the point. I do believe the Court's really got
12 to make a clear and convincing -- assuming that the
13 Court finds this falls into a prior bad act,
14 certainly, the inference would be that it's an
15 unwanted intrusion into the home, so I would take it
16 is probably a bad act, that's certainly the intent of
17 the prosecutor to the extent the Court has to make
18 the credibility determination to that standard, Your
19 Honor. I don't dispute the State's synopsis -- or
20 the Court's synopsis of what the State's email said
21 yesterday.

22 THE COURT: You want to go ahead and ask her
23 some questions, Solicitor.

24 DIRECT EXAMINATION

25 BY MR. SCOTT:

EVE WILLIAMS-DIRECT BY MR. SCOTT

1 Q Eve, talking about the Monday before --

2 THE COURT: Yeah, she has been sworn, I believe.

3 Go ahead.

4 BY MR. SCOTT:

5 Q You know the Monday we're talking about?

6 A Yes, sir.

7 Q And that morning, y'all missed the bus so you
8 stayed home from school?

9 A Yes, sir.

10 Q Your mom was working that morning, correct?

11 A Yes, sir.

12 Q She was kind of in a rush that morning I think
13 you told me?

14 A Uh-huh.

15 Q Do you remember her leaving the house?

16 A Yes, sir.

17 Q All right. And were you instructed to lock the
18 door?

19 A Yes, sir.

20 Q Okay. Why didn't she just lock it when she
21 left? Are you talking at the dead bolt or the handle?

22 A She wanted me to lock both locks.

23 Q Both locks, okay. Was there a reason she didn't
24 lock the handle or do you even --

25 A She was running late and she just told me to.

EVE WILLIAMS-DIRECT BY MR. SCOTT

1 Q And she's trying to get to work?

2 A Yes, sir.

3 Q So, she tells you to lock the door. Did you get
4 up immediately and do like your mom told you to do?

5 A No, sir.

6 Q Why is that? Just --

7 A I mean, because it was like two minutes. I was
8 just laying on the couch.

9 Q Watching TV or something?

10 A Yes, sir.

11 Q Did you feel like your mom was gone at that
12 point? Did you hear the car leave the driveway?

13 A Yes, sir.

14 Q Okay. All right. And what's the next thing you
15 remember?

16 A Cliff walking in the house.

17 Q Okay. What was his reaction upon seeing you?

18 A Like he stopped, like he was surprised I was in
19 the house.

20 Q Because it was a school day?

21 A Yes, sir.

22 Q Did -- your understanding at that point, was he
23 supposed to be there?

24 A Repeat your question.

25 Q Your understanding when you see him there, was

EVE WILLIAMS-DIRECT BY MR. SCOTT

1 it that it was okay for him to be there?

2 A I wasn't sure, so I called my mom.

3 Q And after speaking with your mom, what did you
4 do?

5 A I told him to get out because he wasn't supposed
6 to be there.

7 Q Did he leave?

8 A He stayed on the porch and I locked the door.

9 Q Okay. Well, when he came in, when he saw you,
10 did y'all have that conversation? Did he stay in the
11 living room or did he go somewhere else?

12 A He went into the bedroom.

13 Q Whose bedroom?

14 A My mom's.

15 Q Okay. Is that why you were on the phone with
16 your mom?

17 A Yes, sir.

18 Q Did he leave when you told him to get out?

19 A He was already walking out, so he just like kept
20 walking out.

21 Q Okay. And you locked the door when he walked
22 outside?

23 A Yes, sir, my mom told me to.

24 Q All right. Did she come back to the house at
25 some point?

EVE WILLIAMS-DIRECT BY MR. SCOTT

1 A Yes, sir, she turned right around.

2 Q How long did it take her to get back?

3 A Probably five minutes at the most.

4 Q Did you see where he was when she got back?

5 A I don't remember.

6 Q Okay. But she came in the house?

7 A Uh-huh. Yes, sir.

8 Q Okay. Then, I guess, she had a conversation
9 with you all?

10 A Yes, sir. Well, me. The other girls were
11 asleep.

12 Q Okay. Then did you hear her saying anything?

13 A All I remember is if you don't leave, I'm going
14 to call the police.

15 Q So, that -- and she was shouting that through
16 the door at him?

17 A The window above the sink. Okay.

18 MR. SCOTT: That's essentially it, Your Honor.

19 If I can maybe just lead her, instead of if you don't
20 leave, I'll call the police, which would be a
21 statement I think it would probably be admissible,
22 but just to be safe, I would just say did she yell
23 something back outside at Cliff? Did you see him
24 again after that kind of, maybe.

25 THE COURT: I think it probably would be

EVE WILLIAMS-CROSS BY MR. VERNER

1 admissible.

2 Mr. Verner, did you want to ask her any
3 questions?

4 CROSS-EXAMINATION

5 BY MR. VERNER:

6 Q Ms. Williams, the door was unlocked when Cliff
7 came to your house?

8 A Yes, sir.

9 Q And this was two or three days before your
10 mother passed away?

11 A It was Monday.

12 Q Monday?

13 A The Monday before the incident, yes.

14 Q And how many days is that before Ms. Clatie was
15 killed?

16 A Two.

17 Q About two days?

18 A Yes.

19 Q Okay. Do you know whether Cliff had a key to
20 the door?

21 A No, sir, he didn't.

22 Q To your knowledge, he did not have a key?

23 A I'm positive he didn't.

24 Q Okay. I think you said this ordinarily would
25 have been during the school hours?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A Yes, sir.

2 Q Just out of curiosity, why weren't y'all in
3 school that day?

4 A We missed the bus, so mom just said we could
5 stay home.

6 Q Okay. Then, the -- so I understand you might
7 not know exactly, but ball park, just a rough time that
8 you remember Cliff coming into your home?

9 A Repeat your question.

10 Q Estimate a rough time you think it was that he
11 entered the home.

12 A I don't know.

13 Q Was it before lunch?

14 A Yes.

15 Q Okay. You said your mother had just left to go
16 somewhere?

17 A She was going to work.

18 Q Do you know what time she --

19 A I don't remember.

20 Q Okay. And then he was in -- the outside the
21 door opens up into the kitchen area?

22 A Yes.

23 Q Okay. I guess the living room was kind of
24 opened to the kitchen?

25 A Yes.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q And you're saying y'all look at each other and
2 everybody looked surprised?

3 A Yes.

4 Q Then what happens -- and you're not sure whether
5 he's supposed to be there or not, so you call mom?

6 A Yes.

7 Q But what does Cliff do in the interim?

8 A Huh?

9 Q What does Cliff do in the interim while you're
10 on the phone?

11 A He was in my mom's room, said he was looking for
12 his wallet.

13 Q Okay. Then you talked to your mom and you tell
14 her -- or ask him to leave, that he's not supposed to be
15 here and he does leave, go outside?

16 A Well, he was already walking out when I said it.

17 Q Okay. He was already leaving even before you
18 said it?

19 A Yes.

20 Q Okay. Then he sat on the porch -- do y'all have
21 a little porch on that house?

22 A Yes, it has like four or five stairs.

23 Q And then like a little landing area?

24 A Yes, sir.

25 Q Are there any chairs or anything?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A No. He was sitting on the steps.

2 Q Okay. Then mom comes home?

3 A Yes.

4 Q They don't talk while he's outside?

5 A When she pulls up, he stands up, so she comes in
6 the house?

7 Q All right. Does he come in with her or he stays
8 outside?

9 A He stays outside.

10 Q All right. At some point, she says something
11 that he's got to go. How does he leave, just by walking?

12 A Uh-huh. Yes, sir.

13 Q Okay.

14 MR. VERNER: The 403 and 404 arguments, Your
15 Honor.

16 Thank you, Eve.

17 THE COURT: Anything from the State on that?

18 MR. SCOTT: No, Your Honor.

19 THE COURT: To the extent that this Court has to
20 rule -- needs to make a ruling, rather, on the
21 question of whether this is proved by clear and
22 convincing evidence, again, the Court does find this
23 witness' testimony to be credible. And with that,
24 the State has met its burden of proof of the prior
25 trespass by clear and convincing evidence. So, she

EVE WILLIAMS-CROSS BY MR. VERNER

1 will be allowed to testify as to the substance of
2 what she just said by way of proffer.

3 All right. This will be the last witness,
4 correct?

5 MR. DANIEL: Yes, sir.

6 THE COURT: Mr. Verner, has a decision been made
7 yet on whether you're going to be putting up a
8 defense or?

9 MR. VERNER: I thought I've been putting up a
10 defense the whole time.

11 THE COURT: I mean, a case in chief.

12 MR. VERNER: Yes, sir, I understand. I would
13 intend, certainly, calling Natasha, the sister.
14 The -- I am -- we're leaning towards Clifton Boozer
15 testifying. We're kind of determining the merits of
16 whether the -- his mother's on the witness list, but
17 I think we largely determined that that's kind of
18 cumulative testimony, so we're probably not going to
19 use mom.

20 THE COURT: Okay.

21 MR. VERNER: We're talking with Sherwin Jessie
22 about whether that's also cumulative or what's new or
23 if that needs -- but that's less than 50/50.

24 THE COURT: If we hear your case this afternoon,
25 that's probably going to take us --

EVE WILLIAMS-CROSS BY MR. VERNER

1 MR. VERNER: Two substantive. There may be more
2 than that, Your Honor, but in terms of cross and
3 recross or direct and cross, it's two substantive
4 witnesses is my intention, Your Honor.

5 THE COURT: All right, very good.

6 Let's take a few moments to refresh ourselves.

7 Please don't talk about your testimony with
8 anyone.

9 Let's take about five minutes. We'll finish
10 with her, I'll dismiss the jury, we'll handle
11 motions, then we'll anticipate your case being heard
12 after lunch, Mr. Verner.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: All right, we'll go back on the
15 record.

16 Ms. Eve, if you'll come back up here, have a
17 seat.

18 Go ahead and get the jury in, please.

19 (WHEREUPON, the jury came into open court at
20 approximately 12:15 p.m.)

21 THE COURT: All right, the jury is back and
22 seated.

23 Ladies and gentlemen, we're proceeding with the
24 testimony of Eve Williams. Ms. Williams has been
25 sworn.

EVE WILLIAMS-CROSS BY MR. VERNER

1 You may continue, Solicitor.

2 MR. SCOTT: Thank you, Your Honor.

3 BY MR. SCOTT:

4 Q Do you remember where we left off?

5 A No.

6 Q Let me -- okay. Do you remember the Feather Run
7 house, y'all living there?

8 A Yes, sir.

9 Q Who all lived in the Feather Run house?

10 A It was me, my sisters, Jennifer Brokob, her son
11 and my mom.

12 Q Okay. When Jennifer Brokob and her son left,
13 who lived there?

14 A It was my mom and my sisters.

15 Q Just y'all?

16 A Uh-huh.

17 Q Tell me, who is Clifton Boozer?

18 A The person that killed my mom.

19 Q Well, do you see him?

20 A Huh?

21 Q Do you see Clifton Boozer today?

22 A Yes.

23 Q Point to him.

24 A (The witness complies.)

25 Q How did you know him?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A He was in a relationship with my mom for like
2 six years.

3 Q How do you describe that relationship?

4 A Very toxic.

5 Q Okay. Did he stay with you guys at the Feather
6 Run house?

7 A For a little bit.

8 Q Okay. So, what does that mean? Did he live
9 there full time or was he --

10 A On and off.

11 Q Where else did he live?

12 A His sister's house, I guess.

13 Q Okay. Where else did you have knowledge of him
14 living?

15 A That's it.

16 Q Okay.

17 A And I remember like he was still living with his
18 baby mother.

19 Q Do you know her name?

20 A Vonshella.

21 Q Vonshella. Is she here?

22 A Yes.

23 Q Which one is she?

24 A The one in the white shirt.

25 Q On the second row, okay. That his -- mother of

EVE WILLIAMS-CROSS BY MR. VERNER

1 his children?

2 A Yes, sir.

3 Q And he's got grown children, right?

4 A Yes.

5 Q He's a grandfather?

6 A Yes, sir.

7 Q So sometimes, he's living with her, and then
8 sometimes he's living with your mother. Is that how it
9 was working back then?

10 A Yes, sir.

11 Q Okay. Did he bring over a bunch of stuff to
12 move in with you guys or was it like your sister said, he
13 just lived out of a bag?

14 MR. VERNER: Again, Your Honor, that's one
15 witness commenting on the testimony of another. It's
16 also -- I understand the statute, but leading as
17 well.

18 THE COURT: Sustained.

19 You can ask how much material or how many
20 clothes, how heavily he packed when he lived there.

21 MR. SCOTT: Yes, sir.

22 BY MR. SCOTT:

23 Q I think you know what I'm getting at. How
24 was -- what was the living arrangement when Cliff was at
25 y'all's house?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A In Conifer?

2 Q Yeah -- well, no, no, on Feather Run. We're
3 going to get to Conifer in a minute.

4 A Well, he had clothes there. They were in the
5 closet and stuff.

6 Q Would he stay there every night?

7 A Mostly. Sometimes, not really.

8 Q Okay. Did there come a time where he didn't
9 live there anymore?

10 A Yes.

11 Q Why did he move out?

12 A I'm not sure.

13 Q Okay.

14 A No, it was the last time because we were moving
15 to Conifer.

16 Q Did y'all ask him to move in with y'all at
17 Conifer?

18 A No, sir.

19 Q Do you remember moving to Conifer?

20 A Yes, sir.

21 Q That's from Newberry -- Feather Run was in
22 Newberry and then y'all moved down to Prosperity?

23 A Yes, sir.

24 Q All right. Well, did he at some point move in
25 over there?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A I wouldn't say he moved in, but he would stay
2 nights.

3 Q Stay nights?

4 A Yes, sir.

5 Q Okay. How frequently would he stay over there?

6 A I'm not sure.

7 Q Okay. Well, did there come a time when he
8 wasn't supposed to be over there anymore?

9 A Yes.

10 Q Do you remember when that happened?

11 A It was prior to her death.

12 Q Right. Do you remember how much prior before
13 she passed away?

14 A No, sir.

15 Q Okay. All right. Then, when he's not there,
16 supposed to be there anymore, it's you, Niyla, Isis and
17 your mother?

18 A Yes, sir.

19 Q Okay. All right. So, May 3rd, that's the day
20 your mother passed away, right?

21 A Yes, sir.

22 Q That was a Wednesday?

23 A Yes, sir.

24 Q Do you remember the Monday just prior to that?

25 A Yes, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Tell me, do you remember that morning, that
2 Monday morning?

3 A Yes, sir.

4 Q I guess that would have been May 1st?

5 A Monday morning, yes.

6 Q Was that a school day?

7 A Yes, sir.

8 Q All right. What was your mother up to that
9 morning?

10 A She was headed to work.

11 Q Okay. Where was she working then?

12 A Sonic in Chapin.

13 Q And what time was she was supposed to be there,
14 do you know?

15 A I don't remember. I think like 9:00 or 10:00.

16 Q Do you remember if she was on time or running
17 late that morning.

18 A She was running late.

19 Q All right. And did y'all ride the bus that
20 morning?

21 A No, because we didn't go to school.

22 Q So, she's running late. Where were you that
23 morning when she was getting ready to leave the house?

24 A I was on the couch.

25 Q And do you remember when she was leaving, did

EVE WILLIAMS-CROSS BY MR. VERNER

1 she tell you to lock the door?

2 A Yes, sir.

3 Q Did you get up and lock it?

4 A No, sir.

5 Q Do you remember her leaving the driveway? Did
6 you hear her car leave the driveway?

7 A Yes, sir.

8 Q What's the next thing you remember happening?

9 A I remember Cliff just walking in.

10 MR. VERNER: Subject to 404.

11 THE COURT: Subject to 404 ruling, overruled.

12 BY MR. SCOTT:

13 Q Were you expecting him?

14 A No, sir.

15 Q What did he do when he saw you?

16 A He stopped and was shocked to see me.

17 Q Because it was a school day, you normally would
18 have been in school, right?

19 A Yes, sir.

20 Q Isn't it true that you didn't go because y'all
21 missed the bus?

22 A Yes, sir.

23 Q And I think your mother said she was running
24 late, so she said y'all just going to have to stay home
25 today, is that how that worked?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A Yes, sir.

2 Q So, he sees you, did he stop in his tracks or
3 what?

4 A Yes, sir. He stopped right at the door.

5 Q Did he say anything to you?

6 A Not as soon as he came in.

7 Q Okay. What did he say to you?

8 A He said, I have to get my wallet.

9 Q Was his wallet there to your knowledge?

10 A No. And wasn't in my mom's either.

11 Q It wasn't what?

12 A In my mom's.

13 Q Okay. Well, what did seeing him in your house
14 that morning cause you to do?

15 A I called my mom.

16 Q Okay. Because did it seem okay to you that he
17 was in the house?

18 A Not really, because my mom had just left and he
19 just walked in.

20 Q Okay. And so you said you called your mom.
21 Where did you go while you were on the phone with your
22 mom?

23 A He went to her room.

24 Q Okay. Without saying what she said, how did
25 your mom react when you told her that he was in the house?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A She was shocked.

2 Q Okay. What did -- after talking with your mom,
3 what did you say to Cliff?

4 A Get out. You're not supposed to be here.

5 Q Then, did he begin to leave?

6 A Yes, sir.

7 Q Okay. Did your mom turn around from going to
8 Chapin to come back to the house?

9 A Yes, sir.

10 Q Okay. Do you remember her coming back in the
11 house?

12 A Yes, sir.

13 Q Okay. What was her -- do you know what demeanor
14 is? Do you know what I mean by that?

15 A No.

16 Q What was her kind of -- you know, how was she
17 reacting without saying exactly what she was saying? Was
18 she sad, mad, excited, happy?

19 A She was mad.

20 Q Okay. Do you know where Cliff was at that time
21 when she came in the house?

22 A He was standing up outside.

23 Q What was the first thing she did right when she
24 walked in the house?

25 A She locked the door.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q She locked the door. Did --

2 A And --

3 Q What?

4 A Never mind, I'm sorry.

5 Q Okay. Did she yell at Cliff through the window?

6 A Yes, sir.

7 Q Did you see Cliff again that morning?

8 A No, sir.

9 Q Okay. Did your mom eventually end up going back
10 to work?

11 A Yes, sir.

12 Q That was the same day -- did you have to go get
13 a physical later on that day?

14 A No, sir, it was Niyla.

15 Q Did you ride with your mother and Niyla to go
16 get the physical?

17 A Yes, sir.

18 Q All right. Do you remember after -- was that a
19 Doctors Care, is that what you remember?

20 A Yes, sir.

21 Q Do you know where Doctors Care is?

22 A It's by Pelicans.

23 Q Pelican's snowballs?

24 A Yes.

25 Q So, that would be -- if we go back up Main

EVE WILLIAMS-CROSS BY MR. VERNER

1 Street toward where the intersection of Wilson Road, you
2 would take a left and go up that way?

3 A I'm not sure.

4 Q Okay. Do you know if it's on the way up 76
5 towards Clinton?

6 A Yes, sir.

7 Q It's up that way?

8 A I don't know.

9 Q Okay. After y'all leave Doctors Care, though,
10 where were y'all going?

11 A We were going home.

12 Q What happened on the ride home?

13 A The car broke down by a stoplight.

14 Q Okay. Do you remember what stoplight it was?

15 A The one by, like, it's a title loan, a car wash
16 and like a Wal-Mart and a bank.

17 Q Okay. So -- all right. I won't get into that,
18 but is it -- if you go up Main Street and you take a right
19 and it's that first stoplight right there?

20 A I don't know. I just know by Wal-Mart.

21 Q By a Wal-Mart. Okay. Then what else is near
22 Wal-Mart?

23 A Natasha's house, Cliff's sister.

24 Q Cliff's sister's house. Okay. The car, do you
25 know what went wrong with it?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A No, sir.

2 Q All right. But it broke down?

3 A Yes, sir.

4 Q Was it at a stop or were y'all able to keep kind
5 of coasting or --

6 A We was able to keep going a little bit.

7 Q Okay. Then where did y'all end up having to
8 park it?

9 A Cliff's sister's house.

10 Q Okay. Was your mom happy to park it there or
11 was it just -- were y'all excited to be at Cliff's
12 sister's house or what was --

13 A No.

14 Q Okay. Tell me why y'all went to Cliff's
15 sister's house.

16 A Because it was the closest thing to put our car.

17 Q Okay. Do you remember talking with Natasha
18 there?

19 A No, sir.

20 Q Okay. Do you remember her coming outside or
21 anything?

22 A No, sir.

23 Q Okay. Do you remember Clifton Boozer being
24 there?

25 A Yes, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Okay. Did he and your mother talk with one
2 another that you observed?

3 A Yes.

4 Q Did it appear to be a conversation or an
5 argument or a happy conversation or a bad conversation?

6 A It wasn't a good -- it wasn't good because he
7 was drunk.

8 Q Okay. Did -- okay. You left the car there.
9 How did y'all get back to Prosperity?

10 A A taxi.

11 Q Okay. All right. So, let's go to Tuesday,
12 Tuesday night. So, that was Monday, the next day is
13 Tuesday. That night, do you remember your mom having to
14 work at Sonic that night?

15 A Yes, sir.

16 Q Okay. And then who all was at the house while
17 she was at Sonic?

18 A Me and my sisters, Isis, Niyla.

19 Q Okay, both of them were with you?

20 A Uh-huh.

21 Q Where did you sleep that night?

22 A I fell asleep on the couch.

23 Q Okay. Then were, I guess, Niyla and Isis in
24 their own bedroom?

25 A Yes.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q And how did your mom get home that night? Did
2 you wake up when she got home?

3 A Brandy, I think brought her home.

4 Q Brandy?

5 A Brandy Counts.

6 Q Do you think or do you remember?

7 A I know for sure.

8 Q Okay. Did you wake up when they got home?

9 A Yes, sir.

10 Q Okay. Did you have any idea what time they got
11 home?

12 A No, sir.

13 Q Okay. What happened when you woke up?

14 A I just went and ate some food.

15 Q Did your mom bring you some Sonic back?

16 A Yes, sir.

17 Q What was that, a late night snack or something?

18 A Yes, sir.

19 Q Okay. Did you get up and talk with your mom at
20 all?

21 A Yes.

22 Q Okay. Do you remember seeing her phone that
23 night?

24 A Yes, she had it in her hand when she was walking
25 in the kitchen.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q So, it was in the house that night. And you
2 don't remember about what time that was when you saw her?

3 A No, sir.

4 Q Okay. What was the shape of the house at that
5 time? Was it messy, clean, what was it?

6 A It was spotless clean because Isis had cleaned
7 it because she was trying to get her phone back.

8 Q All right. That was kind of Isis -- that was
9 her punishment, I guess? We don't need to get into
10 whatever she did, but that was kind of -- so, she did a
11 good job, I guess? She was on her way to getting her
12 phone back?

13 A Yeah.

14 Q All right. All right. So Eve, 13, that
15 picture, what is that pink thing on the floor? Do you
16 remember seeing that that night when you went to sleep?

17 A No, sir.

18 Q I mean, the background in that picture, is that
19 the couch you were sleeping on?

20 A Yes, sir.

21 Q All right. We're looking in through the front
22 door, the only door of the house; is that right?

23 A Yes, sir.

24 Q Okay. Do you remember that shirt being there?

25 A No, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Okay. And did you go in your mom's room that
2 night?

3 A No, sir.

4 Q Did your mom sleep with sheets on her bed?

5 A Yes, sir. Isis had just made her bed.

6 Q After Isis made the bed, did you see how she
7 made it or anything like that? Did you go in the room?

8 A No.

9 Q Okay. But she typically had sheets on her bed?

10 A Yes, sir.

11 Q I guess, that black curtain thing that she had,
12 was that attached the last time you saw it to the wall?

13 A Yes, sir.

14 Q So, it wasn't hanging down like it is in this
15 picture?

16 A No, sir.

17 Q What about you, these knives in State's 38 and
18 42, had you ever seen those before?

19 A No, sir.

20 Q All right. And those -- do you know how they
21 would have gotten in your yard?

22 A No, sir.

23 Q All right. Well, what about State's 31 -- did
24 you spend a lot of time in your mom's room with her?

25 A Yes, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Did you watch TV in their sometimes?

2 A Yes, sir.

3 Q State's 31, have you ever seen that before?

4 A No, sir.

5 Q That was the TV you watched regularly?

6 A Yes, sir.

7 Q Let me ask you this, your mom had a tattoo
8 across her chest, didn't she?

9 A Yes, sir.

10 Q What did it say?

11 A True till death.

12 Q True till death?

13 A Yes.

14 Q Then she had Cliff tattooed on one of her arms?

15 A Right here.

16 Q Right there. Okay. I want to show you State's
17 No. 15. I'm sorry. When you walked out the door
18 Wednesday morning, is that how that door appeared?

19 A No, sir.

20 Q Do you mind stepping down just showing the jury
21 real quick what's different about it?

22 MR. VERNER: I would just ask that you speak up
23 loud enough where we can hear you, too.

24 THE WITNESS: Yes, sir.

25 Well, this was not like this and this was not

EVE WILLIAMS-CROSS BY MR. VERNER

1 exposed. We couldn't really see all this.

2 BY MR. SCOTT:

3 Q So, kind of the brown part of the frame, that
4 exposed wood, that was not like that when you left?

5 A No, sir.

6 Q Then you talk about this busted out part and
7 that light switch was not like that?

8 A No, sir.

9 Q Was the plastic missing from the switch plate on
10 the light switch?

11 A No, sir.

12 Q All right. You can sit back down. Thank you.

13 A (The witness complies.)

14 Q To your knowledge, did Cliff still have a key to
15 that house?

16 A I am positive he didn't.

17 Q Okay. All right. So, you ate your meal that
18 night or your snack from Sonic, and then did you go back
19 to sleep?

20 A Yes, sir.

21 Q Do you remember the next day what time you got
22 up?

23 A It was probably 5:45 to 6 o'clock.

24 Q We're talking about Wednesday, May 3rd?

25 A Yes, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q How did you wake up? Did you set an alarm?

2 A On my phone, yes, sir.

3 Q You set it for 5:45, but you're like me and you
4 hit the snooze button a couple of times?

5 A Yes, sir.

6 Q Then the bus picked up at what time?

7 A 6:45. 6:45.

8 Q Do you remember if y'all -- did y'all get on the
9 bus that day?

10 A Yes, sir.

11 Q Do you remember having to rush or do you
12 remember being on time or what do you remember about
13 getting to the bus stop?

14 A Well, we wasn't rushing like. We got there
15 right as it came.

16 Q Okay. So, if you got there right at 6:45, do
17 you remember you about how long it took you to walk to the
18 bus stop?

19 A Probably like five minutes.

20 Q So, you can say you left -- do you feel
21 comfortable saying you left the house around 6:40 a.m.
22 then?

23 A Yes, sir.

24 Q Did anything at all seem out of the ordinary
25 when you left the house?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A No.

2 Q Were you in the habit of locking the door when
3 y'all would leave the house?

4 A Yes.

5 Q Do you specifically remember locking it that day
6 or not?

7 A No, sir.

8 Q But that would have been your habit, though?

9 A Yes, sir.

10 Q Did you speak with your mom that morning?

11 A I told her that I loved her. And she said it
12 back and I walked out the door.

13 Q You don't go back to the room?

14 A No, sir.

15 Q Did you just shout to her from another room?

16 A Yes.

17 Q Was there any of Cliff's clothing at your house
18 that day?

19 A No, sir.

20 Q So, he wasn't staying there at that time?

21 A He was not.

22 Q Hold on one second, okay, Eve. So, do you
23 remember your mom starting to sleep with a knife near her
24 bed?

25 A Yes, sir.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Do you remember about when all that happened,
2 that she started sleeping with a knife?

3 A It was around April.

4 Q So, the month before this happened, April 2017?

5 A Uh-huh, yes, sir.

6 Q Okay.

7 MR. SCOTT: Okay. Thank you, Eve. Answer any
8 questions that Mr. Verner has, okay?

9 CROSS-EXAMINATION

10 BY MR. VERNER:

11 Q Sorry to meet you like this, Eve. You've known
12 Clifton Boozer for about six years?

13 A Yes, sir.

14 Q Okay. I apologize, how old are you today?

15 A I just turned 15 last Friday.

16 Q Okay. And you're the oldest of the Williams
17 daughters?

18 A Yes.

19 Q Okay. Are you the one in charge of making the
20 kids get to the bus stop in time?

21 A Yes, sir.

22 Q Do you typically -- typically, I'm not saying
23 every day, but, typically, what time do you leave the
24 house to walk to the bus stop?

25 A Between 6:30 and 6:40.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q But just sometimes when you notice the clock
2 between 6:30 and 6:40, you say hurry up, girls, we got to
3 get walking?

4 A Yes.

5 Q And the -- you've lived with your mom and Cliff
6 on and off for about the last six years?

7 A Yes.

8 Q And your father is Scott Williams?

9 A Yes, sir.

10 Q Okay. Does he get along with Cliff or do you
11 know?

12 A I don't think they had problems.

13 Q Okay. And when Cliff wasn't staying with
14 Ms. Clatie, your mother, and you, he would typically be at
15 his sister's house?

16 A Yes.

17 Q Is that Natasha?

18 A Yes.

19 Q Okay. And do you know what street Natasha lives
20 on?

21 A I'm not sure.

22 Q But it's not far off Wilson Road?

23 A Yes.

24 Q When your car broke down after you went to
25 Doctors Care, your mother drove it to Cliff's place,

EVE WILLIAMS-CROSS BY MR. VERNER

1 right?

2 A Cliff's sister's house.

3 Q Okay. But that's where Cliff lived, right?

4 A Yes.

5 Q Cliff was there?

6 A Yes.

7 Q And you remember your mother asking or telling
8 Cliff to see what he could do to fix the car and bring it
9 back?

10 A No.

11 Q Okay. I think you indicated that Cliff did keep
12 a bag at Conifer?

13 A Not prior to her death, but before he has.

14 Q In the past he had?

15 A Yes.

16 Q Did he keep personal effects in your mother's
17 room?

18 A Sir?

19 Q Did he keep personal effects, his personal stuff
20 in her room at times when he was there?

21 A Yes.

22 Q Okay. Do you know -- your mom had this TV set
23 in her room, right?

24 A Yes.

25 Q Was it a TV set that y'all brought over from

EVE WILLIAMS-CROSS BY MR. VERNER

1 Feather Run?

2 A Yes.

3 Q So, most of the furniture you had at Feather
4 Run, you brought over and just transferred over to
5 Conifer?

6 A Yes, sir.

7 Q Okay. And the TV set was just one of those
8 things that came along with it?

9 A Yes.

10 Q Okay. Now, prior to the jury coming back in,
11 you did briefly talk about a few things you just testified
12 when it was just us without the jury?

13 A Yes.

14 Q Okay. Now, I believe when you said that you saw
15 Cliff at your house when he came by on Monday morning?

16 A Uh-huh.

17 Q He thought the girls had gone to school, right?

18 A Yes.

19 Q Okay. And I thought you said when you told him
20 your mother wasn't home, he was already leaving before you
21 told him?

22 A I never told him that mother wasn't home.

23 Q Okay. But you said you got on the phone with
24 your mother and he said he had to go get his wallet?

25 A Yes.

EVE WILLIAMS-CROSS BY MR. VERNER

1 Q Then you're saying that -- you told the Judge
2 prior to the jury coming in that he was already walking
3 out when you told him, you know --

4 A Yeah, he was already going towards the door.

5 Q Then that's when you told him that he needed to
6 leave?

7 A Yes.

8 Q Okay. Nobody seemed to ask you this question,
9 but the -- whose pink shirt was that on the kitchen floor?

10 A It looked like my mom's.

11 Q Have you seen it since then?

12 A (The witness shook her head.)

13 Q Well, could it have been one of your shirts or
14 one of the other girls' shirts?

15 A No.

16 Q It looked like your mother's shirt?

17 A Yes.

18 Q Do you remember what she was wearing on -- or
19 does she sleep with her door closed?

20 A She sleeps with her door opened.

21 Q But you kind of just yelled in, I love you, I'm
22 leaving type situation?

23 A Yes.

24 Q Do you know what she was wearing when you left
25 that morning?

EVE WILLIAMS-CROSS BY MR. VERNER

1 A No.

2 Q Okay. Did you see the knives that your mother
3 kept in her bedroom?

4 A That morning?

5 Q No, that --

6 A Yes.

7 Q Okay. Describe what the knives looked like?

8 A The one that she kept by her nightstand was a
9 larger knife and it had a black handle.

10 Q When you say a larger knife, would it be like a
11 kitchen knife or would it be a hunting knife-type
12 situation?

13 A Hunting?

14 Q Was it a kitchen knife?

15 A Yes.

16 Q And that's the one she kept where?

17 A It was either on her nightstand, I think, or
18 under her pillow.

19 Q Okay. And then there was a second knife she
20 sometimes kept or she kept in her room, too?

21 A I'm not sure about that one.

22 Q Okay. But you know she kept the black-handled
23 kitchen knife in her bedroom?

24 A Yes.

25 Q You don't know if she kept anything else?

EVE WILLIAMS-REDIRECT BY MR. SCOTT

1 A No.

2 Q Okay. Did y'all have anything else kind of for
3 protection in the home?

4 A No.

5 Q Okay. And you saw Cliff on Monday of that week?

6 A Yes.

7 Q Okay. How long before then had it been since
8 you had seen him last?

9 A The weekend before. It was on his birthday.

10 Q Okay.

11 A Friday.

12 Q So, that was like three day before then?

13 A Yes.

14 Q Where did y'all see him at his birthday?

15 A Mom invited him to our house.

16 Q Okay.

17 MR. VERNER: Thank you, Eve.

18 THE COURT: Any redirect?

19 MR. SCOTT: Just one.

20 REDIRECT EXAMINATION

21 BY MR. SCOTT:

22 Q I show you shirt the that Mr. Verner was asking
23 you about. State's 16, I think. All right. Do you
24 recognize this?

25 A Yes.

EVE WILLIAMS-REDIRECT BY MR. SCOTT

1 Q Okay, whose is this?

2 A My mom's.

3 Q Did you ever see her wearing this with it being
4 torn like that?

5 A No, sir.

6 Q Did you ever see her wearing this with it ripped
7 like this?

8 A No, sir.

9 MR. SCOTT: Okay. Thanks, Eve.

10 THE COURT: All right, Eve, you can step down.
11 Solicitor, any additional witnesses for the
12 State?

13 MR. SCOTT: No, Your Honor, at this time, the
14 State rests.

15 THE COURT: Ladies and gentlemen of the jury,
16 I'm going to let y'all go ahead and run to lunch.
17 I've got a few motions that I have to address before
18 we proceed further in the case. If you would, be
19 back in the jury room, please, at 2:15. And we'll be
20 a position to resume with the trial at that
21 particular point in time. Again, don't talk about
22 the case. Thank you.

23 (WHEREUPON, the jury left open court at
24 approximately 12:45 p.m.)

25 THE COURT: Mr. Verner, at this time, I assume

1 you renew all prior motions, all prior objections,
2 all prior arguments and move for directed verdict; is
3 that correct?

4 MR. VERNER: That is correct, Your Honor.

5 THE COURT: All right. Same ruling as before as
6 far as any objections or motions. The Court does
7 find there's sufficient evidence to send this case
8 forward. I know that you probably talked to your
9 client about his right to testify or not testify,
10 correct, Mr. Verner?

11 MR. VERNER: I have, Your Honor. We still
12 haven't made a final decision. I'm inclined to say
13 he's probably going to testify. Is this for the
14 purpose of the admonishment?

15 THE COURT: Right. I just want to make sure he
16 understood his rights and if we need to address any
17 issues concerning impeachments type incidents. I
18 don't know if he has a record or not. But I don't
19 know what the State is seeking to impeach him on
20 should he testify.

21 Do y'all have his prior record?

22 MR. DANIEL: We do, Your Honor. Your Honor, I
23 see two prior CDV convictions, both in 2014, also,
24 petit larceny conviction, 2014. Seems like the petit
25 larceny conviction could be something for

1 impeachment.

2 THE COURT: Do you agree, though, the CDVs are
3 not?

4 MR. DANIEL: Unless they open the door,
5 otherwise, probably stay away from those on
6 impeachment.

7 MR. VERNER: They wouldn't be impeachable under
8 the rules as impeachment type based on the record.

9 THE COURT: CDVs?

10 MR. VERNER: They don't carry more than a year
11 imprisonment and they're not a crime of dishonesty,
12 so they don't fall under the condition of
13 impeachment, prior offense of impeachment. So, I
14 agree with the solicitor, I think he's talking if
15 there's some testimony of his reputation, that type
16 thing.

17 THE COURT: Yes.

18 MR. DANIEL: Yes, sir.

19 THE COURT: Okay. All right, Mr. Boozer, if you
20 could, I just need to ask you a few questions. I
21 need to be sure -- I'm not going to ask you about
22 anything substantive as it relates to this case. I'm
23 not going to ask you about anything factual. I just
24 need to make sure you understand your Fifth Amendment
25 rights, okay, sir?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: If you could, I need to make sure
3 your answers are correct. Raise your right hand.

4 CLIFTON BOOZER, after being duly sworn,
5 testified as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q Sir, you are Clifton Curtis Boozer, correct?

9 A Yes, sir.

10 Q Mr. Boozer, after lunch, Mr. Verner will be in a
11 position to present a defense on your behalf. And
12 understand that as part of that defense, he's telling me
13 that you made decide to take the witness stand and tell
14 the jury your own version of the events. At the same
15 time, he's also telling me that maybe that final decision
16 has not been made on whether you're going to testify or
17 not. Is that how it stands at the moment?

18 A Yeah.

19 Q Now, Mr. Boozer, you understand that under the
20 laws of South Carolina and United States, you cannot be
21 forced to be a witness against yourself in any criminal
22 case where you're on trial. Do you understand that?

23 A Yes.

24 Q That's your Fifth Amendment right against
25 self-incrimination. So, no one, not myself, not the

CLIFTON BOOZER-EXAMINATION BY THE COURT

1 solicitor, not even Mr. Verner can force you to take the
2 stand against your own freewill. Do you understand that,
3 sir?

4 A Yes.

5 Q This is a personal right. What I'm telling you
6 is this is a personal right that belongs only to you. So,
7 if you chose to assert the Fifth Amendment right not to
8 testify, I will instruct the jury that they couldn't talk
9 about that, discuss your failure to testify in the jury
10 room. They could not, certainly, use it as evidence of
11 guilt. So, they couldn't discuss your failure to testify
12 in any way and there's to be no negative inference, no
13 negative connotation attached to you simply because you
14 failed to testify; do you understand?

15 A Yes.

16 Q At the same time, if you chose to testify,
17 you'll have to answer any relevant questions put to you by
18 the State and your attorney. The State would likely be
19 allowed to impeach on the petit larceny conviction that
20 you have from 2014. They can ask you about that
21 conviction for purposes of determining -- or purposes,
22 rather, of your credibility. So again, if you chose to
23 testify, you'll have to answer any questions that is
24 relevant or put to you. But, ultimately, Mr. Boozer,
25 whether or not you chose to testify is up to you. It's a

CLIFTON BOOZER-EXAMINATION BY THE COURT

1 personal decision that you need to make yourself.

2 Although, it's personal, I would suggest that you, of
3 course, talk to Mr. Verner about the pros and cons of your
4 testifying. But if you chose to testify, that decision
5 has to be yours and yours alone to make. Do you
6 understand that, sir?

7 A Yes, sir.

8 Q The way I usually leave it is if Mr. Verner
9 calls you as a witness, I would assume y'all have
10 discussed this and you've agreed that you want to testify.
11 Is that a fair way to leave things?

12 A Yes.

13 Q So, you're okay with that arrangement?

14 A Yes, sir.

15 THE COURT: All right, good enough.

16 All right. We will resume, I guess, around
17 2:15. Anything else that we need to address?
18 Housekeeping? My clerk just did -- just for your
19 benefit, y'all have got your computers, email a rough
20 draft of the instructions that we've worked up thus
21 far to you. It's, again, a work in progress. I
22 haven't gotten feedback from you guys. We'll cross
23 that bridge later. All right.

24 MR. VERNER: Yes, I do intend to be asking for
25 an involuntary, just so that could be considered.

1 I'm not asking for it yet, but just that might be in
2 the scope of work.

3 THE COURT: You indicated in chambers that you
4 may make that request. Involuntary instruction is
5 not in the current instructions. I've kind of gone
6 with so far, of course, murder and I'm assuming there
7 might be sufficient evidence for voluntary
8 manslaughter, so those I have already put in there.
9 I have not put in involuntary, but we can discuss
10 that at a later point.

