

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Charleston County
Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKIM JAMMAR JEAN-CHARLES,

APPELLANT

APPELLATE CASE NO. 2023-000251

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (DVD REDACTED)

1 in the past, and I tried to look her up on Facebook, I seen her
2 she had some situations in the past, and that made me feel real
3 bad, so I wanted to make sure I reached out to her. I don't
4 like to be like that, but I didn't threaten her, I didn't
5 threaten her, and it was a long time ago, and I was a lot -- I
6 was a lot younger, and I sometimes people might say I speak
7 sometimes like maybe -- like, even the judge probably said
8 that, but it's only because I felt like I was unprepared, and
9 like I said, you're not lawyers and I'm not a lawyer, but I do
10 study the law to a --

11 MS. BARBER: Objection, Your Honor.

12 THE COURT: Basis?

13 MS. BARBER: Relevance.

14 THE COURT: I'm going to give him a little latitude.

15 MS. BARBER: Okay.

16 THE COURT: Overruled.

17 MS. BARBER: Thank you.

18 THE COURT: You're welcome. You may continue.

19 THE DEFENDANT: But I study the law a little bit, and
20 I know that crimes have to have mens rea, they have to have the
21 state of mind. You have to be intending to knowingly and
22 willfully do this crime. Now, somebody might be trying to
23 convince you that knowingly and willfully is, oh, you knew that
24 word was coming out your mouth so if I can fit it into this
25 statute, then you're guilty of that crime, but you as the jury

1 have a lot of power to decide how these things go. You don't
2 have to take somebody's words for what -- I'm not a lawyer, so
3 I don't know how -- what's all against me right -- I don't know
4 what they can come up with and what they can say, I don't know
5 what they might be able to tell you at the charging the jury
6 stage, so I might not have a good argument to be able to combat
7 what they say, legally. I might not off the top of my head be
8 able to say, oh, no, it's a coax, this says -- I can't -- if I
9 had time I could do it, but basically, you all have the power,
10 you all have the power to decide, am I guilty of threatening
11 her, or am I guilty of being a bad person that night, when it
12 comes to it, you know what I'm saying, but not a crime, not
13 sent to jail, not shackling me for something like that. You
14 all have the power to decide whether it's a threat. Don't let
15 them tell you it's a threat because it -- no, you decide if
16 it's a threat, and once again, this was a long time ago, this
17 was five years ago, six years ago, I probably would not react
18 that -- I know I wouldn't react that way now. Me knowing me, I
19 probably would still fight for my rights, but I would not be as
20 combative as I was that night. You know what I'm saying? That
21 was -- some of the things I said was disrespectful, you know
22 what I'm saying, and I was so mad at her, I just kept saying
23 the black "B" thing. The reason I kept saying that is because
24 I felt like I was being did dirty by my own kind, but there was
25 no threats, I never meant to threaten anybody, and I'm

1 embarrassed for acting that way as a man, as a black man, I
2 apologize to Ms. Randolph, and I just hope that you as the jury
3 can understand where I'm coming from. Don't give these people
4 the power to put me in jail over this, over this.

5 THE COURT: Sir, it's inappropriate to raise anything
6 about penalty to a jury so I need you to move on from that
7 comment.

8 THE DEFENDANT: I don't have any laws off the top of
9 my head that I can point to besides the fact that I believe
10 that what I said was a level of protective speech by freedom of
11 speech. Now, the only reason I'm arguing that is because of my
12 rights and my defense. Am I trying to defend my words, like,
13 my words of being mean? I'm not trying to defend myself for
14 being mean, I'm just trying to defend myself of, I didn't break
15 the law, that's all I'm saying. I was very mean. If being
16 mean was illegal, then, definitely, I definitely am guilty of
17 that, but I'm not guilty of conveying a threat to this woman.
18 I never had any intentions of doing anything to this woman. If
19 I would have seen this woman again after that, years after
20 that, even without having fighting this case, I would have
21 never had nothing against her person, there's nothing against
22 her. I understand people have jobs and they got to do what
23 they got to do, but me believing in my rights and believing in
24 that I'm innocent and I'm not a criminal, I just -- I just
25 can't see how I could be found guilty for saying: I wish I

1 could do -- I wish I could do something. I'm clearly saying
2 right there that I know I can't. Like, you might be able to
3 look at it, like, well, he said that if he was not in these
4 handcuffs he would do it, but I wasn't in handcuffs the
5 first -- well, I guess I was in handcuffs, but I would have
6 never did it. It was never a threat. She can say that, that
7 if I wasn't in handcuffs she thought she would think that I
8 would do it, but I don't think that -- I just don't that's
9 true. I think that it's made up for purposes of getting a
10 conviction, a charge, and all of that. Do I think that that's
11 wrong and do I think that that's against my rights and I do I
12 think that that's against my due process rights, yes, but I
13 don't got nothing against her, personally, but the reason I'm
14 here is I'm fighting for my rights, I didn't threaten nobody,
15 there is no mens rea, I'm not a criminal, I've done things in
16 the past, but I'm not a bad guy, I don't deserve to be in jail,
17 I don't deserve to be found guilty for this matter, and I would
18 just ask that you guys consider what I'm saying and consider
19 the mens rea, please, and I trust that you all would make a
20 fair decision for me. -

21 MS. BARBER: Objection, Your Honor.

22 THE COURT: Sustained.

23 THE DEFENDANT: Oh, sorry about that. I really have
24 nothing else to say unless someone wants to question me.

25 THE COURT: You can cross-examine the witness.

1 MS. BARBER: Thank you, Your Honor.

2 THE COURT: You may proceed, Ms. Barber.

3 MS. BARBER: Thank you, Judge.

4 THE COURT: You're welcome.

5 **CROSS-EXAMINATION**

6 BY MS. BARBER:

7 Q. Mr. Charles, did you need water or a tissue, or anything
8 of that sort?

9 A. I'll take some water, yes, ma'am.

10 Q. While on the stand you've mentioned several times that
11 you are apologetic towards the victim, and I'm sure she
12 appreciates that, but let's clear a few things up for the jury
13 starting with how that night started. So you stated that you
14 started that night at the gas station, right?