11 All right, see y'all at about 2:15 or so. Enjoy
12 your lunch.

13 (WHEREUPON, a lunch break was taken.)

14 THE COURT: All right. Let's go back on the
15 record.

16 Mr. Verner, are you ready to proceed, sir?

17 MR. VERNER: We are, Your Honor.

18 THE COURT: Let's have the jury, please.

19 (WHEREUPON, the jury came into open court at
20 approximately 2:27 p.m.)

21 THE COURT: The record will reflect the jury is
22 back.

23 Ladies and gentlemen, welcome back.

24 At this point in time, Mr. Verner, your case,
25 sir.

1 MR. VERNER: Would you ask for Natasha Robinson
2 to come into court. She's in the back. Natasha
3 Robinson, she would be in that little room.

4 BAILIFF: Bring her in?

5 MR. VERNER: Please, sir.

6 THE CLERK: Raise your right hand, place your
7 left hand on the Bible.

8 NATASHA ROBINSON, after being duly sworn,
9 testified as follows:

10 THE CLERK: Have a seat, state your full name
11 for the record.

12 THE WITNESS: Natasha Robinson.

13 DIRECT EXAMINATION

14 BY MR. VERNER:

15 Q Natasha, if you don't mind, I'm going to ask you
16 questions from over here so we can hear you, okay?

17 A Okay.

18 Q I don't need your street address, but what
19 community do you live in, Ms. Robinson?

20 A Newberry.

21 Q Okay. How long have you lived in Newberry?

22 A The address I'm at now?

23 Q No, ma'am, just are you a lifelong Newberry
24 resident?

25 A Yes.

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Q You went to Newberry High School or MidCarolina
2 or what?

3 A Newberry High School.

4 Q Are you employed now?

5 A I am.

6 Q Where do you work?

7 A Kraft Heinz.

8 Q That's the Louis Rich plant?

9 A Yes.

10 Q How long have you been at Louis Rich?

11 A A little bit over 10 years.

12 Q Okay. Ms. Robinson, how do you know Clifton
13 Boozer?

14 A He's my brother.

15 Q The baby brother or older brother?

16 A He's older than me, but he's my baby brother.

17 Q Okay. Does that mean he's your only brother or
18 just that --

19 A I have an older brother older than him.

20 Q Okay. In a close loving relationship, family
21 relationship?

22 A Yes.

23 Q Certainly, you love Clifton?

24 A Very much.

25 Q And do you understand that he's been charged

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 with murder and what we're here for today?

2 A I do.

3 Q And I would certainly think that your biases and
4 affections are towards your brother?

5 A Yes.

6 Q But you also understand you're to tell the truth
7 to the jury?

8 A Yes.

9 Q Did you know Ms. Clatie Stribble?

10 A I did.

11 Q How did you know Ms. Clatie?

12 A Through my brother.

13 Q Okay. How many years do you think -- well, when
14 you say through my brother, what was their relationship as
15 you knew it?

16 A They were dating.

17 Q Okay. Did they live together?

18 A Yes.

19 Q How long did you know Ms. Clatie through your
20 brother?

21 A Not really sure exactly how long, but I know
22 it's been over six years.

23 Q Well, I mean, have you known them the full time
24 that they were dating?

25 A Yes.

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Q Did they ever live together?

2 A Yes.

3 Q For extensive periods of time?

4 A Yes. Of their relationship, yeah.

5 Q Did you know Ms. Stribble's daughters?

6 A I did.

7 Q Did you know that family at all other than
8 through your brother? You didn't know them independently
9 of Clifton?

10 A No, I never met them until she was with my
11 brother.

12 Q Okay. Where do you live now, Ms. Robinson?

13 A The address?

14 Q Well, what street do you live on?

15 A Collinswood Drive.

16 Q Collinswood?

17 A Yes.

18 Q What would be a local landmark or what would
19 that be near so I could -- if I wanted to go in that area?

20 A It's right of Johnstone Street, off from
21 Johnstone Street across from South State Bank.

22 Q Okay. So, that's kind of near Wilson Road and
23 Johnstone intersection?

24 A Yes.

25 Q That used to be the parts store, now South State

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Bank?

2 A Yes.

3 Q And it's kind of across the street?

4 A Uh-huh, yes.

5 Q Okay. Were you living there on May 3rd of last
6 year?

7 A Yes.

8 Q And how long have you lived on Collinswood?

9 A Almost five years.

10 Q Okay. So, for the majority of the time that
11 Cliff and Clatie were together, you had lived in
12 Collinswood?

13 A Yes.

14 Q Okay. Did Cliff ever live with you there?

15 A No.

16 Q Did he ever stay with you there?

17 A He have from time to time.

18 Q Did he while he was in the relationship with
19 Ms. Clatie Stribble?

20 A Yes.

21 Q Who has Cliff lived with predominantly while
22 you've been in Collinswood?

23 A Clatie.

24 Q Okay. Would they ever come over just socially
25 together?

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 A Yes.

2 Q To your house?

3 A Yes.

4 Q What would be the nature of them coming, for
5 like family get-togethers or just to see or what would --
6 generally, when they came to your house, what kind of
7 visit was it?

8 A Generally, it was really all holidays because
9 they was always at my house. And from time to time, just
10 to come by.

11 Q Okay. Do you remember May 3rd of last year?

12 A Yes.

13 Q Okay. How were you made aware that Cliff was
14 arrested?

15 A Someone at work told me.

16 Q Okay. So, that day is kind of -- the memory of
17 that day is pretty seared in your mind?

18 A Yes.

19 Q Okay. Prior to that date, when was the last
20 time you had seen Ms. Clatie Stribble?

21 A I'm thinking it was that Monday.

22 Q Okay. If May 3rd was Wednesday, then you're
23 talking about two days beforehand?

24 A Yes.

25 Q What happened on that Monday?

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 A She came by to pick up Clifton from my house.

2 And on that day is when her --

3 Q Well, tell me, in the morning or in the evening?

4 A It was in the afternoon. It was in the evening.

5 Q Was Cliff staying at your house or he was just
6 meeting her there?

7 A He was there. I assume he was meeting her there
8 because she got there not long after he did.

9 Q Okay.

10 A To pick him up.

11 Q Was that unusual or was that pretty common?

12 A Common, very common.

13 Q That she would come to your house and pick him
14 up?

15 A Yes.

16 Q Okay. I'm sorry, and you said what time --
17 roughly, what time of day was it?

18 A It is late in the afternoon.

19 Q Okay. Was she by herself or were her kids in
20 tow?

21 A No, she had two of her kids with her.

22 Q What do you remember about Monday?

23 A She came to pick him up. He went out and they
24 was talking outside for a few minutes. And he came back
25 in --

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Q Do you know what they were talking about? I'm
2 not asking what anything anybody said, but do you know in
3 general what they were talking about?

4 A Well, not when he first went out. I know once
5 the car wouldn't start, when they was getting ready to
6 leave, that's when I went outside to see what was going
7 on. Because she was out there longer than usual.

8 Q Okay. Well, that's my -- did you know
9 beforehand she was coming?

10 A No.

11 Q Okay. And Cliff wasn't staying at your house
12 that day, right?

13 A No.

14 Q But he had gone to your house to meet -- waiting
15 for her to come pick him up?

16 A Yes.

17 Q Were you there?

18 A Yes.

19 Q Okay. So, I don't need to repeat, but
20 Ms. Clatie and two of her daughters came?

21 A Yes.

22 Q Did you go out and speak to her?

23 A I did.

24 Q Okay. In general, how did you and Ms. Clatie
25 get along?

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 A Generally, we had an okay relationship. She
2 confided in me a lot of times and I talked to her. We
3 never had any issues other than when I had to talk to her
4 about being disrespectful at my house. Other than that,
5 we never had any issues other than the -- when she would
6 confide in me about that a lot of things.

7 MR. SCOTT: Your Honor, this is hearsay or prior
8 bad act type situation like we were talking about
9 earlier. I think I need to --

10 THE COURT: You might need to stay away from
11 hearsay.

12 MR. VERNER: I don't think just saying in
13 general she was -- I'm certainly not offering that
14 for truth of the matter, Your Honor.

15 THE COURT: Sure. She can testify about her
16 general relationship, that's certainly fine.

17 BY MR. VERNER:

18 Q Who was she disrespectful to?

19 A She was disrespectful to Clifton, but she was at
20 my household, so I felt like it was being disrespectful to
21 my family as well.

22 Q Okay. But short of that, that's the only time
23 that you recall ever really having cross words with
24 Clatie?

25 A Yes.

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Q How long before this Monday was that, that you
2 had that -- was that long in the past or was that recent
3 in the past?

4 A Well, it's been off and on during the duration,
5 but it came to the point where it was happening more than
6 often and I had to address it. I was having Clifton to
7 address it in the beginning, but it was still happening,
8 then I had to address it.

9 Q And you did directly with Ms. Clatie?

10 A Yes.

11 Q But that was primarily in a relationship stuff,
12 she and Cliff?

13 A Yes.

14 Q Okay. Off and on -- well, okay, go ahead. So,
15 Cliff knows up at your house shortly before Ms. Clatie
16 does?

17 A Yes.

18 Q All right. What goes on?

19 A They was out there working and trying to get her
20 car started since it had -- when she got in the yard, it
21 broke down. And I guess they couldn't get it started,
22 they didn't know what was wrong with it. And I was like
23 well, okay, it needed to be moved out from in front of my
24 house.

25 She was like, Well, I have somebody come

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 pick me up and first thing in the morning, I'm going to
2 have somebody come out here and get my car and see what's
3 wrong with it to work on it.

4 Q Was Cliff working on the car?

5 A He was out there working. They had the hood up
6 trying to see what was wrong with it, yes.

7 Q Did the car appear not to be working before they
8 got there or just when she was pulling out? Or do you
9 know when the engine problems started?

10 A I guess it was off and on, but it worked to get
11 to the house. Once it got there, she sat out there with
12 the car running for a little while and it started smoking
13 again and cut off.

14 Q Is it fair to say that over the five years
15 that -- or the six years, I'm sorry, that you knew her
16 that for the substantial period of that time that she and
17 Cliff lived together?

18 A Yes.

19 Q Were there times when they would break up and he
20 would move out or she would move out?

21 A Yes, from time to time.

22 Q Okay. Do you remember any time when Cliff left
23 her and moved to you, stayed with you?

24 A Yes.

25 Q Did -- how did Ms. Clatie react in those times?

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 MR. SCOTT: What was the question?

2 BY MR. VERNER:

3 Q When Cliff -- let me make a little bit more
4 clear so the prosecutor understands. Did you have any
5 contact with Ms. Clatie after the occasions when Cliff
6 would move out?

7 A Several.

8 Q Okay. What -- this was contact that you
9 personally observed?

10 A Personally, yes.

11 Q Okay. Give me an example of what you saw.

12 A Well, once it was she came to my house, sat
13 outside my house all night long and repeatedly calling his
14 phone over and over trying to get him to come outside and
15 go with her, whatever it was. I wouldn't let him go
16 outside. So she sat out there, really, all night long
17 calling inside the house. And when she couldn't get in
18 touch with him, she started calling my phone.

19 Q Well, I mean, was she out in the yard, was she
20 in her car?

21 A She was in her car parked.

22 Q Where was the car parked?

23 A In front of my house.

24 Q All night?

25 A Yes.

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 Q Okay. And that's one of the examples?

2 A That's one of them.

3 Q Okay. Were there other occasions kind of like
4 that?

5 A Yes.

6 Q Did you think it was a good relationship, Cliff
7 and Clatie's relationship? Was it a solid relationship?

8 A No, not from the start.

9 Q I take it, you would not mind if it ended sooner
10 than it did?

11 A Yes.

12 Q From what you saw, was it all -- was there
13 mutual confrontations between them?

14 A I wasn't there most of the time with the
15 confrontations. I just usually have to go when the
16 confrontation started. And when I got there, I can only
17 observe what I used to see. It was usually him trying to
18 leave and her trying to stop him.

19 Q Do you ever remember any family get-togethers
20 that Ms. Clatie would come to?

21 A Yes.

22 Q Do you ever remember her getting jealous of --

23 A Yes.

24 Q What do you remember about that?

25 A A few times. One time, in particular, we was at

NATASHA ROBINSON-DIRECT BY MR. VERNER

1 a family party and she came in. It was a family party and
2 she came in and it was invitation only. And she came in
3 screaming because she had seen where he was through social
4 media and wanting to know why was he there and who was
5 that he was talking to. Which who she was his cousin.
6 She was trying to fight him and her at this party.

7 Q Was she directing this towards you or towards
8 him?

9 A Towards him and his cousin. I was there and I
10 had to take her out the building and talk to her and let
11 her know that was no other woman, that was his cousin.

12 Q Did she do anything when she left that you
13 remember?

14 A Other than keep calling him and calling him.
15 She sat outside the party for a while. And I tried to
16 tell her she had to go because it was right outside this
17 courtroom [verbatim] right here the other place, it was
18 the wrong place for that.

19 Q And you and I had met once or twice before
20 today?

21 A Yes.

22 Q Do you remember anything about her throwing
23 cans?

24 A That was one episode. She would ride by my
25 house and throwing stuff as we was sitting on the porch.

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 Throwing beer cans -- beer bottles out her window at my
2 house at him.

3 Q During one of their breakups?

4 A Yes.

5 Q Okay.

6 MR. VERNER: Court's indulgence just one second.

7 THE COURT: Yes, sir.

8 BY MR. VERNER:

9 Q Natasha, you do love your brother?

10 A I do.

11 Q You know he loves you?

12 A Yes.

13 MR. VERNER: Mr. Scott or one of the prosecutors
14 might have some questions for you.

15 THE WITNESS: All right.

16 CROSS-EXAMINATION

17 BY MR. SCOTT:

18 Q So, you found out about him killing Clatie from
19 somebody at work?

20 A Yes.

21 Q What time did you go into work that day?

22 A Seven.

23 Q What's your phone number?

24 A (803) 271-8155.

25 Q Tell me now, what was it that you and he talked

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 about at 8:23 a.m., May 3rd, 2017? Do you deny that he
2 called you that morning before he called 911?

3 A I don't deny that, but I deny we talked.

4 Q What?

5 A I do not deny he called me, but I deny that we
6 talked. I did not talk to him that morning.

7 Q Do you have an explanation for me why the phone
8 registers 84 seconds, being connected to yours for 84
9 seconds?

10 A I have no idea. I was at work. And at work, I
11 can't have my phone.

12 Q So, you don't deny him calling you?

13 A I do not deny it. You have the phone proving
14 that he called me, I just deny that I talked to him.

15 Q But you found the missed call later?

16 A No, I did not. I didn't even know he called me.

17 Q Well, then why wouldn't you deny it? You're
18 just taking my word for it?

19 A If you got the proof.

20 Q I got the proof?

21 A I said I didn't deny he called me. I can't say
22 he didn't because I don't know if he did.

23 Q Would it surprise you that he called you before
24 calling 911?

25 A It probably would.

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 Q Did he leave a message? Because it was 84
2 seconds, it seems to indicate that either he spoke with
3 somebody or left a message. Did he leave a message on
4 your phone?

5 A I never received a message from him.

6 Q Are you sure?

7 A I'm sure.

8 Q Okay. Had you ever been to the Conifer Drive
9 house?

10 A I have.

11 Q Had you spent a lot of time there?

12 A No.

13 Q Well, May 3rd of last year, he wasn't living
14 with you, he wasn't living with Clatie, do you know who he
15 was living with?

16 A From my understanding, he was living with her.

17 Q Who is Vonshella?

18 A That's his kid's mother.

19 Q Did you know he was living with her, too?

20 A He may go over there and spend some time with
21 his kids or her, may spend the night with her from time to
22 time when he wasn't with Clatie.

23 Q Help me understand this. Does your brother
24 have, to your knowledge, more than one pair of pants?

25 A Yes.

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 Q More than one shirt?

2 A Yes.

3 Q Does he have a toothbrush?

4 A I hope so.

5 Q What about underwear, does he wear underwear?

6 A I'm sure he does.

7 Q Does he have more than one pair of shoes?

8 A I guess.

9 Q Where did he keep those? Were they at your
10 house?

11 A They probably was at Clatie's house.

12 Q What if I told you they weren't?

13 A I would tell you you probably was wrong.

14 Q Who was wrong?

15 A You.

16 Q What if I told you I've got pictures of the
17 crime scene, officers have testified --

18 MR. VERNER: Your Honor, one, the prosecutor is
19 testifying and not asking a question. Two, he's
20 pitting witnesses once against -- one witness asking
21 about why did somebody else testify to so and so.

22 THE COURT: Sustained as to pitting witnesses.
23 If you want to show her photograph of the scene,
24 though, and ask if she can identify any items that
25 belong to her brother or any items that match

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 clothing, then you're certainly at liberty to do so.

2 BY MR. SCOTT:

3 Q Look through these, tell me what belongs to your
4 brother.

5 A These are not actual pictures of items. These
6 look like crime scene pictures. I don't see any dressers
7 or closets or anything, contents in those pictures.

8 Q Do you have any explanation as to why none of
9 his clothes were found at the house?

10 A I have no explanation.

11 MR. VERNER: Your Honor, again --

12 MR. SCOTT: If she has an explanation, I'd like
13 to hear it.

14 MR. VERNER: That's based on the evidence -- or
15 facts not in evidence. I don't think we've ever had
16 any testimony what was found in the closets or on the
17 floors. We certainly have in evidence what they saw
18 or took photographs of, but that's based on evidence
19 that we don't have before the jury.

20 THE COURT: Solicitor, in reply, if you desire
21 to recall the witnesses who searched the area and
22 found what they did find, what they didn't find, but
23 to ask her to speculate as to why items may not have
24 been found, that's calling for speculation.

25

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 BY MR. SCOTT:

2 Q All right. Do you know where your brother's
3 clothes were on May 3rd, 2017?

4 A To my knowledge, they were at his house where he
5 lived with Clatie.

6 Q How do you have that knowledge?

7 A To the best of my knowledge, that's where he be
8 at.

9 Q Where do you get that knowledge from?

10 A That's where I pick him up from sometimes,
11 that's where I drop him off at sometimes.

12 Q All right. Do you ever pick him up or drop him
13 off at Newberry Arms?

14 A I have.

15 Q Do you know for sure where he lived?

16 A For sure, to my knowledge, he lived with Clatie.

17 Q All right. Let me show you something. Would
18 you have an explanation why -- this is State's 59. Would
19 you have an explanation why in his own information, he
20 listed 122 Feather Run Road as his address?

21 A That's where him and Clatie lived before they
22 went to Conifer.

23 Q Look at the date, please.

24 A I'm not sure why he put that. Maybe that's just
25 the address that he was used to -- I'm not sure. He's

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 sitting right there.

2 MR. VERNER: I would ask that if the prosecutor
3 ask for information be published to the jury that we
4 can put it on the screen. I do have a problem with
5 kind of this investigator putting stuff up that
6 tracks the testimony without the prosecutor -- it's
7 in evidence, but just the --

8 THE COURT: That's fine. It's in evidence, so I
9 don't know that it really matters one way or the
10 other.

11 Go ahead, Solicitor.

12 MR. SCOTT: Thank you, Your Honor.

13 BY MR. SCOTT:

14 Q If you have knowledge to why he would have
15 listed that as his address, would you state why you
16 believe he -- why is he putting his address as 121 Feather
17 Run on May 3rd?

18 A I can't answer that question.

19 Q Okay.

20 A I'm telling you what I know, what I seen. I
21 wasn't there when he signed this paper.

22 Q Okay. Is it safe to say there's some things
23 about your brother you just don't know?

24 A There's a lot of things I don't know. I'm
25 telling you what I do know.

NATASHA ROBINSON-CROSS BY MR. SCOTT

1 Q Thank you. So, you don't really know where he
2 considered his home to be then, do you?

3 A I do know.

4 Q What did he consider his home to be May 4th of
5 2017?

6 A That was his previous address.

7 Q Why did he put that down as his current address?

8 A I can't answer that for you.

9 Q Okay. Thank you. You don't know a lot about
10 what your brother had going on in his life, do you?

11 A I know enough.

12 Q You do?

13 A Yes.

14 Q What did he say went down that night?

15 A I haven't asked him.

16 Q You haven't?

17 A No.

18 Q You don't think that's important to know?

19 A I haven't talked to him about it.

20 Q Well, why not?

21 A I just didn't ask him.

22 Q You don't want to know the truth?

23 A As far as I know --

24 MR. VERNER: Your Honor, that's not fact
25 related. It's a loaded question, it's not based on

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 the witness' personal knowledge.

2 THE COURT: Sustained.

3 BY MR. SCOTT:

4 Q You haven't gone to talk with him?

5 A I've talked to him, but we haven't talked really
6 about what the case was about?

7 MR. SCOTT: Okay. Thank you. Nothing further.

8 THE COURT: All right, ma'am, thank you. You
9 can step down.

10 Call your next witness.

11 MR. VERNER: You can stay or go, but you're
12 no -- I assume she's no longer under sequestration?

13 THE COURT: Right.

14 MR. VERNER: Sherwin Jessie.

15 THE CLERK: Raise your right hand, place your
16 left hand on the Bible.

17 SHERWIN JESSIE, after being duly sworn,
18 testified as follows:

19 THE CLERK: Have a seat, state your name for the
20 record.

21 THE WITNESS: Sherwin Lavon Jessie.

22 DIRECT EXAMINATION

23 BY MR. VERNER:

24 Q Good afternoon, Mr. Jessie.

25 A Good afternoon.

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 Q I don't want to be rude, but how old are you,
2 Mr. Jessie?

3 A I'm 41.

4 Q Forty-one. You look a lot longer. Where are
5 you from?

6 A I'm from Newberry.

7 Q Did you grow up in Newberry?

8 A Yes.

9 Q Okay. Are you employed?

10 A Yes.

11 Q Okay. Pull that microphone down. You're
12 speaking almost loud enough, but just --

13 A Yes, I am.

14 Q Where do you work, sir?

15 A Valmont Composite.

16 Q Where is the Valmont?

17 A It's on Highway 76. It's the old Shakespeare
18 plant.

19 Q Okay. And, actually, you're coming here from
20 work today by subpoena?

21 A Yes.

22 Q Prior to Valmont, what are some places that you
23 worked in Newberry?

24 A Worked at West Frasier, Regional Finance,
25 Lowe's.

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 Q Okay, we can stop there. Did you know
2 Ms. Clatie Stribble?

3 A Yes, I did.

4 Q Okay. How long ago did you first meet Clatie
5 Stribble?

6 A Ten, 11 years ago, something like that.

7 Q Do you remember where you were when you met
8 Ms. Clatie?

9 A Yeah, I do. I was actually working at Lowe's at
10 the time.

11 Q And how did it come about that you met
12 Ms. Clatie Stribble?

13 A Well, we both worked there. I was employed
14 before she was, but that's where we met.

15 Q At Lowe's?

16 A Yes.

17 Q Is that the Lowe's in Newberry just off of 219?

18 A Yes, it is.

19 Q Okay. What department were you working in at
20 Lowe's?

21 A In the lumbar department.

22 Q What section was Ms. Clatie working in?

23 A She was a cashier.

24 Q Okay. How would you characterize your
25 relationship with Ms. Clatie?

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 A Well, we was friends. I had a short-lived
2 relationship with her.

3 Q What do you mean short-lived?

4 A Well, I was in a relationship, but when kind
5 of -- I was kind of seeing her on the side.

6 Q Well, I don't need a name. But when you say I
7 was in a relationship, you were in a relationship with
8 whom?

9 A With my kid's mother.

10 Q Okay. And then you said we had a relationship
11 on the side, who are you talking about? Who's the we?

12 A Clatie and I.

13 Q Okay. I apologize, but would that have been an
14 intimate or a sexual relationship?

15 A It was.

16 MR. SCOTT: Your Honor, may we approach?

17 THE COURT: Yeah.

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury but out of the hearing of
20 the jury.)

21 THE COURT: Ladies and gentlemen of the jury of
22 jury, I hate to ask you, but I may have to proffer
23 some testimony from this witness. So, if you would
24 return to the jury room. Please don't discuss the
25 case. Have you back out here as soon as I possibly

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 can. Sorry about that.

2 (WHEREUPON, the jury came into open court at
3 approximately 3:00 p.m.)

4 THE COURT: Okay, the jury is out.

5 Mr. Verner, you want to go ahead and proceed
6 with your proffer?

7 BY MR. VERNER:

8 Q Okay. For purposes of time, I'm just going to
9 cut straight to the point about some of the things you
10 told me about, Mr. Jessie. You were in a relationship for
11 a little over three months with Clatie Stribble while you
12 were both employees at Lowe's?

13 A Yes.

14 Q It was an intimate relationship?

15 A Yes.

16 Q At some point, y'all broke up?

17 A Right.

18 Q Did you break up with her or she broke up with
19 you?

20 A I broke up with her.

21 Q Okay. Did that lead to her physically
22 confronting you in the Lowe's cafeteria?

23 A Yes, it did.

24 Q As a result of that physical confrontation, did
25 Lowe's fire both of you?

SHERWIN JESSIE-DIRECT BY MR. VERNER

1 A Yes.

2 Q How long did the breakup roughly last between
3 you?

4 A Probably two weeks.

5 Q Over this period of time, would she -- would
6 Ms. Clatie call you excessively?

7 A Yes. Yes.

8 Q By excessively, what kind of numbers are we
9 talking about?

10 A Probably, at least, 20 phone calls a day and
11 texts.

12 Q Okay. In addition to the 20 phone calls?

13 A Yes.

14 Q Okay. Did she find out where you lived?

15 A Yes.

16 Q Would she come repeatedly and ride around your
17 house?

18 A She would.

19 Q Okay. Would she contact your girlfriend on
20 social media?

21 A Not on social media, I don't think, but she did
22 call her.

23 Q Okay. And she would say or do things to try to
24 get you to break up with your new girlfriend?

25 A Yes.

SHERWIN JESSIE-CROSS BY MR. SCOTT

1 Q Did that continue even long after y'all had
2 broken up?

3 A Yeah, about a year later.

4 Q In fact, I think you testified that -- or you
5 didn't testify, but you told me just a few minutes ago
6 that you were riding with your dad when you first saw
7 Clatie and Clifton together?

8 A Uh-huh.

9 Q I think you indicated to me that you tried to
10 warn him?

11 A I did, yes.

12 Q Okay. Just basically warn him that she was
13 jealous or that you had that bad breakup with her?

14 A Yes.

15 MR. VERNER: Okay. That's the gist of his
16 testimony, Your Honor. It's just offered to show
17 that the characteristics of a victim consistent --
18 specific examples of a characteristic of a victim to
19 show action and conformity which would be the
20 incident on May 3rd.

21 THE COURT: Do you have any additional questions
22 of this witness, Solicitor?

23 CROSS-EXAMINATION

24 BY MR. SCOTT:

25 Q How long ago was this?

SHERWIN JESSIE-CROSS BY MR. SCOTT

1 A Over 10 years 10, 11 years.

2 Q Okay. Does it have anything to do with
3 Ms. Stribble's death last year?

4 A No.

5 MR. SCOTT: No, I don't, Your Honor. I don't
6 have anything else. I do have a case that seems to
7 be relatively on point with this sort of testimony.

8 THE COURT: Sure, go ahead. Give it to me,
9 please.

10 MR. SCOTT: State v. Day, D-A-Y, 341 S.C. 410.
11 And I offer that case for the proposition of evidence
12 of other specific instances of violence by the victim
13 are only admissible if directed against the
14 defendant. Or, if directed against others or so
15 closely connected to the point of time or occasion
16 with the homicide as reasonably to indicate the
17 victim's state of mind at the time of the homicide,
18 or to produce a reasonable apprehension of great
19 bodily harm.

20 Now, that would be instances of violence. And I
21 think that that's tantamount kind of to what we're
22 getting at, her reputation to be unstable, I think 10
23 years ago. So certainly, not close to the point in
24 time or the facts of what we're here for trial on.

25 MR. VERNER: And it's not really the -- the

1 violence would be the last thing I'm really offering
2 that for. Just the incident at the Lowe's cafeteria,
3 I don't think -- it would be a physical thing, but
4 not a violent thing where he would be in fear of her.
5 I think you will hear him testify she threw food at
6 him in the eating area. But it's not so much
7 violence as it is to show the characteristics of the
8 victim to show actions later on in conformity. I
9 don't really think this is violence, not a threat to
10 him.

11 THE COURT: How old was this incident?

12 MR. VERNER: Eleven years.

13 THE COURT: How old would she have been 11 years
14 ago?

15 MR. SCOTT: Twenty-five.

16 MR. DANIEL: Twenty-four, 25, maybe.

17 THE COURT: I'm looking at the case cited by the
18 State and paragraph 11, the Court seems to emphasize
19 the fact that the conduct that this defendant was
20 seeking to introduce took place only four months
21 prior to the crime. The solicitor's correct. They
22 also cite State v. Brown, where they're dealing with
23 a situation that was 23 years prior to the incident
24 in question. So, I guess, somewhere between four
25 months and 23 years is what we're dealing with here.

1 MR. VERNER: Was this the 2000 case, Your Honor?

2 THE COURT: Yes.

3 Looks like [indiscernible] was on this
4 particular issue we're dealing --

5 Mr. Verner, we're dealing with a relationship
6 when the victim was 24 or 25 and involving a person
7 other than the Defendant in this case. And the
8 dynamics of every relationship are unique. I don't
9 see where this is relevant to any issue involved in
10 this particular case. Perhaps, if this witness and
11 the victim had been dating certainly four months
12 around the time of the homicide or sometime closer in
13 time than 10 or 11 years, I can see where, perhaps,
14 there might be some relevance to have it routine or
15 practice. But I concur with the solicitor that this
16 is simply too remote in time to warrant admission.
17 And I'm struggling in many ways to even see
18 relevance. There's going to be no other citation or
19 no other authority that I can be pointed to, then I'm
20 inclined to sustain the State's objection as it
21 relates to this witness' testimony about his
22 relationship with the decedent. I didn't know if
23 there were, perhaps, other factual questions that you
24 could ask him.

25 MR. VERNER: Well, again, Your Honor, we are, of

1 course, in a self-defense posture case and it's 404

2 --

3 THE COURT: Here's one other additional problem
4 you have, Mr. Verner. I don't mean to interrupt you,
5 but at this point in time, the only testimony we have
6 from any witness who was actually present at the
7 scene was your client. His testimony was essentially
8 that after having consensual sex, the victim has the
9 habit of going crazy and getting angry, that's what
10 he said. He hasn't really testified as to -- or he
11 didn't give any statements to the police that I can
12 specifically recall about their breakup, his
13 relationship in detail with the victim. There's
14 nothing so far that's in the record in this case
15 that's going to corroborate anything that's
16 previously been put out there as far as your client's
17 self-defense being the question. Maybe this witness
18 would be relevant after other witnesses have
19 testified, but at this point in time, I'm inclined to
20 sustain the State's objection. This is simply too
21 remote. Ten years or 11 years, that's why too far in
22 the past. Every relationship a person has -- I mean,
23 I've been in more than 12 myself, okay, I've been in
24 a committed one more than 20 years. They all have
25 their ups, all have their downs. You go ask some

1 people I used to date what it was like, you're going
2 to get a wide variety of opinions and probably the
3 same for anybody else here.

4 MR. VERNER: I don't think I have the number the
5 Court does. But Judge, just the remoteness is a
6 different issue. That's a separate issue for the
7 Court. But I disagree with the Court, in 404(a)(2),
8 that the Court seems to be saying that it needs to be
9 offered to rebut or to corroborate. But 404(a)(2)
10 when it talks about character evidence, it says that
11 the defense may offer evidence of a pertinent trait.
12 So, it doesn't say it has to be rebuttable or that
13 the door has to be opened. It says a defense may
14 offer evidence of a pertinent trait of the victim.
15 So, I don't think we have to have that foundation,
16 but the State does have to have a foundation to offer
17 it. They can only offer it to rebut. So, by the
18 rules, the State does have to have a foundation laid
19 prior to this evidence coming in. He says the
20 Defendant may offer. Certainly, that's what we're
21 doing. We don't have to rebut or corroborate
22 something that's been attacked.

23 MR. SCOTT: But Your Honor, speaking of
24 rebuttal, if this type of testimony comes out, that
25 would force my hand to vigorously pursue that Order

1 of Protection. If he's going to testifying about her
2 being a crazy stalker or showing up when she's not
3 supposed to be showing up, them having to protect
4 themselves from her, that would force me to really
5 pursue the four-year-old Order of Protection if we're
6 getting into things that happened 10 years ago that's
7 unrelated.

8 THE COURT: The Order of Protection is only four
9 years old? I thought it was older than that.

10 MR. SCOTT: It was 2014.

11 THE COURT: Oh, my mistake then.

12 MR. VERNER: The only difference in that is what
13 door is being opened. Because under 404(a)(2), it
14 opens the door to the prosecutor to rebut, to offer
15 new evidence to rebut the accusations against the
16 victim. It doesn't necessarily say the door is now
17 opened to go after other witnesses.

18 THE COURT: But now, the Court, in fairness, may
19 think that there's some -- if the Defense's theory of
20 this case is that this was an obsessed woman who
21 couldn't say good-bye to him and just ever so much
22 wanted to be with him, they have a point. The fact
23 that she sought an Order of Protection to keep him
24 away three or four years before her death, would be
25 relevant on that issue. I mean, if we're talking

1 about stuff that happened 11 years ago, the Court
2 finds that admissible, then certainly, I think you
3 would have to concede that the victim -- and again,
4 we're talking about the victim, not the conduct of
5 the Defendant, but the fact that she undertook to
6 obtain an Order of Protection to keep him away would
7 be pretty darn powerful evidence that she did not
8 want to have anything to do with him.

9 MR. VERNER: I concede that it would be relevant
10 and that it would be in the spirit and equity might
11 be fair if you're going after him, then we're going
12 after her. But the question legally is what door
13 under the rules does the prosecutor get to
14 introduce -- what is the vehicle for introduction of
15 this evidence for the State under the rules of
16 evidence and criminal procedure. 404(a)(2) only
17 opens up the door to a particular witness.

18 Now, if he testified that the Defendant has
19 characteristics for peacefulness, that is clear under
20 the rule, not just 404(a)(2), but if I offer up that
21 my client has a reputation for peacefulness and
22 gentleness, then the State's entitled to rebut the
23 same. But what the State wants to do is -- and I
24 understand it's relevant thing and the general
25 stomach feeling is in fairness if you do this with

1 one against, then maybe they should do it against
2 another witness. I agree that if this were an
3 argument on the school grounds about who was a better
4 baseball player or such and such, but --

5 THE COURT: The testimony that's been elicited
6 is that times of breakups, they habit or character of
7 the victim is engage in stalking-like behavior, not
8 accepting the breakup, to throw food, to text or came
9 multiple times. If that is the portrait that's being
10 painted, again, of the victim, the solicitor's point
11 is that by the same token, if the victim in this case
12 sought a restraining order, that demonstrates her
13 desire to not have contact with person X, in this
14 case, your client as opposed to trying to stalk him
15 once the breakup has happened.

16 MR. VERNER: But they can only do that through
17 404(a)(1). That was the rule, the vehicle put forth
18 for the State to get this in evidence and the
19 pertinent trait of the character offered by the
20 accused of the accused or by the State to rebut the
21 same. Then we have 404(a)(2) that when you're
22 talking about a separate witness, the State,
23 likewise, they, under that rule, go after the -- but
24 opening the left-hand door, it's not a lady or the
25 tiger situation where the -- one door doesn't lead to

1 both rooms. One door is for the victim and evidence
2 of her pertinent characteristics, which is 404(a)(2).

3 THE COURT: That's what I'm talking about.

4 MR. VERNER: And the other door is pertinent
5 characteristics of the Defendant, which is 404(a)(1).

6 THE COURT: That's why I'm talking about the
7 characteristics of the victim. The fact that she
8 sought a Restraining Order -- the Defense's theory is
9 every time there's a breakup -- she gets into a
10 breakup, she stalks the man who she breaks up with,
11 she makes the breakup harder. The fact that the
12 victim -- we are talking about the exact same thing.
13 The fact that the victim, in your client's situation
14 in 2014, sought a Restraining Order against him
15 indicates that she is not the one trying to stalk
16 your client.

17 MR. VERNER: Well, it could --

18 THE COURT: We're talking about the exact same
19 door.

20 MR. VERNER: That's a better argument.

21 THE COURT: Candidly, I think that if you go
22 down this road, you're going to be opening the door
23 that has the tiger behind it as opposed to the one
24 with the lady.

25 MR. VERNER: We want the lady. But just I

1 think -- I'll agree that it could and judicially
2 might more likely than not open the door to did you
3 know whether or not she had an Order of Protection in
4 2014. Now, it expires, of course, in one year. But
5 it could potentially open that door, Your Honor. How
6 it opens up other doors to other incidents, I'm more
7 skeptical of.

8 THE COURT: Well, probably doing your client a
9 favor in the long run. My ruling is this is just too
10 remote in time to warrant the jury hearing it. Okay.
11 I cannot see where a relationship that happened 11
12 years ago -- this is similar to the old way in CSC
13 cases where you would bring in a number of men that
14 the person -- the victim had engaged in relations
15 with. And the purpose was to try to demonstrate that
16 she was, trying to minimize it here, but lacking in
17 chastity and perhaps --

18 MR. VERNER: Well, that's not the point of that.

19 THE COURT: Well, he's not testifying to this
20 question that stands. If you've got anything else
21 you want to ask him about, then that's fine. But
22 you're not going to talk about three-month,
23 11-year-old length.

24 MR. VERNER: Your Honor, the proffer is out
25 there, it's been ruled on. I don't have any use of

1 this witness beyond the proffer.

2 THE COURT: Very good.

3 All right, sir, you can step down. All right.

4 Your next witness?

5 MR. VERNER: We rest at this point, Your Honor.

6 THE COURT: All right. Let's talk then jury
7 instructions in the event that the jury wants to keep
8 working tonight. You received copies of what I have
9 prepared thus far?

10 MR. DANIEL: Yes, we have.

11 THE COURT: Have you had a chance to look at
12 them?

13 MR. VERNER: I have not, Your Honor. I received
14 dozens throughout the years, so I'm fairly familiar
15 with the Court's wisdom of the charges. There was
16 testimony offered, although it's evidence of the
17 clients -- the Defendant's statement to Chief
18 Bodiford, which indicates that he intended to just
19 choke her to stop her, and that he accidentally
20 killed her. So, I understand the legal quandary
21 between self-defense and accident and this would be
22 more in the accident -- I'm sorry, more in the
23 self-defense traditional vain. But clearly, by
24 playing the Defendant's statement to law enforcement,
25 the State has introduced both evidence of

1 self-defense and voluntary manslaughter, that she
2 came in there and she attacked him. And then --

3 THE COURT: Help me with the theory of
4 involuntary manslaughter. I got so far voluntary,
5 murder and self-defense in the instructions. You
6 indicated before lunch you were seeking an
7 instruction on involuntary. Involuntary arises when
8 they're engaging in a lawful act recklessly or
9 engaging in an unlawful act, not unlawfully cause of
10 death. Help me, which of those apply?

11 MR. VERNER: Well, the -- his behavior -- if the
12 jury finds that he was defending himself, which would
13 be a lawful activity, even in an argument or
14 confrontation between girlfriend and boyfriend, if
15 the jury found that he was defending himself or that
16 he was trying to stop the fight lawfully, then he was
17 reckless to the degree of force he used to stop her
18 from getting agitated and confrontational, I think
19 the jury could very well find that if I believe that
20 somebody was just trying to subdue somebody, but they
21 used reckless force in regard -- they used force
22 indifferent towards the safety, which would be the
23 reckless, likely to cause harm-type behavior, the
24 jury could say well, we understand him trying to calm
25 her down, but we think that force was indifferent or

1 reckless to her personal safety and that led to her
2 deft, but he did not have the intent before to kill
3 her.

4 THE COURT: Solicitor, you want to speak to this
5 question?

6 MR. DANIEL: Your Honor, I would just direct the
7 Court to State v. Sams, that's 410 S.C. 303, that's a
8 2014 Supreme Court case, and the strangulation fact
9 pattern. And the Supreme Court said involuntary is
10 not proper in that factual scenario. The heart of
11 involuntary is the killing is unintentional.