15 A. Well, no, I didn't start the night at the gas station, I
16 started, well, that was like right before I seen her. Like, we
17 pulled into the gas station, we switched drivers, the driver's
18 seat, I got into the driver's side, he got into the passenger's
19 side and then I pulled out and the lights was off.

20 Q. Right, and because the lights were out, Sergeant Rainey
21 pulled you over?

22 A. That's what I -- yes.

23 Q. And you mentioned that before that, you weren't
24 necessarily in a bad mood when she pulled you over, right?

25 A. No.

1 Q. You were pretty respectful?

2 A. Yes.

3 Q. It wasn't until she asked you to do the sobriety test
4 that you became a little irritated?

5 A. No, ma'am, it wasn't until after. Well, she stated
6 that, she said that, don't worry if you pass it -- because I
7 was basically saying, I ain't drunk --

8 Q. Sure.

9 A. I did have a drink earlier, but I wasn't drunk, and I
10 was adamant about that. I was, like, I'm not drunk. She's
11 like, don't worry about it, if you pass it -- all you got to do
12 is pass the test, you don't gotta do nothing, just pass the
13 test and you're good.

14 Q. So she said once you pass the test, you know, don't
15 worry about it, if you pass the test, everything is good, but
16 she determined you didn't pass the test; is that correct?

17 A. Exactly.

18 Q. And that's when you became a little irritated?

19 A. Yes, ma'am.

20 Q. I understand. And at that moment she put you in cuffs?

21 A. Yeah, basically, I'm not exactly sure at the moment when
22 she put me in cuffs because it was so long ago, but I'm sure
23 that it was probably a couple seconds after that, probably.

24 Q. So she puts you in cuffs, then she transports you to the
25 detention center?

1 A. Yes.

2 Q. And so while in -- once you got to the detention center
3 you're still in cuffs?

4 A. Yeah, I'm pretty sure I was in cuffs the whole time, I'm
5 pretty sure.

6 Q. Right. And so you stated that -- you said a few things,
7 you made a few statements, and that you didn't necessarily mean
8 those statements? At that time you said those because you were
9 upset about being taken to the detention center, and if you
10 could answer yes or no for the court reporter, that would be
11 great.

12 A. Oh, yes.

13 Q. And so once you were in that room and you said those
14 statements, you, in that room said the statements, and do you
15 recall what you said?

16 A. Not really, besides, you know, I've seen the video, but
17 this case is very old, so when I, first, first watched the
18 video was probably in the first three years, like, when I
19 thought that they was going to bring it, but I haven't
20 really -- like, this case kind of fell to the back burner for a
21 long time. It just kind of fell off for a minute, so I kind
22 of -- a lot of things, a lot of my memory failed me. I just
23 know there were a lot of things I said that night mean.

24 Q. I can understand that, it has been awhile, but just as
25 of today, you don't remember exactly everything that you said?

1 A. No. I can't say that I remember everything I said. I
2 can remember everything that I didn't say, that I never said, I
3 can remember that.

4 Q. You also said earlier in your testimony to the jury that
5 you didn't intend to threaten her; is that correct?

6 A. No. I said that what I said wasn't a threat.

7 Q. You didn't intend for her to perceive those things as a
8 threat, is that fair to say?

9 A. No. I mean, yes, yeah, I didn't want her to --

10 Q. But you'd agree with me that intent is more so something
11 that you know but not necessarily everyone around you can
12 perceive if you don't tell them, right?

13 A. Right.

14 Q. That on that night when you made those statements you
15 didn't portray to Sergeant Rainey intend for them to be
16 perceived as threats, did you?

17 A. No, ma'am, but I just thought off of what I said, just,
18 it's self-explanatory. That's really my position, what I said
19 is self-explanatory. If I said, I wish I could do something,
20 that means that I know I can't and I know I'm not but I wish I
21 could because of the circumstances that I'm in right now, but
22 I'm not, and I know I can, that's why I won't, but that's why
23 I'm saying that I wish I could, because it's an anger thing.
24 It was an anger -- like, it's just -- it's really just venting.
25 It's kind of like, have you ever went to somebody that you know

1 is not about to do nothing but they was mad and they talk a lot
2 of trash, that's where I was at right then, I wasn't gonna do
3 nothing, I was just talking a lot of trash because I was in a
4 bad situation, but included in that trash, was not a threat,
5 that's my whole position, is that there's a lot of things that
6 I said was bad, mean, trash, but not a threat that I could go
7 to jail for, that's my position.

8 Q. Sure, and I'm not trying to be difficult, but I just
9 want to clarify for the jury. You're saying, no, you did not
10 convey that to her in that DataMaster room? You didn't convey
11 that you weren't intentionally threatening her, or you didn't
12 intend for her to perceive it that way?

13 A. No, I didn't say that. I don't think that I would -- I
14 don't think I would think to say that. If I'm not threatening
15 you why would I say that, I'm not threatening you, why would I
16 throw that in there?

17 Q. Sure. And what you're saying here today is that solely
18 in your opinion, that wasn't a threat, right, in your opinion?

19 A. I think that in common parlance in the English language
20 if somebody says they wish they could do something, they're
21 stating that they're not going to do it. That's like me saying
22 I wish I had a million dollars, that means I don't have it,
23 otherwise, I wouldn't be wishing for it. Now, if I said I'm
24 going to go spend a million dollars, that means I got a million
25 dollars and I'm going to go spend it. So that means that if I

1 said I wish I could do something, even that -- that phrase in
2 itself explains why it's not a threat, because I was saying I
3 wish I could.

4 Q. And during your direct or during your testimony, you
5 said that you did take a Breathalyzer test. Were you just
6 confusing that with a sobriety test? You didn't actually take
7 a Breathalyzer test in the sobriety room; is that correct?

8 A. I don't recall saying that today. I thought I clearly
9 said I refused to take it and that was the reason probably why
10 she charged me with the extra charge because she pretty much
11 realized, it's gonna be kind of hard to convict him on a DUI
12 when he refused to take any kind of Breathalyzer test or
13 anything, so I'm just going to a day or two later retroactively
14 look at the camera and kind of just state that, okay, he's
15 saying this, maybe I can frame this into a threat, but I got to
16 tweak it a little bit and I got to say that he say, I'm going
17 to, instead of saying he actually said it. I think that's what
18 I honestly believe happened.

19 Q. So again, no to the Breathalyzer, you didn't take it?

20 A. No.

21 Q. And so when you stated that you passed it, you weren't
22 referencing any test in that DataMaster room? You were
23 speaking of something else?

24 A. When I said I passed the test, I was talking about the
25 field sobriety test that happened on the scene when I first got

1 pulled over.

2 Q. And when you said you passed it, you passed it in
3 accordance with your -- in accordance with what you deemed
4 necessary to pass? She didn't say you passed it?

5 A. I passed it, in my opinion, that night, and when looked
6 back years later when I received the Dash Cam, I still agreed
7 that I passed it.

8 Q. You also stated that you tried to contact her, like,
9 after this incident, that's right, correct?

10 A. I did. I have my phone right here, I can show you. I
11 can probably show you the text.

12 Q. It's not necessary. Thank you. But you tried to
13 contact her on Facebook to apologize?

14 A. Uh-huh.

15 Q. After saying the things that you said in the DataMaster
16 room?

17 A. Yeah, because I called her names.

18 Q. After not conveying that you didn't intend for her to
19 take it as a threat?

20 A. Uh-huh.

21 THE COURT: Sir, you've got to say yes or no.

22 A. Yes.

23 THE COURT: Thank you.

24 Q. But you say it's fair to say, regardless of your intent,
25 she could have perceived it as a threat; isn't that right?

1 A. If you're asking me my honest opinion, I would say
2 that's 100 percent incorrect because I think that she's an
3 officer. I think everybody can clearly convey that she was not
4 actually in fear. I think that it fits the statute and it kind
5 of fits the narrative, so that's why it was put in there, but I
6 honestly do not think that a police officer is in fear of
7 somebody handcuffed next to them stating that they wish that
8 they could do something to them. I'm pretty sure that that
9 probably happens to police officers every single day.

10 Q. And you're pretty positive that after having that
11 encounter in the DataMaster room, that you would eventually be
12 out of the handcuffs, right?

13 A. I mean, yeah, definitely.

14 Q. So you stated that you don't feel like a reasonable
15 person would have assumed that you would do anything in the
16 cuffs, but you were going to get out of those cuffs, right?

17 A. Not until I was in the jail cell, inside jail.

18 Q. But you got out, right?

19 A. Yes, ma'am.

20 Q. And you say it's fair that Sergeant Rainey didn't know
21 what you would do once you were out of those cuffs; isn't that
22 correct?

23 A. I would disagree, and I would say that, my opinion is
24 that, honestly, this is honestly my opinion, I think that after
25 that night she didn't think about it again, ever. She never

1 was thinking of looking over her shoulder, I wonder if that
2 guy's out of jail and he's going in, which -- is he gonna come
3 and do it? I honestly believe that she never, ever even
4 thought about this again after that night. That's my opinion.

5 Q. I appreciate your beliefs and opinions, but we can't be
6 sure of that. What we can be sure of is that you said
7 statements in that room, right?

8 A. I said statements in that room, I said statements today,
9 I said statements a lot of times.

10 Q. You can't remember every single statement you said in
11 that room?

12 A. Not every single one, no, it was five years ago.

13 Q. But today, you're adamant that the things that Sergeant
14 Rainey said you said, you didn't say?

15 A. Yes, because the affidavit that she swore to under
16 penalty and perjury claims in quotations that I stated a
17 specific quote. Now, just me being a reasonable person, if
18 you're charging somebody with that then I think that we would
19 all see that, we would have been seen that, because that would
20 have been the thing I'm being charged for, but I'm not being
21 charged for that. I'm being charged for saying I wish I could,
22 even though the charge originated with me saying that I did --
23 I'm going to do these things. This is what I want the jury to
24 understand is --

25 Q. I'm sure they're listening.

1 A. But that's my point, that's a big discrepancy. That's a
2 huge discrepancy, and I think that a lot of reasonable people
3 can put two and two together and see what happened in that
4 space, a discrepancy of you putting in quotes on your incident
5 report, which is the thing that you need to get the charge. So
6 this is the incident report, this is what you need to get the
7 charge, so now you're stating that he's said he's going to do
8 this, but when the actual trial comes six years later the
9 evidence is he wished he could. In my opinion, the reason they
10 had it so long is because I don't think that the State felt
11 confident in their case that it was so strong.