12 Now, according to Mr. Boozer's statement, he
13 intended to kill her, albeit in self-defense. So,
14 defense and involuntary in this particular situation
15 is mutually exclusive. State v. Sams, that case is
16 very on point. Even there was testimony where Sams
17 said I didn't mean to kill the person when he
18 strangled him. They said, well, no, you're doing an
19 act -- you're doing an intentional act by choking and
20 that's an act likely to cause death or great bodily
21 injury.

22 THE COURT: You're saying Sams or Sims?

23 MR. DANIEL: Sams, State v. Sams. 410 S.C. 303,
24 Sams, as in Sam's Club.

25 THE COURT: Okay.

1 MR. DANIEL: Your Honor, we have West Law, it's
2 headnote 15.

3 THE COURT: We found it, thank you.

4 MR. DANIEL: In the Sams case, Your Honor,
5 the -- both of those paragraphs, the first case it
6 refers to is somebody using a knife. In the Sams
7 case, specifically, the Court said well, even if we
8 do accept that you can charge involuntary
9 manslaughter, in this particular case, Sams was
10 choking the man and had to get the law enforcement
11 officers to pull his hands off of the victim. He had
12 been choking him for more than 10 minutes. Law
13 enforcement had to physically remove his hold from
14 the victim and the victim was limp in his hands.

15 THE COURT: That's kind of a point, though, that
16 if one is entitled to self-defense, that's an
17 absolute right. If you were to defend yourself in
18 self-defense with say a firearm, you're entitled to
19 unload the weapon, fire all shots that are in the
20 firearm.

21 If your client was truly -- and this is a jury
22 issue, of course, but if he was acting in
23 self-defense, it's an absolute defense and whether he
24 engaged in self-defense in a reckless or grossly
25 negligent manner is, perhaps, irrelevant because it's

1 an absolute defense. If he truly feared for his
2 life, then he should be choked.

3 MR. VERNER: But in State vs. Pickens, the Court
4 said that you can have self-defense and involuntary
5 manslaughter.

6 THE COURT: Give me that cite.

7 MR. VERNER: It's cited in the Sams order, just
8 further down, but in State v. Pickens, the Defendant
9 was convicted of voluntary manslaughter. Well, maybe
10 it stands for the contrary as well. I'm wrong on the
11 Pickens case, Your Honor. That's the case where they
12 were.

13 THE COURT: I'm looking at State vs. Scott, it's
14 from 2014 Appellate Court of Appeals, quote, We find
15 no basis to conclude that Scott acted recklessly in
16 defending himself because the circumstances Scott
17 alleges to be reckless are the same circumstances
18 that justified his use of force.

19 MR. VERNER: Well, on the particular case I
20 cited, I'm incorrect. But on the key cite 16 quote,
21 We recognize there is authority for proposition that
22 a self-defense charge and involuntary manslaughter
23 charge are not mutually exclusive as long as there's
24 evidence to support both charges. The quintessential
25 situation where both involuntary manslaughter and

1 self-defense have been justified in all circumstances
2 where there is evidence of negligent handling of a
3 weapon, gun, or evidence that the victim and
4 defendant were engaged in a struggle over a weapon.

5 Which would be the knife in this particular
6 case. I understand the proximate cause of death
7 would be strangulation, but we also have the struggle
8 over the weapon in this case, Judge. There's no
9 bright line rule for the Court. The verbatim
10 language is that the Supreme Court says there's no
11 bright line rule saying that they're mutually
12 exclusive.

13 THE COURT: I would concur that that's the law,
14 but negligently handling a firearm is, perhaps, a
15 little different.

16 MR. VERNER: Or a mutual struggle over a weapon.
17 That's the second part of that.

18 THE COURT: Solicitor, anything else y'all want
19 to say or anything else you want to point the Court
20 to?

21 MR. SCOTT: No, I don't think so, Judge. I
22 think it's noteworthy, the sentence under Title 16 is
23 undoubtedly determining the multiple charge of
24 appropriate terms of the facts of each case. That
25 comes after the fact pattern in State v. Light that

1 they go over. That this was a very specific
2 circumstances where that would be appropriate, the
3 involuntary charge. I just don't see it. There's
4 the struggle over the knife, but, ultimately, it's
5 the strangulation was the cause of death. And that's
6 on point with Sams and involuntary would be
7 inappropriate under our specific set of facts.

8 THE COURT: All right. I'll take five minutes.
9 Let me talk to my clerk about it a little bit more.
10 My current default setting is to not charge
11 involuntary manslaughter, but I'm going to review
12 that a little bit more after she looks over the next
13 cases she's looking at. Assuming that the jury is
14 willing to continue moving forward tonight, are we
15 assuming that y'all are willing to?

16 MR. SCOTT: I've got nowhere else to be
17 necessarily.

18 MR. DANIEL: I would.

19 THE COURT: How long would you anticipate -- you
20 want to open and close, each go first and last or
21 save it all for --

22 MR. SCOTT: If I can do it all at once at the
23 end, that's what I would prefer. It's the Court's
24 discretion.

25 THE COURT: Do you have a preference,

1 Mr. Verner, on both questions where he just talks
2 once or he gets two cracks at the jury or whether we
3 --

4 MR. VERNER: Judge, in that murky area of the
5 law, I still prefer the Supreme Court's ruling that
6 the Defendant should close arguments, Judge. But
7 short of the Court reaffirming that rule, so I would
8 ask to close, but understand the traditional rule is
9 as the solicitor suggested it.

10 THE COURT: Well, he's got the burden of proof,
11 that's the reason probably for the rule. Would you
12 be comfortable with him just not opening on the law,
13 then you open or did you want him to open?

14 MR. VERNER: I don't want to give the solicitor
15 my opinion on how he should try his case, Judge.
16 That's entirely up to him.

17 THE COURT: If you want to just go last,
18 Mr. Scott, that's fine. You will be closing for the
19 State? You will be closing for the State?

20 MR. SCOTT: Yes, sir.

21 THE COURT: All right. I'll give y'all five
22 minutes to collect your thoughts. I'm assuming the
23 jury will want to go forward. Y'all know where I
24 stand, if my ruling changes between now and when they
25 come out. I'm also going to have my law clerk add no

1 bad inference for the Defendant's failure to testify.

2 MR. VERNER: Judge, I don't oppose the Court
3 asking the jury -- and I understand I have to close
4 technically. But if the Court wanted to get some
5 kind of advisory opinion or go ahead and let the
6 clerk put that to the jury. If we --

7 THE COURT: When I break, I'm going to have the
8 foreman come out and say, when y'all come back out,
9 chances are we're going to be done with testimony. I
10 assume your closing will be about 40, 30 minutes. I
11 assume the State's is about the same.

12 MR. VERNER: A little bit complicated case,
13 Judge, so probably longer than normal, but not
14 extreme.

15 THE COURT: All right. So, be about 6 o'clock
16 before we hope to get it to the jury is what I'm
17 hearing probably.

18 MR. SCOTT: I'll try, Your Honor. There's a lot
19 to cover.

20 MR. VERNER: If they're going to deliberate it
21 tonight, I would prefer to argue the same day they
22 start deliberating and not mull it overnight. So, if
23 they want to -- if they don't want to start
24 deliberating until after 6:00, I would prefer that we
25 don't argue until the morning.

1 THE COURT: Right.

2 MR. VERNER: But if they will stay until however
3 long, then.

4 THE COURT: Let me ask the foreman that
5 question. Y'all start thinking about it and see what
6 the survey is.

7 Ask the foreman to step out.

8 (WHEREUPON, the Judge had an off-the-record
9 conversation with the foreman of the jury.)

10 THE COURT: We're at ease for a few minutes.

11 (WHEREUPON, a short break was taken.)

12 THE COURT: Go back on the record. The jury has
13 indicated to the bailiff, the clerk, that they would
14 like to come back in the morning. I'm not going to
15 fight them on that because they're the ones being
16 inconvenienced. So, we'll bring them out and resume
17 tomorrow morning.

18 MR. SCOTT: Has the defense rested yet?

19 THE COURT: Technically rested, no.

20 You want to rest tonight or tomorrow?

21 MR. VERNER: Well, Judge, I think given -- I
22 appreciate my colleagues recommendation. Given our
23 stance today, either the Court can hold it open until
24 tomorrow morning. I do intend to rest -- I can rest
25 real quick, and the Court can go ahead and discharge

1 them for the night. I do have two arguments for the
2 proposed charge.

3 THE COURT: Okay, let's have the jury out,
4 please.

5 (WHEREUPON, the jury came into open court at
6 approximately 3:53 p.m.)

7 THE COURT: All right. The record will reflect
8 that the jury is back.

9 At this point, Mr. Verner, the defense intends
10 to rest, is that correct, sir?

11 MR. VERNER: Your Honor, we do. We're prepared
12 to rest in front of the jury, Your Honor.

13 THE COURT: Very good.

14 Mr. Foreman, the bailiff informed me that the
15 consensus of the jury is to return tomorrow morning a
16 little bit fresher and a little less tired after a
17 good night's rest. Is that basically what I'm
18 hearing?

19 MR. FOREMAN: Yes, sir, that's correct.

20 THE COURT: If you would be back in the jury
21 room tomorrow morning at 9 o'clock. We're going to
22 stay out on the record out here. The law does
23 require me to have a charge conference with the
24 attorneys and discussion about the instructions that
25 I'm going to give you, that's what the law requires

1 us to talk about. It's a little bit more. So, my
2 law clerk has been working on the instructions
3 throughout the trial, as have I. Enjoy your evening.
4 Be back in the jury room tomorrow morning at
5 9 o'clock.

6 I do still need the alternate to come back, so I
7 need you back again tomorrow morning, ma'am.

8 With that, have a great evening. Don't talk
9 about the case. Tomorrow, once the verdict is
10 rendered, you can talk to whoever you want so you
11 have to keep your mouth shut one more night. Enjoy
12 your evening. We'll see you tomorrow morning at
13 9 o'clock. Thank you.

14 (WHEREUPON, the jury left open court at
15 approximately 3:59 p.m.)

16 THE COURT: Mr. Verner, you have some
17 suggestions?

18 MR. VERNER: Motions, actually. I renew my
19 directed verdict motion, Your Honor. And then
20 assuming that is denied, I'm taking -- the Court's
21 nodding his head, I'm assuming that's been denied.

22 THE COURT: Right. The Court will be denying
23 the motion for directed verdict.

24 MR. VERNER: The first paragraph of the Court's
25 proposed charge on prior difficulties of the parties,

1 in my opinion, that's based on the acting on
2 appearances when the Defendant puts up -- and I was
3 acting on appearances by use of self-defense. And
4 that's not the facts of this case, Your Honor. Where
5 he didn't say I thought somebody was going to shoot
6 me, so I shot him first type situation.

7 THE COURT: So eliminate that?

8 MR. VERNER: I would ask that the first
9 paragraph, at least, be redacted, or I think that
10 follows the line when the Defendant raises evidence
11 that I hurt somebody because I knew he wanted to hurt
12 me because of prior beefs we've had. And therefore,
13 I was entitled to act on those appearances in the
14 prior. That doesn't apply to this case when,
15 basically, my client's statement says, basically, she
16 attacked me out of the blue.

17 THE COURT: Okay, I'll eliminate that portion.

18 MR. VERNER: Okay. And I did see the Court -- I
19 may be wrong, but in the self-defense charge, my
20 understanding of the correct statement of the law
21 would be if somebody is justified in using force or
22 deadly force in self-defense, they are entitled to
23 keep performing such deadly use or force until they
24 believe that the threat is eliminated. That's the
25 second bullet type charge, Your Honor. As long as he

1 was justified in using deadly force in self-defense
2 that the right continues until the threat is
3 eliminated.

4 THE COURT: Can you point me to the case that
5 says I should instruct along the lines? I'm still
6 struggling with the verbiage that you're using.
7 That's why I was kind of asking for a case if you
8 feel the one --

9 MR. VERNER: Would the Court give me just a
10 second or two?

11 THE COURT: Yes, go ahead, please.

12 The charge along those lines, Mr. Verner, is
13 under the heading of continuing until threat of harm
14 has ended. And it says that The defendant is
15 justified in defending himself or others and in
16 firing the first shot, the defendant is also
17 justified in continuing to shoot until it's apparent
18 that danger of death or serious bodily injury has
19 completely ended.

20 So, obviously, I would need to tweak that.

21 MR. VERNER: That was my word exactly. That the
22 shooting, but just that the use of a deadly force can
23 continue until the defendant believes that the threat
24 no longer exist. As long as he reasonably believes
25 that it's necessary to continue to use deadly force,

1 where the jury finds that the use of deadly force is
2 justified, I'm permitted to argue that the continued
3 use of force --

4 THE COURT: Is this a continued use of force or
5 degree of force? Because there's an instruction that
6 might be a little bit more apropos. A person cannot
7 be required to make exact calculations the degree or
8 amount of force which --

9 MR. VERNER: I'm aware of that one, Your Honor.
10 And I think that one actually fits better on force.
11 I prefer them both. The continued use tweaked to
12 reflect that it's not a shooting case. But the
13 degree of force and the continuing use of force.
14 Because the only -- because of the coroner or the
15 pathologist's testimony about how long, that it could
16 have taken up to three or four minutes. And so,
17 that -- how long the use of self-defense lasts, I
18 guess is more the issue as opposed to how many
19 strikes are blown.

20 THE COURT: I'm going to use -- I'm going to use
21 the degree of force instruction and play with it a
22 little bit to include kind of the temporal suggestion
23 that you're making here. I know what you're getting
24 at, I'm just going to have to work on the language a
25 little bit.

1 MR. VERNER: The Court's right. If there was
2 some kind of temporal language in the degree of
3 force, that would -- because my concern is that the
4 jury can say, you know, we understand grabbing her by
5 the neck, but listen, you held her by the neck three
6 or four minutes long after she ceased to fight. And
7 that -- my point would be as long as he's -- if it
8 was self-defense, then --

9 THE COURT: I mean, that's a jury issue. I
10 think your point is well taken on that.

11 Did y'all want to chime in? I understand you
12 feel like -- I understand your argument that three
13 minutes is going to be excessive once she has been
14 rendered unconscious after seven to ten seconds. But
15 again, the law is what the law is.

16 MR. SCOTT: Yes, sir, I understand the theory
17 and I understand your dilemma. Because, typically,
18 we see it with the gun. You know, like Charles said,
19 you can justify shooting once, you can justify
20 shooting two or three times. I've never had a
21 strangulation case self-defense. But I look forward
22 to your offering.

23 THE COURT: We will forward that this evening
24 sometimes. Size and age, that was also included in
25 the instructions. They appear to be, perhaps,

1 equally matched size and abilities, I don't know.

2 MR. VERNER: I think the State is going to argue
3 that my client was larger or, at least, male. But
4 the -- the -- I'm less concern about that. I prefer
5 it also not to be in there given that there was a
6 knife. But I'm sure the State is going to bring that
7 up, at least, in their argument. But I prefer it not
8 to be in there, but that worries me less than the
9 prior difficulties.

10 THE COURT: The State feel passionate about it
11 either way?

12 MR. SCOTT: No.

13 THE COURT: We're going to include it.
14 Anything else before we break for the evening?

15 MR. SCOTT: Not from the State.

16 THE COURT: All right, very good. I'll see
17 y'all tomorrow morning at 9 o'clock. If somebody
18 will let probation know.

19 I don't know if you've got any of those cases,
20 Mr. Verner, but, obviously, your focus will be on
21 this and we'll worry about probation later, of
22 course.

23 MR. VERNER: Thank you, your Honor.

24 THE COURT: After we get this case to the jury,
25 that is. See y'all in the morning. Have a good

1 night. Thank you.

2 (WHEREUPON, the proceedings were concluded for
3 the day to be reconvened on August 10, 2018.)

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1 (WHEREUPON, Court's Exhibit No. 1 was marked for
2 identification only.)

3 THE COURT: Any other comments concerning the
4 instructions I emailed everyone last night? I didn't
5 really receive any reply as far as corrections or
6 objection to what was sent. So, I'm assuming we're
7 good. And I modified the instruction.

8 Did you get my email, Mr. Verner?

9 MR. VERNER: Your Honor, I don't get my work
10 email at home. I assume it was consistent with the
11 Court's colloquy yesterday that you were going to try
12 to work into the --

13 THE COURT: Yes, the way -- I'll pull it up real
14 quick here. The degree of force instruction, the
15 last sentence reads, if the Defendant is justified in
16 defending himself, then a defendant may continue to
17 use the amount of force necessary until it is
18 apparent that the threat of death of serious bodily
19 injury no longer exists.

20 That's what I wrote.

21 MR. VERNER: Yes, Your Honor.

22 THE COURT: I explained the continued shooting
23 instruction. I also eliminated from the voluntary
24 manslaughter charge that portion of the instruction
25 that talks about exercising the legal right no matter

1 how offensive cannot give rise to legal provocation.
2 Because I didn't see where that was --

3 MR. VERNER: Would the Court --

4 THE COURT: -- applicable, yeah.

5 MR. VERNER: I'm sorry, would the Court -- what
6 was the language The court excised from the charge?

7 THE COURT: I'll give you the exact language I
8 excised. The exercise of the legal right no matter
9 how offensive it is to another is never sufficient
10 legal provocation for voluntary manslaughter.

11 There's no indication here of exercising some
12 legal right that might be offensive.

13 MR. VERNER: Okay.

14 THE COURT: Speech or --

15 MR. VERNER: I understand.

16 THE COURT: Any other thoughts from the State?

17 MR. SCOTT: What was that, I'm sorry, Your
18 Honor, to exercise the legal right is never legal
19 provocation?

20 THE COURT: Yes.

21 MR. SCOTT: The only reason I can foresee that
22 being applicable is if the legal provocation is her
23 coming at him with a knife. Because if that did
24 happen, that's plausible. Because she slept with a
25 knife under the pillow. It would be her protecting

1 herself from what we would consider an intruder. I
2 don't know if that's going to be the argument in
3 closing. I don't know what the legal provocation is
4 they're submitting. If it's her using a knife is
5 what -- that could be two ways. If it's his story
6 that she suddenly flips out after he's been invited
7 in with the knife, that's one thing. If it's her
8 using the knife to defend herself from an intruder,
9 that would be a legal use of force and, of course,
10 would not amount to legal provocation in his
11 perception.

12 MR. VERNER: I would just note the solicitor has
13 final argument and can always tailor his final
14 arguments, I would guess.

15 THE COURT: I will happily put it back in. I
16 was just trying to eliminate superfluous verbiage
17 from the instruction.

18 MR. SCOTT: That just occurred to me. I'm a
19 little in the dark as far as what the legal
20 provocation is. So, that just sort of occurred to me
21 when we were talking about it.

22 THE COURT: There's case law out there that says
23 heated argument can give rise to it. And if there's
24 any evidence -- I'll add that back in the charge
25 somewhere and we'll proceed.

1 All right, we're going to send you the
2 instructions. Print it, bring it out to us in just a
3 moment.

4 All right. Everyone ready to close? Very good.
5 Let's have the jury, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 9:47 a.m.)

8 THE COURT: All right, ladies and gentlemen
9 welcome back. Again, I am sorry for keeping you
10 there. I know y'all were here on time. Basically, I
11 exchanged the instructions with the attorneys last
12 night by email, but one of them was having technical
13 difficulties, couldn't access it, so we needed to
14 have that discussion before we brought y'all out here
15 to try to finalize those instructions. The Court's
16 now comfortable with what has been prepared by way of
17 jury instructions for you.

18 At this point in time, ladies and gentlemen, the
19 attorneys will be making their closing arguments or
20 their closing summations to you. I let you know that
21 it's customary during closing arguments for the
22 attorneys to refer to testimony or facts or other
23 evidence which has been introduced during the course
24 of the trial and, obviously, they're going to talk
25 about what people have testified to, what witnesses

1 have said. Obviously, if what they say about the
2 testimony differs from what your recollection of the
3 testimony is, you should go with your recollection.
4 Of course, you are the judges of the facts in this
5 case, okay. So, for example, they would just say
6 that yesterday -- yesterday morning, it was rainy and
7 wet and miserable, but you remember yesterday being
8 quite pleasant, temperate, you should go with your
9 recollection as opposed to what they say it was like.
10 All right.

11 The way that we'll proceed is that Mr. Verner
12 will go first on behalf of Mr. Boozer to be followed
13 by Mr. Scott on behalf of the State.

14 So, Mr. Verner, at your leisure, you're
15 recognized for your closing, sir.

16 CLOSING STATEMENT

17 MR. VERNER: May it please the Court, Your
18 Honor. And on behalf of Cliff Boozer, I appreciate
19 the chance.

20 I was thinking about it this morning. It was
21 probably about 20 years ago today, give or take, that
22 I first represented somebody in a criminal trial. As
23 a young public defender in some Podunk county court
24 in Abbeville County. Young girl charged with
25 slapping her boyfriend. I was pretty fresh out of

1 law school. She was probably 20. She's probably in
2 her 40's now, probably got teenage kids, probably
3 divorced. But it was a domestic-type slap in the
4 car. And I remember I made dioramas for jury. I
5 went out and found a Ford Mustang replica of the car
6 that the slap happened in and put it in the diorama.
7 And we made that case, the prosecutor and I made that
8 case take a full day in some county court in
9 Abbeville County. That's really largely before we
10 had the domestic violence laws that we have today.
11 And that's my first case and I've been doing it
12 consistently for 20 years.

13 I'm not an expert on crime scenes or
14 investigations. All I've got is my God given common
15 and the ability to listen. I've got the ability and
16 the benefit, I guess, of getting both sides of it. I
17 can get the State's evidence, then I can speak and I
18 can just listen to people. I'm not trained
19 forensically. All I've got is my ability from
20 growing up in Newberry of listening to people and
21 putting myself in their shoes as a reasonable person.
22 If I could see myself doing it -- I consider myself,
23 probably like most of us, a fairly typical reasonable
24 person. If I could see myself doing it, then I
25 assume a reasonable person would be in my same

1 situation. Because I typically -- in the typical
2 middle-age guy, I don't do crazy stuff anymore. I
3 don't do smart stuff always either, but I'm a fairly
4 typical person. If I can see myself in somebody's
5 shoes doing something similar, then I think a
6 reasonable person standard. And that's just what the
7 Judge will charge to you is what you think a
8 reasonable person under the stress of that type
9 situation would do.

10 And I would also ask you to consider the trial
11 starts at this bar this way. There's nothing that
12 you have heard or saw beyond the bar that is evidence
13 or is anything proper for you to consider. It's the
14 testimony and the exhibits. I'm from Newberry. I'm
15 not oblivious, I'm not clinical, I'm not
16 unsympathetic to the Stribble folks and to their
17 friends and family and community activist out there.
18 It's a pretty good crowd together. I assume, both
19 sides have family here. We've seen a week-long case.
20 I mean, you know whose here, but that's not the case.
21 You've taken an oath to decide this in a clinical
22 dispassionate way. You don't give justice for
23 somebody. You give justice. That is you do what you
24 think is right and the chips falls where they may.
25 And that's all we're asking you to do.

1 I grew up in Newberry. Quarterback of my
2 football team was a Stribble. I assume, must have
3 been possibly a distant cousin because Newberry is a
4 fairly small county. Just as an aside, he's the only
5 quarterback who threw me a pass in a game. I
6 remember to the day, I was in the corner of the end
7 zone. He lobbed a pass to me and a quarterback from
8 Airport High stepped between me and the ball and took
9 it 25 yards the other way. But that's the -- so I'm
10 not oblivious. I'm just like you are. I mean, I
11 understand we've got Ms. Clatie Stribble who has been
12 killed. Your oath and your common sense is to decide
13 things patiently put. I don't want -- that doesn't
14 mean that you're immune to understanding the emotions
15 of this case. Just like me. And I would just ask
16 for you to give me a chance to just suggest some
17 things for you that I think are important in this
18 case.

19 And the first thing is what if the police had
20 decided to investigate this case just a little bit
21 differently? What if instead of a Louis Rich
22 employee, Mr. Boozer had been just a banker or a
23 prominent businessman and the police had started the
24 investigation giving him the benefit of the doubt as
25 opposed to just charging him with murder and then

1 working to disprove anything that he said that
2 happened? Which is exactly what has happened in this
3 case. And I understand that. That can be sound law
4 enforcement strategy, but your duty, as the Judge is
5 going to tell you, under your oath is that you have
6 to start the case giving every benefit of the doubt
7 to Clifton Boozer.

8 And how do I know and how do you know for a fact
9 that the police went ahead and charged him with
10 murder and then made their case top down with the
11 incident to disprove any evidence or any inconsistent
12 evidence? Because we've heard Cliff's statement
13 given the day that Ms. Clatie was killed. It was a
14 55 minute tape where Officer -- Chief Bodiford is
15 interviewing Cliff in the police station just a
16 couple hours after Ms. Clatie was killed. What
17 happens at the very end of that tape? They serve him
18 with the arrest warrant. You remember where we
19 stopped it where they're serving him and reading the
20 arrest warrant?

21 So, they've gone to the crime scene and they've
22 interviewed Cliff on the same day. And they've
23 already -- at the end of the interview, they've
24 already got a typed out arrest warrant signed by a
25 judge to arrest him for murder. Either the officers

1 doing it with a judge present during the statement or
2 they've already got the murder charge made on him.
3 And at the end of it, you hear the officer say,
4 here's the arrest warrant. Instead of investigating
5 the crime scene and then giving Cliff a chance, who
6 said I'll speak to the police, they went ahead
7 charged him and then took his statement. They just
8 didn't tell him they had the murder warrant until the
9 end of the interview. And you heard it on the tape.
10 And that's building a case from the top down.

11 And since that is the course that the State has
12 chosen, instead of listening to both sides or
13 considering the evidence and hearing Cliff's side and
14 then determining is this self-defense, yes or no? If
15 not, is it a more serious crime and working up, they
16 went ahead and charged him immediately with murder
17 and then took his statement. So, that's the order
18 I'm going to address the charges in, murder.

19 We don't have in South Carolina -- well, we do,
20 but by name, we don't have degrees of murder, first
21 degree, second degree, third degree. We've just got
22 murder. We just offhand weigh the same, first degree
23 murder, which is the murder we think of every time we
24 hear it, is this cold-blooded, premeditated, that's
25 the important term, a premeditate, which means

1 somebody has the time to plan it. It doesn't mean
2 they have a lot of time to plan it, but it still
3 means they have time to think about what I'm going to
4 do, reflect on it and it's a murder charge. The best
5 way to show premeditation is planning.

6 And again, I submit to you, if you just look at
7 the scene itself, it just doesn't have the
8 premeditation. There's been a six year -- Cliff and
9 Clatie are in a six-year relationship. You heard
10 it's turbulent. We've heard -- I heard, at least,
11 four people say toxic. I will suggest to you -- I
12 don't know for a fact, but I would assume that
13 because that's a term I don't usually hear that
14 often, that probably in prepping for the case or
15 speaking to each other or hearing other people
16 testify that that's just a word that they've latched
17 on to today or during this week, or the solicitor
18 suggested. But it's just unusual that that one kind
19 of word is banded about by so many different
20 witnesses for the same side. I do suggest that
21 possibly they had been -- and I'm not suggesting
22 anything bad because there's nothing wrong with
23 recollecting your events of what happened. But I do
24 think that the evidence shows it was a hot and cold
25 up and down relationship. It's a two-sided

1 relationship. It lasted for six years.

2 All the evidence is that Cliff -- that you heard
3 from the witnesses, they lived together about six or
4 seven years. The hot and cold. Sometimes he left
5 her, sometimes she left him. The last time that
6 their witness said she went to the house on Conifer
7 that Cliff was there. So, we know Cliff was a
8 regular there. He kept effects there. The fact that
9 his cigarettes would be there, the same brand that
10 Clatie smokes. It's not really -- I don't consider
11 that strong evidence if you find some of his stuff in
12 her home.

13 The taxi driver, who was probably -- I consider
14 a very credible witness. You know, the officer
15 testified her first concern was she thought, oh, my
16 God, something happened. I'm going to get caught up
17 in it, I'm an accessory. And she looked nervous.
18 She didn't want to be here. From Clinton. But I do
19 submit to you she was credible. She said Cliff was a
20 regular customer. I regularly took him out to Ms.
21 Clatie's house. And you heard -- she -- both her and
22 then Chief Bodiford testify that the State's going to
23 suggest that somehow it's suspicious that she didn't
24 pull right in the driveway in the morning. But she's
25 testified and Chief Bodiford testified on the day

1 after Ms. Clatie was killed, she said, I never went
2 into the driveway. I always dropped him off before I
3 got to the house. It's in the transcript. Chief
4 Bodiford testified she told him that the day after
5 Ms. Clatie was killed. She testified that she said
6 that. The solicitor is going to say that's mighty
7 suspicious. But it's also mighty regular. The taxi
8 driver said I never went to that lady's driveway.
9 Part of the reason was that lady and I, Ms. Clatie
10 and I had words. Remember the argument they had that
11 I don't like you being his taxi driver.

12 The biggest evidence that I can think of that
13 it's not a murder case is Ms. Clatie was choked to
14 death. She was strangled, she was choked to death.
15 She was cut as well. But if I had the intent and a
16 knife or a weapon to harm somebody, I wouldn't end up
17 choking them to death. The coroner testified that
18 there were clearly marks on both sides of her neck
19 from being chocked with two hands. In his statement,
20 Cliff on the day of the killing said, I used both
21 hands when I choked her out.

22 And that is consistent with the autopsy and the
23 pathologist, the lady who's done 12,000 autopsies.
24 She did several autopsies before she testified before
25 you. Twenty years, 12,000 autopsies, she says there

1 are clearly marks of finger, not ligatures, which is
2 the telephone cord or anything else, hand marks. And
3 we know they're hand marks because she said they
4 start here and they go down to here on both sides of
5 Ms. Clatie's neck. And there's clearly signs of
6 struggle. It's not choking Ms. Clatie out that
7 there's blood on the floor on both sides of the bed
8 and on the wall.

9 The biggest factor -- and I don't know for a
10 fact, but I think we all know that Ms. Clatie, when
11 she was cut, the knife that was used was probably her
12 own kitchen knife. You had Ms. Brandy testify to you
13 that she knew for a fact Clatie kept two knives in
14 her bedroom. One under her pillow and one on the
15 bedside table, a black-handled knife. That's what
16 Ms. Brandy testified and Cliff on the same day. Told
17 Chief Bodiford, she had the black-handled kitchen
18 knife that she had cut me with.

19 I don't know for a fact, but I think it's pretty
20 reasonable and likely that Ms. Clatie -- the knife
21 that was cut was her own kitchen knife. And the
22 question, I guess, is who cut her with it, either
23 Cliff or she did it herself while they were fighting
24 over the knife. And I understand that's -- that's
25 going to be the tougher issue to prove.

1 The taxi driver said that she took Cliff there.
2 She didn't really remember. She thinks he -- she
3 said normally he's laughing and joking. She said, I
4 think on this day, he was quieter than normal. But I
5 do -- you remember her testimony. I do suggest that
6 the solicitor was kind of controlling that testimony
7 and giving out the answers in somewhat of a leading
8 way. If this is murder, Cliff's the one -- he didn't
9 make any effort to get away. If I'm going to kill
10 somebody, why not have a get-away car? Why not leave
11 on a bicycle? Why not steal the neighbor's car and
12 leave? Why --

13 Cliff's the one who called 911 at 8:26 in the
14 morning. You heard his voice, he sounds like he's in
15 shock to me. His voice is in disbelief. You heard
16 the 911 call. He's in shock. He's talking to the
17 911. That's just inconsistent with me to murder,
18 that I would call the police myself from the scene
19 and wait there for them to come, and then cooperate
20 completely, cooperate with SLED, get the photographs
21 taken, give a statement to the police at the first
22 opportunity. I just do suggest that in and of itself
23 is inconsistent with murder. I just don't -- it's
24 not usual for somebody to call the police and say I
25 killed my girlfriend, I'm at her house right now.

1 I'm waiting for y'all to come. That in and of itself
2 raises a reasonable doubt to me.

3 There are just so many -- just a -- and I'll get
4 to other reasons in a little bit, but there are just
5 so many reasons it is inconsistent with a first
6 degree or premeditated murder. It just starts from
7 the beginning. But you do have a lady and she has
8 been stabbed and choked and police say well, she's
9 been murdered in her home. And I understand them
10 making that charge. But they didn't start it with
11 investigating anything up until then other than that
12 she was killed. And then the investigation since
13 then has been to try to disprove that it was
14 self-defense or a lesser charge.

15 A lesser charge, for instance, would be -- in
16 South Carolina, again, we don't have first degree,
17 second degree, but we do have what's basically
18 premeditated murder or murder. And then voluntary
19 manslaughter is what most states or many states call
20 second degree murder. Voluntary manslaughter is an
21 intentional killing of someone else, but it's during
22 the heat of passion and there has to be some kind of
23 provocation.

24 I'm going to tell you some of the provocation,
25 some of the legal provocations that over the last

1 couple hundred years that the courts have recognized
2 are evidence of a heat of passion killing as opposed
3 to a full blooded premeditate killing is it happens
4 during an assault or combat, mutual combat. It's
5 proceeded by insulting words and threats. It's
6 finding your significant other or spouse in a
7 romantic relationship with somebody other than you
8 and I kill them. It is -- it's a killing following
9 humiliation, but -- for example, somebody spits on
10 you or butts you rudely, grabs you by the face or
11 makes some kind of rude touching of yourself and he
12 strikes the man or he lashes out at the woman, but
13 it's -- and the number -- the most common one is it's
14 a killing that occurs during a very emotional
15 argument.

16 And then it can be -- another example is if
17 somebody sees his pets being killed by somebody else.
18 It's not a threat to him, but he gets so angry he
19 kills the person who kills his animals or even
20 destroys his property. If I see somebody damaging my
21 car and it just makes me so angry that I immediately
22 attack the guy and kill him. That's an emotional
23 heat of passion killing. It's not a premeditated
24 killing. It may be an unlawful killing, but it's not
25 a premeditated killing. It's a killing that occurs

1 during the heat of passion. And I think you all
2 heard Cliff's statement and the initial statement to
3 the officer when Chief Bodiford got there, Things
4 just went too far. If what if he's saying is true is
5 what he's saying the first thing thus far when he
6 arrived at the scene and Cliff was waiting for him on
7 the porch.

8 I submit to you, had the State -- or had the
9 police investigated this case from the ground up, the
10 first thing they would consider would be whether or
11 not this is a self-defense? And by your oath, that
12 is the first thing that you are required to consider.
13 Giving Cliff -- because we all know this a trial for
14 murder. I mean, we understand the Supreme Court
15 doesn't send judges from Greenwood to Newberry for
16 trivial matters. I mean, we understand where we are.
17 And just had the police -- what if the police had
18 investigated this case giving Cliff the benefit of
19 the doubt? You know, we heard what you had to say
20 before we decided what to charge and we're going to
21 consider whether there's any evidence to justify your
22 side of it.

23 Well, self-defense is, basically, that somebody
24 attacks you first. I mean, we understand that. You
25 have to be without fault in bringing the fight on.

1 If it is a mutual fight, two drunks at a bar and they
2 are both throwing blows, it's not self-defense for
3 either one of them. You know, oftentimes, only one
4 of them might get charged, but self-defense is I'm
5 not the one who started the physical confrontation or
6 did something that would lead somebody to attack me.

7 And I will tell you that the State has to
8 disprove -- if you find that there's any evidence
9 that it could be self-defense, the State is required
10 to disprove self-defense. I don't have to prove I
11 acted in self-defense. If y'all look at the facts
12 and y'all determine this could have been
13 self-defense, y'all then have to look at the State
14 and say the man is saying it happened in
15 self-defense, y'all have to prove beyond a reasonable
16 doubt that's not true with all the evidence.

17 But you have to be without fault in starting the
18 physical confrontation. You have to be in a
19 reasonable belief that somebody is going to cause you
20 a serious injury or kill you. And I suggest somebody
21 holding a knife, any one of us in this courtroom
22 would believe that there is a reasonable possibility
23 or probability or likelihood I'm going to get harmed
24 with a knife. I'm justified in that fact alone that
25 that person is holding a knife, man or woman.

1 Then the third element is a jury in hindsight
2 has to determine whether that person -- this is what
3 the person said he was in fear of. You have to
4 determine whether that would be reasonable. If I
5 were in that man's shoes, would I have the same
6 apprehension of being harmed? I suggest that all cut
7 us, if somebody had a knife and they had cut us or
8 they were trying to cut us that there is not a person
9 in this room who would not think I've got to fight or
10 flee.

11 And the fourth thing is, if possible, the person
12 who is attacked, who is claiming self-defense, there
13 has to be some evidence that you find that he made or
14 she made some attempts to avoid the confrontation.
15 If there is a door -- what's the Lynyrd Skynyrd song
16 that is three steps to the door, Mister, whatever
17 that song is, well, that's the legal requirement for
18 self-defense. If you're going to pull out a weapon
19 towards me, my first legal requirement is to take
20 three steps towards the door. I've got to avoid -- I
21 can't see somebody pull a knife on me and say that's
22 cute. I'm an MMA. I'm a karate. I can't wait for
23 you to do this. That's not self-defense. Even if
24 somebody pulls a knife on me and I'm a bad ass man, I
25 can't say brother, you've made your declaration on

1 me, I'm going to prove to you while you're wrong.
2 Self-defense is brother, you know, let's not do this.

3 But we have self-defense because people can't
4 also get away. You know, these fights happen in
5 closed rooms. The Judge will tell you if you can get
6 away, you've got avoid the -- somebody can't threaten
7 you and you call his bluff, that's not self-defense.
8 But we have self-defense all the time because people
9 can't avoid fights. And you have to consider things
10 like where did the confrontation happen? Was it
11 room, the doors, the degree, you know, somebody is
12 already on you, the proximity. Obviously, the
13 further you are away from somebody, the better chance
14 you have to get away. Whether it's in contact. But
15 that's just something you have to use common sense.
16 Could a reasonable person have fled the scene or
17 avoided the physical confrontation? And if somebody
18 is already on you, then the fight is already on. But
19 the flight is to avoid it, not to end it once it's
20 happened.

21 Okay, so assuming the police said this from the
22 beginning of the case, we're going to consider for a
23 possibility -- even just for legal fiction and humor,
24 Cliff, we're going to listen to your self-defense
25 claim that you told us on the same day. And we'll

1 see if there's anything that supports your argument
2 that it's self-defense. The biggest thing right off
3 the block is we know it's her knife. We know she's
4 the one with the knife. It's in her room under her
5 bed, as her good friend, Brandy, said. Brandy said
6 she kept a black-handled knife under her bed. Cliff,
7 without coordinating, talking to Brandy at all, said
8 she attacked me with a black-handled kitchen knife.
9 They are two people who don't talk. They didn't
10 coordinate.

11 And Cliff, he didn't have time to plan out any
12 kind of alibi or story. He calls the police from the
13 scene. They come and arrest him. They take him
14 immediately to jail. He goes through the booking end
15 and the processing area and then they take him to the
16 police station to speak to the police officer, Chief
17 Bodiford. He hadn't spoken to a lawyer. He hadn't
18 spoken his sister. He hadn't spoken to other jail
19 inmates. He's going through the shock of the
20 situation. He understands something bad has
21 happened. That's dawned on him. I would from the
22 beginning, too. But he hadn't had a chance to
23 coordinate with anybody or plan up anything in depth.
24 It just all happened too fast.

25 He gave a statement to the officer the same day

1 that you heard. That is consistent in many ways with
2 what we've heard from Ms. Clatie's friends. And I do
3 believe everybody has testified truthfully before
4 you. That's just my opinion, but you're the ones who
5 makes the call. I understand some of us have biases.
6 I can give the truth and still not like somebody. I
7 will emphasize and bring up the points that I think
8 make them look good or bad, depending on where I am
9 in the situation, but I can still testify truthfully
10 and still give my spin on it.

11 We know for a fact. I mean, I wouldn't bet my
12 life on it, but we know it's much more likely than
13 not Ms. Clatie was killed -- or she was cut, but it's
14 the -- she was killed by strangulation, but she was
15 cut with her own knife. How do we know that it was
16 possibly in her hand? We know it's her knife, but
17 that doesn't necessarily prove that she's the one who
18 had it in her hand. What's some more evidence that
19 might suggest that she had it in her hand? The DNA,
20 the lady from SLED who testified about the fingernail
21 scraping under Ms. Clatie's fingernails, on the right
22 hand, nothing. No scrapings, nothing but her on DNA
23 under her right hand. Well, what might be a reason
24 for that? Because the hand might be closed in a fist
25 or it might be wrapped around something.