12 Q. Well, aside from what the State feels and whether they
13 feel confident or not, aside from the State of all of those
14 things, let's kind on backtrack to the sobriety test. So you
15 said that in your opinion you passed the sobriety test and you
16 were not intoxicated. So when you got into that DataMaster
17 room, you were fully aware?

18 A. Yes.

19 Q. And being fully aware, you still decided to make the
20 statements you made, right?

21 A. Yes.

22 Q. Willingly you knew what you were saying at that moment?

23 A. Yes. Willingly I knew what I was saying at that moment,
24 but what I was willingly saying was not a threat.

25 Q. In your opinion?

1 A. No. You just stated that I willingly said what I was
2 saying, right?

3 Q. I'm asking you.

4 A. And knowingly.

5 Q. Yes.

6 A. Yeah, and I will willingly and knowingly said what I was
7 saying --

8 Q. Sure.

9 A. -- because what I was saying what I'm knowing is not a
10 threat. I'm not thinking that what I'm saying could get me in
11 any trouble. I'm not thinking that at all because I know I'm
12 staying within the realm of legality. That's my whole point.
13 That's what I'm trying to -- that's what I would do.

14 Q. But it was a long time ago, right? Didn't you say it
15 was a long time ago so you don't really remember everything,
16 but you want the jury to believe that you remember the exact
17 intent and what you meant at that moment?

18 A. Of course, because it was an incident that put me in
19 jail. They accused me of threatening somebody, so of
20 course I'm going to remember that part.

21 MS. BARBER: Beg the Court's indulgence?

22 The State has nothing further at this time, Your Honor. Thank
23 you.

24 THE COURT: Any redirect, sir?

25 THE DEFENDANT: What was that?

1 THE COURT: Is there any redirect?

2 THE DEFENDANT: Redirect to who, the Solicitor?

3 THE COURT: You're entitled to redirect of your
4 questions. The questions the State has cross-examined you,
5 you're entitled to any redirect.

6 THE DEFENDANT: Oh, okay. So I just ask her
7 questions?

8 THE COURT: No, sir, you have to respond to anything
9 that if counsel questioned you on redirect that you would, but
10 you don't get to restate what you already stated in direct
11 testimony.

12 THE DEFENDANT: Okay. Well, then if I'm just
13 responding to what the State just said, then I would just refer
14 you all back to my opening statement. They're going to --

15 MS. BARBER: Objection, Your Honor.

16 THE COURT: Sir, you can't do that. You can't make
17 argument in testimony.

18 THE DEFENDANT: Well, basically, I would just like to
19 say -- I don't have anything else to say. I said what I said.
20 I don't really know how to respond to her -- I really don't
21 understand this -- like, what am I asking right now? I'm kind
22 of confused.

23 THE COURT: Sir, that's why -- if you have nothing
24 further to say, you can take your seat at counsel table.

25 THE DEFENDANT: I just want to make sure that I'm not

1 going to sit down and then want to remember something. I'm
2 supposed to be talking more about what happened that night or
3 --

4 THE COURT: Sir, I can't give you any advice.

5 THE DEFENDANT: Like I said, I would like you guys to
6 just rely on -- like, even the judge has stated, these threats
7 type of things --

8 THE COURT: Sir, you can't talk about anything that
9 is purported that this Court has said outside the presence of
10 the jury.

11 THE DEFENDANT: You guys don't need a bunch of
12 lawyers to tell you what a threat is. That's all I need to
13 say. You guys know what a threat is. South Carolina
14 Jurisprudence idle threats are not sufficient.

15 MS. BARBER: Objection, Your Honor.

16 THE COURT: Sir, you cannot make argument during
17 testimony. The objection is sustained.

18 THE DEFENDANT: I don't have anything further to say.

19 THE COURT: Then you can resume your seat at counsel
20 table. Does the defense have anything further to present? I
21 need to know if you have any further witnesses, sir.

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Does the defense rest?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Ladies and gentlemen, the defense has

1 rested. I'm reserving motions. Is there any rebuttal
2 testimony?

3 MR. ZEIGLER: No, Your Honor.

4 THE COURT: Ladies and gentlemen, both the State and
5 the defense have rested their cases. I have some matters of
6 law I need to take up with counsel. It will probably take us
7 into tomorrow morning. After we have concluded those matters
8 of law we will have closing argument and instruction. I'm
9 going to ask that you all return to the courthouse at 10:00 in
10 the morning. I'm anticipating that we will be done with those
11 matters prior to that time, and that we'll resume the trial
12 promptly at 10:00, again, with the closing argument and
13 instruction. When you come in the morning the Clerk's Office
14 is going to take your lunch orders. We anticipate that we will
15 have those here around noon. They are pretty prompt, who we
16 order from. I anticipate, however, that the closing argument
17 and instruction will be concluded well in advance of the noon
18 hour. I just give you that for your planning purposes. During
19 this break, please do not discuss the case in any manner,
20 whatsoever, please do not watch, read, or listen to any media
21 accounts, if there are any. Please do not watch, read or
22 listen, again, to any media accounts if there are any or make
23 any comments on any social networking sites. If you will leave
24 your notepads in your seats, we'll secure them during the
25 break. I hope you all have a great evening, we'll see you in

1 the morning at 10:00.

2 (Jury exited the courtroom and excused.)

3 THE COURT: You may take your seats. The defense has
4 rested their case. Are there any motions?

5 MR. ZEIGLER: Nothing from the State, Your Honor.

6 THE DEFENDANT: I would like to renew my motion for
7 directed verdict.

8 THE COURT: Would the State like to make any response
9 to the renewed motion for directed verdict?

10 MR. ZEIGLER: We would just respectfully use the same
11 argument that we used in the initial motions. The State
12 presented direct evidence which satisfies our requirements to
13 overcome a directed verdict motion from the defense.

14 THE DEFENDANT: Can I add to my motion?

15 THE COURT: Sure.

16 THE DEFENDANT: I would like to add the stipulation
17 that --

18 THE COURT: I'm sorry, I need you to speak up, sir, I
19 can barely hear you.

20 THE DEFENDANT: That's my secured speech under the
21 first amendment.

22 THE COURT: Sir, that doesn't have anything to do
23 with directed verdict. I need to know, you said you wanted to
24 add something, I need to know what it is you want to add.

25 THE DEFENDANT: I just wanted to add that that is one

1 of the reasons why I should be --

2 THE COURT: You don't get to add anything new that
3 you didn't argue previously.

4 THE DEFENDANT: Well, you already ruled on it then.

5 THE COURT: At directed verdict stage, the Court is
6 concerned of the existence or nonexistence of the evidence and
7 not its weight that is solely within the prerogative of the
8 jury. There is direct and substantial circumstantial evidence
9 reasonably tending to prove the defendant's guilt both by the
10 direct testimony of the officer, as well as the video that has
11 been admitted into evidence. It will be for the jury to
12 determine whether, in fact, it is a threat as argued by the
13 State, and whether it is protected speech, as Mr. Charles has
14 argued in both his direct testimony, as well as
15 cross-examination of a witness. All of those are factual
16 issues, not for the Court to determine factual issues, nor is
17 it in the Court's prerogative. The motion is denied.

18 THE DEFENDANT: Well, I'd like to offer something for
19 the jury to go over as well.

20 THE COURT: I haven't had a charge conference yet.
21 You need to let the Court handle what the Court needs to
22 handle. I appreciate it.

23 Defendant's request to instruct on failure of
24 defendant to testify is moot because he's testified, it's no
25 longer applicable. Did you all review Mr. D'Angelo's request

1 on the definition of threat?

2 MR. ZEIGLER: Yes, Your Honor. I was okay with most
3 of it, however, the idle threat stuff and interpretation, that
4 pertains in the State's position to --

5 THE COURT: Yeah, that's not an element. They don't
6 have to establish a true threat. That's outside -- that would
7 be adding to the language of the statute.

8 MR. ZEIGLER: Right, which is why our -- I believe
9 our definition --

10 THE COURT: You can argue that, but I don't think
11 that's the law. I'm going to have my own definition of threat.
12 I have it marked as a Court's Exhibit. I also the stipulation
13 marked as an exhibit. Do you all plan to publish the
14 stipulation to the jury?

15 MR. ZEIGLER: I would like to publish that
16 stipulation, Your Honor, just for clarification, as there are
17 other elements that we do not need to address, based on that
18 stipulation, mainly, public official and --

19 THE COURT: So I'll let you do that, you should have
20 done that in your case in chief.

21 MR. ZEIGLER: I apologize, Your Honor.

22 THE COURT: Because since you all agreed to it, I'll
23 let you publish the stipulation. The State's request which
24 I've marked as a Court's Exhibit, as well, just, really, is a
25 restatement of the statute. The statute doesn't define bodily

1 harm, nor am I inclined to. Most statutes have definitional
2 sections. I don't think you need to define bodily harm, that's
3 common knowledge to each juror. I'm not adding any words of
4 verbiage to the statute. I'm going to use my own definition of
5 threat once I figure out what that's going to be. Yes, sir,
6 did you want to submit something for me to consider?

7 MR. ZEIGLER: Thank you, Your Honor..

8 THE DEFENDANT: I have --

9 THE COURT: Are you referring to Black's Law
10 Dictionary? I already have that definition of threat.

11 THE DEFENDANT: I understand, but I have other things
12 according to Black's Law Dictionary, and --

13 THE COURT: I'm going to give you some portion of
14 that when I do the definition. My definition is going to be
15 about two lines, though, it's going to be very simple.

16 THE DEFENDANT: But that's an extreme prejudice
17 towards me if you use only two lines of the explanation of a
18 threat.

19 THE COURT: Sir, I'm not going into anything that
20 infringes on the facts of this case when I define threat. The
21 Court's not supposed to make commentary on facts. I'm going to
22 use some combination of Black's Law Dictionary and some
23 definition of Metzdorf, and some partial definition from the
24 South Carolina, case of State versus Folk, regarding a threat.