1 Court's indulgence one second.

2 THE COURT: Yes, sir.

3 MR. VERNER: I forgot one of my props, I'm
4 sorry. I'm going to get it in here.

5 But she does have some DNA from Cliff under her
6 left hand. But they don't see any scratching or
7 defensive wounds. If the lady -- I tell you what --
8 we all know the reason they're saying we look at
9 somebody's fingernails is they say the lady was being
10 attacked by somebody, it is possibly and even likely
11 that she would be scratching -- if she didn't have a
12 weapon in her hand, the next thing she would be doing
13 is either throwing punches or scratching. And that's
14 why they've got that standard test under people's
15 fingernails cases.

16 There's no marks on Cliff, defensive scratches,
17 other than -- which is, you know, interesting to me
18 that they take these pictures of Cliff at the scene,
19 but they don't introduce the picture that they all
20 testified about that he's got a cut on his hand.
21 He's got a -- multiple witnesses have testified that
22 he clearly had a scar or cut on his hand. And I
23 understand that when they take pictures of Cliff,
24 that the only pictures I've seen and you've seen is
25 Cliff in his big heavy sweatshirt. They don't have

1 any picture of his arms or anything to indicate they
2 examined his arms or anything else.

3 The pathologist, 12,000 autopsies looked at his
4 arm in front of you and said he's clearly got a stab
5 wound in his arm. She used the clinical definition
6 for it, but she said that's consistent with a
7 straight edge stab wound. And how it got there or
8 how long it's been there is not significant. She
9 might classify it as a nick or an incision, but she
10 said he's clearly got some kind prior -- here we are
11 a year later, she looked at his arm and I can
12 immediately tell you that's a stab cut. It's a
13 linear incision into his arm about half an inch long.

14 But we know it's her knife. We know she doesn't
15 have DNA under her right fingernails, but she does
16 under her left. We know that they're in a volatile
17 relationship. And I understand most of the evidence,
18 just given the nature of where we are, is going to be
19 directed at Cliff, he's the bad guy. But this is a
20 two-person relationship. And you heard from Natasha,
21 who testified that, at times, Ms. Clatie could be an
22 emotional person herself. She could lash out at
23 Cliff. Several times, it got to the point where I
24 told Cliff either she -- or Ms. Clatie had to stop
25 coming by the house. And then I spoke to Ms. Clatie

1 herself and said quit doing this in my home. You're
2 disrespecting -- even if you don't say anything bad
3 to me, if you're insulting or you're going after
4 somebody in my home, you're disrespecting me because
5 this is my home. Did she seem like she was lying to
6 you?

7 And then we know in 2011, Ms. Clatie had a
8 suicide attempt. Now, the solicitor brought out
9 slyly, you know, well, that's about the time she
10 started dating Cliff. But that's just -- it's a
11 punch in the stomach, but it's a sucker punch because
12 we don't know that. There's no evidence of that.
13 That would have been in the very beginning of her
14 relationship with Cliff. She's emotional to the
15 point she attempts suicide at home, possibly, because
16 of mental health issues that she's not taking
17 medication for.

18 We know just from looking at Ms. Clatie in
19 hindsight that she was a good loving mother, but we
20 also know that she wasn't an even keel all her life
21 type lady. She's had her highs and she's had her
22 lows. She's emotional as the rest of us are,
23 sometimes more. In a six-year relationship, we know
24 she's invested in Cliff because she's got his arm
25 tattooed -- his name tattooed across her arm. We

1 know there's some kind of emotional investment on her
2 part towards Cliff.

3 We know there's jealousy. You heard
4 Ms. Natasha talk about it and you heard Cliff talk
5 about it in his statement on the same day that
6 Ms. Clatie was killed. And then you heard the taxi
7 driver, who is probably the least interested in this
8 case as anybody who said that it got to the point
9 where Ms. Clatie actually confronted -- I had words
10 with her. Which to me, always means bad words, is
11 the in parentheses. And she was a pretty young lady
12 and Ms. Clatie didn't appreciate Cliff riding around
13 with her. You need to quit coming to my house. And
14 that might be part of the reason why they didn't pull
15 into the driveway, too. The taxi driver said, you
16 know, I took Cliff about half the time, but there
17 were other taxi drivers who probably took him more.
18 You know, he had a late night schedule. I usually
19 picked him up either late at night or early in the
20 morning, usually at Louis Rich, to her house. And
21 that had been going on for all of 2015, 2016 and into
22 2017 is when the taxi driver said Cliff was a regular
23 customer go to Ms. Clatie's house. Usually she kept
24 the lights on for him.

25 We know there's a struggle. It's not just

1 attacking Ms. Clatie and killing her. It's not a
2 case of voluminous blood, but there is blood in
3 several locations. There's blood on the left-hand
4 side of the bed. There's blood on the right-hand
5 side of the bed. There's blood on the wall. There's
6 blood on the bed. There was a fight. I will tell
7 you, there was a struggle and fight. There's no
8 evidence to support it, but the inference the State
9 is going to say is that he attacked her in the
10 kitchen. He must have attacked her in the kitchen
11 because there was a shirt found on the floor in the
12 kitchen. There's no blood on it and really kind of
13 inconsistent. Ms. Clatie went to bed about 3:00 the
14 morning before. She had a purple or a Sonic purple
15 knit polo shirt on, black pants. That's what we know
16 she was wearing until 3:00 the morning beforehand.

17 And the solicitor, you heard him to kind of
18 steal my thunder, said let's -- remember when the
19 solicitor when he was talking to Niyla?

20 He said, Let's just get this out there, your
21 mother usually slept naked, right?

22 Yes.

23 And she was found naked early in the morning.
24 So, the facts show -- I mean, if somebody testifies,
25 you know, she usually slept in the nude and she's

1 found early in the morning in the nude and we know
2 that she wasn't wearing a different set of clothing
3 the night beforehand, there's nothing really to
4 connect that to Ms. Clatie. Look at the pictures of
5 the house. I understand it's a tidy and it's a
6 well-kept house, from what I was looking at, there
7 are four girls, three or four girls living in that
8 house. There are women's clothes throughout the
9 house. Look in the pictures, you see the laundry
10 baskets on the wall under the windows. You can see
11 some of the pictures of Ms. Clatie's room with
12 clothes in her room.

13 Then you got Cliff's statement the same day it
14 happened saying we're trying to work things out.
15 She's seeing people, I'm seeing people. Why would he
16 show up after the kids were there? Just because if I
17 were in a sexual relationship with somebody who has
18 kids from another man, I would probably show up after
19 they're gone, too. I mean, I don't see that as an
20 unusual situation.

21 Well, we've got that Cliff was here, TV
22 scratchings on there, which is the old TV from the
23 prior house. It just makes no more sense to me that
24 he killed her immediately. And then the first thing
25 he does is write Cliff was her on her old TV set,

1 then called the police from the scene without
2 leaving. I can understand it if their theory was he
3 had broken in the house and then left and then left
4 his calling card on that TV, I understand that. He's
5 a jealous, vindictive man, that makes sense to me.
6 I see that, marking up somebody else's property.
7 They've been in a seven-year, on-again, off-again
8 relationship. There's an old TV, it does not appear
9 to be fresh scratchings on it. Look at it. I mean,
10 they're gray colored in there. It's a TV from their
11 prior home. And it makes no sense to me that
12 somebody will kill a lady, immediately write I was --
13 Kilroy was here and then call the police in a state
14 of shock and say this is what happened. We fought
15 and I killed her. I just -- I don't know who wrote
16 it. It's possible Cliff wrote it, but it is very
17 like that is an old TV and that's stuff that's been
18 there for a time. And then after the police are
19 investigating things and looking closely at
20 everything, they observe it. But there is nothing to
21 suggest that that was made on that day.

22 There is nothing to suggest that Cliff was
23 stalking her through the window. He'd stay in that
24 house. You've seen the room. It has closed blinds.
25 Every single window in that house has closed blinds.

1 And then she's got a curtain on the other side. And
2 then there are no lights on in the house, which is
3 obvious from the outside. There's just no reason --
4 I understand it's -- and then there's no evidence of
5 fingerprints or disturbed dust or anything to suggest
6 that somebody was holding themselves up looking
7 through her window. That is just pure speculation.

8 Again, we heard the coroner testify that she
9 thinks the time of death was at 7:30 in the morning
10 after she did three prior reports saying probably
11 8:30 and then she changed it to 7:30. But you also
12 heard from the coroner who's done 12,000 autopsies
13 say there is no way scientifically possible that
14 anybody, even a medical doctor could determine a time
15 of death. If somebody said a time of death, they
16 were just picking a number out of the air. The
17 autopsy -- the pathologist testified there's no way I
18 could do it and I've done 12,000 dissections. That
19 is clearly just her giving her hunch.

20 And we all know, Cliff, he calls the taxi about
21 5:00 in the morning. We know from the taxi -- I
22 don't understand why the SLED agent from Columbia
23 came down to say that the cell phone tower pinged at
24 5:45. I mean, I think that's credible, but we
25 already know the taxi driver said I picked him up at

1 5 o'clock or a little bit later and it takes about 30
2 minutes to get to Prosperity. So, we already know
3 Cliff's there about 5:45.

4 Cliff's cell phone. And part of the reason I
5 have to bring this up is I have to go first by the
6 rules and the State, who has the burden of proof,
7 gets to speak last. I don't get rebuttal. And I
8 hope you keep that in mind, that giving Cliff the
9 benefit of the doubt, if the State makes arguments to
10 you, I do ask for you to listen to it and if you've
11 heard any possible answers to it, you've got to give
12 to Cliff the benefit because there's no change for
13 anybody else -- the solicitor gets final closing.
14 There's no chance to rebut it. I would just ask that
15 you apply some clinical common sense to what he says.

16 To the extent that they say well, Cliff's cell
17 phone, why didn't he give us text messages or show?
18 I think there's a pretty easy answer for that. The
19 officers testified they gave Cliff's cell -- Cliff
20 put his cell phone on the ground for the officer to
21 approach and Cliff got down on the ground and got
22 handcuffed. The officers immediately took custody of
23 his cell phone and sent it to SLED, and it's been in
24 SLED custody until prior to this trial. Now, they
25 say -- they're going to suggest why didn't Cliff open

1 his phone up or get his pin number for you. We
2 haven't had the phone, SLED's had it in Columbia.

3 You heard the investigator from the solicitor's
4 office testify I've got an office almost next door to
5 the solicitor, or I'm across the street. And they
6 never in a year sent somebody 20 steps down the
7 hallway to say are y'all willing to give us the pin
8 number so we can examine the phone? But that's
9 something not given to us until sprung on us at
10 trial. On a phone we don't have or have access to,
11 then they're going to say well, if he's got cell
12 phone text messages that exonerate him, why didn't he
13 show them to them? When they had the phone in their
14 custody and they never bothered to ask. And it's
15 clear Cliff spoke to them from day one. So, I don't
16 think it's fair for them to put that on Cliff, when
17 they've got the phone and they don't ask to operate
18 the phone.

19 There's going to be some insinuations of other
20 uncharged crimes, such as burglary, breaking into
21 this lady's home. I would ask you to be eerie of
22 that. The solicitor might say well, maybe this is a
23 lot more complicated and this is a break-in or even a
24 sex attack. They've got an indictment for the Judge.
25 With the stroke of a pen, they can say burglary on a

1 piece of paper and we would also be defending a
2 burglary case. They haven't because I submit to you
3 that they cannot show burglary or other crimes. You
4 think they're cutting Cliff a break? You think
5 they're doing you a favor by trying to make this a
6 quick case by not including other crimes? Ladies and
7 gentlemen, this is a murder case. If they could have
8 put a burglary charge or other charges in here, too,
9 you would be dealing with those charges, too.
10 They're not doing Cliff a favor by not charging him
11 with crimes. If there was strong evidence of other
12 crimes, you would have it before you. This would be
13 a buffet of charges. Wouldn't really change the
14 length of this case. You know, this case is however
15 long it's going to be. It doesn't change the facts
16 of the case. With a stroke of a pen, if they had a
17 good case for other uncharged crimes, they would have
18 given it to you. I promise you that. So, I would
19 ask you not to speculate about other crimes. The
20 charge you have before you is murder.

21 Just more evidence of the type of relationship
22 that Clatie and Cliff had, well, you know, they
23 insinuated well, he was just texting and calling the
24 hell out of this lady. He was just harassing her.
25 Same period of time, she had 35 calls or texts to

1 him. He's got 55 -- 45 to her. And yet, he's
2 harassing her. He's stalking her because nobody
3 texts or calls somebody 45 times, even if it's the
4 lady who calls you or texts you 35 times in the same
5 period. That just doesn't move the ball to me one
6 inch either way other than to show they're in an
7 emotional relationship and they're talking to each
8 other.

9 Finally, if they weren't still seeing each
10 other, why would she go to his sister's house where
11 she knows he lives the day beforehand? Now, we
12 understand that there's been some testimony where the
13 car broke down, but we managed to coast it all the
14 way down to this sister's house. Just, as Natasha
15 said, coincidentally, is where Clatie usually picked
16 him up. When she did pick him up, they would meet at
17 her house. And she said Cliff arrived right before
18 Clatie did, so she assumed, as they always do, it was
19 a prearranged meeting. But then the car can't start
20 again, Ms. Clatie gets frustrated, leaves the car at
21 Cliff's house and says fix it and I suggest to you
22 says, bring it back. I mean, if my car breaks down
23 at my boyfriend's house, can you get it running and
24 if you can get it running, bring it back. I suggest
25 to you that she was going to his house to pick him up

1 like Natasha testified. That's the way they always
2 did it regularly. The car couldn't start again and
3 she had to get a taxi back and I understand her being
4 frustrated. I can also understand Cliff going back
5 the next day to see her. Either by prearrangement or
6 to talk about the car.

7 And likewise, the State is going to say well,
8 the daughters saw him at her house in the morning two
9 days beforehand on that Monday. And I understand
10 that, too. If I'm in an up and down relationship
11 with some other lady who's got kids by another man,
12 and then the boyfriend comes when she's not home --
13 they didn't say broke in the house, they just said he
14 walked in. Clatie had just recently gotten a job.
15 He was surprised she wasn't there. The daughter
16 testified we asked him to leave, he did. He said,
17 I'm going to get my wallet and I'm going to go. She
18 said as he was walking out, I called my mom because
19 I'm not sure -- you know, we see Cliff all the time.
20 I'm not sure whether he's supposed to be here today
21 or not either, so I'm calling mom to find out.
22 Because they saw him on a regular basis.

23 I understand in a up and down relationship, if
24 you see him and it's when mom's not there, then it
25 can be awkward. But she doesn't say he breaks in or

1 he has any weapons or that he's angry. She just says
2 he's surprised that mom's not there and they are home
3 on a school day when they missed the bus. They ask
4 him to leave, he does.

5 Okay. So, to summarize, Cliff Boozer, he's
6 being charged with cold-blooded, premeditated murder
7 and that's just almost impossible that it happened
8 that way. I'm sure some of the facts do fit in
9 nicely with that. You know, Ms. Clatie's been
10 killed. It does appear possible, if not probable
11 that she, at least, at some point had the knife in
12 her hand. It makes sense, that show the cuts he has
13 on him. That explains the lack of fingernail
14 cuttings on her. That explains that it's her knife.
15 An emotional relationship, some jealousy involved in
16 it, which leaves us just -- I mean, it's inescapable.

17
18 I think the last thing that I didn't mention is
19 that there was some testimony about SLED agents went
20 there a few days later and they found two kitchen
21 knives in the yard, which even solicitor to some
22 extent is a little bit surprising that with that many
23 officers there taping off the scene, walking the
24 perimeter, looking for these sheets, looking for
25 knives -- they started looking for knives that same

1 day. I think even in self-defense -- or I would
2 submit to you, at least, that if I got in a fight
3 with somebody even in self-defense and I killed them
4 and knew that, I would panic. I might do irrational
5 things like throw things away or -- there's a sewer
6 pipe just on the edge of the property, throw stuff in
7 there. Doesn't change how things happened. I mean,
8 it's suspicious, I recognize that, but I can't
9 account for missing items. The phone I think is
10 reasonable that she may have hid it from Cliff
11 because she didn't want him snooping on her phone.
12 But I do think it's possible for somebody to act
13 erratically after something like this happens. And
14 still that doesn't change the facts of the case
15 because they panicked. Oh, my God, something bad has
16 happened. They panic. He tries to call his sister,
17 she's at work, Louis Rich, you know they can't take
18 calls, then he calls 911. Immediately, the same
19 time, and they come within minutes. I think if Cliff
20 had panicked, that is perfectly reasonable.

21 I think it is also possible that one of those
22 knives or both of those knives were knives that
23 possibly Ms. Clatie had in her room. They're common
24 kitchen knives. It's unusual that with that many law
25 enforcement officers cordoning off the area, looking

1 for knives and they don't find two of them in the
2 yard and this happened several days after Ms. Clatie
3 is killed, is odd. But I mean, I don't know what the
4 legal significance of that is.

5 But I do think it would be perfectly reasonable
6 if something bad happened, I get in a car wreck and
7 somebody was killed and then they throw away
8 something from the car. You know, it might not have
9 contributed to it. But I mean, when bad things
10 happen, people panic and they do dumb things and they
11 do irrational thing. Then they think about it for a
12 while and they call the police and say I've had a
13 wreck. Somebody has been hurt. It can be evidence
14 of getting rid of bad evidence -- I don't know what
15 it gets rid of. I mean, we know this lady was
16 stabbed two times by a steak knife. But it was her
17 knife, I mean, we know that. And, you know, getting
18 rid of the sheets is an irrational thing to do.
19 There's already blood in the house. There's already
20 blood on the bed. If you had the sheets, that would
21 just be another item that would be in some kind of
22 sealed thing right here that nobody would be able to
23 falsify. It just -- even if you had it, I don't
24 think it would change what you think happened.

25 Now, I mean, I understand it is suspicious that

1 it was gone and that it clearly indicates somebody
2 was either concealing evidence, panicking or one of
3 the knives found at the scene was possibly the weapon
4 that she had, but I don't think it changes your
5 underlying thoughts of what happened in the case.

6 And finally, I don't want to be graphic. This
7 is just rubber spreader. We heard the coroner
8 testify about the -- not the coroner, but the medical
9 examiner testify about the kitchen knife was probably
10 a little over a half an inch thick. This is much
11 wider. It's a spreader, but it's rubber. But
12 Ms. Clatie would have been killed by a kitchen knife
13 with a black handle. I'm not a forensic scientist,
14 but can you look at things with just open eyes and
15 see things are odd? Ms. Clatie was stabbed in the
16 neck that went towards the centerline of her body.
17 This way, with the knife not being held in a up and
18 down manner. Either way like that. But the knife
19 going in at a sideways angle with the blade part of
20 knife on the outside. I don't want to be graphic,
21 but that's the angle of the knife that Ms. Clatie --
22 assuming I'm stabbing somebody with a knife, the
23 blade -- and I'm right handed, the blade angle would
24 come from here -- could come from here if it came
25 from this side of the body and I'm right-handed, it's

1 going out, but this one is coming in. We just all
2 know from any time we've ever cut anything, if
3 somebody is intentionally cutting something, you
4 always cut blade side first. I mean, I guess you
5 could -- usually, the kitchen handles -- you know,
6 knives are set, they're altered to hold the other way
7 around. But if you're going to cut somebody
8 deliberately, you're going to cut them with the blade
9 side making the entrance. This would have been the
10 other way around.

11 And I don't understand how, if she was being
12 held down on the bed and stabbed, which is also
13 inconsistent with -- that's the three-arm theory that
14 I've got a knife, but yet, the autopsy showed that he
15 choked her to the death with two hands. How is he
16 holding the knife? I would submit to you that's more
17 of a sign that he was controlling her, that he was
18 stopping the fight by choking her. How does the
19 knife make it's way in? This way. Unless you're
20 fighting for the knife and it comes back this way.
21 Not a deep wound, but it's in the body.

22 Just go back there -- I've thought about a
23 million ways to do it, I don't understand how a knife
24 goes in this way blade out, except as you're fighting
25 for the knife and you're being pushed on the bed or

1 you fall hard on the couch. I don't understand how
2 somebody intentionally cuts somebody the other way
3 and causes an odd angle injury. It's possible, but
4 it would be an odd angle injury from a typical
5 stabbing.

6 On the issue of murder, of course, I do think
7 that Cliff is entitled to a not guilty verdict. I
8 just don't think the State's evidence is strong
9 enough, compelling enough to justify a murder. I do
10 think it is a close call on the second issue of
11 whether this is a heat of passion killing or whether
12 it's self-defense. I submit to you that there's been
13 as much evidence of self-defense -- and I understand
14 it's a turbulent relationship. But there is as much
15 of evidence of self-defense as there is of anything
16 else. And there's a lot more evidence of
17 self-defense than there is of first degree murder --
18 or murder. I do think that that's where the truth of
19 the case lies, somewhere between self-defense and the
20 manslaughter. I'm putting it to you like that.

21 Thank you.

22 THE COURT: All right, ladies and gentlemen of
23 the jury, I anticipate the solicitor's argument will
24 last approximately the same amount of time as
25 Mr. Verner's did. So, we're going to take a brief

1 break so we can be sure to continue without
2 interruptions. We'll take about five, ten minutes.
3 Go to your jury room, make yourself comfortable,
4 we'll be back on the record in about 10 minutes.

5 (WHEREUPON, the jury left open court at
6 approximately 10:47 a.m.)

7 (WHEREUPON, a short break was taken.)

8 THE COURT: We'll go back on the record,
9 everyone is present.

10 Let's have the jury, please.

11 (WHEREUPON, the jury came into open court at
12 approximately 11:00 a.m.)

13 THE COURT: All right, let the record reflect
14 the jury is back and seated.

15 Mr. Scott, you're recognized for your closing,
16 sir.

17 CLOSING STATEMENT

18 MR. SCOTT: Thank you, Your Honor, may it please
19 the Court?

20 THE COURT: Yes, sir.

21 MR. SCOTT: Bitch, I will slit your throat and
22 beat the blood out of you. Those words can be
23 attributed to Mr. Clifton Boozer. Those were the
24 kind of things that Ms. Clatie Stribble had to deal
25 with and those were her realities. And that's the

1 mind of Clifton Boozer as it relates to Clatie
2 Stribble.

3 Today, the truth is going to come out. Today,
4 Ms. Clatie Stribble's truth is going to be heard.
5 Just like Bodiford said the day after that murder --
6 or day of, rather, eight hours after the murder when
7 he was talking to Mr. Boozer, he tells him says, I
8 need the truth. When it goes to court, and it will,
9 the truth is going to come out. Well, here we are
10 today. The truth is going to come out today.

11 I liked the quote Mr. Taylor Daniel used in his
12 opening. He quoted Voltaire. He wrote the Candide.
13 You remember reading that in college. He was a
14 philosopher during the enlightened period. He was
15 French, so we can only take so much of his word, but
16 he was a writer. He was a scholar.

17 The quote, to begin with, was I think, To the
18 living, we owe respect, but to the dead, we owe the
19 truth.

20 Defense counsel in his opening said it's not
21 your job to vote for the truth, that's not your job.
22 I disagree. I like a little bit of truth in my
23 courtroom. I do. I want some truth in this
24 courtroom. That's why we swear on the Bible when the
25 witness gets up to there to testify. That's why when

1 you go back there to deliberate, you're going to
2 carry back there a verdict form. You're going to be
3 asked to issue a verdict in this case, guilty or not
4 guilty. The word verdict is a -- comes from the
5 Latin word veredicto, which loosely translates into
6 to say the truth. I like a little bit of truth in my
7 courtroom. They may not think you should pay
8 attention to the truth, I say we should.

9 I wish Clatie had never met Clifton Boozer. I
10 know the whole family does as well. Her fate was
11 sealed the moment she met the guy. From the very
12 beginning, her fate was sealed. Didn't have to be
13 that way for Mr. Boozer, but I believe he's the kind
14 of guy who has a certain view of women. This would
15 be the guy who living with the mother of his
16 children, visiting all kinds of dating sites and
17 who's terrorizing and harassing Clatie Stribble in
18 the meantime. He's the kind of guy I think who
19 believes if I can't have her, nobody will. I think
20 that's just his kind of view on women.

21 This relationship should have ended with those
22 two going their separates ways, but it didn't. There
23 were breakups, reconnections. They're described as
24 hot and cold, ups and downs, toxic. Defense counsel
25 disagrees with that being a term he finds

1 appropriate. I think that's quite appropriate. This
2 relationship was toxic and it was poisonous. And I
3 can't explain why Clatie would ever take him back. I
4 mean, one time should have been enough, really. But
5 these things are hard to explain. These domestic
6 violence cases, they're difficult to explain. I
7 don't know, but we got to do something about it,
8 though. I read today we're fifth in the nation as
9 far as domestic violence homicide in South Carolina.
10 It's something that clearly we have an issue with and
11 it's clearly difficult to explain.

12 We heard about the threats that she had to deal
13 with, and other people heard. It shows his mental
14 state. Malice is going to be very important here.
15 Malice is a word I'm going to explain to you in a
16 little bit. That's the key word for murder. It's an
17 evil intent, an evil state of mind, a desire to do
18 ill will toward somebody. That's all beared out in
19 his statements to her that other people have heard.

20 We heard about her state of fear in the days
21 leading up to her death. These were things going
22 through her head. What cause a person to suddenly
23 want to sleep with a knife under their pillow? The
24 daughter said that this was something -- and her
25 friend, Brandy, said this was something that happened

1 in the weeks leading up to the death. Things had
2 gotten ramped up with Mr. Boozer. We heard he was
3 out of work. He was hanging out at his sister's
4 house. He's hanging out at his baby momma's house.
5 He's drunk during the day. Something is going on and
6 something has Clatie terrorized or in fear for her
7 life. Things were coming to a head.

8 He had been told at that point not to come back
9 to Conifer Drive. That was very crystal clear from
10 the people who knew her. Two days before he kills
11 her, he does come unannounced to Conifer. You
12 remember hearing about Eve, she was staying home that
13 day. As far as she was concerned, he was out of the
14 picture. He wasn't supposed to be over there. None
15 of his clothes were there. You heard how many people
16 talk about, you know, describe him as living there.
17 They used that term very loosely. He lived out of a
18 bag. He would stay overnight from time to time. At
19 that point, it was crystal clear he was not to be at
20 that address.

21 So, when Eve is on the couch, he comes barreling
22 through the door -- remember what she testified to.
23 That was the morning that Clatie was late to work.
24 She was rushing, trying to get out the door. They
25 had missed the bus.

1 She said, Look, I got a new job -- y'all know
2 Sonic in Chapin, May of last year the time it opened
3 up. I got a good job. I got a good. I'm the
4 assistant manager at this new restaurant in Chapin, I
5 got to go. I can't take y'all to school. Y'all
6 going to have to stay home today.

7 She's out the door. She's in a hurry to get
8 out. She's gone two, three minutes, here comes
9 Boozer walking through the door. All right. He's
10 shocked to see Eve because he knows he's not supposed
11 to be there. She knows he's not supposed to be
12 there.

13 She calls Clatie. Clatie is frantic at that
14 point. That's her testimony. He's not supposed to
15 be there. Eve, he's not supposed to be there. Eve
16 tells him, he's walking out the door yeah, yeah,
17 yeah. I'm just here to get my wallet anyway. That
18 doesn't make any sense. We know his wallet wasn't
19 there. They had broken up and he had been told not
20 to be there weeks beforehand. If, in fact, his
21 wallet was there, wouldn't -- he doesn't have a car.
22 He's got to take a cab anywhere he goes. So, why
23 would you take the cab from Newberry all the way to
24 Prosperity when you can just call somebody, I need my
25 wallet. Can you bring me my wallet? He was there

1 looking for something. I don't know if it was the
2 confrontation with Clatie. I don't know if he was
3 looking to go through her things. He was always
4 jealous of her. He always thought she was with other
5 men.

6 We don't know why he was there, but he knew he
7 wasn't supposed to be there. And it affected Clatie
8 enough that she turned around, already late for work,
9 to come back to the house, comes inside frantic. The
10 first thing the girls said she did was lock the door
11 behind her, yelled out the window, You need to leave,
12 get out of here.

13 Sadly, that's the same day, though, that her car
14 breaks down. Fate has a lot to do with this case.
15 And it's sad. I mean, this is the day she's taking
16 her daughter to Doctors Care. It's the one on Wilson
17 Road near Clinton. They get the physicals. She's
18 been having car issues, she's coming back toward
19 Prosperity, the car clunks out on her. The girls
20 said it just cuts off and they have to coast
21 basically into Natasha's driveway. Cliff's out
22 there, he's drunk. Of course, they get in an
23 argument. Because that's the relationship, it's
24 volatile, it's toxic, we know that. Was there an
25 argument about him being in the house earlier that

1 day? I don't know. But the testimony was there was
2 an argument. The girls and Clatie get a cab and go
3 back to Prosperity.

4 It's just sad looking back. I mean, nobody knew
5 it, but she had less than 48 hours to live that
6 morning. Maybe she knew it, I don't know. She
7 certainly had something on her mind. And there was
8 certainly something that she was afraid of. There
9 have been a lot to people close to her that testified
10 to that leading up to her death, there was something
11 on her mind.

12 What do we know about the next day, Tuesday, May
13 2nd, 2013? That was Clatie's last full day to be
14 alive. We know she was without a car. We know she
15 had to work at Sonic. She got a ride to Sonic to
16 work. Because even though she didn't have a car, she
17 couldn't take a day off. This was a good job. She
18 was new to the job. She worked until approximately
19 1:30, 1:45 a.m. Her good friend, Brandy Counts, gave
20 her ride to Prosperity. Stopped at a gas station.
21 By Brandy's estimation, they probably got back
22 two-ish, 2:00 a.m., something like that. Brandy went
23 inside. Eve was on the couch. This is important,
24 Brandy testified she had her phone with her, okay.
25 Brandy goes in to use the restroom. The door is

1 fully functional. The door is not torn up like it is
2 in all those pictures we got.

3 Uses the restroom, goes back to kind of say
4 good-bye to Clatie. Clatie has her phone, it's
5 charging. She's sitting Indian style on the bed,
6 she's kind of rocking. You know, Brandy had known
7 her for nine years or more, been close friends with
8 her, at least, for nine years. When you know
9 somebody that long, you know when something is kind
10 of going on in their world. Something is wrong with
11 them. They're thinking something. So, she asks, Are
12 you all right? At that point, she expresses again
13 the fear of Clifton Boozer. 2:00 a.m., she got hours
14 left to live at that point. Brandy leaves. Again,
15 the door is fine when she leaves. The pink
16 camisole's not on the ground. Wheels are in motion
17 that her fate is sealed.

18 We don't know what information is on her phone.
19 I wish we had that phone, we don't. We got the
20 records, but we don't know the content. We know he
21 had been calling her phone off the hook that day that
22 Tuesday and into the night. Let's see -- and she
23 hadn't been answering, okay. I think that's
24 noteworthy. He's calling, calling, calling. She's
25 not answering. It's a one-sided effort to

1 communicate. She has no interest in talking to this
2 man. Already told him you can't be at my house and
3 he's violated that order of hers.

4 He's calling. He's calling. He called 41 times
5 that day. The testimony was 38 times between 2:31
6 p.m. and 2:57 p.m. alone. So, less than 30 minutes,
7 he calls 38 times. You can tell they're going to
8 voice mail during those times because they're 20
9 seconds in duration, 30 seconds in duration. He sent
10 50 texts. She's trying to get some sleep after a
11 long day and getting home at 2:00 a.m. Clifton
12 Boozer is planning.

13 4:57 a.m., he calls for a cab to take him from
14 Newberry Arms in Prosperity where he lived with the
15 mother of his children to Prosperity. Vanissia
16 Wright, remember her, the cab driver. She recognized
17 him. She had given rides before. It had been some
18 time, she said, she had had to take him to that
19 Prosperity house, but she had in the past. She
20 testified normally, he'd get in the car -- that was
21 back when he was working, she'd pick him up from
22 Louis Rich, I think, and take him over there.
23 Normally, he would joke with her, they would talk and
24 chat, what a cab driver does or barber does, small
25 talk, I kind of presume, but she was familiar with

1 him. He was a regular fare.

2 But this time was different. He was --
3 something was on his mind as well. And he was not as
4 chatty as he typically was. He was dressed in all
5 black. He had a hood kind of up over the back of his
6 head. And he was thinking on something. And she
7 takes him to Conifer Drive, she knew where it was.
8 She takes him there. Asked her to stop 50-yards or
9 so from the house. If that was the normal routine,
10 why did he make the statement to her, oh, don't go
11 all the way to the house, I've got yard work going on
12 there. There's yard work. That doesn't make sense.
13 Don't take me to the house because there's yard work.
14 Well, the cab driver is not going to ask questions.
15 If you want me drop you off here, I'll drop you off
16 here. She said typically, when she would take him
17 over there, Clatie would leave -- during better
18 times, Clatie would leave the light on for him. She
19 said the house was dark, there was no porch light on
20 that night. She testified that Clifton Boozer
21 wearing those dark wash jeans, that black hoodie, she
22 didn't really have time to back up and turn around.
23 By the time she pulled the car in the driveway to
24 back out, he was gone. Dashing into the dark,
25 dashing into the night.

1 She testified that she recalls dropping him off
2 around 5:30 a.m. Again, his phone records do put him
3 there at 5:45 a.m., but that was just a missed call,
4 somebody had tried to call him. She puts him there
5 at 5:30. This is also around the time that Niyla
6 wakes up because she hears something outside. Gets
7 up, finds nothing. But she did testify she heard
8 something, got up and walked around the house to
9 check on everything, make sure everything was okay.
10 She saw everybody in their rooms. She didn't see
11 anything out of the ordinary, she went back to her
12 room. But that was around the time the kids were
13 supposed to be getting up and getting ready for
14 school. That's 5:45 a.m., she said, but the bus
15 picked them up about 6:45. So, it's time to start
16 getting ready.

17 Talked about Eve kind of being the one when mom
18 worked late and was sleeping, mom was a heavy
19 sleeper, Eve, as the older sister, was kind of in
20 charge. Niyla, Isis, you know, get ready. We got to
21 catch the bus. So, they're getting everybody
22 together, getting them ready and they're walking out
23 the door. I wonder if Clatie smiled when the girls
24 she raised hollered to her, you know, love you,
25 momma. I like to think she did. I mean, that was

1 the last communication. I love you, mom, and then
2 heard back to them, I love you, girls. That is the
3 only, I guess, if you can call it heartwarming aspect
4 of this story, that was the last communication she
5 had with anybody that loved her. That was the last
6 interaction that she had with anybody who cared for
7 her. Because what came into the house after those
8 little girls left -- and we know they left about --
9 let's say, 6:35, 6:30 to catch that 6:45 bus. Then
10 shortly after they left, it was evil in that house.
11 It was hatred. It was ill will that came in that
12 house. It wasn't love. It was the ugly kind of
13 controlling evil that all -- Clifton Boozer, that's
14 all he represents.

15 And, you know, the conclusion there, the
16 evidence is there, there's a struggle. He bust in
17 through the door. Make no mistake about that. She
18 did not let him in. The frame is split on the door.
19 There's exposed wood. There's a switch plate that's
20 been broken. Such force was used to push it open,
21 the sheetrock is broke all around the door. It
22 appears a struggle ensued. There's that ripped shirt
23 right in the kitchen that wasn't there before when
24 girls left. Brandy was there earlier that night, it
25 wasn't there. And then the signs in the bedroom.

1 Love walked out the door when those three girls left
2 for the bus and then evil came in when Clifton Boozer
3 arrived.

4 Make no mistake, this is murder. Okay. Charles
5 is one of the better lawyers I deal with, okay. He's
6 a great lawyer. But when he tells you that murder
7 requires premeditation, that is something we've seen
8 on TV because it doesn't exist in South Carolina as a
9 requirement for murder. We don't have premeditated
10 murder in South Carolina. What we are interested in
11 is a term called malice aforethought, okay. Murder
12 in South Carolina, it's not required that you sit
13 around and plan and sketch out how you're going to
14 accomplish it, print out blue prints and everything.
15 It requires evil intent, ill will towards the victim.
16 Clifton hadn't expressed that? I don't know how he
17 would be any clearer of expressing how he felt about
18 Clatie Stribble. And it's clear from anybody who was
19 around them. Bitch, I'll slit your throat, I'll beat
20 the blood out of you. I don't know -- I don't know
21 if that could ever be construed as loving words, but
22 that's how he felt about Clatie and those are some of
23 the threats he had issued towards her.

24 What we've got to prove is this, beyond a
25 reasonable doubt -- and I'm going to explain that

1 term, too. That the Defendant, that's Clifton
2 Boozer, killed another person with malice
3 aforethought. Not premeditation, malice
4 aforethought. So, what is that? Malice, okay -- and
5 listen, the Judge is going -- don't think you have to
6 memorize all this, he's going to give you a stack of
7 papers, it's going to be called the jury charges.
8 Y'all are going to go back there and y'all get to
9 read what the law is. If there's anything he sends
10 you that's different than what I'm telling you, you
11 go by what he tells you. But I suspect -- I've been
12 before this Judge a lot and this is going to be his
13 charge. Malice is hatred, ill will or hostility
14 towards another person. It is the intentional doing
15 of a wrongful act without just cause or excuse and
16 with an intent to inflict an injury or under
17 circumstances that the law will infer evil intent. I
18 will repeat that later.

19 Strangling somebody is the very definition of
20 malice. Threatening somebody that you will slit
21 their throat is what we call expressed malice.
22 Telling them that you will beat the blood out of them
23 is expressed malice. We certainly know Clatie was
24 aware what she thought Clifton Boozer would do to
25 her.

1 When does the malice need to form? Okay, that's
2 the premeditation that he's referring to. If Taylor
3 jumps up right now as he watching me and -- I'm just
4 up here and he doesn't like how I'm presenting this
5 closing argument and he decides a split second before
6 he does it to kill me, that's murder. Because here's
7 when it needs to form. Really, the law says that
8 malice exist -- does not require that malice exist
9 for any particular time before the act is committed.
10 The evil intent in your mind can form two years ago,
11 two months ago, two weeks ago, two days ago or two
12 seconds ago. As long as you have ill will and hatred
13 towards that person, evil intent towards that person,
14 the intent is bad formed two-tenth of a second before
15 you do the act. So, this premeditation idea, we
16 don't have that. We have malice. Malice must exist
17 in the mind of the Defendant just before and at the
18 time the act was committed.

19 You got your hands around this woman's throat,
20 she's already bleeding out because you stabbed her
21 twice. She's begging for you to let me live, let me
22 see those three girls again. Keep holding onto that
23 neck until that blood builds up in the brain and body
24 starts shutting down. You know she's unconscious
25 after eight seconds, that's evil. That's ill will.

1 That's hatred. That's the definition of hatred.

2 How can malice be shown? This is the law, by
3 the way, this isn't my words. I'm giving you the
4 code of law for murder in South Carolina. It can be
5 expressed or inferred. Express and inferred do not
6 mean different kinds of malice, but merely the manner
7 in which malice may be shown to exist. Either by
8 direct evidence or by inference from the facts and
9 circumstances which are proved. Expressed malice is
10 shown -- here's the -- what Mr. Daniel was talking
11 about, that quote I gave you. Those sweet words
12 Clifton Boozer said in front of others directed to
13 Clatie.

14 When a person speaks words which express hatred
15 or ill will toward another, or when the person
16 prepared beforehand to do that which was later
17 accomplished.

18 Okay. This is interesting here. This is
19 another way, words can be expressed malice, look at
20 this example, another can be lying wait for a person
21 or any other acts of preparation going to show that
22 the deed was in the defendant's mind would be
23 expressed malice. Got a lot of evidence of
24 Mr. Clifton Boozer lying in wait. I'm going to
25 explain that in minute. Malice may also be inferred

1 from a conduct showing a total disregard for human
2 life.

3 Guys, I'm sorry. I didn't mean for this trial
4 to take us into Friday. This is week two for me
5 being in trials that lasted all week. I'm tired. If
6 I could have done this thing in two days, I would
7 have. There were witnesses we had to get through. I
8 was telling the family we've got to build this thing
9 up witness by witness and piece of evidence by piece
10 of evidence. I wish it was simple as on day one, me
11 standing in front of you and saying convict this guy
12 because here's what the evidence is. We've got to
13 build the case by witnesses. And they've got to get
14 up there on the stand and they got to swear to tell
15 the truth. And they've got to tell their involvement
16 in each particular case. That's why we had the
17 tiring times, seemed redundant at times, but it's
18 just how it works.