25 THE DEFENDANT: What is the basis of --

1 THE COURT: Black letter precedent, that's the basis
2 of it. The Court is required to instruct what is most direct,
3 most uncomplicated and easiest for the jury to understand,
4 which is a reflection of black letter precedent, without giving
5 benefit to either party, so I'm supposed to be objective, and
6 that's what I'm going to be when I define threat, and I've been
7 working on that.

8 THE DEFENDANT: South Carolina Jurisprudence, the
9 Black Law Dictionary --

10 THE COURT: I need to know if you have anything you
11 want to submit to me that you want me to consider to instruct,
12 sir.

13 THE DEFENDANT: Ma'am, every single time I say
14 something, you cut me off.

15 THE COURT: No, I have not cut you off, and I'm tired
16 of you making that misrepresentation on the record. Cutting
17 somebody off is when you talk over them in the middle of a
18 sentence. You finished your sentence and I asked you a
19 question. Do not make that misrepresentation again.

20 THE DEFENDANT: I apologize.

21 THE COURT: It's affecting your veracity with this
22 Court, which means your ability to tell the truth. Now, I need
23 to know if there's anything you want me to consider in
24 instructing the jury, other than threat from Black's
25 Dictionary.

1 THE DEFENDANT: I would like to know why are you
2 taking the --

3 THE COURT: I'm not taking anybody's side, sir. I'm
4 doing my own research. I've been working on this since Monday.
5 I didn't just start thinking about it, I've been thinking about
6 this since Monday.

7 MR. D'ANGELO: If I could have a brief moment?

8 THE COURT: Sure, go ahead.

9 THE DEFENDANT: I guess my question is, in all of the
10 definitions that I've seen, a lot of them --

11 THE COURT: Sir, if there is some specific language
12 you want me to consider, you need to tell me what it is.

13 THE DEFENDANT: I would like you to consider the fact
14 that it says -- I have to read it first.

15 MR. D'ANGELO: Your Honor, I apologize for speaking.

16 THE COURT: That's okay. You don't have to apologize
17 for speaking.

18 MR. D'ANGELO: I have submitted, and for Akim's
19 understanding, I have submitted proposed jury instructions.
20 Those are in the record, those were marked as a Court's
21 Exhibit, so those are in the record. Those will be preserved
22 on appeal, and you have made a decision that you are not going
23 to read verbatim --

24 THE COURT: No, because I think a part is an improper
25 comment on the facts, and I wouldn't instruct that, because the

1 Court is not supposed to make any commentary on the facts of
2 the case.

3 MR. D'ANGELO: Understood.

4 THE COURT: It's supposed to give a bland, direct
5 definition and allow the jury to draw their own conclusions
6 about what they believe about the facts.

7 MR. D'ANGELO: And what we have requested is
8 preserved in the record.

9 THE COURT: It is because I have marked it. I always
10 have what's marked as Court's Exhibits.

11 THE DEFENDANT: So what's your definition of threat?

12 THE COURT: I'm going to tell you in a minute.
13 That's why I'm asking you is there anything you want me to
14 consider. I'm going to go over the whole charge with you.

15 THE DEFENDANT: So off of the basis of this fact that
16 it's easily provable to the Court, South Carolina Jurisprudence
17 states that a threat cannot be idle, so since the South
18 Carolina Jurisprudence states that as well --

19 THE COURT: Is there a case that says that that's
20 factually applicable to this case, because I've reviewed the
21 charge -- I mean, the request, and it's not.

22 THE DEFENDANT: What do you mean?

23 THE COURT: The case that was -- I don't know what
24 you're referring to in South Carolina Jurisprudence. Is there
25 a section? And their opinion is not what I get to instruct. I

1 have to instruct something that's in case law.

2 THE DEFENDANT: Jurisprudence --

3 THE COURT: Jurisprudence is not case law, it's an
4 interpretation of case law. It's like a dictionary that
5 compiles case law, so I need to know what section you're
6 referring to.

7 THE DEFENDANT: It's where the statutes come from.

8 THE COURT: I asked you what section are you
9 referring to.

10 THE DEFENDANT: What I'm saying is, this definition
11 right here, a threat, in Black's Law Dictionary --

12 THE COURT: I have Black's Law Dictionary, and I have
13 the most recent addition and what it says about -- do you want
14 me to read it to you?

15 THE DEFENDANT: No. I'm saying, I'm just trying to
16 argue the points that I want you to make sure are in there.

17 THE COURT: You jumped all over, and you made a
18 reference to Jurisprudence, I asked you what section and you
19 need to tell me so I can look at it.

20 THE DEFENDANT: The reason I made a reference to
21 South Carolina Jurisprudence is because it's a section, when I
22 was incarcerated on this bench warrant I went through Westlaw
23 Dictionary -- I mean, Westlaw app, which has all of the formal,
24 real, lawful, legal information. Under that they have
25 secondary resources, and under that is American Jurisprudence,

1 South Carolina Jurisprudence, which is built off of the --

2 THE COURT: I need the section you're referring to.

3 South Carolina Jurisprudence is about forty volumes, I need to
4 know what volume you're talking about.

5 THE DEFENDANT: Off the top of my head I can't -- I
6 think it might be 27, or if it's not 27, then 27 is probably
7 the affidavits if it's not threats, but under South Carolina
8 Jurisprudence they have a specific section that defines threats
9 and it defines what statute that it applies to, and it applies
10 to this statute in this case. That's why this so open and
11 shut, it clearly has the definition of what a threat is already
12 and it can't be argued, in my opinion, because it's written,
13 it's the law, and it clearly states that idled threats are not
14 sufficient.

15 THE COURT: I'll look at it, sir, and see if it's
16 supported by case law, but I'm not making any inappropriate
17 comments on the law. You can argue that.

18 THE DEFENDANT: Ma'am, I argued that. It was in
19 South Carolina Jurisprudence.

20 THE COURT: Sir, I need you to listen very carefully.
21 The Court cannot make any comments on the facts. I'm going to
22 review it. If it's comment on the facts -- if their opinion is
23 a comment on the facts, I will not be instructing it, because I
24 cannot make a comment on the facts. If you want to argue that,
25 though, you're free to argue that.

1 THE DEFENDANT: Okay. I also have some other --

2 THE COURT: Then you need to tell me what it is you
3 want me -- I need the specific language, not cases.

4 THE DEFENDANT: The Watts factors.

5 THE COURT: I don't know what you're referring to.

6 THE DEFENDANT: The Courts have identified what has
7 come to be known as the Watts factors in true threats analysis.
8 The fact that the comments were made during -- well, this is
9 talking about a specific one, but the Watts factors are a
10 specific threshold in the specific --

11 THE COURT: What case is that referring to, and how
12 is that applicable to South Carolina?

13 THE DEFENDANT: Well, it's because it's precedential
14 federal law that --

15 THE COURT: Sir, that's not -- the two separate
16 branches of Government, so there's no forums, what is in
17 federal court is not applicable here, and I don't even know if
18 it's been subject to appellate review, and I don't look to the
19 federal jurisdiction unless I don't have anything here to look
20 at, but the federal rules and rules of evidence and procedure
21 are totally different from ours.

22 THE DEFENDANT: Yeah, but they say that the federal
23 rules supersede the state rules.

24 THE COURT: No, they don't, sir. They do not
25 supercede what happens in state court.

1 THE DEFENDANT: The Supreme Court is the precedence
2 for --

3 THE COURT: The Supreme Court, but not the federal
4 court.

5 THE DEFENDANT: I have the Supreme Court rules right
6 here.

7 THE COURT: I have to see if it's applicable, sir.
8 And I've looked at the section you're referring to in South
9 Carolina Jurisprudence, the case that it cites is a civil case,
10 it's not applicable in this form.

11 THE DEFENDANT: That's not what I'm talking about.
12 It has right under, it states --

13 THE COURT: Sir, I've looked at it. I've looked it
14 up. I'm looking at it on my computer, the most current version
15 of it.

16 THE DEFENDANT: It has the statute right under it, it
17 has --

18 THE COURT: No, sir, it does not. It has a footnote
19 that refers to Brooks versus Silverthorne, which is a civil
20 case from 1919.

21 THE DEFENDANT: Well, that's not the correct one
22 then.

23 THE COURT: It's the only section in the
24 jurisprudence that we could find that defines threat.

25 THE DEFENDANT: It's in South Carolina Jurisprudence?

1 THE COURT: Uh-huh.

2 THE DEFENDANT: Well, ma'am, then --

3 THE COURT: I'm looking at it right now.

4 THE DEFENDANT: Well, can I see it?

5 THE COURT: No.

6 THE DEFENDANT: Like I said --

7 THE COURT: I'm referring to what you told me you
8 were looking at so you should --

9 THE DEFENDANT: I know what --

10 THE COURT: And I'm not going to have you interfering
11 with my state equipment, so I'm telling you I'm looking at that
12 section and it says -- it is Black's Law Dictionary, which I'm
13 already going to utilize, which is the first section which has
14 footnote one; footnote two which is about causing reasonable
15 fear and idle threats is Brooker versus Silverthorne, which is
16 a 1919 civil case. Using that language would add an additional
17 element to the statute and the statute has not -- I cannot add
18 to something the legislature passed. The legislature,
19 generally, when it wants to define something, it does. I
20 cannot add a definition or add elements to an offense when they
21 have not, that's not what their intention was.

22 THE DEFENDANT: I'm not asking you to.

23 THE COURT: Yes, you are asking me to. Because this
24 would mean that the State would have to prove that the threat
25 caused fear and that --

1 THE DEFENDANT: That's what all of these definitions
2 are.

3 THE COURT: Sir, that's a civil case. Civil assault
4 and civil battery and all of that is different than criminal
5 assault. It's a different burden of proof, different elements,
6 different cases. When the legislature says what an offense is,
7 they put it in writing, they pass it. I'm bound by it. I
8 don't get to expand it, I don't get to restrict it, I don't get
9 to create my own definitions about it. I don't get to say what
10 I think it's about. They are articulate about what they mean,
11 and so I don't get to add an element to that statute that the
12 legislature has not created, and that's what you're asking me
13 to do.

14 THE DEFENDANT: The only clear definition of a threat
15 in South Carolina, on any South Carolina books is in South
16 Carolina Jurisprudence. There is no clear rule on what a
17 threat is. That's the reason why the Supreme Court is
18 important.

19 THE COURT: In the annotations and the footnotes,
20 when they're talking about, in Jurisprudence, they said there's
21 several different types of statutes, one refers to political
22 coercion, which is 16-17-560. The other is threat to a public
23 official, which is what we're dealing with, which is footnote
24 four, which is the second type deals with used to frighten
25 rather coerce. So the only thing that's required, according to

1 the footnote, is for you to frighten, but it's not required by
2 the statute.