19 You know, I was telling one of my friends --
20 I've got nine lawyer friends, thank God. That's the
21 only thing that keeps me sane dealing with people who
22 don't do what I do for a living. They say, what are
23 trying this week? I got this case where a guy, he
24 had made threats against this woman. They had a
25 tumultuous relationship. I think I used the word

1 toxic relationship with one another. He goes to her
2 house after being told not to go there and stabs her
3 twice, he strangles her. And on top of that, he
4 calls 911 and says I killed my girlfriend. They said
5 okay, why are you trying that? What is there left to
6 be done? That's how it works. You guys --

7 I know on TV, there's a lot to complain of, but
8 our judicial system, it truly is the best in the
9 world. Because having heard that, there are certain
10 countries, they just take you away for something like
11 that. Here, you have to be tried in front of a jury
12 of your peers. And the State, me, I've got to prove
13 each and every element beyond a reasonable doubt.
14 Only in America, that's what I say. I mean, Don
15 King, that's his quote, but only in America. And I
16 love it. And I appreciate that. Because that is
17 Mr. Boozer's right. And I'm fine with producing
18 witness after witness to build this case to show you
19 guys. That is the standard, beyond a reasonable
20 doubt is one that -- it's difficult, you know. There
21 are certain cases I've got to work for, but I
22 appreciate having to work for.

23 Who were the witnesses we all heard from? Terri
24 Lawson, that was 911. That's the one that got up
25 there -- I think she was the first witness, and we

1 played that clip. Killed my girlfriend. Okay.
2 We're going to play that in a minute. I want
3 y'all -- in case you didn't before, I want you to pay
4 attention to the sound of his voice. Does he sound
5 panicked? Does he sound like somebody who was just
6 viciously attacked by a naked woman yielding a knife
7 who had to fight for his life and only had to
8 strangle her to preserve his own life? No. And he
9 didn't mention any of that either. It was just
10 simply, I just killed my girlfriend. I want y'all to
11 pay attention to that.

12 Harry Bodiford, Prosperity Police, he shows up,
13 he gets there. Things went too far. It isn't hey,
14 Chief, Chief Bodiford, this woman just attacked me.
15 Go in there and make sure she's not still alive, I'm
16 scared to death. It was self-defense. No, Things
17 went too far, that's his first words.

18 James Tallon, SLED crime scene. We're going to
19 go over everything that he kind of did, but he's the
20 photographer and he's the one that helped canvas the
21 area.

22 Dr. Janice Ross. Y'all remember that? I just
23 think, you know, that testimony, though. It takes
24 eight seconds to leave somebody unconscious by
25 strangulation. The threat is gone when they're

1 unconscious. You know, you get up and leave the
2 house if it happens like he said. The threat's over
3 when she's unconscious. But you have to apply that
4 pressure on the neck. If you really want them dead,
5 you need to do it three or four minutes. You know
6 how long that is? I want y'all to go back there --
7 who's got a watch? Any of y'all got a watch? Take a
8 look at the clock on the wall if you need to. And I
9 want you to watch three minutes. Because when we're
10 doing our day-to-day activities, it seems like three
11 minutes goes by in the blink of an eye. But 90
12 seconds is a long time. And that's how long he sat
13 there looking at this mother as she died in the face.
14 He could have let go after a minute. But that evil
15 ill will, that intent, that reckless disregard for
16 human life kept him choking the life out of her.
17 Eight seconds to render somebody unconscious, three
18 to four minutes to kill them.

19 Laura Kneece, the coroner, she came in,
20 collected the body of Ms. Stribble, but she was also
21 that neighbor that testified to seeing the kids out
22 there morning catching that 6:45 bus.

23 Tim Grambow was the SLED toxicologist. He said
24 she had nothing in her system. No elicited drugs, no
25 alcohol. Verona Herrera, she was serology. She was

1 the SLED agent that said there was DNA -- putting
2 Clifton Boozer's DNA on Ms. Clatie Stribble. Maryann
3 Boehm, she, likewise, with SLED DNA, found Boozer's
4 DNA under Clatie Stribble's fingernails, found his
5 DNA inside Clatie Stribble.

6 Vanissia Wright, she was that cab driver.
7 Again, she was somebody who -- she gives us the time
8 he gets there. 5:30 a.m. Again, what occurs to me,
9 I want to know -- I was asking somebody, who thinks
10 it's a great idea to -- at 5 a.m. in the morning to
11 go confront one of ex-lovers try to make up with
12 them? You know, that makes no sense. Why is that a
13 good time, especially when she didn't get off of work
14 until 2:00 a.m. the night before? That's the
15 testimony, 5:00 a.m., he's up and he's wanting a cab
16 ride to Prosperity.

17 Chris Johnson, he was really just to confirm
18 that we got all these phone records, you know, look
19 at all the times this dude is calling her. Also, he
20 confirms that he is in that area of Prosperity where
21 he's not supposed to be. Phone activity 5:45 a.m.

22 Brandy Counts, that was the Sonic coworker. I
23 know she testified to -- we mentioned it earlier, a
24 good friend testified that that night, just hours
25 before she died, Clatie Stribble was frightened about

1 something. Jennifer Brokob, she was the former
2 roommate, friend of Clatie's. She testified two
3 weeks before she had a conversation with
4 Ms. Stribble. Ms. Stribble expressed fear regarding
5 Clifton Boozer.

6 Heather Hobby, she is the one that testified
7 about that disturbing altercation between the two. I
8 think they were at Heather's house, Hams Landing, I
9 think she said, in Prosperity. At any rate, she said
10 it was a one-sided argument. Even though the defense
11 tried to say well, Clatie was giving it back to him,
12 wasn't she? It was pretty one-sided. Clifton and
13 she were arguing, but Clifton was issuing threats.
14 Because that's how he treats Clatie in an argument.
15 How dare you argue with me, I will slit your throat
16 and I will beat the blood out of you.

17 Walter Bentley, he was our investigator that
18 talked about all those phone calls the day before, 41
19 times the day leading into the night she was killed.
20 He was able to find 38 times just in that 30-minute
21 period.

22 Niyla. Okay, y'all remember her. She talked
23 about the Monday, two days before she died, two days
24 before Clatie died about the car breaking down.
25 Because Niyla was going to get her physical. She was

1 going to be a cheerleader. She testified that we
2 didn't want to go to Natasha's house, trust me on
3 that. We never cared for Clifton Boozer. But that
4 was just the closet place we were when the car broke
5 down. And Clifton was there, he was drunk, appeared
6 to be drunk. He got into it with my mom. We took
7 the cab and we went home.

8 Niyla testified that Wednesday morning, she
9 actually, went in the room with Clatie, told her, I
10 love you, mom. Mom said, I love you, too. So, we
11 can -- she heard that sound about 5:00 a.m. as well.
12 But she testified that my mom had her phone. The
13 curtains were up on the wall. You know, at least,
14 right when I left at 6:30 a.m.

15 So, he's right, we don't know the exact time of
16 her death, but we know it was between 6:30 and 8:30
17 a.m. It was within that two-hour window because
18 approximately 8:30 is when Cliff calls 911 after he
19 calls his sister. But we know it's within those two
20 hours.

21 Evelyn was up that night when Brandy and her mom
22 came home. Evelyn, likewise, testified that mom had
23 her phone. Evelyn and Niyla for that incident
24 testified that at that period of time, Clifton Boozer
25 absolutely was not allowed in that house. He was not

1 supposed to be there. Evelyn was the one that that
2 Monday was on the couch when he came in. He stopped
3 dead in his tracks when he saw her. She had to
4 basically call her mom and tell her, Cliff's here,
5 and then tell Cliff, Get out. Mom does not want you
6 here. You're not supposed to be here.

7 Evelyn talked about that morning when they left,
8 they locked the door. They don't specifically
9 remember doing it, but they feel certain they did
10 because they always did. It was just their habit.
11 It was their custom, we lock the door when we leave
12 the house. We did that morning, we feel certain of
13 it. That pink camisole was not on the ground when we
14 left. That's was my mom's, but it was not ripped
15 last time she had it. She wouldn't wear ripped
16 clothing like that. Evelyn testified that the door,
17 likewise, was not busted open. She got up and showed
18 you guys how it was different from when she left.

19 Lying in wait. All right. Let's go over some
20 things. Y'all may be able to find more, but these
21 are evidence of Mr. Boozer lying in wait. You talk
22 about Conifer Drive here -- this is in Prosperity.
23 And there's 188 right there, Conifer Drive. That's
24 where Clatie, Isis, Niyla and Eve were living. And
25 once upon a time, there's where Clifton Boozer was

1 welcome. He never lived there. He stay there from
2 time to time. But we know May 3rd, 2017, he was not
3 supposed to be there. I think Clatie finally had
4 enough of him after years of on again, off again. I
5 think she had truly finally had enough of him.

6 But the cab driver said on this particular
7 occasion, he asked her to stop right at this
8 driveway. And he was going to walk all the way down
9 there because there was yard work. You know, in the
10 past, she had dropped him off there. She said that
11 that was the first time dropping him off right there.
12 But if the testimony y'all heard was different, yeah,
13 she always dropped off him off somewhere else, never
14 in front of the house, why would he be making the
15 excuse about yard work? These are just things to
16 think about that because these are things I thought
17 about. But she says before she could pull in here
18 and flip her car around, she turns back and he's
19 gone. He had just disappeared with that black hoodie
20 and those dark jeans into the darkness.

21 And, you know, I'm not saying -- I'm not saying
22 that it's inappropriate to wear dark jeans and a dark
23 hooded sweatshirt in May, I just think it's
24 compelling. I mean, I don't have a better outfit
25 than that if I want to go sneaking around somebody's

1 house undetected in the dark. I think it's pretty
2 effective. Those girls certainly never saw him when
3 they got out of the house to go to the bus stop.

4 Wouldn't you say that's a good article of clothing or
5 a good outfit to wear if you're going to lie in wait?

6 How else do we know he was lying in wait? This
7 was the far side of the house. We talked about house
8 only having one door. This is the opposite side of
9 the house from where the door is, the backside of the
10 house, if you will. Of course, we know that's the
11 bedroom window. You can see the broken blinds right
12 there, but that is Clatie's room. Okay. Number two,
13 right there. That's a cigarette. Why is that
14 interesting? Well, it's a fresh cigarette. This
15 isn't one that's been out there in the weather for
16 days and weeks or hours even. That's a freshly
17 smoked cigarette and it has Clifton Boozer's DNA on
18 it, okay, without a doubt. The expert said yeah,
19 that's Clifton Boozer's DNA on the cigarette. So, we
20 can talk about Pall Mall and Pall Mall Blacks and how
21 Clatie smoked this or that, that is Clifton Boozer's
22 cigarette. It's on the back of the house and it's
23 fresh. Why is he back there? I mean, who you hiding
24 from if you're supposed to be there at 5:00 a.m.?
25 Right? He's lying in wait.

1 And that's where the tire comes in, too. Can
2 you see it from there? There's a very clear mark of
3 mud on the bottom of the tire where it usually leans
4 up against that crawlspace door, I presume, to keep
5 it shut. This is how law enforcement found it,
6 though. And it's clearly been kicked over. You can
7 talk about all you want how you couldn't see in
8 through the blinds, but they're split. Even if they
9 weren't, has anybody looked through close blinds
10 before? You can see through them to some extent if
11 you're close enough. And then very clearly, you see
12 where the tire had been. It would be the State's --
13 I submit to you, that he used that to stand on to
14 look inside. Probably is she with another guy? I
15 guarantee you she's with another guy? Or is she
16 alone? But he was looking at her through the window.

17 The forceable entry. You know, the girls talked
18 about this whole defect here, the broken plaster down
19 on the switch plate and the split frame. That wasn't
20 like that. He busted in that door.

21 Again, signs of struggle in the kitchen. So,
22 early on, I think the struggle begins right here in
23 the entry way, the kitchen area and he marches her
24 back to that bedroom. And he does unspeakable things
25 to her. He stabs her. You know, after that first

1 stab wound -- even in his version of the story, if
2 this is self-defense and she falls on the knife --
3 y'all are going to hear that interview. Y'all are
4 going to have that. You can play it as much as you
5 want to. If you want to hear that garbage, if you
6 want to hear him stutter and try his damndest to
7 come up with an excuse and a reason that's even
8 halfway plausible, y'all listen to it. He talks
9 about her falling on the knife. I guess the knife
10 somehow landed on the couch like that and she fell on
11 it because that's his testimony. And he says she
12 sits on the bed while she's bleeding.

13 Okay. You do have the duty to retreat if it's
14 self-defense. You know the danger is over right
15 there. First of all, you got to believe that they
16 have this passionate sex, this makeup sex, then for
17 some unexplained reason, she flips out. And she's
18 coming at him with a knife and then they struggle and
19 she falls on it. Well, then, she sits on the bed, he
20 says. Why not leave then if you're so just terrified
21 of this woman, this threat is so real? Any prudent,
22 practical person if it appeared their life was in
23 danger, why not leave then? I don't know. That will
24 be something for y'all to explore and question each
25 other about, whether that makes any damn sense.

1 But the signs of the struggle in the bedroom,
2 this is a violent attack. Make no mistake about it.
3 I don't even like to even imagine probably the extent
4 of it, but it's clear that this was a violent
5 struggle and Clatie fought for her life. And I don't
6 mean to comment too much on her ability to fight, but
7 she really didn't get anything on him. He had a nick
8 on his finger. He beat her to a pulp, she never had
9 a chance. Maybe she was tough as a person, but he
10 was just too much for her.

11 Signs of a struggle. This on the right side of
12 bed. This is between the couch and the bed. We know
13 she was bleeding on both sides of the room as she
14 probably fought for her life. Again, there's the
15 phone cord, the charger ripped out of the wall.
16 Where's the phone? Man, where's the phone? Tell me
17 where the phone is if one quarter, one scintilla of
18 what you're telling us is true, that you were the
19 victim, man. She's attacking you. Why you getting
20 rid of her phone? We're never going to get that
21 answer. Unless some kid walking through the woods
22 some day stumbles upon it, I don't know. I don't
23 know where the phone is. But it was there, at 6:30
24 a.m., it was. Where are the sheets, man? Where are
25 they? Why did you hide the sheets?

1 MR. VERNER: Your Honor, he needs to direct
2 it --

3 MR. SCOTT: Why is he hiding the sheets? I
4 don't know. I don't know. And I don't know really
5 why he hid them. Like Mr. Verner said, I don't know
6 what it would show or not show, but the fact is he
7 thought it was important enough to get rid of them.
8 I don't know. But if it's self-defense, why would
9 that be important? And, you know, if he's thinking
10 irrationally, you know, that was eight hours later he
11 gives that interview, after he's sat in jail and kin
12 of thought about man, how do I explain this thing?

13 So, at the same time he's telling Bodiford that
14 she attacked me and I was only trying to protect
15 myself. It's the wildest thing, man. Okay, well,
16 where's the sheets? I don't want to talk about it.
17 That's his words. Listen to the audio. Why not?
18 Why not? Because if it's self-defense, you've done
19 nothing wrong, man. You understand that? If you
20 belief him, he is to be acquitted because he acted
21 legally. He was only protecting himself. Why the
22 sheets? And if that's the truth, why the phone? Why
23 the sheets? And why hide that knife, that
24 black-handle knife? Because the defense attorney
25 said, and I can't disagree with him, that it was

1 probably her knife that was used on her to inflict
2 those stab wounds, okay. In his version, she kind of
3 falls on it one time. He never accounts for this one
4 right here. He never accounts for the one that slit
5 her in the throat. But if she fell on the knife, why
6 does he hide it? They never found the black-handled
7 knife. That's the one he describes her using when
8 she's slashing at him. Why would he hide it if he
9 acted in self-defense? Well, those are questions
10 y'all going to have to decide because I don't know
11 the answer.

12 The cover up, that's what I'm talking about.
13 The sheets were on the bed. Isis made the bed, Isis
14 cleaned the whole house so she could get her cell
15 phone back. The couch was not like that. I don't
16 know the order of everything, but I know this
17 happened in a two-hour window. And he tells law
18 enforcement I got there at 8:00 and we know that's a
19 lie. We know he had a lot of time to try to clean
20 the area up. To try to make things look in some kind
21 of way that was plausible. But there's a two-hour
22 window. I don't know where the things went? Are
23 they in the woods somewhere? Are they in the bottom
24 of that sewer pond? I don't know. He didn't have a
25 car, so we feel like they were within walking

1 distance, but the officers didn't find them. They
2 coned the area. To this day, we don't know.

3 Walter, press play on that.

4 This is first recording.

5 (WHEREUPON, 911 call was published.)

6 MR. SCOTT: I just killed my girlfriend.

7 That's what I'm saying, I mean, that is a calm,
8 cool, collective voice, I just killed my girlfriend.
9 Not, my girlfriend attacked me with knives. Not, I
10 felt threatened and I, you know, acted just in the
11 heat of passion. No, this is I killed my girlfriend.
12 What do you do if you were just attacked by a woman
13 and you called 911? I tell you what you would do,
14 you'd say get out here quick. I don't know if she's
15 dead or alive. I just had to act in self-defense
16 because this woman came at me with a knife, but get
17 out here right now. It's not I just killed my
18 girlfriend. That is the most truth Boozer has spoken
19 in this case. I just killed my girlfriend. That's
20 right. This is murder.

21 Turn around.

22 This is murder. This is not voluntary
23 manslaughter. This is a woman who was beaten -- by
24 the way, he never really gave us any explanation for
25 those bruises that covered her body. This woman was

1 pummeled. Not just stabbed, not just choked, she was
2 beaten. This is murder. This is hatred, ill will.
3 This is murder. That's murder, guys. That's what
4 murder looks like. This ain't no voluntary
5 manslaughter, this ain't no self-defense, this the
6 cold-blooded. I.

7 I know y'all don't like to think there's people
8 out there like this, but I promise you there are.
9 There are people capable of doing unspeakable things.
10 Mr. Boozer is just one of them. All right. I've got
11 to deal with this crap all the time. He's a
12 cold-blooded murder. That's murder.

13 A noteworthy thing, when you strangle somebody,
14 you know, when you choke the life out of them, when
15 you want them dead, you want to kill them, they're
16 unconscious after eight seconds, but if you keep
17 holding down on the neck so you can kill them like
18 you really want to do, you don't want just want them
19 hurt, you don't just want them subdued, you want them
20 dead, right? Where there's these little splotches of
21 blood vessels bursting all up under the skin, there's
22 capillaries bursting, that's called petechiae. And
23 that's what Dr. Ross talked about. We know it wasn't
24 a knife that killed her. We know it wasn't him
25 beating the crap out of her that killed her. It was

1 that cold-blooded strangling. The definition of
2 malice.

3 Looking at somebody -- you know, a gun, a gun,
4 that's not as cold-blooded. You can be cold-blooded
5 with a gun, but when I shoot somebody from here to
6 there, I'm detached. I'm hands off. I'm 50 feet
7 away. And it can be anyone. But when I want to
8 really -- when I want to really be cold-blooded, I
9 want to be evil, I look them in the eye and I choke
10 them and I watch them gasp for breath. And I watch
11 them beg me for mercy. That's malice right there.
12 That's the definition of malice. Three to four
13 minutes, you heard Dr. Ross. And he's right, she's
14 done 12,000 autopsies. She is a doctor. She is a --
15 I don't know why you would want to get in that line
16 of work, but that is the line of work she's chosen
17 and she's good at it. Three to four minutes to kill
18 somebody strangulation. The very definition of
19 malice.

20 I've got to prove this case beyond a reasonable
21 doubt. All right. Like I said, the highest standard
22 under the law. The Judge will talk about in a civil
23 case, if it's, you know, he ran the red light and
24 wrecked into my car. Well, the jury is going to say
25 well, which side is the most right. One can be a

1 little bit more right than the other, so I'm only
2 going to award damages to the guy who's a little bit
3 more right than the other guy.

4 It's higher in criminal cases. The standard is
5 beyond a reasonable doubt. And the best way I can
6 describe that is I've got to leave you firmly
7 convinced of his guilt. The Judge is going to
8 mention that to you. His definition and his jury
9 charge of reasonable doubt is longer, granted, but
10 the best way that I can understand it is I have to
11 leave you firmly convinced of his guilt. He's going
12 to use that term twice when he described beyond a
13 reasonable doubt to you. He says firmly convinced
14 two times. Just remember that. If you're firmly
15 convinced of his guilt, you got to find him guilty,
16 okay. Do you have to be 100 percent certain? No.
17 And beyond a reasonable doubt does not require that.

18 I guess the common thing that people say are the
19 only certainties are what, death and taxes. I like
20 to be -- I feel like I'm 100 certain the sun is going
21 to come up tomorrow, but I really don't. It's come
22 up every day of my life, but do we know beyond all
23 doubt, 100 percent that it will tomorrow? No. But
24 reasonable doubt doesn't require that. You can have
25 some doubt, you know. You can have some question as

1 to what went on in there May 3rd, 2017, as long as --
2 listen to me, as long as those doubts are grounded in
3 reason, okay. If you got doubts, your doubts have to
4 be grounded in some kind of logic and some kind of
5 reason. You can have questions. I've still got
6 questions. I've been dealing with this case for over
7 a year, I still got questions.

8 I mean, as I sat there brainstorming the other
9 day, I came up with just -- not any order, but just a
10 list of questions I have. Just brainstorming things.
11 And I mentioned some of them. Who shows up at
12 5:00 a.m. in all black to make up with an ex? What
13 about this? Why would blood be on his pants and
14 boots if he just finished having sex like he said? I
15 mean, all y'all got to do is look at those pictures.
16 He's got blood on his boots, blood on his pants. His
17 version doesn't make any sense. They had consensual
18 sex and all of a sudden, she flips out and starts
19 fighting with him, why is he fully clothed? He's got
20 to be getting blood all over his pants and shoes,
21 right? Why didn't he have any injury? I mean, he
22 described just a violent reaction by Clatie Stribble
23 where he's protecting his own life supposedly. He's
24 got a nick on his hand. Probably where she scratched
25 him with her left hand trying to fight for her life.

1 That's the only blow she was able to land on him.

2 How does he explain those bruises all over her?
3 I mean, y'all got the pictures. They're not pretty.
4 But Dr. Ross explained, there were bruises up and
5 down her legs. Somebody had socked the crap out of
6 her on her right jaw. Wasn't there the night before
7 when Brandy and them were there. Her nose, the
8 bridge of her nose is split open. He never explained
9 that.

10 Again, you know, just some of these are clear,
11 why hide the phone, sheets and knife? And then how
12 come when you're asked about it, you say I don't want
13 to talk about it? Why get a cab to drop you off down
14 the road? Why even tell her there was yard work?
15 Why was his demeanor so different on that car ride
16 than the cab rides before? Why is his voice so calm
17 on 911? Why not tell the dispatcher Clatie had
18 attacked him? Why not tell the first responder
19 Clatie attacked him? Why is his skin under her
20 nails? Why hang out behind the house until the kids
21 are gone?

22 Now, the defense's explanation is well, you
23 know, if you going there to have consensual sex, you
24 know, the kids are there. Listen, the kids knew
25 Cliff. He had been in and out of their lives for six

1 years. Why would that be somebody you'd have to hide
2 from them to do? Why not just get a cab that arrived
3 after they had already gone? Why hide out behind the
4 house? Why not let go of -- you know, you're going
5 to get a charge -- just because he brings up at
6 issue, you get a charge from the judge on
7 self-defense. One of them is you can't be at fault
8 for bringing on the difficulty. Okay. I can't break
9 into your house tonight and then claim self-defense
10 when I hurt somebody in the house. I would be at
11 fault in bringing on any kind of difficulty that
12 would arise whenever I came into somebody's house
13 unwanted. Likewise, you have a duty to retreat,
14 okay. If he's choking her out, she's unconscious,
15 why do you keep choking? Why don't you get up and
16 leave the house?

17 Why did he give Bodiford the wrong phone number
18 twice when he asked him for his phone number? Why
19 tell Bodiford he got there at 8 a.m? Why did he need
20 to look in that window? Why call those 41 times?
21 Why would Clatie feel the need to sleep with a knife?
22 Why would Clatie have been the aggressor when she had
23 been expressing fear of him? Why was there no phone
24 activity between 5:45 a.m. and then calling his
25 sister just before calling 911 at 8:30 a.m.? Because

1 he's busy. He's busy beating the crap out of Clatie,
2 doing unspeakable things to her. Stabbing her,
3 strangling her, then trying to figure out how am I
4 going to explain this?

5 Was it supposed to be a murder/suicide? I don't
6 know. But he's certainly despondent enough
7 afterwards carving his name inside the TV. Those
8 girls watch that TV every night, they hadn't seen
9 that before. Then he's hiding stuff. Then he's
10 calling his sister. I don't know what that
11 conversation was. She didn't want to talk about it
12 yesterday, and that's fine. I can't make her talk
13 about it, but the records show that he called her
14 before calling 911.

15 The defense talked about what makes common
16 sense. I'm interested in that, too. Voltaire, I
17 found this the other day. That was the quote, you
18 know, To the living, we owe respect, to the dead, we
19 owe the truth. He also had a quote, Common sense is
20 not always so common. And I think -- I mean, I'm not
21 going to try to get in the mind of a French
22 philosopher who lived 200 years ago, but I think what
23 that means is my common sense may not necessarily be
24 yours. It may not. Something I may think is just
25 plain common sense, y'all may hold a different

1 opinion of. I'm just asking y'all, I don't think
2 it's so much to ask, does his version meet the
3 standard of anybody's common sense? Is his version
4 even halfway reasonable?

5 What direction does the evidence point you?
6 It's clear as day. You know, Clatie, Cliff can
7 disparage her, the defense attorney can paint a
8 negative picture of Clatie, I think she was just a
9 hardworking woman who tried to do right by her
10 children. Everything I can see, I think those
11 children meant the world to her. I mean, I never
12 knew her. I'll never get to know her. Y'all won't
13 ever get to know her. But, you know, you can look
14 back and I think make a fair opinion on Clatie
15 Stribble.

16 One of the best ways you can do that is -- or
17 any parent, I think, is to look at how their children
18 turn out. Y'all didn't really get to see Isis. And
19 she had her reason not feeling comfortable
20 testifying. But you got to meet Niyla, you got to
21 observe her up there. You got to hear her speak.
22 You got to hear Evelyn. I call her Eve, but you got
23 to see her. I think that's pretty damn good
24 reflection of what kind of person Clatie Stribble
25 was. Look at the kids she raised.

1 becomes my obligation to instruct you on the law that
2 applies in this particular case. I will tell you the
3 way -- when I first started practicing law 25 years
4 ago, the way this was typically done by judges and
5 the way many of them still do it today is they would
6 basically read to you from 19 pages taken from the
7 law books. And you're supposed to get this all on
8 the first hearing and walk back there and simply
9 apply in 15 minutes -- apply the law that you heard
10 for 15 minutes, same law that took me three years to
11 learn. I always found that unreasonable. So, long
12 story short, you're going to get a copy of these
13 instructions that you can refer to during the course
14 of your deliberations in the jury room. Please, of
15 course, follow the instructions as a whole and don't
16 pay attention to a portion of the instructions to the
17 detriment of the rest of them.

18 Mr. Foreman, ladies and gentlemen, if you have
19 any questions about the law that applies, I want you
20 to simply write me a note, give it to the bailiff and
21 I'll try to answer any legal question that you have.
22 Understand, though, if you have any factual
23 questions, the law doesn't permit us to reopen this
24 case or present any additional testimony or evidence.
25 So, if you send out a question about the facts, I'm

1 probably going to have to tell you, well, you're
2 going to need to rely on what your recollection of
3 the facts is, okay, or otherwise.

4 Now, ladies and gentlemen, I instruct you that
5 the indictment in this case charges the Defendant,
6 Mr. Boozer, with the offense of murder. I remind you
7 the fact that Mr. Boozer was arrested, charged and
8 indicted is not evidence, should not be considered by
9 you as evidence of guilt. Nor does the indictment
10 create any inference for presumption of guilt. This
11 is merely the formal written instrument that contains
12 the charge made against Mr. Boozer. It's the means
13 by which this case is brought into court.

14 In this case, the Defendant has pled not guilty
15 to this charge and that plea puts the burden on the
16 State to prove the Defendant's guilt. I instruct you
17 that a person charged with committing a criminal
18 offense in South Carolina is never required to prove
19 his innocence. It's an important rule of law that a
20 defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will also be
22 presumed to be innocent of the crime for which the
23 indictment was issued unless guilt has been proven by
24 evidence satisfying you of his guilt beyond a
25 reasonable doubt.

1 The presumption of innocence does not end when
2 you begin your deliberations. Rather, it accompanies
3 the Defendant throughout the trial until you reach a
4 verdict of guilt based on evidence satisfying you of
5 his guilt beyond a reasonable doubt. The presumption
6 of innocence is not mere legal theory. It's not just
7 a legal phrase. It's a substantial right to which
8 every defendant is entitled unless you, the jury, are
9 satisfied from the evidence of his guilt beyond a
10 reasonable doubt.

11 Well, what is a reasonable doubt under the law?
12 A reasonable doubt is the kind of doubt that would
13 cause a reasonable person to hesitate to act. I
14 instruct you that the State has the burden of proving
15 the Defendant guilty beyond a reasonable doubt. And
16 some of you may have served as jurors in civil cases
17 where you were told that it's only necessary to prove
18 that the fact is more likely true than not true, such
19 as by the greater weight or preponderance of the
20 evidence. In criminal cases, the State's proof must
21 be more powerful than that, it must be proof beyond a
22 reasonable doubt. Proof beyond a reasonable doubt is
23 proof that leaves you firmly convinced of the
24 Defendant's guilt.

25 There are very few things that we know in this

1 world with absolute certainty. In criminal cases,
2 the law does not require proof that overcomes every
3 possible doubt. If based on your consideration of
4 the evidence, you're firmly convinced that the
5 Defendant's guilty of the crimes charged, you should
6 find him guilty. If on the other hand, you think
7 there's a real possibility that the Defendant is not
8 guilty, you should give him the benefit of the doubt
9 and find him not guilty.

10 Ladies and gentlemen, I remind you that during
11 this trial, you and I have certain duties to perform.
12 As the trial judge, it's been my job to preside over
13 the trial of the case and rule on the admissibility
14 of evidence offered. You are to consider only the
15 competent evidence before you. So, the testimony
16 which was ordered stricken from the record, you have
17 to disregard that testimony because you consider only
18 the testimony which has been presented from the
19 witness stand as well as any exhibits which have been
20 made a part of the record.

21 I also have the obligation to charge you on the
22 law. As the presiding judge, I'm the sole judge of
23 the law. It is your duty to accept and apply the law
24 as I state it to you now. So, if you already have
25 some idea what the law is or what the law should be

1 and it doesn't agree with what I tell you the law is,
2 you have to abandon this idea because you're sworn to
3 apply and accept the law as I state it to you now.

4 Again, ladies and gentlemen, in every case tried
5 in this court before a jury, the jury becomes the
6 sole and exclusive judge of the facts in a case. A
7 trial judge cannot intimate, state, comment on or
8 make a statement to a trial jury about the facts in
9 the case. Since you, the jury, are the sole judges
10 of the facts, you're not to infer from what I've said
11 during the progress of this trial ruling upon
12 evidence or otherwise or anything that I say to you
13 now, that I have an opinion about the facts in this
14 case. Ladies and gentlemen, the law does not permit
15 me to have any opinions about the facts in this case.
16 This a matter solely for you to determine. As
17 jurors, it's your duty to determine the effect, the
18 value, the weight and the truth of the evidence
19 presented during the trial.

20 Now, ladies and gentlemen, typically, there are
21 two types of evidence presented during the trial,
22 direct evidence and circumstantial evidence. Direct
23 evidence directly proves the existence of a fact and
24 does not require deduction, such as testimony by an
25 eye witness. Circumstantial evidence is proof of a

1 chain of facts and circumstances indicating the
2 existence of a fact.

3 I instruct you that crimes may be proven by
4 circumstantial evidence, the law make no distinction
5 between the weight or value to be given to either
6 direct or circumstantial evidence. However, to the
7 extent that the State relies upon circumstantial
8 evidence, all the circumstances must be consistent
9 with each other and when taken together, point
10 exclusively to the guilt of the accused beyond a
11 reasonable doubt. If the circumstances merely
12 portray the Defendant's behavior as suspicious, the
13 proof has failed. I instruct you the State has the
14 burden of proving the Defendant guilty beyond a
15 reasonable doubt. This burden rests with the State
16 regardless of whether the State relies on direct
17 evidence, circumstantial evidence or some combination
18 of the two.

19 Now, ladies and gentlemen, in reaching your
20 verdict, necessarily, you must determine the
21 credibility of witnesses who have testified. And
22 credibility simply means believability. It becomes
23 your duty as jurors to analyze and evaluate the
24 evidence and determine which evidence convinces you
25 of its truth.

1 In determining the believability of witnesses
2 who have testified, you can believe one witness over
3 several or several witnesses over one witness. You
4 may believe a part of the testimony of a witness and
5 reject the remaining part of the testimony of that
6 same witness. You may believe the testimony of a
7 witness in its entirety or reject it in its entirety.
8 You may consider whether any witness has exhibited to
9 you any interest, bias, prejudice or other motive in
10 this case. You may also consider the appearance and
11 manner of the witness while they were on the witness
12 stand.

13 Now, ladies and gentlemen, I further instruct
14 you and emphasize that the fact that the Defendant in
15 this case did not testify is not a factor to be
16 considered by you in any way during your
17 deliberations and in your consideration on the
18 question of the guilt or innocence of the Defendant.
19 It must not be considered by you in any manner
20 whatsoever. A defendant has the constitutional right
21 to remain silent. An assertion of this right must
22 not be considered by you in your deliberations. I
23 repeat, under your oath, you are to draw no
24 conclusion whatsoever from the fact that this
25 Defendant in this case did not testify. The fact

1 that he did not testify should not even be discussed
2 in the jury room. As I said before, the burden of
3 proof is on the State. The Defendant is not required
4 to prove his innocence. The burden of proof remains
5 on the State to prove the Defendant's guilt beyond a
6 reasonable doubt.

7 Now, as I explained previously, ladies and
8 gentlemen, the rules of evidence normally do not
9 permit witnesses to testify as to opinions or
10 conclusions, but an exception to this rule exists for
11 witnesses who are known as expert witnesses. A
12 witness, who by education and experience are an
13 expert in some art, science or profession may give an
14 opinion in a subject the witness claims to be an
15 expert in. They can also give the reasons for their
16 opinion. You should consider any expert opinion
17 given by a witness and like any other evidence, give
18 it the weight you think it deserves.

19 If you decide that expert witness' opinion is
20 not based on sufficient education, experience or if
21 you decide the reasons given in support of their
22 opinion are not sound or the opinion is outweighed by
23 other evidence, you may disregard the opinion
24 entirely. An expert witness' testimony is to be
25 given no greater weight than that of any other

1 witness simply because the witness is an expert. And
2 you do not have to accept an expert's opinion even
3 though it's uncontradicted.

4 Now, ladies and gentlemen, in this case, the
5 Defendant is charged with the offense of murder.
6 Therefore, the State must prove beyond a reasonable
7 doubt that the Defendant killed another person with
8 malice aforethought. I instruct you that malice is
9 hatred, ill will or hostility towards another person.
10 It's the intentional doing of a wrongful act without
11 just cause or excuse and with an intent to inflict an
12 injury or under circumstances that the law will infer
13 evil intent.

14 Malice aforethought does not require that malice
15 exists for any particular time before the act is
16 committed, but malice must exist in the mind of the
17 defendant just before and at the time of act -- just
18 before and at the time the act is committed.
19 Therefore, there must be a combination of previous
20 evil intent and the act.

21 Malice aforethought may be expressed or
22 inferred. These terms expressed or inferred does not
23 mean different kinds of malice, but merely the manner
24 in which malice is shown to exist, that is either by
25 direct evidence or by inference from the facts and

1 circumstances which are proven. Expressed malice is
2 shown when a person speaks words which express hatred
3 or ill will for another or when the person prepared
4 beforehand to do the act which is later accomplished.
5 For example, lying in wait for a person or any other
6 acts of preparation going to show the deed was within
7 the defendants mind would be expressed malice.
8 Malice may be inferred from conduct showing a total
9 disregard for human life.

10 Now, ladies and gentlemen, should you find or
11 conclude that the State has failed to prove beyond a
12 reasonable doubt that the Defendant committed the
13 offense of murder, you may consider whether the State
14 has proven beyond a reasonable doubt the Defendant
15 committed the offense of voluntary manslaughter. To
16 prove voluntary manslaughter, the State must prove
17 beyond a reasonable doubt that the Defendant took the
18 life of another in the sudden heat of passion based
19 on sufficient legal provocation. Both heat of
20 passion and sufficient legal provocation must be
21 present at the time of the killing to constitute
22 voluntary manslaughter.

23 Sudden heat of passion may for a time effect the
24 person's self-control and temporarily disturb a
25 person's reasoning. Sudden heat of passion must be

1 the type that would make an ordinary person be able
2 to fully reflect on his actions that would produce an
3 uncontrollable impulse to do violence. Sufficient
4 legal provocation must be the type that would make a
5 person of ordinary reason and caution to become
6 enraged and lose control temporarily. The
7 provocation needed for voluntary manslaughter must
8 come from some act of or related to the victim.

9 I instruct you that words alone, however vulgar
10 or insulting are not enough to be legal provocation.
11 Where death is caused by the use of a deadly weapon,
12 words must be accompanied by some overt act, some
13 overt threatening act which could help produce the
14 heat of passion. Furthermore, the exercise of legal
15 right, no matter how offensive it is to another is
16 never sufficient legal provocation for voluntary
17 manslaughter. If the heat of passion had cooled or
18 if there was enough time between the provocation and
19 any killing of passion for a reasonable person to
20 cool, then the killing would not be voluntary
21 manslaughter.

22 Deciding whether a reasonable person would have
23 had enough time to cool off, you should consider all
24 the circumstances surrounding the killing. You may
25 consider the nature of the provocation, if any, the

1 defendant's mental and physical state and
2 circumstances and relationships between the parties.

3 Ladies and gentlemen, in this case, the
4 Defendant has raised the defense of self-defense. I
5 instruct you that self-defense is a complete defense
6 and if it is established, you must find the Defendant
7 not guilty. The State has the burden of proving --
8 sorry, the State has the burden of disproving
9 self-defense by proof beyond a reasonable doubt. If
10 you have a reasonable doubt of the Defendant's guilt
11 after considering all the evidence, including the
12 evidence of self-defense, then you must find the
13 Defendant not guilty. On the other hand, if you have
14 no reasonable doubt of the Defendant's guilt after
15 considering all the evidence, including any evidence
16 of self-defense, then you must find the Defendant
17 guilty.

18 The following elements are required to establish
19 self-defense. First, the Defendant must be without
20 fault in bringing on the difficulty. If the
21 Defendant's conduct was the type which was reasonably
22 calculated to and did provoke a deadly assault, then
23 the Defendant would be at fault in bringing on the
24 difficulty and would not be entitled to an acquittal
25 based on self-defense.

1 Second element of self-defense is that the
2 Defendant was actually in imminent danger of death or
3 serious bodily injury or that the Defendant actually
4 believed he was imminent danger of death or serious
5 bodily injury. If the Defendant was actually in
6 imminent danger, it must be shown that circumstances
7 would have warranted the person of ordinary firmness
8 and courage to strike the fatal blow to prevent the
9 death or serious bodily injury. If the Defendant
10 believed he was in imminent danger of death or
11 serious bodily injury, it must be shown that a
12 reasonably prudent person of ordinary firmness and
13 courage would have had the same belief. In deciding
14 whether the Defendant actually was or believed he was
15 in imminent danger of death or serious bodily injury,
16 you should consider all the facts and circumstances
17 surrounding the crime, including the physical
18 condition and characteristics of the Defendant and
19 the victim.

20 Third and finally, the final element of
21 self-defense is the Defendant had no other probable
22 way to avoid the danger of death or serious bodily
23 injury than to act as the Defendant did in this
24 particular instance. Ladies and gentlemen, I further
25 instruct you that a person cannot be required to make

1 an exact calculation as to the degree or amount of
2 force which may be needed to avoid death or serious
3 bodily harm. Therefore, in self-defense, the
4 Defendant has the right to use the force necessary to
5 avoid death or serious bodily harm. The force used
6 in self-defense does not have to be limited to the
7 degree or amount of force used by the victim. The
8 Defendant has the right to use as much force as
9 appeared to be necessary for complete self protection
10 in which a person of ordinary reason and firmness
11 would have believed needed to prevent death or
12 serious bodily harm. If the defendant is justified
13 in defending himself, then the Defendant may continue
14 to use that amount of force necessary until it's
15 apparent that the danger or threat of death or
16 serious bodily injury no longer exists.

17 Ladies and gentlemen, in this case, there are
18 two mutually exclusive verdicts which can be
19 rendered.

20 Mr. Foreman, I prepared this jury verdict form
21 for you to deliver your verdict and guide you through
22 the deliberations, okay. This is extremely simple.
23 I know you would have no difficulty following it, but
24 the law makes me explain it to you anyway, okay.

25 First statement on the verdict form says as

1 follows: We, the jury, in the above captioned case,
2 on the charge of murder, unanimously find Clifton
3 Curtis Boozer, then there are two mutually exclusive
4 options. Either guilty or not guilty. If you find
5 the State has met its burden of proving Mr. Boozer
6 guilty beyond a reasonable doubt, all 12 of you
7 agree, Mr. Foreman, you would initial next to guilty,
8 sign the verdict form, knock on the door, let the
9 bailiff know and we'll get you back in the courtroom.

10 If however, you find the State has failed to
11 meet its burden of proving the Defendant's guilt
12 beyond a reasonable doubt, all 12 of you agree, you
13 would initial next to not guilty. Then you may
14 consider the second statement involving involuntary
15 manslaughter. Okay. That statements says, we, the
16 jury, in the above captioned case on the charge of
17 voluntary manslaughter, unanimously find Clifton
18 Curtis Boozer, again, two mutually exclusive options,
19 guilty or not guilty.

20 Now, ladies and gentlemen, as I mentioned a
21 brief moment ago, all 12 of you have to agree on the
22 verdict in this case. South Carolina does not have
23 majority verdicts, other states do. Other states are
24 doing it wrong, okay. So, in South Carolina under
25 the law, all 12 of you must agree on whatever verdict

1 is ultimately reached by this jury.

2 Understand, ladies and gentlemen, that you have
3 been chosen as fair and impartial individuals, that
4 means you have no interest in the outcome of this
5 case, you have no friends to reward, you have no
6 enemies to punish is another way of putting it. If
7 at any point in time you have any questions about the
8 law, simply send me a note out.

9 I will also let you know, Mr. Foreman, though,
10 at any point in time you do need to communicate with
11 the Court or send the Court a note, please never
12 indicate to me if there is any kind of division
13 between the jury what that numerical division is.
14 Okay. So I don't want to know it's 10/2 one way,
15 6/6, 11/1, 5/7. Never give me a number, okay? Just
16 let me know what it is that you're struggling with
17 and I'll try to help you with that.

18 Ladies and gentlemen, in a moment, I'm going to
19 let you adjourn to the jury room. Just a few other
20 housekeeping matters first. Understand that
21 sometimes I get inquiries from the jury about how
22 long they have to deliberate. Understand that under
23 South Carolina law, there is no set time for
24 deliberations. Deliberate 10 minutes, 40 minutes,
25 four hours, 40 hours, four days. I don't think four

1 days, but however long you deliberate is entirely up
2 to you. The key thing is that all 12 of you have to
3 agree on whatever the ultimate verdict is.

4 Second of all, we're kind of beating up against
5 lunchtime. If you want, I'd much rather get through
6 this and let y'all begin deliberations. If you want
7 to order or request some lunch, the clerk will get
8 Little Caesars pizza. Okay, I know it's not gourmet
9 and I'm sorry for that, but that's quick and she will
10 be happy to send out and have some pizzas delivered.
11 It will take about 30 minutes to get here.

12 So, your first order of business, Mr. Foreman,
13 will be to decide if you want lunch. If you do, let
14 her know. In the meantime, don't start deliberations
15 yet. I have to give the parties the opportunity to
16 object or suggest any clarifications to any of these
17 instructions I've just given you. If there will be
18 additional instructions, I will bring you back out
19 here. However, if the Court is satisfied that I have
20 instructed you correctly, you're queue to begin your
21 deliberations will be receiving these instructions,
22 the verdict form and any other exhibits which have
23 been introduced in the record, okay? If you need to
24 rehear the 911 call or the Defendant's audio
25 interview, should you need to hear that again,

1 there's no mechanism to play it in there. Let us
2 know. We're not going to send those disks back,
3 we'll simply play them out here for you if you want
4 to hear those again. So, if you want to hear those
5 again, let me know and we'll bring you back out here
6 and play whatever portion you want to hear. Okay.

7 Again, adjourn to the back. Decide if you want
8 pizza, let her know. I'm assuming that might be a
9 yes, but let her know and we'll take care of that if
10 you want lunch.

11 Madam Alternate, you go with them one last time
12 and I'll bring you out before they begin their
13 deliberations, okay.

14 We may have the capacity to send something back
15 there if you want to hear the audio again, okay.
16 We'll figure that out. Every courtroom is different.
17 There's 46 of them, so sometimes it's hard to keep
18 track. Go back there, don't talk about the case yet.
19 Let her know if you want pizza, okay.

20 (WHEREUPON, the jury left open court at
21 approximately 12:27 p.m.)

22 THE COURT: Any exceptions or additions from The
23 State?

24 MR. SCOTT: No, Your Honor.

25 THE COURT: With the exception of the Court's

1 failure to instruct the involuntary manslaughter, any
2 additional suggestions from the Defense?

3 MR. VERNER: As well as the failure to include
4 the listed examples of voluntary manslaughter, Your
5 Honor.

6 THE COURT: With the exception of that, I think
7 it's probably Court's 1. Very good.

8 Y'all make sure that we're square as far as the
9 evidence is concerned. And we will get this case to
10 the jury, all right.

11 (WHEREUPON, deliberations began at approximately
12 12:32: p.m.)

13 (WHEREUPON, court was in recess awaiting a
14 verdict.)

15 THE COURT: All right, I've been informed the
16 jury has reached a verdict.

17 Anything further before we receive it from the
18 State?

19 MR. SCOTT: No, Your Honor.

20 THE COURT: From the defense?

21 MR. VERNER: No, Your Honor.

22 THE COURT: Let's have the jury, please. Hold
23 on one second. One second.

24 Just fair warning to everybody here, please,
25 when the verdict is read, when the verdict is

1 announced, I really do not want to have any sort of
2 outbursts, okay. So, if you find yourself unable to
3 control your emotions or contain your emotions -- I
4 understand this has been a hard fought case, there's
5 a lot on the line for everybody involved, if you
6 cannot keep your composure and show proper respect to
7 the verdict, feel free to quietly stand and walk to
8 the back of the courtroom and just leave the chamber
9 here. Okay. So please, just try to contain your
10 emotions when the verdict is read.

11 Let's have the jury.

12 (WHEREUPON, the jury came into open court at
13 approximately 1:54 p.m.)

14 THE COURT: All right, the record will reflect
15 the jury is back and seated.

16 Mr. Foreman, I'm told the jury has, in fact,
17 reached a verdict; is that correct?

18 MR. FOREMAN: Yes, sir.

19 THE COURT: All 12 of you agree on the outcome?

20 MR. FOREMAN: Yes, sir.

21 THE COURT: Hand the verdict form to the
22 bailiff, please.

23 All right, Madam Clerk, if you would publish,
24 please.

25 THE CLERK: Indictment Number 2017-GS-36-290,

1 the State of South Carolina vs. Clifton Curtis
2 Boozer, we, the jury, in the above captioned case on
3 the charge of murder unanimously find Clifton Curtis
4 Boozer guilty. Signed William C. Johnston,
5 Foreperson.

6 Ladies and gentlemen, if this is your verdict,
7 please indicate by raising your right hand.

8 THE COURT: Let the record reflect all 12
9 members of the jury raised their right hand.

10 Anything prior to discharging the jury from the
11 State?

12 MR. SCOTT: No, Your Honor.

13 THE COURT: From the defense?

14 MR. VERNER: Your Honor, because, obviously,
15 this is murder, we would ask for individual polling.

16 THE COURT: All right. Ladies and gentlemen, in
17 a moment, the clerk is going to call your names.
18 When your name is called, just raise your right hand
19 to identify yourself and she'll ask you a question.
20 The question is going to be, Is this your verdict?
21 Is it still your verdict? Simply answer
22 appropriately, okay?

23 Madam Clerk, please poll the jury.

24 THE CLERK: Tytrevaus Harmon, is this your
25 verdict, is it still your verdict?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: Aja Gaulden, is this your verdict,
3 is it still your verdict?

4 PROSPECTIVE JUROR: Yes.

5 THE CLERK: William Johnston, is this your
6 verdict and is it still your verdict?

7 PROSPECTIVE JUROR: Yes, ma'am.

8 THE WITNESS: Ebony Garmany, is this your
9 verdict and is it still your verdict?

10 PROSPECTIVE JUROR: Yes.

11 THE CLERK: Henry Nicholson, is this your
12 verdict and is it still your verdict?

13 PROSPECTIVE JUROR: Yes.

14 THE CLERK: Kristy Berley, is this your verdict
15 and is it still your verdict?

16 PROSPECTIVE JUROR: Yes.

17 THE CLERK: Paul Wertz, is this your verdict and
18 is it still your verdict?

19 PROSPECTIVE JUROR: Yes.

20 THE CLERK: Monica Goggans, is this your verdict
21 and is it still your verdict?

22 PROSPECTIVE JUROR: Yes.

23 THE CLERK: Sara McCall, is this your verdict
24 and is it still your verdict?

25 PROSPECTIVE JUROR: Yes.

1 THE CLERK: James Busby, is this your verdict
2 and is it still your verdict?

3 PROSPECTIVE JUROR: Yes.

4 THE CLERK: Bruce Legrand, is this your verdict
5 and is it still your verdict?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Sherrill Jarmer, is this your
8 verdict and is it still your verdict?

9 PROSPECTIVE JUROR: Yes.

10 THE CLERK: Thank you.

11 THE COURT: Jury having been polled, any other
12 matters for this jury from the defense?

13 MR. VERNER: No, Your Honor.

14 THE COURT: Ladies and gentlemen of the jury, I
15 want to thank you for your work again this week on
16 this case. Again, one last time, I will apologize
17 for the inconvenience to you this week. I was in
18 trial last week with, actually, Solicitor Scott on a
19 criminal sexual conduct with a minor case. Three
20 weeks ago, I was in trial in Greenwood in another
21 murder case. Sometimes it's easy for me and other
22 people who deal with this kind of thing day in and
23 day out to become desensitized to it. I realize that
24 we've exposed you to things that might linger with
25 you and I want to apologize for that. And tell you

1 that it was absolutely necessary that we put you
2 through this week so that this case would, in fact,
3 get resolved and justice could, in fact, be done in
4 this case, all right.

5 You will receive a letter from me thanking you
6 for your jury service this week. I probably won't be
7 getting into my office until maybe Sunday, so you
8 probably won't get it until sometime next week. It
9 will thank you and also solicit feedback. So if
10 there's anything that you liked about jury service,
11 I'm happy to hear about it. If there's anything you
12 did not like, I definitely want to hear about it,
13 okay, definitely want to hear about it, okay. So
14 don't be shy.

15 In a moment, ladies and gentleman, you will be
16 free to go.

17 Are their checks ready?

18 THE CLERK: The checks aren't ready, but we do
19 have statements. The checks will go out Monday.

20 THE COURT: The checks to you will go out on
21 Monday. It's \$15 a day, just cash it and don't use
22 it to pay your pay power bill or anything like that.
23 Enjoy it. She does have your statements. She will
24 provide those to you outside in a few moments.

25 Ladies and gentlemen, what remains to be done is

1 Mr. Verner will likely make a few posttrial motions.
2 I'll then hear from the State as far as anything that
3 the victim's family may want to say to me.
4 Certainly, I'll hear anything that Mr. Boozer and his
5 family may want to say on his behalf. So, sentencing
6 will take place probably in about 10 minutes. If you
7 wish to stick around for sentencing, that's perfectly
8 fine. For security reasons, though, I'll need to ask
9 that you sit out there, perhaps, on that side of the
10 courtroom towards the back. If you want to stick
11 around for sentencing, you're perfectly able to do
12 so. If you want to go, I'm not going to force you to
13 stay.

14 Okay, with that, the clerk will give you work
15 excuses. The checks will be mailed on Monday, you will
16 get them probably Tuesday or Wednesday. Again, you
17 have my thanks and my appreciation. You're free to
18 speak with anyone you want to about this case. And
19 the only final thing that I need you to do is if you
20 took any notes during the course of the trial, please
21 take those with you. You can dispose of them at
22 home, whatever you want to do with them. They're
23 your personal property, as I explained to you Monday.
24 Take them with you. You do have my appreciation and
25 thanks. You all are excused.

1 I need the Foreman to stick around and sign the
2 actual indictment, okay.

3 If y'all want to meet her outside, she'll give
4 you your work excuses.

5 (WHEREUPON, the jury left open court at
6 approximately 2:00 p.m.)

7 THE COURT: We'll be ease for a few moments.

8 Solicitor, figure out who on the victim's
9 account want to speak.

10 Same for you, Mr. Verner, okay.

11 We're at ease for about five minutes. I'll need
12 a sentencing sheet at some point, too.

13 (WHEREUPON, a short break was taken.)

14 SENTENCING

15 THE COURT: Mr. Verner, you renew your prior
16 motions and objections and move for a new trial?

17 MR. VERNER: I do, Your Honor.

18 THE COURT: Same ruling as before, the motions
19 for a new trial, of course, are denied.

20 Solicitor, you informed me of Mr. Boozer's
21 yesterday, I think. It entails two prior domestic
22 violence offenses and the petit larceny. Is that the
23 extent of his prior record?

24 MR. SCOTT: Yes, sir, two CDV convictions in
25 2014, two different victims. One of them was Clatie

1 Stribble and the other one is a Jazmonique Roof. So,
2 those are two prior CDV convictions in 2014.

3 THE COURT: Solicitor, I'm certainly happy to
4 hear from you and anything that the daughters of
5 Ms. Stribble might want to tell me, I'll all ears.

6 MR. SCOTT: Yes, sir, you know just as well I do
7 and I referenced it in the closing, fifth in the
8 nation, tiny South Carolina fifth in the nation as
9 far as homicide by domestic abuse. I don't know,
10 maybe this is just a small step in the right
11 direction, convicting these people who just have no
12 respect for women and just beat them to a pulp over
13 and over and over until they finally kill them and
14 take away loved family members like these girls lost.

15 October, they do the silent witness ceremony at
16 the State House. I suspect Ms. Clatie is going to be
17 one of a few dozen wooden silhouettes that represents
18 a homicide by domestic violence that used to be a
19 mother, sister, daughter, loved one.

20 So, he fits in perfectly. He is just somebody
21 who has done this for years. Prior complaints of it.
22 We understand the difficulties of prosecuting these
23 things from time to time, but he has two prior
24 convictions. And I suspect many other times that he
25 was able to convince various women not to go forward

1 or threaten them from going forward, but it finally
2 got too far. Thank goodness, that jury got it right.

3 We're going to ask you -- I know it's 30 to
4 life. I know he's probably a little bit over 40.
5 But give us some assurance that he is never getting
6 out and these girls never have to worry about him
7 getting out of prison. We would be very happy if he
8 spent the rest of his life in prison. Of course,
9 murder carries 30 to life. These girls, I know they
10 just want some assurance they're never going to see
11 him again.

12 Eve is kind of the spokesman for the sisters, as
13 we've talked about. She has written a statement.
14 She wants to read it to Your Honor. I know she wants
15 to speak.

16 Niyla or Isis, you want to speak or you just
17 want Eve to speak for you?

18 THE COURT: That's okay. If you want to let Eve
19 speak and if there's anything they want to say, let
20 them speak at that point.

21 All right, Eve, I'm all ears, ma'am.

22 EVE WILLIAMS: First off, I want to thank for
23 your time to hear my mother's trial. This has been
24 the hardest part of my life so far. My mom was such
25 a beautiful, caring, living and hardworking person

1 who always did for others. I will say over the past
2 year, I have learned a lot about many things, but the
3 most important of those things, I've learned about
4 God and forgiveness. Although, I will miss my mom
5 truly and I will think of her everyday and about how
6 many things in my life she will never be a part of,
7 such as watching my sisters cheer, come to chorus or
8 band concerts, congratulating us on making Honor
9 Roll, being at our high school graduations,
10 hopefully, weddings or even our children some day, I
11 made a promise to myself to fall victim to a bad
12 relationship like my mom did. I will make her proud
13 in everything I do.

14 As for Cliff, I have forgiven you this past year
15 the pain that you have caused me and my sisters. I
16 will pray that God has mercy on your soul.

17 I do ask that you please consider me and my
18 sisters' ages and put him away and make sure we never
19 have to see him again. Thank you, Evelyn Williams.

20 THE COURT: Thank you.

21 Girls, okay, anything y'all want to add?

22 MR. SCOTT: No, sir.

23 THE COURT: Anything further from the State,
24 Solicitor?

25 MR. SCOTT: No, Your Honor.

1 THE COURT: Mr. Verner, happy to hear from you,
2 Mr. Boozer and his family.

3 MR. VERNER: May it please the Court, Your
4 Honor. Cliff is 41, Your Honor. For the most part,
5 worked his whole life. No felony, other than these
6 two prior domestic violence in lower court charges.
7 He has lived a fairly law abiding life. He does have
8 five children. The youngest being 19. He's from
9 Newberry. His life is just a -- he got into a
10 turbulent relationship. I'll leave it at that. I do
11 see this as in that quasi area between a voluntary
12 manslaughter and a murder type. There's no way --
13 that heat of passion to some degree. I'm not
14 quibbling with the verdict, but I do think regardless
15 of the malice that there's obviously a turbulent
16 relationship and emotions in the relationship, a
17 breakup and that type as opposed to just killing
18 somebody for a motive, you know, the money murder,
19 that type. I do think it's a relationship murder.
20 Just no prior, other than that two prior CDVs, both
21 in '14 around the same time is the only red flag on
22 Cliff. He's always been a good guy to me, a friendly
23 guy. A man of faith.

24 He's got family support in the audience. We
25 only asked his two sisters to come up. His mother

1 wears a pacemaker and just can't take the stress.
2 His father, obviously, is the gentleman on the end.
3 One or more of them may want to speak, Your Honor,
4 and Cliff may or may not want to address the Court.
5 He's been in jail continuously since May 5th --
6 May 3rd, May 3rd of '17.

7 THE COURT: Lady, sir, anything y'all might want
8 to say?

9 MR. VERNER: Tell him your name so the lady can
10 write it down.

11 MS. SANDERS: I'm Michelle Sanders, I'm
12 Clifton's sister. First thing I would like to say to
13 the girls, I'm sorry y'all have to go through this.
14 I'm not sure why the State had y'all to testify that
15 we were bad people, but y'all know we loved y'all and
16 we welcomed y'all in our home, we still love y'all.
17 And I'm so sorry y'all had to go through this.

18 They also painted a picture that it was a
19 one-sided relationship. But me and my sister pretty
20 much was in this relationship the past five years as
21 well and we pretty much seen both sides. I just
22 can't say enough how sorry I am for the girls having
23 to without their mother, but I just pray that the
24 Court have mercy on my brother. Because he's really
25 not the monster the State painted him out to be. We

1 grew up a close family.

2 THE COURT: I understand, Ms. Sanders, thank
3 you.

4 Yes, sir.

5 WILLIE BOOZER: My name is Willie Boozer. I
6 been knowing Cliff all my life -- all his life. And
7 the reason why, that's my son. All our life, he's
8 been a good son. He's not a bad person. He have a
9 lot of good in him. I just want to ask the Court
10 whatever sentence you impose, please be as lenient as
11 possible. Thank you, Your Honor.

12 UNIDENTIFIED LADY: I would just like to say
13 that, obviously, I love my brother and he is truly
14 not the monster they painted him out to be. He love
15 people and he's a forgiving person that you could
16 ever meet. I ask, too, that you be lenient on
17 whatever you decide to do because he is a great
18 person despite of what happened on that day.

19 THE COURT: Thank you, ma'am.

20 Mr. Boozer, anything you'd like to say, sir?

21 MR. BOOZER: Yes, sir, I like to apologize first
22 to the family. To all the family, I apologize. I
23 apologize to the City of Prosperity for this action.
24 I want to, you know, apologize to the Court for y'all
25 having to go through something like this. I would

1 also like to apologize to my family for, you know,
2 putting them as well through this. But I would like
3 to ask you to give me that life sentence because it
4 was terrible. It should have never happened. And I
5 will accept it.

6 THE COURT: Thank you, Mr. Boozer.

7 Mr. Verner, anything else?

8 MR. VERNER: No, Your Honor, I don't. The Court
9 can definitely see he's being contrite but I disagree
10 with his request.

11 THE COURT: I understand.

12 First to Ms. Stribble's children, girls, at this
13 point in time, you've got a lot of support around
14 you.

15 And Eve, you mentioned how you and your sisters
16 are going to miss your mother during those milestones
17 because she's not a part of your life anymore. I
18 don't agree with that, okay, she's still a part of
19 your life, okay. Because you had years with her.
20 And going forward, I think you hit the nail on the
21 head, if you make your mother proud, that's how
22 you're going to honor her going forward, all right.

23 The three of you are going to really need to
24 rely on each other in the years ahead, probably for
25 the rest of your lives, okay. You can let something

1 like this destroy you, you can let something like
2 this ruin you, you can let something like this change
3 you for the worst or you can let it bring you closer
4 together. And I can tell it's brought y'all closer
5 together as a family. You need to keep that bond you
6 have for each other and keep each other in line. If
7 you do that, your mother is just going to smile down
8 on y'all. It's going to be all right. It's going to
9 end up being all right if you do that.

10 Mr. Boozer, I try to make it a habit in cases
11 like this to judge the crime and not necessarily
12 judge the person, sir. And I have no doubt that you
13 have been a good son to your father, a good brother
14 to your sisters and that you have many, many positive
15 qualities. And the fact that your willing to offer
16 that apology, that's not fallen on deaf ears.
17 Really, it's not. I know it's a hard thing to be
18 looking at 30 years to life and then offer that
19 apology.

20 But the Court takes a number of things into
21 consideration. Obviously, your criminal history is
22 not that bad. One of the things, though, that stuck
23 out in my mind throughout this trial, Mr. Boozer, is
24 somewhat of a difference between manners of death.
25 And I do this year in and year out and probably

1 try -- I've probably tried a dozen murder cases this
2 year. It's one thing to momentarily act on impulse
3 in a fraction of a second and pull the trigger and
4 somebody wind up dead. It's a different matter
5 entirely to basically strangle the life out of
6 someone over the course of three or four minutes.

7 And I don't have any doubt that people love you
8 and that in many respects, you've been a good person
9 a lot of times in this life. But to take
10 Ms. Stribble's life in the way that you did,
11 Mr. Boozer, is deplorable. And part of my job is to
12 send a message that this kind of action just cannot
13 be tolerated. And you set a proper sentence
14 yourself.

15 The sentence of the Court, Mr. Boozer, is that
16 you're committed to the Department of Corrections for
17 the balance of your natural life. I wish you luck,
18 sir.

19 MR. BOOZER: All right.

20 THE COURT: You have 10 days to file any notice
21 of intent to appeal and one year to file any action
22 post-conviction relief once those appeals are
23 exhausted. I wish you luck, sir.

24 MR. VERNER: Judge, do you mind if he gives his
25 sisters a hug before he leaves?

1 THE COURT: If law enforcement doesn't mind, I
2 don't mind. I'm fine with it.

3 Ladies, y'all take care.

4 EVE WILLIAMS: Thank you.

5 THE COURT: The record is closed on this case.

6 (WHEREUPON, the proceedings were concluded.)
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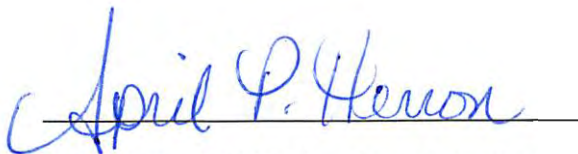
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Newberry County, South Carolina, on the 6-10 day of August, 2018.

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

January 20, 2019



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
)
 County of NEW BERRY)
CLIFTON CURTIS Boozer)
 Full name and prison number (if any) of Applicant)

IN THE COURT OF COMMON PLEAS

v.

State of South Carolina)
)
)
)

APPLICATION FOR
 POST-CONVICTION REVIEW

FILED
 NEW BERRY COUNTY
 2021 AUG 26 PM 12:23
 ELIZABETH P. FEAR
 CLERK OF COURT

2021-CP-36-10337

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE CORRECTIONAL INSTITUTION

2. Name and location of Court which imposed sentence GENERAL SESSIONS
NEW BERRY SC 29108

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 20176530-00290 MURDER 16-03-0010
 - (b) _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8/10/2018 Life imprisonment
 - (b) _____
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty _____
 - (b) after a plea of not guilty
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?

- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. SC Court of Appeals
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. Affirmed
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. MAY 5, 2021
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. No. 2021-UP-148
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) _____
 - (b) _____

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 NEWSPRY COUNTY
 2021 AUG 26 PM 12:23
 ELIZABETH P. FOLK
 CLERK OF COURT

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

- (a) Ineffective Assistance of Counsel
- (b) ABUSE OF DISCRETION
- (c) BRADY VIOLATION

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

- (a) Counsel's performance was deficient and prejudiced Defendant
- (b) The COURT ABUSED ITS DISCRETION BY FAILING TO Grant continuance, to ~~the~~ Allow Counsel to gather evidence or time to conduct investigation

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

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____

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 NEWBERRY COUNTY
 2021 AUG 26 PM 12: 23
 ELIZABETH P. FOLK
 CLERK OF COURT

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

(b) the proceedings in which each ground was raised:

- i. _____
- ii. _____
- iii. _____

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 NEWBERRY COUNTY
 2021 AUG 26 PM 12:23
 CLAYTON P. FOLK
 CLERK OF COURT

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) NA
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? NO
- (b) your trial, if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Charles Verner Esq. 129 Bryce Street
Newberry SC 29108
 - ii. Susan B. Hackett Esq. P.O. Box 11589
Columbia SC 29211
 - iii. _____

- (b) the proceedings at which each such attorney represented you:
 - i. TRIAL
 - ii. Direct Appeal
 - iii. _____

2021 AUG 26 PM 12: 23
 NEWBERRY COUNTY
 CLERK OF COURT
 P. FOLK

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

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

STATE OF SOUTH CAROLINA)
County of Newberry SC)

VERIFICATION

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

Cf Boozer

SWORN to and subscribed before me this 24 day of Aug, 2021.

Debra Eastudy (L.S.)
Notary Public

My Commission Expires: 3/3/2024

CLERK OF COURT
ELIZABETH P. FOLK
2021 AUG 26 PM 12: 24
NEWBERRY COUNTY
S.C.

2021-CP 36-00337

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Clifton Boozer, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Cl Boozer
Applicant

SWORN or affirmed to and subscribed before me this

24 day of Aug, 2021.

Debra Eastwood
Notary Public

My Commission Expires: 3/3/2024

FILED
NEWBERRY COUNTY
2021 AUG 26 PM 12: 24
ELIZABETH P. FOLK
CLERK OF COURT

STATE OF SOUTH CAROLINA)
 COUNTY OF NEWBERRY)
 Clifton Curtis Boozer, #377360,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS)
 FOR THE EIGHTH JUDICIAL CIRCUIT)
 Case No.: 2021-CP-36-00337)
 RETURN, PARTIAL MOTION TO)
 DISMISS, AND MOTION FOR A MORE)
 DEFINITE STATEMENT)

FILED
 NEWBERRY COUNTY
 CLERK OF COURT
 2021-09-03 PM 4:30

Counsel Appointed

In response to Clifton Curtis Boozer’s (Applicant) action for post-conviction relief filed on August 26, 2021 and not forwarded to or served on Respondent the State of South Carolina until September 1, 2021. Respondent makes this return to the application and requests an evidentiary hearing to resolve the claims as set forth in this application.

I. Procedural History

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Newberry County Clerk of Court. Applicant was indicted at the July 2017 term of the Newberry County Grand Jury for Murder (2017-GS-36-00290). Applicant was represented by Charles Verner, Esquire. Deputy Solicitor Dale Scott, and Assistant Solicitor Taylor Daniel prosecuted the case.

On August 6-10, 2018, Applicant proceeded to trial by jury before the Honorable Frank R. Addy. At the conclusion of Applicant’s trial, the jury’s verdict found Applicant guilty as charged. Judge Addy sentenced Applicant to imprisonment for life.

Applicant timely filed a notice of intent to appeal his conviction and sentence. Susan B. Hackett of the Office of Appellate Defense represented Applicant on appeal and presented the following issue:

1. The Trial Judge erred in failing to instruct the jury on the lesser-included offense of involuntary manslaughter where the evidence indicated Appellant choked the deceased only after the deceased brandished a knife and threatened Appellant, the two struggled over the knife, and Appellant believed the deceased was trying to get a second knife.

After briefing, the Court of Appeals affirmed Applicant's conviction and dismissed the appeal in an unpublished decision. *State v. Boozer*, 2021-UP-148 (filed May 5, 2021). The case was remitted back to the circuit court June 25, 2021.

II. Facts

Applicant and the victim were involved in a long-term "on-again, off-again relationship." Tr. p. 554, l. 16. On May 3, 2017, at 8:26am, the Newberry County Sheriff's Office received a 911 call from Applicant. Applicant reported he had just killed his girlfriend. Tr. p. 133, l. 23; Tr. p. 143, l. 18-20. Within minutes, the police arrived at the victim's house. Tr. p. 144, l. 9-10. Applicant walked out of the front door and was immediately arrested. Tr. p. 145, l. 12-19. As he was being placed in handcuffs, Applicant stated "things went too far." Tr. p. 146, l. 23. Applicant's boots were stained with blood but he had no visible injuries and did not complain of any pain. Tr. p. 152, l. 1-17; Tr. p. 163, l. 21-24. Law enforcement discovered the frame to the victim's front door had been damaged, indicative of a forced entry. Tr. p. 167, l. 16-17; Tr. p. 498, l. 13-21; Tr. p. 499, l. 9. When officers entered the home, they also observed signs of struggle, including a torn pink tank-top laying on the ground, blood stains throughout the master bedroom, curtains ripped from the wall, and a carving of "Cliff was here" on the TV. Tr. p. 166, l. 22-25; Tr. p. 172, l. 15-17; Tr. p. 174, l. 1-11; Tr. p. 177, l. 1-25. Police found the victim's body laying between the bed and the wall. Tr. p. 171, l. 14-15.

III. Current Application

Applicant timely commenced this PCR action on August 26, 2021. In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following:

1. Ineffective Assistance of Counsel:
 - a. Counsel's performance was deficient and prejudiced Defendant.
2. Abuse of Discretion:
 - a. The Court abused its discretion by failing to grant continuance to allow counsel to gather evidence or time to conduct investigation.
3. *Brady*¹ Violation

Applicant has not specified the relief he is seeking through his post-conviction relief application.

Attached herewith and incorporated herein are the Newberry County Clerk of Court records regarding the underlying general sessions proceedings, Applicant's SCDC records, the trial transcript, the appellate records (including the record on appeal), and the records of this PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

IV. Partial Motion to Dismiss for Failure to State a Claim

Applicant's allegation of Abuse of Discretion should be summarily dismissed for failure to state a cognizable claim. *See, e.g., Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) (“[PCR] is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.”). An applicant may commence a post-conviction relief action on the following grounds:

1. United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

However, because an application for post-conviction relief is not a substitute for a direct appeal, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the *overwhelming* majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment to the Constitution of the United States. *See Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (noting that allegations of trial court error are not cognizable on PCR); *Simmons v. State*, 264 S.C. 417, 215 S.E.2d 883 (1975) (finding that alleged trial errors and sufficiency of evidence are direct appeal issues that are not cognizable PCR claims); *Stepney v. State*, 278 S.C. 47, 292 S.E.2d 41 (1982) (explaining that issues that could have been raised on direct appeal cannot be considered on PCR application absent claims of ineffective assistance of appellate counsel).

Trial court error does not constitute an appropriate basis for a finding of ineffective assistance of counsel, and is not a cognizable claim for post-conviction relief. *See Wolfe v. State*, 326 S.C. 158, 162 n.2, 485 S.E.2d 367, 369 n.2 (1997). Direct appeal issues which could have been reviewed on appeal and were not objected to at trial or during guilty plea proceeding may only be presented to support a claim of ineffective assistance of counsel, not as a separate ground for relief. *Hyman v. State*, 278 S.C. 501, 502, 299 S.E.2d 330, 331 (1983).

Accordingly, the State moves to dismiss this allegation pursuant to Rule 12(b)(6), SCRPC, for failure to state a cognizable claim. The State further moves for summary dismissal of this claim pursuant to section 17-27-70 because there is no genuine issue of material fact which would necessitate an evidentiary hearing and this allegation should be dismissed as a matter of law.

V. Response to Allegation of Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. See *Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense

counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "'strong presumption' of reasonableness that the defendant must overcome"); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, "[t]he likelihood

of a different result must be *substantial*, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Applicant, in his application for post-conviction relief has alleged Ineffective Assistance of Counsel, but has failed to state any specific actions or inactions by counsel which would constitute ineffective assistance. Therefore, Respondent requests a more definite statement concerning what exactly Counsel did that was ineffective. However, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

VI. Response to Allegation of *Brady* Violation

Prosecutorial misconduct is most commonly found within the confines of a *Brady* violation. *Brady* violations occur if four conditions are met: “the evidence was favorable to the accused”, “it was in the possession of or known to the prosecution”, “it was suppressed by the prosecution”, and “it was material to guilt or punishment.” *Gibson v. State*, 334 S.C. 515, 524, 514

S.E.2d 320, 324 (1999). Whether a *Brady* violation is material and, thus, sufficient to warrant relief, is contingent on where there is a “reasonable probability that, but for the government's failure to disclose *Brady* evidence, the defendant would have refused to plead guilty and gone to trial.” *Id.* at 325. Further, whether a mistrial is warranted remains contingent on ““(1) the cumulative effect of such misconduct; (2) the strength of the properly admitted evidence of the defendant's guilt; and (3) the curative actions taken by the court.”” *State v. Inman*, 395 S.C. 539, 565, 720 S.E.2d 31, 45 (2011) (quoting *United States v. Anwar*, 428 F.3d 1102, 1112 (8th Cir. 2005)).

Applicant claims a *Brady* violation occurred, but does not specifically state what happened that constitutes a *Brady* violation. Thus, a more definite statement is needed. Further, an evidentiary hearing is requested because there are likely questions of fact the record does not conclusively refute. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

VII. Motion for a More Definite Statement

The State requests a more definite statement for some of Applicant’s allegations regarding ineffective assistance of counsel, and a *Brady* violation as it is unclear exactly what Applicant’s allegations are from his application.

The Uniform Post-Conviction Procedure Act requires applicants to “*specifically set forth the grounds upon which the application is based.*” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). In an application for post-conviction relief, it is incumbent upon the applicant to make a *prima facie* showing entitling them to relief before an evidentiary hearing will be scheduled and

held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). Rule 71.1(d), SCRPC, provides appointed PCR counsel “shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”

Here, Applicant has failed to state with any specificity the facts giving rise to his allegations of ineffective assistance of counsel and *Brady* violation. Applicant has failed to establish any specific instances of ineffective assistance by counsel. Additionally, Applicant has failed to explain his allegation of a *Brady* violation, Applicant has merely stated “*Brady* Violation” a ground which would entitle him to relief. Therefore, the State moves pursuant to Rule 12(e), SCRPC, and Rule 71.1(d), SCRPC, to require Applicant, through PCR counsel, to provide a more definite statement of his allegations of ineffective assistance of counsel and his allegation of *Brady* violation.

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Accordingly, the State moves to require Applicant to file an amended application well in advance of the hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss the application for failure to state a claim.

VIII. Any Future Amendments and Invocation of Discovery

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at

the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See id.* at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

IX. Any and All other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

X. Conclusion

WHEREFORE, having made its return, Respondent requests Applicant’s allegation of abuse of discretion be summarily dismissed for failure to state a claim. Further, the State requests Applicant, through PCR counsel, to provide a more definite statement of his allegations of ineffective assistance of trial counsel and *Brady* violation. Once a more definite statement is provided, the State requests an evidentiary hearing be held on the claim of ineffective assistance of counsel, and *Brady* violation. However, if Applicant fails to file a timely and responsive

amended application setting forth specific allegations for relief, the State requests the right to move to dismiss the application for failure to state a claim.


Respectfully submitted,

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Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

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Senior Assistant Deputy Attorney General

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Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT
Office of the Attorney General
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December 1, 2021

STATE OF SOUTH CAROLINA)
)
 COUNTY OF NEWBERRY)
)
 Clifton Curtis Boozer, #377360)
)
 Applicant,)
)
 v.)
)
 State of South Carolina.)
 _____)

COURT OF COMMON PLEAS
 FOR THE 8TH JUDICIAL CIRCUIT

Case No.: ~~2021-CP-32-2343~~
 2021 CP3600337 Per Attorney
 McMahan

**AMENDED POST-CONVICTION
 RELIEF APPLICATION**

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on August 26, 2021, to add the following:

1. Ineffective Assistance of Counsel of Deputy Public Defender Charles V. Verner:
 - a. Failure to call witnesses at trial that would present evidence as to the victim’s motive and/or prior bad acts which would enhance the Applicant’s claim of self-defense since he was a victim of domestic violence.
 - b. Failure to present witnesses and to argue SC Code §16-25-90 at sentencing that the Applicant was a victim of domestic violence and request a finding on the record from the judge that would allow the Applicant to be eligible for parole after serving ¼ of his sentence.

Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006); see also Love v. State of South Carolina, 428 S.C. 231, 834 S.E.2d 196 (2019)

FILED
 NEWBERRY COUNTY
 2023 NOV 20 AM 10:05
 ELIZABETH R. FOLK
 CLERK OF COURT

Respectfully submitted,

Ashley A. McMahan

ASHLEY A. MCMAHAN, ESQUIRE

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SC Bar No. 71676

ATTORNEY FOR APPLICANT

November 15, 2023

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Zachary W. Jones
Assistant Attorney General
zacharyjones@scag.gov

This 15th Day of November, 2023.

Ashley A. McMahan

ASHLEY A. MCMAHAN, ESQUIRE
Attorney for Applicant

FILED
MEMORANDUM
NOV 20 10 00 23
ELIZABETH D. JOHNSON
CLERK OF COURT

1 STATE OF SOUTH CAROLINA

2 -----x

3 CLIFTON CURTIS BOOZER,

4 Petitioner,

5 Case No.

6 -against-

2021-CP-36-00337

7 STATE,

8 Respondent.

9 -----x

10 November 27, 2023

11 Newberry, S.C.

12
13 B E F O R E:

14 HONORABLE B. ALEX HYMAN

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

17 ASHLEY A. MCMAHAN,

18 Attorney for the Petitioner

19
20 ZACHARY WILLIAM JONES,

21 Attorney for the Respondent

22
23 Aileen Butler

24 Official Court Reporter

25

	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	CLIFTON BOOZER				
4	Ms. McHana	4			
5	Mr. Jones		22		
6	VALENCIA WISE				
7	Ms. McMahan	23			
8	DEMARQUIS BOOZER				
9	Ms. McMahan	26			
10	LATASHA ROBINSON				
11	Ms. McMahan	31			
12	TYSON JONES				
13	Ms. McMahan	40			
14	MONCHELO GRIFFIN				
15	Ms. McMahan	47			
16	MALCOLM JONES				
17	Ms. McMahan	50			
18	CHARLES VERNER				
19	MR. JONES	54			
20	Ms. McMahan		61		
21					
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23					
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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NO EXHIBITS RECEIVED

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1 MS. MCMAHAN: Your Honor, at this point the -- I
2 guess I should start. This is the
3 2021-CP-36-00337. This is Clifton C. Boozer versus
4 the State of South Carolina. This PCR was filed on
5 on August 26, 2021 and at this time the applicant
6 would like to call Mr. Boozer to the stand.

7 CLIFTON C. BOOZER, called as a witness, was
8 sworn by the clerk and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. MCMAHAN:

11 Q. Mr. Boozer, did you file this PCR application?

12 A. Yes, ma'am.

13 Q. And who was your attorney that was
14 representing you on these charges?

15 A. At the trial?

16 Q. At the trial.

17 A. Mr. Verner.

18 Q. And when were you arrested on these charges,
19 do you remember?

20 A. I think it was in May 2017.

21 Q. Okay. And how long after you were arrested
22 did you start meeting with Mr. Verner?

23 A. Maybe a year and a half later.

24 Q. So let's back up a little bit. You were
25 arrested May '17 and you were at the detention center

1 the whole time?

2 A. Yes, ma'am.

3 Q. Was your bond denied?

4 A. I never went to bond court.

5 Q. Did you go in front of a Magistrate or
6 anything and they said they couldn't set your bond?

7 A. I never did go in front of any judge.

8 Q. Did you ever ask to go in front of a judge?

9 A. Yes.

10 Q. How many times do you think you asked?

11 A. Multiple times, I know for a fact.

12 Q. And how long total were you in the detention
13 center before you went to trial?

14 A. Maybe two years. Maybe two at least.

15 Q. Two years and some change give or take?

16 A. Yeah. Yes, ma'am.

17 Q. You said you met with Mr. Verner in person a
18 year and a half afterwards. So it would have been some
19 time in 2018?

20 A. Yeah.

21 Q. Did you talk to him on the phone or anything
22 before that?

23 A. No, ma'am. Just in person.

24 Q. Do you remember what you guys talked about
25 when you first met in person?

1 A. Just was details of what had happened.

2 Q. Did you have a conversation with him about
3 kind of like the history your relationship with Clatie?

4 A. Yes, ma'am.

5 Q. And how would you describe historically your
6 relationship with her?

7 A. It was toxic. It was toxic.

8 Q. How long off and on were you guys seeing each
9 other?

10 A. Maybe at most six years.

11 Q. Did you guys ever have children together?

12 A. No, ma'am.

13 Q. Do you have children though?

14 A. Yes, I have children.

15 Q. And who is the mom of those kids?

16 A. Well, Monchello (phonetics) Griffin and Brenda
17 Alewine.

18 Q. Were you and Miss Griffin ever in a
19 relationship?

20 A. Yes, ma'am.

21 Q. So you said your relationship with Clatie was
22 toxic. Can you give me some specific examples like
23 things that would happen between the two of you? Like
24 how would you she talk to you?

25 A. Just -- excuse me. Wait a minute.

C. Boozer - Direct by Ms. McMahan

1 Q. Do you need a tissue? Let's back up. How did
2 you and Clatie meet? How did you all know each other?

3 A. I think from family, I think.

4 Q. Were you all from the same area too?

5 A. Yeah, she was from Newberry too.

6 Q. Did you all go to school together or anything?

7 A. No, ma'am.

8 Q. Was she younger or older than you?

9 A. Younger.

10 Q. How much younger is she?

11 A. Maybe five or six years younger.

12 Q. Did you graduate from Newberry High School?

13 A. No, ma'am.

14 Q. Did you get your GED or anything like that?

15 A. No, ma'am.

16 Q. Do you know if Clatie did?

17 A. I think she -- I think she graduated. I
18 think.

19 Q. So when you first met you think through family
20 members. Did you start dating right then or was it the
21 shortly after?

22 A. Yeah, it was not exactly right then, but it
23 would probably about a year and a half before we would
24 say that we were dating.

25 Q. So in would be a year and a half later you all

1 said you were kind going together and that you all were
2 girl and boyfriend?

3 A. Yes.

4 Q. Did you all live together at all?

5 A. Yes.

6 Q. And when did you guys start living together?

7 A. Maybe two years later after we had met.

8 Q. How long did you all live together?

9 A. All together out of the six years may be four
10 years. Four and a half years.

11 Q. Did she go to family functions with you?

12 A. Yes.

13 Q. Did she get along with everybody in your
14 family?

15 A. She got along to a certain point. The ones
16 that was real close to me like she would try to drive a
17 wedge in between us.

18 Q. Like which family members were those? Were
19 they male? Female? Both?

20 A. Both.

21 Q. And how would you she drive the wedge between
22 you?

23 A. She would always tell me --

24 Q. Take your time.

25 A. She would always tell me that I didn't need

1 them.

2 Q. She would tell that you didn't need them?

3 A. Yeah, the ones that was close to me.

4 Q. Did she try and stop you from seeing them?

5 A. Yes.

6 Q. Are there any specific ways that you could
7 remember that she tried to stop you from seeing them?

8 A. She would destroy my clothes or throw Clorox
9 on my clothes so I couldn't leave or she would -- she
10 would destroy the car. Take hoses off the car so I
11 couldn't leave. She would hide the keys. Whatever she
12 could do so I couldn't leave.

13 Q. This is while you all were living together?

14 A. Yes.

15 Q. So if she didn't want you going somewhere she
16 would destroy your clothes or pour Clorox on them?

17 A. Yes.

18 Q. She would take the hoses our of your car?

19 A. Yes.

20 Q. How long would it take you to realize the
21 hoses were taken off?

22 A. Well, right then because she would do it. I
23 couldn't leave the yard so...

24 Q. So did she attempt to control like your
25 movements of where you could go?

1 A. Yes.

2 Q. And besides this what else would she do to try
3 and do that?

4 A. Put tracking devices in my vehicle. Put air
5 tracking devices on my cellphone.

6 Q. So she had a tracking app on your phone?

7 A. Yes.

8 Q. Would she ever call you if you were somewhere
9 she didn't want you to be?

10 A. She would just pop up.

11 Q. So she would almost what like follow you
12 places?

13 A. Yes. Yes. Through the app on the phone.

14 Q. Did you know at the time there was an app on
15 your phone?

16 A. No.

17 Q. How do you figure out there was app on your
18 phone?

19 A. She would just keep showing up in places that
20 I had -- she didn't have no idea that I was going. You
21 know I kind of figured that something was going on how
22 does she keep finding out where I'm at.

23 Q. What kind of places were you going that she
24 didn't want you going to?

25 A. Like I would go to some family functions and

1 some time it would be a party and she would pop up at
2 the parties that I would be at.

3 Q. Would she show up when you were trying to go
4 visit your kids or anything?

5 A. Yeah.

6 Q. Did you try to support your children?

7 A. Yes.

8 Q. Did you -- how? Like through money or showing
9 up or watching them or all of the above?

10 A. Everything. All of the above.

11 Q. How many kids total did you have?

12 A. Five.

13 Q. Did they all live in the same place?

14 A. No. No, ma'am.

15 Q. So some live with Miss Griffin and some live
16 with Miss Alewine?

17 A. Yes.

18 Q. And your relationship with Miss Griffin and
19 Miss Alewine was that before you meet Clatie or after?

20 A. It was before.

21 Q. Would Clatie demand money or anything from
22 you?

23 A. No, not so much money, but more of my time
24 then anything.

25 Q. So she always wanted you to be with her

1 wherever she was?

2 A. Yes.

3 Q. And if you weren't there where she wanted you
4 to be she would show up?

5 A. Yes.

6 Q. What would she do when she showed up?

7 A. She would go into a rage and she would pitch a
8 fit and just do whatever she -- do whatever she had to
9 do to make me feel guilty so I would leave. Stop doing
10 whatever I'm doing and just leave and go with her.

11 Q. Did she ever tried to beat you up physically
12 or anything like that?

13 A. Yes.

14 Q. Did you report any of this to the police?

15 A. No, ma'am.

16 Q. How often would you say she tried to hit you?

17 A. More than I can count.

18 Q. How soon after you started dating was she
19 showing up at different places and following you?

20 A. Maybe soon after. I can't give an exact date,
21 but soon after we started dating.

22 Q. So not within a week but like a month or two
23 later?

24 A. Yes.

25 Q. Can you think of any other places you went

1 where she just kind of showed up and you're like, how in
2 the world does she know I'm here?

3 A. That would be sometimes I be at my sons.

4 Q. Would she yell at your kids?

5 A. No, ma'am, but I would be at my son's football
6 game or something or at friends -- friends and relatives
7 houses she would just pop up there.

8 Q. Were you involved intimately with any of these
9 people that were you going to see that she was showing
10 up at?

11 A. No, ma'am.

12 Q. So these were family members or your kids or
13 public events?

14 A. Yes.

15 Q. So you said sometimes she would just show up
16 at like a football game?

17 A. Yes.

18 Q. Did she make a scene there?

19 A. Yes, she would. She would just -- she would
20 just roll by and blow the horn or something and make
21 sure that I see her. That she see me and she would like
22 just leave.

23 Q. How did that make you feel when she's
24 following you around and tracking you?

25 A. It felt like I was being stalked.

1 Q. Did you ever try to break up with her?

2 A. Many times.

3 Q. What would happen when you would try to break
4 up with her?

5 A. She he would threaten me that she would beat
6 herself up. That she would call the police and tell the
7 police that I raped her and make all kinds of false
8 accusations against me.

9 Q. So she threatened to call the police and say
10 that you raped her if you broke up with her?

11 A. Yes.

12 Q. In your conversations with Mr. Verner did you
13 discuss all of this?

14 A. I never had time to discuss much with him.

15 Q. Why is that?

16 A. I only met him twice.

17 Q. So the first time you guys met what were you
18 all talking about?

19 A. Just the different type of relationship that
20 we was having and just -- we were just discussing some
21 of the events that took place and where she would show
22 up at different places that I would be at.

23 Q. And what did you guys discuss as possible
24 defenses to your case?

25 A. Well, we really didn't discuss nothing on the

1 first meeting, but on the second meeting he discussed we
2 had talked about self-defense.

3 Q. And that was raised at the trial, right?

4 A. Yes.

5 Q. And that issue was also raised on appeal,
6 right?

7 A. Yes.

8 Q. Okay. And so you talked about self-defense.
9 What -- sorry. I lost my train of thought just now.

10 So the night that this incident happened had you all
11 been arguing?

12 A. No, ma'am, we hadn't been arguing.

13 Q. What was -- so was your purpose of going over
14 there that night to try and make amends?

15 A. Yes, my purpose was going over there we had
16 both discussed it and we was going to make amends and
17 plus it was going to be -- we were going to surprise the
18 girls with the news.

19 Q. The girls are your kids?

20 A. Her daughters.

21 Q. Did her daughters live with you too?

22 A. No, they lived with her.

23 Q. Okay. What surprise? Hey, you're getting
24 back together?

25 A. Yes.

1 Q. Were they there at the house when this
2 happened?

3 A. Yes, when it happened.

4 Q. How old were they?

5 A. Eve was like at the time maybe 12 or 13 and
6 Isis (phonetics) was --

7 Q. Was she younger?

8 A. Maybe 12.

9 Q. Who was older?

10 A. Eve was the oldest.

11 Q. So Eve was maybe 12 or 13 and Isis was what,
12 like 11 or 12?

13 A. Yes

14 A. Yes.

15 Q. And you had that conversation with Mr. Verner
16 about you showing up and the whole thing you were going
17 to get back together?

18 A. No, we didn't. We never got around to
19 discussing that because of our time was very limited
20 with me speaking with him.

21 Q. Okay. So you said you met with him twice in
22 person?

23 A. Yes.

24 Q. Did you meet him again at the courthouse here
25 or the courthouse before your trial?

1 A. Yes. Yes, that was the last time I had met
2 with him before I went to trial.

3 Q. Did you know you were going to trial that day?

4 A. I did not know I was going to trial that day.

5 Q. Had you been given any plea offers or
6 anything?

7 A. No, ma'am.

8 Q. So the last time you saw Mr. Verner in person
9 you were at the detention center and then they bring you
10 here. What did you think was going to happen when you
11 were brought here?

12 A. From my understanding they were just going to
13 do a lot of questions and get to question me and I was
14 told that they may select a jury and they may not.

15 Q. What do you mean questioning? Like doing some
16 motions or something?

17 A. Yes. Yes.

18 Q. And then you may select a jury?

19 A. Yes.

20 Q. Did the trial actually start that same day?
21 The first day you were here?

22 A. Yes. Yes, ma'am.

23 Q. And what kind of conversations with Mr. Verner
24 did you have about going to trial versus maybe pleading
25 guilty to something?

1 A. He really didn't -- he really didn't discuss
2 much. He really didn't discuss much.

3 Q. Did you have a conversation about testifying
4 or not testifying?

5 A. I kind of had a conversation with him about
6 it, but at the same time I knew I was unprepared to go
7 to trial so that was very limited things that I was to
8 speak with him about because there was nothing done on
9 my behalf for me to even go to trial.

10 Q. Did you ask for him to have some witnesses
11 there for you?

12 A. Yes.

13 Q. Who did you want there?

14 A. Well, I had asked him to -- to call in more
15 witnesses. I had asked him to get my phone records off
16 my phone and of course none of this was done.

17 Q. What would have been on the phone?

18 A. Just conversations on how we was talking and
19 things that she was talking back and forth because it
20 could have supported a lot of the evidence that the
21 defense had that I was aggressive towards her.

22 Q. You mean by showing you weren't aggressive
23 towards her?

24 A. Yes. I just wanted to show them the picture
25 that -- you know, that she was being aggressive.

1 Q. Towards you?

2 A. Yes, ma'am.

3 Q. And when you say you asked him to call
4 witnesses do you remember the specific names? Did you
5 ask him to bring Tyson over or anybody?

6 A. Yes. Yes.

7 Q. And what would that have been for? What would
8 Tyson have testified to?

9 A. For character witness.

10 Q. Okay. Did you have a conversation about how
11 character witnesses don't really testify about that kind
12 of stuff unless the door to character is opened up in a
13 trial?

14 A. No, ma'am.

15 Q. When you guys were talking about self-defense
16 do you remember what you all were talking about
17 specifically or anything?

18 A. I remember that he was just asking me how
19 things had taken place, you know, and he was asking me
20 how do I want to go about it.

21 Q. And so the entire time you were with Clatie
22 how many times do you think there were some sort of
23 public argument that she started?

24 A. So many. It was on many occasions. I
25 couldn't even count.

1 Q. Would it be daily?

2 A. Every other day.

3 Q. And it could be where, at the house? At
4 Walmart? Anywhere?

5 A. Anywhere. Anywhere.

6 Q. Were you trying to do your best to do as she
7 asked?

8 A. Yes, ma'am.

9 Q. Had you ever been in trouble before this?

10 A. Just one of those instances where I was trying
11 to move on and she did -- I guess she did what she said
12 she was going to do. She ended up calling the police
13 and said that I had threatened her and I had ended up
14 catching a CDV charge behind that and at that time she
15 had threatened --- she was threatening the girl that I
16 was with at that time.

17 Q. And who was that girl?

18 A. Monique.

19 Q. So she was threatening Monique and then what
20 happened?

21 A. I had went -- I had went to the house to talk
22 to her. To tell her just like please just, you know,
23 leave her alone because she was harassing her at her
24 job. Wherever she went and she was real irate that day
25 and she ended up after I left the house, she ended up I

1 guess calling the cops and said that I came down there
2 and beat her up and they ended up picking me up for a
3 CDV charge.

4 Q. Okay. Did you ever beat her up?

5 A. No, ma'am.

6 Q. Did you ever lay any hands on her prior to
7 this event?

8 A. No, ma'am.

9 Q. Is there anything else you want the Court to
10 know today about your case?

11 A. I just want my -- I just wanted a fair trial
12 so I could be represented the right way. I just wanted
13 my story to be told. Defense had I felt like a whole
14 year to have to prepare for a trial and for me to come
15 in on a two -- two time visit with the lawyer I just --
16 there was no way I could be prepared to be represented
17 the right way and my side to be told.

18 Q. Did you ever have a conversation with your
19 family about your relationship with Clatie?

20 A. Yes, ma'am.

21 Q. Without saying specifically what they said to
22 you, what generally was the concern that you're family
23 had? Were they concerned about your wellbeing?

24 A. They were concerned about me, yes. They would
25 always think that -- they always thought that she would

1 do something to me because she would always be
2 threatening other people. Had people threatening me
3 through other people telling me what she was going to
4 do.

5 Q. Okay. And do you recall if she threatened any
6 members of your family?

7 A. Not that I can recall.

8 Q. Okay. All right. I have no further
9 questions. Answer any questions the Attorney General
10 has.

11 A. All right.

12 THE COURT: Counsel.

13 MR. JONES: Very briefly.

14 CROSS EXAMINATION

15 BY MR. JONES:

16 Q. Mr. BOOZER, you were found guilty of criminal
17 domestic violence in 2014, correct?

18 A. Yes.

19 MR. JONES: That's the only question I have.

20 Thank you.

21 THE COURT: All right. Miss McMahan, anything
22 else?

23 MS. MCMAHAN: No, Your Honor.

24 THE COURT: All right, Mr. Boozer, you may
25 step down.

1 MS. MCMAHAN: Your Honor, at this time the
2 applicant calls Valencia Wise.

3 VALENCIA WISE, called as a witness, was sworn
4 by the clerk and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MCMAHAN:

7 Q. Would you mind spelling your first name for
8 the court reporter?

9 A. V-a-l-e-n-c-i-a.

10 Q. How do know Mr. Boozer?

11 A. He's my cousin.

12 Q. And were you ever around him while he was with
13 Clatie?

14 A. Yes.

15 Q. And are there any specific instances you can
16 remember of things that happened between Clatie and Mr.
17 Boozer?

18 A. It was a 2016, January, my brother threw a
19 party, a birthday at the Blue Moon and Cliff was there.
20 All the family was there and we posted pictures. We
21 took pictures and we posted them on Facebook and shortly
22 after that Clatie came and she wanted to fight me
23 because she thought I was a female that he was dealing
24 with. Didn't realize that I was his cousin and she
25 ended up back outside in front of the Blue Moon causing

1 a disturbance so much so his sister came out and tried
2 to calm her down and let her know that it was just
3 family. That he was not there with any female and she
4 thought he was messing around with me.

5 Q. So she thought you were I guess somewhat
6 romantically involved with your cousin I guess?

7 A. Yes.

8 Q. I realize you're in South Carolina, but have
9 you ever had a romantic relationship with Mr. Boozer?

10 A. No.

11 Q. And you said she showed up there. Do you mean
12 there at the Blue Moon?

13 A. Yes.

14 Q. And she was wanting to fight you inside?

15 A. Yes.

16 Q. Did she like -- what was the -- how was her
17 mannerisms? Was her arms swinging?

18 Q. She was just being erratic and upset.
19 Demanding that he leave and go with her at that time?

20 Q. Did he leave with her?

21 A. He did.

22 Q. Do you recall any other instances where you
23 might have seen Clatie behave like that?

24 A. Just -- we usually do Sunday dinner either at
25 my grandmother's house which she is now deceased or at

1 his sister's house and she would often drive by and she
2 called him several times and he didn't answer the phone
3 and I'm like, you're exaggerating, right? And he's like
4 no and he would show me his phone and she had called him
5 numerous times and then she would show up.

6 Q. So she would drive by the house wherever it
7 was?

8 A. Yes.

9 Q. Either at your grandmother's house or where
10 was the other house?

11 A. His sister's Tasha's.

12 Q. Or your cousin's house?

13 A. Yes.

14 Q. And then you could see her calling his phone
15 repeatedly?

16 A. Yes.

17 Q. And then she would show up?

18 A. Yes.

19 Q. Would she get him to leave with her when she
20 would show up?

21 A. She would cause a scene and he would just
22 leave just to calm her down.

23 MS. MCMAHAN: Answer any questions that the
24 Attorney General may have.

25 MR. JONES: Nothing for this witness.

1 THE COURT: All right, you may step down.

2 MS. MCMAHAN: Your Honor, at this time I would
3 like to call Demarquis Boozer.

4 DEMARQUIS BOOZER, called as a witness, was
5 sworn by the clerk and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MCMAHAN:

8 Q. Would you spell your first name for the court
9 reporter?

10 A. D-e-m-a-r-g-u-i-s.

11 Q. How are you relate Clifton Boozer?

12 A. That's my brother.

13 Q. And did you witness he and Clatie's
14 relationship?

15 A. Yeah.

16 Q. What specific instances can you remember about
17 things that happened between the two of them?

18 A. A lot. I can remember picking him up with his
19 clothes.

20 Q. What do you mean picked him up with his
21 clothes? Like on the side of the road?

22 A. With all his clothes.

23 Q. Where was that, like at a house?

24 A. It was house they were sharing together.

25 Q. Had he called you to come pick him up?

1 A. Yes.

2 Q. And he had all his clothes with him?

3 A. Yes.

4 Q. Then what happened after that? You took him
5 where?

6 A. To my sister's house or I have two sisters.
7 Either one of their houses or to my mother's house.

8 Q. Did he look disheveled when you picked him up?

9 A. Well, not really. Just ready to just get away
10 from her.

11 Q. Did he look kind of exasperated? Tired? Wore
12 out?

13 A. Just aggravated pretty much.

14 Q. And any other instances you can remember?

15 A. I can recall several times. My mother picked
16 him up with his clothes.

17 Q. Okay. Well, let's just talk about instances
18 that you did specifically.

19 A. All right.

20 Q. So you picked him up with his clothes. Were
21 you ever at any family functions where she was there?

22 A. Yes.

23 Q. Were you at the birthday party at the Blue
24 Moon?

25 A. Yeah, I think it was my cousin's birthday

1 party. Yeah.

2 Q. And the dinners that your cousin was talking
3 about, did you ever see Clatie drive by or anything like
4 that?

5 A. No.

6 Q. Did you ever have a conversation with your
7 brother about his relationship with her?

8 A. All the time.

9 Q. What kind of things would you tell him?

10 A. To just please get away from her. I just felt
11 like -- I mean she had a tattoo on her chest.

12 Q. What tattoo?

13 A. I think it was just death do us part or
14 something like that. I use to beg him to get away from
15 her.

16 Q. Did you feel safe when she was around?

17 A. I mean she wasn't no threat to us or my
18 family, but it was just the way she treated him
19 because --

20 Q. How did she treat him?

21 A. She didn't want him around none of his family.
22 She wanted total control over whatever he done.

23 Q. So you witnessed her essentially control his
24 life day in and day out?

25 A. Yes. Yes. I can recall having a conversation

1 with him. I drove trucks and I would be gone a lot and
2 me and him would talk and I would tell him please get
3 away from her because I felt like she was trying to get
4 him caught up in a situation.

5 Q. Like a situation he's in now?

6 A. Yes.

7 Q. So prior to your brother dating Clatie had he
8 ever been in trouble with anything before?

9 A. As far as major trouble, no.

10 Q. I mean, obviously normal kid high school
11 stuff, but like anything showing up to a court house
12 like this kind of trouble?

13 A. Child support.

14 Q. Child support is civil. You got kids you got
15 to pay for them, right?

16 A. Yes.

17 Q. But I mean like other than that?

18 A. No.

19 Q. He never been in any major trouble before?

20 A. No, we weren't raised that way. It's really
21 been hard on the whole family. I understand the other
22 side went through a lot too, but it's really been hard
23 on this side of family because we wasn't raised this
24 way.

25 Q. How would you describe your brother's

1 demeanor?

2 A. He was always the life of the party. There
3 wasn't nothing violent about him. I use to rub his
4 stomach when he was a kid to go to sleep.

5 Q. So he was always trying to cheer people up?

6 A. He was the life of the party.

7 Q. And he was -- he was -- would you say that he
8 was like kind to people around him?

9 A. Oh, yeah.

10 Q. Or he took care of everybody?

11 A. Oh, yeah.

12 Q. Wanted to make sure everybody okay?

13 A. Everybody was okay.

14 Q. Okay. Was there any other specific instances
15 you can think of between him and Clatie.

16 A. So many. My mind is just blank right now.

17 Q. When you would see her was she usually like
18 aggressive when you would run into her?

19 A. Not really. She would get kind of upset, you
20 know whenever I -- this one incident when I picked him
21 up from this house they were sharing in Prosperity and
22 she was kind of throwing his stuff in the hallway as he
23 was getting everything together. Like hurry up and get
24 out type thing.

25 Q. Did he ever show you like the app where he

1 figured out she been tracking him?

2 A. We were trying to figure out how. We didn't
3 have that since as far as technology wise to figure out
4 how she was following him, so...

5 Q. You all weren't IT people? You all weren't
6 like internet technology or anything like that?

7 A. We didn't know that any such thing was capable
8 of doing that at the time as far as putting apps on your
9 phone.

10 Q. But as family you all were concerned how she
11 kept finding him?

12 A. Yeah, pretty much.

13 Q. Answer any questions the Attorney General may
14 have.

15 MR. JONES: No questions.

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

17 MS. MCMAHAN: Your Honor, at this time the
18 applicant calls Latasha Robinson.

19 LATASHA ROBINSON, called as a witness, was
20 sworn by the clerk and testified as follows:

21 DIRECT EXAMINATION

22 BY MS. MCMAHAN:

23 Q. How are you related to Clifton?

24 A. I'm his sister.

25 Q. And do you remember his relationship with

1 Clatie?

2 A. Yes.

3 Q. And how would you describe that relationship?

4 A. Definitely off and on. More off than on. I'm
5 not going to say daily, but it was definitely weekly.

6 Q. Weekly what?

7 A. Argue.

8 Q. Off and on?

9 A. Yes.

10 Q. Do you remember any specific instances of
11 Clatie behaving erratically or awfully to your brother?

12 A. Yes. My first time ever meeting her my
13 brother had called me because he was obviously leaving
14 her or wasn't messing with her any more so he moved into
15 my house and she had never been to my house but she
16 ended up finding out where I stayed at the very night he
17 stayed and rolled by my house blowing the horn all night
18 long and I went to the door, I told her if she didn't
19 stop I would call the police and you know -- so she said
20 I couldn't control the road so she stayed in the road in
21 front of the my house the entire night calling his phone
22 for him to come out of the house. If he didn't she
23 would kill herself and she called and called and I think
24 she ultimately attempted to kill herself either the next
25 day or the next couple of days that he didn't return

1 back to her house.

2 Q. So this is like right at the beginning?

3 A. Yes, this was at the beginning.

4 Q. So did she end up banging on your door or
5 anything that night?

6 A. She didn't get out. I went to the door
7 because she kept blowing the horn, riding by the house,
8 pulling in the driveway, speeding off, driving by.
9 Those types everything.

10 Q. Did she ever threaten to drive her car through
11 your door?

12 A. No, she did tell me on one incident that she
13 tracked him. She know where he's at. That he is at one
14 of his kids momma's house and if I didn't call him and
15 get him out of that house from over there that she would
16 drive her car through her house.

17 Q. Okay. So she was demanding that you go get
18 your brother from baby momma's house?

19 A. Yes, and she knew where he was and if I didn't
20 get him to call -- she wanted me to call him to get him
21 out of that house. If not she would drive her car
22 through the house.

23 Q. What happened after that?

24 A. I told him if she do that she know where she
25 is going and I tried to talk to her. She got kids, you

1 know. Your kids need you. Just walk away. You know if
2 he going to be wherever he is going to be. He's an
3 adult. You can't control him. You know, have those
4 conversations with her. You know, try to reason with
5 her to get her to calm down and, you know -- or at least
6 go home and think about what she's threatening to do or
7 going to do.

8 Q. Was she usually explosive or just agitated
9 whenever she talked to you?

10 A. Sometimes she seemed calmed and I can talk to
11 her and then there are some times she will calm down and
12 sometimes she wouldn't.

13 Q. Were you ever at the family dinners where she
14 would drive by and demand that he leave?

15 A. It was my house most of the time it was at.

16 Q. And would she show up and try to make him
17 leave?

18 A. Yeah.

19 Q. Would he leave with her?

20 A. Most of the time because he didn't want -- he
21 felt like he was bringing too much trouble to my house
22 so he'd be like I'll just go ahead and go and I be like
23 you don't have to go. I would tell him so many times
24 you need to report these situations because ultimately
25 the threats that she was making I'm like you need to get

1 that part in writing so they can understand. It was
2 only once that I ended up getting him to call the police
3 and that's when he was trying to leave again and she
4 left. She locked the door. Locked everything in the
5 house that belonged to him. She left and wouldn't let
6 him back in the house to get his stuff. So he called
7 me. I went to go get him and he ended up calling the
8 police and the police had to call her to come back to
9 let him in the house to get his stuff and she went off
10 in front of the officer. She didn't hold back then
11 either and the officer told him, he's like look, you
12 just don't need to come back. If she's acting like this
13 when I'm here in this presence then I can imagine how
14 things is when there is nobody here.

15 Q. Any other specific instances you can remember?

16 A. There have been times like I said we meet at
17 my house and when like I said, when it's on and off.
18 When it's off he is at my house and she knew that.

19 Q. So when they weren't together he was living
20 with you?

21 A. Yeah. So she would -- on one particular
22 incident she rode by my house. She throw beer bottles
23 in the road. Broke beer bottles and maybe some items
24 that she may have had of his and just throwing.

25 I told her, I said look, you know, this is getting

1 old. I want you to stop acting like this. You're not
2 even allowed to come to my house. If I have to get a
3 restraining order on you I will, I said but you're not
4 allowed to come to my house any more.

5 There was one particular incident where maybe a week
6 or so before this incident happened she showed up to my
7 house again and I was like why she even at the house,
8 but she didn't even come in my yard. She knew the law
9 so she knew I couldn't control the highway. So this
10 particular day she came and tried to make my brother
11 leave with her. He didn't want to because he obviously
12 had plans later on and he wouldn't leave with her. So
13 she got mad at that situation. This might have been a
14 week before this incident happened. She showed up to my
15 house, her and her kids and she was in the car. I could
16 hear her screaming. She drove all the way over here.
17 Now you don't want to come. Get your ass -- I'm sorry
18 -- get in the car and he walked away from the car while
19 she was screaming at him.

20 Q. So she would yell expletives while she's doing
21 all this with her children in the car?

22 A. Yes. When she got ready to leave her car
23 wouldn't start. It cut off right there in front of my
24 house and she ended up having to call somebody else. So
25 her car was left in my yard. It was there even after

1 this all happened and my husband ended up getting it
2 towed from the front of my house. He had to get it
3 towed from in front of my house.

4 Q. So you all had to pay for the tow truck?

5 A. Yes, and like I said, she would just show up
6 and the only thing that would pacify her was if he'd get
7 in the car and leave with her. Any time that he didn't
8 it was all night. I could -- literally he could pick up
9 the phone after she called and I was just like answer
10 the phone. He answered it. He have it on speaker. You
11 could just hear her screaming and yelling and cursing
12 and stuff. He just hang it up and she just keep
13 calling. She had my number so she would call me to when
14 she couldn't find or she knew where he was and he
15 wouldn't come out of the house she would still call.

16 Q. Would she -- when she -- did you talk to her
17 when she would call you?

18 A. Sometimes, I did.

19 Q. Was she yelling at you when you answer the
20 phone?

21 A. She would call in an irate state. Not no
22 threats towards me yelling, but she would be screaming
23 and yelling and if I knew where he was -- the only time
24 I wouldn't answer the phone if I knew where he was. If
25 she called my phone in the middle of night and I didn't

1 know where he was, yeah, I would answer because I'm
2 concerned something is wrong or happened to my brother,
3 but when I knew she was just trying to get to him I
4 would ultimately just turn the ringer off and not listen
5 to it.

6 Q. Were you concerned about his well-being when
7 he was with her?

8 A. Very much.

9 Q. Did you ever tell him that?

10 A. I did.

11 Q. What kind of things would you tell him?

12 A. I would tell him that she is building a case
13 against him. That she is. All of her actions that
14 she's doing is making it seem like you're trying to hurt
15 her when it's clear that everybody that is around her --
16 which we never get with anybody on her side. Out of all
17 of the years I never met nobody from her family. I only
18 dealt with her and her kids and she was I think
19 ultimately trying to fix it where she was -- she had in
20 her mind -- and this is stated by her and it tatted on
21 her body that she was going to be with him until the
22 death of her and if she wasn't going have him nobody
23 could.

24 Q. Did she say that to you?

25 A. Ma'am?

1 Q. Did she say that to you directly?

2 A. Yeah.

3 Q. So she told you if she couldn't have him
4 nobody could?

5 A. She said that numerous times.

6 Q. At the time did you think that he was probably
7 a victim of domestic violence?

8 A. Oh, he was. I did and I told him that, but
9 him being a man felt like he couldn't. Didn't want to
10 call the police on a female.

11 Q. Did he seem sort of beat down as far as the
12 relationship went?

13 A. I know he was because weeks prior to this he
14 and I had a conversation because it was his birthday.
15 Might have been a week and a half before this incident
16 happened and she came and picked him and took him out of
17 town for his birthday and I tried to get him not to go.
18 But like I said she -- she can be demanding and
19 persuasive and she persuaded him to go out of town. She
20 took him out of town for his birthday which was April
21 the 28th and when he came back he still wouldn't move in
22 with her. So that was still the problem. She was
23 trying to get him to move back in with her and I think
24 evidently was making up during that time the 28th of
25 April that weekend.

1 Q. That's based on what you heard him say
2 earlier?

3 A. Yeah. So, a phone call that they got I guess
4 that night or whatever they was planning on moving back
5 in together.

6 MS MCMAHAN: Answer any questions the attorney
7 general may have.

8 MR. JONES: No questions. Thank you.

9 THE COURT: All right, ma'am, you may step
10 down.

11 MR. JONES: Your Honor, at this time the
12 applicant calls Tyson Jones.

13 TYSON JONES, called as a witness, was sworn
14 by the clerk and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MCMAHAN:

17 Q. What's your relationship to Mr. Boozer?

18 A. Cousin.

19 Q. Are you Valencia's brother?

20 A. Yes.

21 Q. And I just take it from all the testimony that
22 you guys are a close family?

23 A. We are.

24 Q. You all meet on Sundays and eat and all kinds
25 of things like that?

1 A. Yeah, have a good time.

2 Q. And you had a chance to witness sort of his
3 relationship with Clatie?

4 A. Yes.

5 Q. And is there any specific instances you can
6 remember of disturbing things that happened between the
7 two of them?

8 A. One night he called me. He was at Prospect.
9 He was like, I think she was drinking and drugs
10 whatever. She was asleep. Come pick me up. He tried
11 to sneak out the door and I got in the car and she ran
12 out the door. Called me all sorts of names. Started
13 beating on my car. I told her chill out. You know what
14 I'm saying. So she kept saying you ain't going nowhere.
15 He got back out of the car.

16 Q. And he went back?

17 A. No, he just went to calm her down. Like, I'm
18 not going to cause no trouble.

19 Q. She was throwing hands on your car?

20 A. She was kicking it.

21 Q. Okay.

22 A. She ran out the door half clothes on because
23 like I said we tried to sneak out because she was
24 asleep.

25 Q. Where were you all going? Just to go out?

1 A. He was going to go back to his mom's. Up to
2 sister's house.

3 Q. Was there a time when you guys were dressed to
4 go out and she through Clorox on his clothes?

5 A. Yeah, I had called him and he was like, yo,
6 I'm ironing my clothes. I say I'm cool. I'll be there
7 in minute. I get there and she's screaming because I
8 had my cousin with me and he said, no, I'm not going.
9 She waste some tea or something on all this so he
10 couldn't go no where. Like man she's messed up my
11 clothes.

12 Q. Did you see the clothes with the Clorox on it?

13 A. Yeah, well, that particular day it was tea.
14 She threw some tea on his clothes.

15 Q. Oh, okay. Was there another instance where
16 you guys were having a white party and she threw
17 something on his clothes for that too?

18 A. Yeah.

19 Q. And were you were going to -- coming to pick
20 him up?

21 A. Uh-huh. I don't think she kind of like me.
22 You know what I'm say. She thought I get him seeing
23 other woman. You know what I'm saying. So she cussed
24 me out in the car. Called me all types of things. So
25 he was like go ahead. I going to chill.

1 Q. So you thought that Clatie thought of you as
2 the person that was helping him see other woman behind
3 her back?

4 A. Yeah.

5 Q. Was that the case?

6 A. No, we were just hanging out.

7 Q. What did she throw on his clothes for the
8 white party?

9 A. That particular day was Clorox.

10 Q. It was Clorox?

11 A. Yeah.

12 Q. On the white clothes though did she through
13 Kool-aid or something on them?

14 A. It was one -- it seemed like a couple parties
15 we were going to one of them I know it was tea, you know
16 what I'm saying. The other time it was Clorox.

17 Q. Okay. Was there another time when you guys
18 were going to -- you were hanging out together and
19 decided to go to store and get some more beer and she
20 came out cussing?

21 A. Yeah, that is the first time I'm a talking
22 about.

23 Q. Okay. Who was the white party for?

24 A. I can't remember. It was years ago. I can't
25 remember right now.

1 Q. Was it for your cousin Michelle?

2 A. Yeah, when we were in Columbia. Yeah, that is
3 where it was at. Yeah.

4 Q. So you all were planning on going to your
5 cousin's birthday party but it was all white theme?

6 A. Right.

7 Q. And he didn't get to go to that?

8 A. He didn't get to go.

9 Q. And have you ever just gone and picked him up
10 because he called you said, hey, Clatie is acting crazy.
11 I need to get out of here?

12 A. Yeah, plenty of times, you know what I'm
13 saying. They stayed -- she stayed from house to house.
14 She was never, you know, there settled in a house in
15 Prosperity. Different places all over Newberry. So
16 he'd call me. You know, just come out and hang out.
17 I'd come pick him up. He'd come back to my house and
18 just chill, hang out, whatever. And like she'll come
19 over there. I'm like you ain't going to bring this over
20 here. It ain't going to happen. Most of the time he
21 said instead of him causing something at my house let me
22 go ahead and leave. You know what I'm saying.

23 Q. So he left because he didn't want to cause
24 trouble at your house?

25 A. Yeah.

1 Q. Did you all kind of grow up together?

2 A. Slept in the same bed as kids me and his
3 brother.

4 Q. So basically you all are siblings?

5 A. Right.

6 Q. When he was started going out with Clatie did
7 you notice that he wasn't able to hang out with you guys
8 as much as you all use to be able to hang out?

9 A. Right.

10 Q. And was that because of her?

11 A. Yes, it was just something different. Like
12 when they got together something different would
13 transpire. Some different in him. Some different with
14 her. And like everybody was trying to talk to him about
15 getting it. Cut it short.

16 Q. So did you have a conversation with him too
17 about his relationship with Clatie?

18 A. Yeah, I had conversation with her too.

19 Q. What did you say to him about it?

20 A. You need to let it go, man. You know, what
21 I'm saying. Because it was like she had a repeat record
22 of what she was doing. It's like, you know, how a
23 child, a toddler, when she get him she's fine, but when
24 you ain't there she cuss up.

25 Q. So kind of go in cycles with her?

1 A. Yeah.

2 Q. What did you say to her?

3 A. I said the same thing. I'm like, what's going
4 on. Like, you know -- but she says, she's just so crazy
5 about him. She was just crazy about him. Like Tyson, I
6 love him. That's why she got the tats and all of that.

7 Q. So she got the death do us part after they
8 started dating tattoo?

9 A. I'm not sure.

10 Q. And then were you all getting kind of just
11 tired of dealing with her behavior and stuff?

12 A. Yeah, exactly. Especially when we know we
13 having a family function we already know he ain't going
14 to be able to come because we already know what type
15 situation it's going to be.

16 Q. Well, if she came with him to the function
17 what would happen?

18 A. I don't know. I don't think that anything
19 would ever happen. It probably been cool maybe, but I
20 just -- she don't like a lot of us. She don't like us
21 that much.

22 Q. Did you all done anything to her to make her
23 not like you?

24 A. No. No.

25 Q. Okay. Answer any questions the Attorney

1 General may have.

2 MR. JONES: I have no questions. Thank you.

3 THE COURT: All right. Thank you. You may
4 step down.

5 MS. MCMAHAN: Your Honor, applicant calls
6 Monchello Griffin.

7 MONCHELLO GRIFFIN, called as a witness, was
8 sworn by the clerk and testified as follows:

9 DIRECT EXAMINATION

10 BY MS MCMAHAN:

11 Q. Miss Griffin, do you need to see your
12 statement to refresh your recollection.

13 A. Uh-huh.

14 Q. And what's your relationship to Mr. Boozer?

15 A. The mother of his three boys.

16 Q. And you guys were together prior to him ever
17 getting together with Clatie?

18 A. Yes.

19 Q. And what kind of instance can you remember
20 between him and Clatie occurring?

21 A. The only time he was at my house she was
22 always calling and calling and have other people call my
23 phone and see was he there.

24 Q. Would it like five, ten, fifteen times?

25 A. Several.

1 Q. Like a lot?

2 A. Yes.

3 Q. And he would be at your house just hanging out
4 with his kids and stuff?

5 A. Yes.

6 Q. And were there any other times where she would
7 come by your house or anything like that?

8 A. I've see her around. I don't see her around
9 though when she was driving a cab.

10 Q. Did she ever say anything to you?

11 A. Other than calling my phone to the point I had
12 to get a new number.

13 Q. So you changed your number because she called
14 you so many times?

15 A. Yeah.

16 Q. Okay. Did you ever have a conversation with
17 Mr. Boozer with his relationship with her?

18 A. No.

19 Q. Are there any other specific instances you can
20 remember?

21 A. Just her harassing me when he was there at the
22 time. He was sitting there on my back porch. She would
23 constantly call his phone. Call his phone.

24 Q. So it could be any time that he was over there
25 just visiting with his kids?

1 A. She wanting to know when she found out he was
2 there. She had a certain cousin. He would call me to
3 see if he was at my house.

4 Q. How often would you say he would come by and
5 see his children?

6 A. It was on the regular.

7 Q. Like weekly?

8 A. Yeah, it was on the regular.

9 Q. And you changed your number that one time?

10 A. Yes.

11 Q. Did you ever -- did anybody else have to
12 change their numbers?

13 A. No, I did. I don't know about nobody else.

14 Q. Okay. Did she ever call you like any bad
15 words or throw a finger at you?

16 A. Yes, several times. I remember an occasion
17 that I was at the Shell and he was with her, but I had
18 to go in the store. He was in the store and when he
19 goes out the store to get in truck with her by the time
20 I go the door she was pulling up. Calling me names and
21 stick her finger at me before she pull off.

22 Q. Did she call you the "B" word?

23 A. Yes.

24 MS. MCMAHAN: Answer any questions that the
25 Attorney General may have.

1 MR. JONES: Nothing for this witness. Thank
2 you.

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

4 MR. MCMAHAN: Your Honor, now I call Malcolm
5 Jones.

6 MALCOLM JONES, called as a witness, was sworn
7 by the clerk and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MCMAHAN:

10 A. And how are you related to Mr. Boozer?

11 A. He's my cousin.

12 Q. So you're Tyson's brother?

13 A. No, I'm Tyson's nephew.

14 Q. Okay, different side?

15 A. Yeah.

16 Q. Okay. And are there any specific incidents
17 you can remember between Mr. Boozer and Clatie?

18 A. Yeah, we met at the gas station. We didn't
19 meet. I was there with my child's mother and he got a
20 call. He was pumping gas on this particular day and I
21 said, man, what's up. He said what's up with you and
22 we started talking and out of blue I was like, you never
23 met my son, his momma, she's in the car. So she got out
24 of the car and come over where we was talking. Out of
25 the blue like a car just "skirrrrt". Pulled up. She

1 jumped out. What have you got going on? What do you
2 mean? Like I don't know. I never met her before. When
3 she pulled up it caught me off guard. So my baby momma
4 she looked at me like what you got going on? I don't
5 know her. Like, I don't know what's going on. I don't
6 know her, but she was talking flip and she was telling
7 him oh, you got him to hook you up with this female.
8 What have you got going on? Nah, it's ain't nothing
9 like that. Like this is my child's momma. Like she's
10 with me, but she was like, oh man, me and him was
11 meeting up for --

12 Q. What to like here's this girl I'm going to
13 introduce you to?

14 A. Yeah. Yeah.

15 Q. So you guys are at the gas station and you
16 just happen to run into each other. You're there with
17 your child and your baby's momma. Your hanging out.
18 Cliff walks over because obviously you've known each
19 other your whole life. You all are just chatting. Oh,
20 met my kid. Meet his ma'am. Just a normal every day
21 kind of conversation?

22 A. Yeah.

23 Q. And Clatie pulls up?

24 A. Out of the blue. I don't know where she come
25 from.

1 Q. Like screaming, causing a scene?

2 A. Yeah.

3 Q. Was she hitting him while -- do you remember
4 like did she lay hands on him or anything?

5 A. She pushed him. She kept pushing. She got in
6 his face and kept pushing. I backed up.

7 Q. Were you all trying to explain to her like,
8 hey, we're family?

9 A. You know, that is my cousin. I kept saying,
10 you know this is my cousin. This is my cousin. I say,
11 this is my child's momma. Like, what's up? What you
12 talking about? What you doing?

13 Q. Did she say anything like I don't care or
14 anything like that?

15 A. Yeah, she made it very clear.

16 Q. Did she end up leaving with Cliff?

17 A. Yeah, he left. He ended up leaving. She was
18 like your going to the house. Man, come on, let's go.
19 Man, like what's up? We exchanged numbers. She was
20 like I don't know why your getting his number. You all
21 like been --

22 Q. You all like what?

23 A. We exchanged numbers. She was you all been
24 plotting with this female. I was like, this is my
25 child's mother. Like ain't nobody hooking nobody up.

1 But she made it very clear that she don't want him
2 around me.

3 Q. So your intention that day was not to set your
4 child's mother up with Mr. Boozer?

5 A. No, that's my child's momma.

6 Q. But rather just to be like hey?

7 A. Yeah, like a proper introduction. This is my
8 child's momma. He never met my son before so like he
9 was meeting him.

10 Q. Like come meet your cousin?

11 A. Yeah.

12 Q. How old was your kid at the time?

13 A. At the time he was like five or four.

14 Q. Oh wow, and he hadn't met him yet. Was he
15 getting your number because you had gotten a new number
16 or something and just didn't have it?

17 A. I had a new number.

18 Q. Okay. So you all were just exchanging numbers
19 so you could keep up?

20 A. Yes, ma'am.

21 Q. Okay.

22 A. We hadn't seen each other like -- I want to
23 say like five or six years.

24 Q. Well, at least five if he never met your son,
25 right?

1 A. Yeah.

2 Q. Okay. And that was when, 2015?

3 A. Yes, ma'am.

4 Q. Any any questions the AG may have.

5 MR. JONES: Nothing for this witness.

6 THE COURT: All right. Thank you. You may
7 step down.

8 MS. MCMAHAN: At this time the applicant
9 rests.

10 MR. JONES: The State would call Charles
11 Verner.

12 CHARLES VERNER, called as a witness, was
13 sworn by the clerk and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. JONES:

16 Q. Mr. Verner --

17 A. Yes, sir.

18 Q. -- could you recite for the Court how you
19 became involved in Mr. Boozer's case?

20 A. Clifton obviously got arrested for murder.
21 Arrested in May of 2017. No real prior general sessions
22 record so I wouldn't have had any prior trouble cases I
23 represented him before on.

24 At that time we generally had -- I had somebody once
25 a week would go through the jail and ask people if they

1 needed a lawyer. I think his family or he were trying
2 to get him a lawyer in the very beginning but that
3 didn't work out. I don't know when I first talked to
4 him. I know I met with him but didn't discuss the case
5 or anything more than just introduce myself to him. But
6 I would have first met with him until January of 2018.

7 Q. All right. Do you remember how many times
8 ultimately --

9 A. I didn't discuss the case with him until
10 January of 2018.

11 Q. All right. Do you remember how many times you
12 would have met with him to discuss the case prior to his
13 trial?

14 A. I don't remember the exact number but we were
15 going for trial. So at times there was more than one
16 time a week. The closer you get to trial the more
17 meetings you have, but the -- I don't know. At least
18 half a dozen, but probably more. I mean, different
19 visits of different lengths of time.

20 Q. And were there any plea negotiations going on?

21 A. No, the State never made Cliff -- it was
22 straight up murder without any plea opportunities. The
23 -- they may have come down to like a murder -- they may
24 have come up with a number, but they never offered less
25 than murder because of the prior CDV's.

1 Q. So, could you summarize for the Court the
2 nature of the State's evidence against Mr. Boozer?

3 A. Cliff and Miss Stribble had a relationship.
4 They lived together about four or five years in the
5 Prosperity area. They had broken up. It would be a
6 classic toxic relationship where I think several people
7 indicated she was controlling. If not physically
8 abusive but certainly controlling and jealous. Cliff
9 probably had multiple girlfriends. At some point they
10 had broken up. He did have a prior CDV against her and
11 some other charges of CDV that were in lower court with
12 no dispositions.

13 The -- about in March of 2017 about two months
14 before this happened she had charged him with rape in
15 court. He had not been charged with that but she had
16 filed a CDV rape charge against him that sheriff's
17 department was still investing or the Prosperity police
18 were investing. The witnesses indicat he called a taxi.
19 He was living in Newberry at the time of the killing.
20 He called a taxi about 4:30 in the morning. Went to her
21 house about five in the morning and waited for the kids
22 to get on the school bus and go to school before he saw
23 her. There were in the two days before she was killed
24 they had spoken to each other at least 40 times by
25 telephone and had about 80 text messages back and forth

1 between them which was pretty much evenly split between
2 her texting him and him texting her.

3 He called the police I believe about 8:30 in the
4 morning to report her death. The police's version,
5 their theory, was that Cliff showed up about five
6 o'clock at her house, at Clatie's house. Waited for the
7 kids to leave and then forced himself in the house.
8 They did have sex. The State said it was
9 non-consensual. He said it was consensual. There was
10 semen. There is no question they had anal and vaginal
11 sex.

12 There was an a woman who had been in Clatie's house
13 until about 2:30 or three o'clock in that morning that
14 testified that Clatie had told her that Cliff had
15 threatened to kill her and she was scared of him. There
16 was another witness who testified that Cliff had told
17 her about a week he would would cut her throat if she
18 continued to mess around with other people behind his
19 back. The -- regardless the kids get on the school bus.
20 A neighbor indicates she saw the kids get on the school
21 bus about 6:30 that morning and the kids testified we
22 never saw Cliff at the house in the morning. So he
23 would have entered after 6:30. Whether -- very likely
24 voluntarily. There was some testimony her car had
25 broken down. Cliff was going to help her put it back

1 together. He couldn't and that's why he went back to
2 her house to see her. They had sex. Clifton testified
3 that after they had sex she was jealous of him messing
4 around and she pulled a knife on him from the bedroom
5 and attacked him. She was stabbed in the heart and then
6 stabbed in the neck. The neck wound would have been
7 fatal but the pathologist testified she was choked to
8 death. There was a telephone wire or something that the
9 coroner -- that the medical pathologist testified was
10 used to strangle her. She had some bruises on her face
11 and what they would characterize as defensive cuts on
12 the back of her hand.

13 Cliff did call the police about 8:30 in the morning.
14 The knives were never found and the bed clothes were
15 never found which they suggest he hid. There were some
16 other knives found, but nothing was found conclusively
17 as to be the weapon. But Cliff's version was that they
18 had sex. They were trying to get back together. She
19 got angry going through his phone at some point that he
20 was messing -- talking to another woman. She pulled a
21 knife on him. Tried to cut him and that he accidentally
22 stabbed her in the heart. The heart stab was non-fatal.
23 He indicated that really made her angry and then she was
24 trying to get him and he had no choice but to choke her.
25 Not really sure how she got stabbed in the neck. The

1 neck wound would have been fatal, but she actually died
2 of strangulation.

3 The witness from the night before said that she
4 told her that -- never told her that Cliff was planning
5 on coming in the morning and that she was afraid of him.
6 So that was the version of the State's case.

7 Q. All right. Now, did Mr. Boozer give you any
8 witnesses that he wanted you to call.

9 A. His sister Natasha -- Latasha, his mom, the --
10 and he talked about some of the other ladies who
11 testified in court. No question that Clatie was jealous
12 of Cliff. It was a toxic think relationship. They
13 never should have been together. At times she did ride
14 around his house. Follow him. She was probably going
15 through his phone and at times could be very
16 controlling. He did indicate his mother. He talked
17 about Richi Woodard. (Phonetics) Clifton's other, may
18 have been his first wife. I did call Richi Woodard and
19 she didn't really validate all of it, but just that I
20 guess that -- I guess there were some woman that would
21 testify that Clatie would find out about whoever he was
22 seeing and she would contact the other women and
23 basically say leave him alone. I guess Clatie had told
24 people the opposite, but he did give his sister and
25 couple of family members. But just that Clatie would be

1 seen driving around his house when they had broken up.

2 He did not give any real -- he gave some nicknames of
3 people that might know something but not really.

4 Q. Did you think that those witnesses would
5 provide valuable testimony at his trial? What was your
6 decision making process?

7 A. Well, he didn't give a long list of names of
8 people that would testify about that, but he did give
9 his family members who I did call as witnesses and
10 interviewed. He did indicate Richi Woodard who I did
11 call and she would not have helped him or corroborate
12 everything he said. The -- but I do think that the
13 witnesses who did come at trial did indicate that Clatie
14 could be a -- I don't want to call her a stalker, but
15 she could become kind of controlling.

16 Q. More or less consistent of what we heard here
17 today?

18 A. Right. It was definitely a toxic relationship
19 where they broke up from time to time but they would
20 continue to see each other.

21 Q. Did Mr. Boozer receive advance notice of his
22 trial earlier than the day the trial began?

23 A. Yeah, he had. In fact, I think I got -- I was
24 looking through my notes. In May he wrote a letter
25 saying he was upset that he there was no plea deal and

1 that he wanted a new lawyer to get him a plea. The --
2 but he was arrested in May of 2017 and he went to trial
3 I think in August of 2018. All discovery had been
4 provided to me by January of 2018. I think he was
5 probably put on the trial docket in May of 2018 and so
6 he would have been aware as of May that he was going to
7 trial.

8 Q. Did you feel you needed any additional time to
9 prepare for the trial?

10 A. I do not recall asking for a motion for
11 continuance. I probably would. I think more cases than
12 not I probably have asked for a continuance, but the
13 State's case had been provided. I did hear them talk
14 about his cellphone. His cellphone was taken into
15 evidence and the records off of his phone were part of
16 the case file.

17 Q. Mr. Verner, I think that is all the questions
18 I have for you. Thank you.

19 CROSS EXAMINATION

20 BY MS. MCMAHAN

21 Q. Did you get a chance to talk to any of his
22 family and friends about like their relationship?

23 A. I talked to his sister, Natasha, a couple of
24 times. I know talked to his mother. I spoke to a
25 cousin named Sherwin. Sherwin -- I can't remember his

1 name, Collins and then I spoke to his ex-wife Richi. I
2 spoke to a non-family member, Heather Hobby, but those
3 were the only -- the sister and the mom and the cousin,
4 Sherwin.

5 Q. You said Heather Hobby?

6 A. She would not be a family member.

7 Q. Yeah. And when you guys were meeting what
8 kind of defenses were you all talking about, if any?

9 A. They confirmed that Clatie would -- well, they
10 would confirm that it was toxic relationship and that
11 Clatie wouldn't let him go so to speak. That she would
12 continue to contact girlfriends and scare them away from
13 him. Would continue to call the family complaining that
14 he is seeing other people. He should be with me and
15 that she would drive by the house. No real violence
16 from her confirmed towards him, but certainly stalking
17 type behavior.

18 Q. Did you see the tattoo till death do us part?

19 A. She had his name tattooed on her as well as
20 until death do us part. I believe is the irony I guess
21 is that she was stabbed right above a tattoo that said
22 death do up part.

23 Q. And you said that you think Cliff had some
24 girlfriends. Did he confirm that to you or was that
25 just a suspicion?

1 A. He was definitely seeing other. He was living
2 with a woman named Monique who may have been a jail
3 guard at some point prior his girlfriend at the time was
4 Mo.

5 Q. Was that the same person that was referenced
6 by one of his family members earlier that Claitie was
7 going to her house?

8 A. I think probably, but he had -- I think he had
9 been at a girlfriend's house Monique the night before
10 Claitie was killed. That's where the taxi picked him up.

11 Q. Did you have a conversation with him about his
12 right to testify?

13 A. Yes.

14 Q. What was your recommendation for that?

15 A. My standard is they can say what they want to.
16 Generally my preference is -- I generally tell people I
17 think the jury wants to hear from you and if I think you
18 are going to be articulate then you should speak. But I
19 had as much luck in cases where people don't testify and
20 so I will bring that up. But just if you testify these
21 are the questions that I want you to bring out. I think
22 we prepared this one as he -- he really needed to
23 testify because our defense was self-defense. That she
24 tried to cut me with the knife. He was the only witness
25 to the last night together and so I think we went at it

1 with a self-defense. That he needed to testify. But he
2 certainly would have been told by me and certainly
3 admonished by the judge that it was his right.

4 Q. The defenses you said was self-defense?

5 A. Essentially, yes. Well, yes, self-defense.

6 Q. And in your conversations with him about the
7 obvious toxic relationship with Clatie, was there any
8 discussion about, you know, hey, this is sort of a
9 domestic abuse situation on maybe both of your parts?
10 One of them? Obviously he had the CDV conviction.

11 A. We certainly felt that Clatie could be
12 controlling, toxic, stalking. The -- I didn't have any
13 real witnesses who testified she was violent or that he
14 had a real fear of violence towards her. In face he had
15 the domestic violence charges on him. But certainly he
16 did testify that Clatie could be violent when they were
17 together.

18 I didn't take it so much as a domestic violence
19 defense as a toxic relationship defense with
20 self-defense at the end.

21 MS. MCMAHAN: Court's indulgence.

22 Q. You said there were some witnesses that
23 testified that Clatie told them that she was scared?

24 A. The girl -- I can't remember her last name off
25 the top of my head -- named Brandy had been with Clatie

1 the night, early morning that she was killed. Left
2 about 2:30 in the morning and she testified that the
3 bulk of their conversations that night was that Clatie
4 was trying to get Clifton to stop coming over and that
5 she was scared of him.

6 Q. But just prior to all this, the actually
7 incident, they were still texting and calling each other
8 even until hours before?

9 A. Phone records indicate the two days -- Clatie
10 was killed I believe on May 3rd. From May 1st to May
11 3rd they had 40 telephone calls and 80 text messages
12 between them. That were roughly half his to her. Half
13 hers to his. There was some confirmed evidence that her
14 car had broken down in Newberry and that she had pulled
15 it to a family member of his or his house or probably
16 his sister's house or a family member's house and that
17 Clifton had told her he would try to get that running
18 for her.

19 Q. You heard that from family members's
20 testimony?

21 A. Which one? I heard all the witnesses who
22 testified. I heard them all.

23 Q. The one about where she said the car ended up
24 breaking down in her yard and Clatie never got it towed
25 and they ended up having to get it towed?

1 A. That's right. That was about the day or two
2 before she was killed.

3 Q. And that Clatie was screaming expletives
4 through the car at the family members?

5 A. The day it was -- I don't recall that was the
6 day the car broke down. I actually -- from my memory
7 she was in a better mood or nicer to him, but at times
8 that she had been in her car and yelled bad words at
9 them. If it was that day that the car broke down and
10 she was being abusive verbally I don't recall.

11 Clifton's version of it was the day the car broke
12 down she was nice and he said I'll help you get your
13 car. If she was ugly towards family members I didn't
14 hear it. But I did hear other instances where she had
15 been yelling things through a car at family members or
16 girlfriends or friends.

17 Q. Did Mr. Boozer ever have a bond hearing?

18 A. To the best of my recollection, no. If he did
19 I don't recall, but murder cases in Newberry
20 traditionally are denied bond up until they are put on
21 the trial.

22 Q. The Magistrate can't set bond on them at all
23 right?

24 A. Magistrate can't set a bond and they do --
25 recently they started setting bonds on murder cases in

1 general, but the -- but it's not easy to get a bond on
2 murder case and I didn't think he had a good -- at this
3 point chance to get a bond set.

4 Q. So it was denied from the outset?

5 A. Denied from outset. I don't know that he ever
6 had a bond hearing in court, in general sessions court.

7 Q. Okay. I don't think I have anything else,
8 but just one second.

9 MS. MCMAHAN: Nothing further Your Honor.

10 THE COURT: Any redirect?

11 MR. JONES: No redirect.

12 THE COURT: Thank you Mr. Verner. You may
13 step down.

14 Counsel, any further witness.

15 MR. JONES: Nothing further from the State,
16 Your Honor.

17 THE COURT: All right, any closing remarks.

18 MS. MCMAHAN: Judge, I just would like for you
19 to take the opportunity to read the entire
20 transcript. It is quite lengthy and that also I
21 think we presented sufficient evidence to show that
22 he could have been deemed a victim of domestic
23 violence just based on the volatility of the
24 relationship regardless of whether or not she
25 actually had any charges brought against her, but

1 the fact that we had corroborating witnesses that
2 would state how bad that relationship was. The
3 fact that she had threatened to fight other members
4 of the family. That there were witnesses that had
5 seen her push him down. She was controlling his
6 life. You could be victim of domestic violence
7 without actually have been beaten up also. Just
8 having emotional and mental control over somebody.
9 So with that, I would just say that I think we
10 presented evidence that was a valid somewhat of a
11 defense at least in terms of role issues in
12 addition to, you know, just some of the other
13 things that we presented like maybe the defense was
14 self-defense, but also the additional aspect of
15 like how volatile the relationship really was and I
16 think if some of these witnesses would have been
17 presented at trial to talk about all this it may
18 would have gotten to corroborate the self-defense
19 aspect probably.

20 THE COURT: I saw in the return that the judge
21 did charge self-defense, but you're referring more
22 towards maybe a medical diagnosis, not necessarily
23 battered spouse, but something along that line.

24 MS. MCMAHAN: Something akin to that, yes.

25 THE COURT: Thank you. Yes, sir.

1 MR. JONES: Thank you, Your Honor. Of course
2 there's no intention from the State that this was
3 not a turbulent, toxic relationship. It clearly
4 was and Mr. Verner himself argued to the jury that
5 it was and presented the testimony of Natasha
6 Robinson who we also heard here today that it was a
7 violent -- that it was a toxic relationship, but
8 the fact that it was a turbulent relationship does
9 not rise to the level of domestic violence as
10 defined by section 16-25-20 which is what's
11 referenced in the code section regarding early
12 parole eligibility. I would also contend that that
13 section does not -- cannot apply to a life without
14 parole sentence which what Mr. Boozer did receive.

15 The witnesses we heard here today, again, no
16 disputing this was toxic relationship, but what the
17 statute demands and what I submit self-defense
18 demands is evidence of violence and specifically
19 for self-defense, life threatening violence, which
20 we haven't seen any of. The worse violence that we
21 heard about was pushing or throwing things at him.
22 Again, not to minimize what a disastrous
23 relationship this was, but simply to focus on the
24 -- what's required by the self-defense defense, I
25 believe the evidence we heard here today would not

1 have changed anything if it had been presented and
2 Mr. Verner did present at least some of it. So I
3 would submit he was not ineffective under the
4 Strickland analysis.

5 Thank you, Your Honor.

6 THE COURT: Thank you. All right, counselors,
7 what I'm going to do I will take this under
8 advisement. Mr. Boozer I do want to tell you it is
9 very obvious to me that you have a very loving
10 family. For that I congratulate you regardless of
11 the circumstances, but I do think I need to spend a
12 little more time on this. There is obviously a
13 very large transcript. I'll take that into this
14 consideration along with the testimony I heard
15 today. I will take this under advisement and
16 hopefully I'll have some answer for you in a short
17 period of time.

18 Thank you all.

19 (END OF TRANSCRIPT)

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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Newberry County, South Carolina, on the 27th day of November, 2023.

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

July 1, 2024

Aileen Butler

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF NEWBERRY)	FOR THE EIGHTH JUDICIAL CIRCUIT
)	
Clifton Curtis Boozer, #377360)	Case No.: 2021-CP-36-00337
)	
Applicant,)	
)	
v.)	
)	ORDER OF DISMISSAL
State of South Carolina,)	
)	
Respondent.)	
)	
)	
)	
)	

FILED
 NEWBERRY COUNTY
 2023 MAY 28 AM 11:17
 ELIZABETH P. FOLIA
 CLERK OF COURT

This matter comes before the Court by way of an application for post-conviction relief (“PCR”) filed by Clifton C. Boozer (“Applicant”) on August 26, 2021, and amended on November 15, 2023. The Court convened an evidentiary hearing into the matter on November 27, 2023, at the Newberry County Courthouse. Applicant was present at the hearing and represented by Ashley A. McMahan, Esquire. Zachary W. Jones, of the South Carolina Attorney General’s Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Also testifying on Applicant’s behalf was Valencia Wise, Demarquis Boozer, Natasha Robinson, Tyson Jones, Vonshella Griffin, and Malcolm Jones. Applicant’s trial counsel, Chief Public Defender Charles V. Verner. (“Counsel”), also testified. After reviewing all records and evidence before the Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Newberry County Clerk of Court. Applicant was indicted at the

July 2017 term of the Newberry County Grand Jury for Murder (2017-GS-36-00290). Applicant was represented by Charles Verner, Esquire. Deputy Solicitor Dale Scott, and Assistant Solicitor Taylor Daniel prosecuted the case.

On August 6-10, 2018, Applicant proceeded to trial by jury before the Honorable Frank R. Addy. At the conclusion of Applicant's trial, the jury's verdict found Applicant guilty as charged. Judge Addy sentenced Applicant to imprisonment for life.

Applicant timely filed a notice of intent to appeal his conviction and sentence. Susan B. Hackett of the Office of Appellate Defense represented Applicant on appeal and presented the following issue:

1. The Trial Judge erred in failing to instruct the jury on the lesser-included offense of involuntary manslaughter where the evidence indicated Appellant choked the deceased only after the deceased brandished a knife and threatened Appellant, the two struggled over the knife, and Appellant believed the deceased was trying to get a second knife.

After briefing, the Court of Appeals affirmed Applicant's conviction and dismissed the appeal in an unpublished decision. *State v. Boozer*, 2021-UP-148 (filed May 5, 2021). The remittitur was sent on June 25, 2021.

Factual Summary

Applicant and Victim were involved in a long-term "on-again, off-again relationship." (Tr. p. 554, l. 16). On May 3, 2017, at 8:26 a.m., the Newberry County Sheriff's Office received a 911 call from Applicant. Applicant reported he had just killed his girlfriend. (Tr. p. 133, l. 23; Tr. p. 143, l. 18-20). Within minutes, the police arrived at Victim's house. (Tr. p. 144, l. 9-10). Applicant walked out of the front door and was immediately arrested. (Tr. p. 145, l. 12-19). As he was being placed in handcuffs, Applicant stated "things went too far." (Tr. p. 146, l. 23). Applicant's boots were stained with blood but he had no visible injuries and did not complain of any pain. (Tr. p. 152, l. 1-17; Tr. p. 163, l. 21-24). Law enforcement discovered the frame to Victim's front door

had been damaged, indicative of a forced entry. (Tr. p. 167, l. 16-17; Tr. p. 498, l. 13-21; Tr. p. 499, l. 9). When officers entered the home, they also observed signs of struggle, including a torn pink tank-top laying on the ground, blood stains throughout the master bedroom, curtains ripped from the wall, and a carving of “Cliff was here” on the TV. (Tr. p. 166, l. 22-25; Tr. p. 172, l. 15-17; Tr. p. 174, l. 1-11; Tr. p. 177, l. 1-25). Police found Victim’s body laying between the bed and the wall. (Tr. p. 171, l. 14-15).

Present Application

Applicant timely commenced this PCR action on August 26, 2021. In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following:

1. Ineffective Assistance of Counsel:
 - a. Counsel’s performance was deficient and prejudiced Defendant.
2. Abuse of Discretion:
 - a. The Court abused its discretion by failing to grant continuance to allow counsel to gather evidence or time to conduct investigation.
3. *Brady*¹ Violation

On November 15, 2023, Applicant amended his application to raise the following claims:

- 1) Ineffective Assistance of Counsel of Deputy Public Defender Charles V. Verner
 - (a) Failure to call witnesses at trial that would present evidence as to the victim’s motive and/or prior bad acts which would enhance the Applicant’s claim of self-defense since he was a victim of domestic violence.
 - (b) Failure to present witnesses and to argue S.C. Code § 16-25-90 at sentencing that the Applicant was a victim of domestic violence and request a finding on the record from the judge that would allow the Applicant to be eligible for parole after serving ¼ of his sentence.

At the evidentiary hearing, Applicant proceeded only on his allegations of ineffective assistance of counsel.²

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

² As Applicant provided no evidence or argument concerning his allegations of abuse of discretion or *Brady* violation, the Court deems those issues abandoned.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are Applicant's records from the South Carolina Department of Corrections, the transcript of Applicant's trial, the records of the Newberry County Clerk of Court regarding the subject conviction, Applicant's appellate records, and the original and amended applications for post-conviction relief. This Court has reviewed the records submitted to it by the parties, the legal arguments made by the attorneys, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Trial Counsel

In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney

provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United States v. Basham*, 789 F.3d 358, 371–72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783,

858 (4th Cir. 2011)).

Failure to call witnesses at trial to support Applicant's claim of self-defense

Applicant claims Counsel was ineffective for failing to call witnesses at trial to establish that Applicant was a victim of domestic violence, which would have supported his claim that he killed Victim in self-defense. The Court finds this allegation is without merit.

At the evidentiary hearing, Applicant presented the testimony of multiple witnesses:

Valencia Wise testified that she was Applicant's cousin. She stated that the Victim once tried to start a fight with her at a birthday party in 2016 because Victim thought Wise was trying to start a romantic relationship with Applicant. Wise also testified that Victim would often cause a scene when Applicant would go to Sunday dinner with his relatives, driving by and calling Applicant's phone repeatedly until Applicant would agree to leave with her.

DeMarquis Boozer, Applicant's brother, testified he once had pick up Applicant with all of his clothes from a house he was sharing with Victim because Applicant was trying to get away from her. He characterized Victim as totally controlling and easily upset. However, he also testified that she was not very aggressive, and he denied that she posed a threat to him or his family.

Natasha Robinson,³ Applicant's sister, testified that Applicant once left Victim to stay at Robinson's house. Victim drove to the house and stayed outside honking the horn all night, to the point that Robinson had to threaten to call the police. Victim also threatened to commit suicide if Applicant would not come back to her, and she even attempted suicide at one point. Robinson also testified that Victim once threatened to drive her car through a house belonging to the mother of Applicant's child, but Robinson was able to talk her into calming down. Robinson related another incident in which Victim threw Applicant's belongings into the road. Eventually,

³ The trial transcript reflects that Counsel *did* call Robinson at trial. (Tr. pp. 714–36). Robinson's trial testimony

Robinson barred Victim from coming to her house and threatened to obtain a restraining order, but Victim would still try to get Applicant to leave with her by showing up and creating a disturbance until Applicant agreed to do what she wanted. Robinson testified Victim would call her phone in the middle of the night and would scream and yell, but she stated Victim never threatened her. Robinson stated she was concerned for Applicant and told him Victim was “building a case” against him.

Tyson Jones, Valencia’s brother, testified Victim once tried to prevent Applicant from leaving her house by kicking the door of his car. He also testified that, on one occasion when Applicant was preparing to go to a party, Victim threw tea and Clorox on Applicant’s clothes. Jones stated Victim thought he was setting up Applicant with other women.

Vonshella Griffin, the mother of Applicant’s child, testified Victim would call Applicant constantly every time he would visit her. She also testified that she had to change her phone number because Victim called her house so many times.

Finally, Malcolm Jones, Tyson Jones’ nephew, testified about an incident where Applicant and Jones were talking at a gas station. Victim drove up and demanded to know what Applicant was doing there, implying Applicant was trying to meet another woman. Victim pushed Applicant, and Applicant eventually agreed to leave with her.

Applicant now argues the testimony of these witnesses could have changed the outcome of his trial by supporting his claim that he killed Victim in self-defense. Therefore, Applicant claims Counsel was ineffective for failing to call them at trial. The Court disagrees.

There are four elements required by law to establish self-defense First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably

prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. If, however, the defendant was on his own premises he had no duty to retreat before acting in self-defense.

State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984). While the testimony presented at the evidentiary hearing strongly showed that Applicant's relationship with Victim was toxic and that Victim was jealous and suspicious of Applicant, it has little relevance to whether Applicant's slaying of Victim satisfied the elements of self-defense.

None of the testimony relates specifically to the confrontation at Victim's house on the morning of May 3, 2017, so it does not tend to establish whether Applicant was at fault in bringing on the fatal encounter. The testimony showed a common pattern: Applicant would leave Victim, either due to a breakup or to attend a social event without her, and Victim would track him down and cause a disturbance until Applicant would agree to come back to her. The facts of the present case, however, do not fit this pattern. It is undisputed that, on the day of the incident, Applicant took a taxi to Victim's house and killed her there.

In addition, none of the testimony presented by Applicant's witnesses at the evidentiary hearing tended to show that Applicant was, or reasonably believed himself to be, in danger of death or great bodily injury. Although Applicant's witnesses described numerous incidents of Victim's misbehavior, most of those incidents merely involved verbal harassment of Applicant and his family members. On other occasions, Victim harmed herself or damaged Applicant's property. The few instances of physical violence between Victim and Applicant were relatively harmless acts like pushing him. None of the conduct described by the witnesses presented an imminent

death or great bodily injury to Applicant, nor would a “reasonably prudent man of ordinary firmness and courage” have believed he was in imminent danger from such conduct.

Finally, none of the witness testimony presented at the evidentiary hearing showed that Applicant lacked other probable means of avoiding the danger, such as retreating from Victim’s house. Nor did any of the witnesses characterize Victim’s house as being Applicant’s “own premises,” as would excuse him from the duty to retreat.⁴

The Court concludes that the testimony of these additional witnesses likely would not have changed the outcome of Applicant’s trial, especially weighed against the State’s evidence disproving self-defense: Applicant was not allowed to be in Victim’s home, and he was asked to leave when he showed up unannounced two days before the incident (Tr. pp. 660–61; pp. 686–89); the frame of the door to Victim’s house was broken, and Victim’s child testified it was not broken when she left the house earlier that morning (Tr. pp. 657–58); Victim was stabbed in the neck and the chest and then strangled to death over the course of several minutes, long after she lost consciousness (Tr. pp.401–12); Applicant did not have any visible injuries when law enforcement interviewed him on the day of the killing (Tr. pp. 474–76); and Applicant had threatened to “slit [Victim’s] throat and beat the blood out of her” a little over a month before he killed her (Tr. pp. 628–29). Therefore, the Court finds Applicant has not met his burden of proving that he was prejudiced by Counsel’s failure to call those witnesses.

In addition, the transcript reflects that Counsel was trying to keep out evidence that Victim

⁴ S.C. Code Ann. section 16-11-440(C), commonly called the “stand your ground” provision, expanded the right not to retreat to encompass any place where the defendant had a right to be, not merely his own premises. However, none of the evidence presented at the evidentiary hearing showed that Applicant had a right to enter Victim’s home. Had Counsel attempted to introduce any such evidence at trial, he likely would have opened the door for the State to introduce evidence that Victim had obtained a restraining order against Applicant, which was still in effect at the time of the killing. (Tr. pp.747–52).

had obtained a restraining order against Applicant prior to being killed by him. The trial court warned him that, if Counsel attempted to introduce evidence that Victim was stalking Applicant, he would open the door for the State to introduce evidence of the restraining order. (Tr. pp. 747–52). That evidence would certainly have been highly prejudicial to the defense. Therefore, it was not unreasonable for Counsel not to introduce testimony that Victim was stalking Applicant—which was the primary thrust of the testimony presented by Applicant’s witnesses at the evidentiary hearing. Therefore, the Court finds Applicant has not met his burden of proving Counsel’s performance was deficient.

Because Applicant has not proved either deficiency or prejudice from Counsel’s failure to call additional witnesses at trial, the Court finds this allegation of ineffective assistance of counsel is without merit. Accordingly, this allegation is denied and dismissed with prejudice.

Failure to argue S.C. Code Ann. Section 16-25-90 at sentencing

Applicant also claims Counsel was ineffective for failing to present the witnesses’ testimony at sentencing to argue that Applicant suffered criminal domestic violence at the hands of Victim and, therefore, is eligible for parole after serving one-fourth of his prison term pursuant to S.C. Code Ann. Section 16-25-90. The Court finds this allegation meritless.

Section 16-25-90 provides:

Notwithstanding any provision of Chapters 13 and 21 of Title 24, and notwithstanding any other provision of law, an inmate who was convicted of, or pled guilty or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member. This section shall not affect the provisions of Section 17-27-45.

Applicant argues he has presented “credible evidence of a history of criminal domestic violence” at the hands of Victim through the testimony of the witnesses at the evidentiary hearing. He contends Counsel was ineffective for failing to present this testimony at his sentencing so that Applicant would become eligible for parole after serving one-fourth of his sentence.

The Court finds Section 16-25-90 is not applicable where, as in Applicant’s case, a defendant is convicted of murder and receives a life sentence. As a life sentence has no fixed duration, it would be impossible to calculate “one-fourth” of a term of life imprisonment. Any reading of Section 16-25-90 that would require such a result is absurd. In addition, Section 16-3-10 provides:

No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section.

This language shows that the legislature intended that no one serving a term of life imprisonment for murder should be eligible for parole. “The Court must reject a statutory interpretation if it leads to an absurd result that could not possibly have been intended by the legislature or that defeats plain legislative intent.” *State v. Taylor*, 436 S.C. 28, 34, 870 S.E.2d 168, 171 (2022), *reh’g denied* (Apr. 5, 2022).

Furthermore, as already explained, the witnesses who testified on Applicant’s behalf at the evidentiary hearing focused mainly on Victim’s stalking of Applicant and causing a scene whenever he would leave her. While indicative of a turbulent relationship, those acts do not constitute “domestic violence” under Section 16-25-20 (defining domestic violence as “caus[ing] physical harm or injury to a person’s own household member” or “offer[ing] or attempt[ing] to cause physical harm or injury to a person’s own household member with apparent present ability

under circumstances reasonably creating fear of imminent peril”). As already discussed, the few instances of physical battery described by Applicant’s witnesses were relatively harmless and would not create “fear of imminent peril” in a reasonable person. The Court finds Applicant has failed to present credible evidence of a history of criminal domestic violence at the hands of Victim. Therefore, even if Section 16-25-90 applied to persons serving a life sentence for murder, Applicant has not met his burden of proving Counsel’s failure to present those witnesses at his sentencing prejudiced him.

Accordingly, the Court finds Applicant has failed to establish that Counsel was ineffective. Therefore, this allegation is denied and dismissed with prejudice.

[conclusion and signature on following page]

III. CONCLUSION

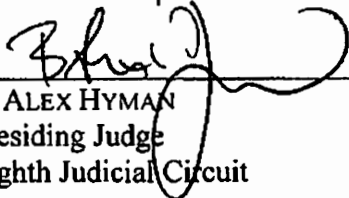
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief be denied and dismissed with prejudice; and
2. The Applicant be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 21 day of May, 2024.


 B. ALEX HYMAN
 Presiding Judge
 Eighth Judicial Circuit

Conway, South Carolina

WITNESSES

David Beddingfield
Prosperity Police Department

WARRANT NUMBER

2017A3620300023

TRUE BILL

M. P. Wilson

Foreman of the Grand Jury

Date: *7/14/17*

VERDICT

Guilty of Murder.

William C. Shuster

Foreman

August 10, 2018

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

COURT OF GENERAL SESSIONS

July Term, 2017

Indictment # 2017-GS-36-00290

THE STATE

vs.

Clifton Curtis Boozer

INDICTMENT FOR

MURDER
§16-03-0010

CDR: 0116

THE STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

INDICTMENT FOR

**MURDER
§16-03-0010**

At a Court of General Sessions, convened on the 14th day of July, 2017, the Grand Jurors of Newberry County present upon their oath:

That Clifton Curtis Boozer did, on or about May 3, 2017, in Newberry County, willfully, feloniously, and with malice aforethought kill one Clatie Stribble by means of strangulation and/or stabbing, that the said Clatie Stribble did die in Newberry County as a proximate result thereof on or about May 3, 2017, in violation of Section 16-3-10 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 cases made and provided.



Assistant Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF NEWBERRY
STATE VS.

CLIFTON CURTIS BOOZER

AKA: _____
Race: Black Sex: M Age: 41
DOB: 977 SS#: 3697
Address: 121 Feather Run
City, State, Zip: Newberry, SC 29108
DL# _____ SID# _____

INDICTMENT/CASE#: 2017GS36-00290
A/W: 2017A3620300023
Date of Offense: 05/03/2017
S.C. Code §: 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

30 - 1/yr

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Murder

In violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

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

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (def.'s initials)
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Taylor W. Daniel, Assistant Solicitor SC Bar # 100588 Defendant Attorney for Defendant SC Bar # 10033

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center, for a determinate term of Life (in prison) days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.
 The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED

Set by SCDPPPS _____

Recipient: _____	
*Fine: _____	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§56-1-286 (DUI Breath Test)	\$25 \$ _____
Proviso (Public Def/Prob)	\$500 \$ _____
§14-1-212 (Law Enforce. Funding)	\$25 \$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150 \$ _____
§50-21-114 (BUI Breath Test Fee)	\$50 \$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ca \$ _____
3% to County (if paid in installments)	\$ \$ <u>3.25</u>
TOTAL	\$ <u>128.25</u>

Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund
Other: _____

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Bernie G. Brehm
Court Reporter: April P. Howard

Presiding Judge: [Signature]
Judge Code: 2159
Sentence Date: August 10, 2018