3 THE DEFENDANT: Ma'am, the full definition is right
4 there, and it clearly states that it goes with the statute. It
5 clearly states that that governs the statute.

6 THE COURT: Sir, that's their interpretation of what
7 they think.

8 THE DEFENDANT: It's --

9 THE COURT: It's a dictionary.

10 THE DEFENDANT: It's not a dictionary.

11 THE COURT: It is a dictionary. That's what
12 jurisprudence is, it's a legal dictionary.

13 THE DEFENDANT: American jurisprudence and case
14 law --

15 THE COURT: It's a legal dictionary.

16 THE DEFENDANT: It's not a legal dictionary, it's
17 where the law comes from.

18 THE COURT: Mr. D'Angelo and everybody is shaking
19 their head, it's a legal dictionary. It's what we call
20 treatise. It's what we call a legal treatise. It means that
21 something is a compilation of everything that's out there, and
22 what they think is out there and what they think it could mean.

23 THE DEFENDANT: No, it's the foundation of rules --

24 THE COURT: Alright, sir, we all have law degrees and
25 that's what it means. It's a treatise, that's the end of this,

1 it's a legal dictionary.

2 THE DEFENDANT: American jurisprudence started with
3 a --

4 THE COURT: It is a legal dictionary, end of
5 discussion. Is there anything that you want the Court to
6 consider --

7 THE DEFENDANT: That is just not true.

8 THE COURT: I'll note that you don't think it's true.

9 THE DEFENDANT: I want the Court --

10 THE COURT: I need you to stop talking. I need you
11 to focus on what I'm asking. It is 6:10. I'm trying to get us
12 to the point where we can do charge conference so we can have
13 closing argument and instruction in the morning. I need to
14 make sure you're on time in the morning. If I have any concern
15 about you being on time, I'm going to have to have them take
16 you into custody. Now, I need to know, is there anything else
17 you want me to consider in jury instruction, other than threat,
18 which we have adequately covered?

19 THE DEFENDANT: I have to adamantly state that I must
20 have that in that consideration.

21 THE COURT: I have noted it for the record, sir,
22 you've been arguing that for 30 minutes.

23 THE DEFENDANT: It's the only -- it's the only --

24 THE COURT: I've ruled, sir, I've told you what I'm
25 going to do.

1 THE DEFENDANT: Ma'am, I have to say this.

2 THE COURT: No, sir, you don't have to say it. I've
3 already told you what the rule says. The Court's already
4 spoken, that's the end of it.

5 THE DEFENDANT: I'm arguing my point, though, you
6 said this was the argument.

7 THE COURT: No, you're not, you've already argued
8 your point, I've taken it into consideration. I'm going to
9 tell you what I'm going to instruct once I instruct it from the
10 appropriate case law. I need to know, is there any other area
11 that you want me to cover in the jury instruction?

12 THE DEFENDANT: Ma'am, all of the stuff that's in his
13 request for the charge, none of it state's directly to this
14 statute. The only thing --

15 THE COURT: Sir, I don't know what you're referring
16 to. I've already told you I'm going to create my own
17 definition.

18 THE DEFENDANT: I know, but the definition I gave you
19 is the only one that's on the record that actually --

20 THE COURT: Sir, I've already told you I'm going to
21 import --

22 THE DEFENDANT: -- talks directly to the statute.

23 THE COURT: I am not going around this mountain
24 again.

25 THE DEFENDANT: But you don't see that?

1 THE COURT: I have already told you I'm going to
2 employ what is legal precedent and black letter law and factor
3 a definition of threat, that is the end of the discussion. I'm
4 not entertaining it anymore. You continue to think that you're
5 going to debate with the Court, that every time I tell you
6 something that you're going to continue to rehash it with me.
7 No, I'm really at the end of my rope with it. I've been
8 incredibly patient, and you have continued to abuse this
9 Court's patience, frankly, you've been incredibly
10 disrespectful, and what's amazing to me is I haven't realized
11 it, but everybody else in this forum has, but me.

12 THE DEFENDANT: Ma'am, yesterday you said --

13 THE COURT: No, sir, the end of it. I told you,
14 that's the end of it. You've been rude, you've been
15 disrespectful, you've been boisterous, you've tried to bully
16 the Court, I've just, I'm at the end of it with it. Now, I've
17 asked you very politely, I've been very courteous. I just need
18 to know if there's anything else you want the Court to consider
19 in its instruction so I can go over this so we can all go home
20 tonight and come back and have closing instruction in the
21 morning.

22 THE DEFENDANT: Mens rea, I want to have the strict
23 definition of that, what mens rea is, because there is no mens
24 rea in this case, which means that this case should be
25 dismissed and that should have been --

1 THE COURT: Sir, I'm past all of that motions to
2 dismiss, we're past that point, and we're not rearguing any of
3 that. This is charge conference.

4 THE DEFENDANT: Mens rea --

5 THE COURT: Is there anything else you want the Court
6 to consider?

7 THE DEFENDANT: Yes, ma'am, I want to have the
8 definition of mens rea at their fingertips.

9 THE COURT: And what else would you like, sir?
10 You've said that twice now.

11 THE DEFENDANT: I would like them to have some laws
12 pertaining the first amendment.

13 THE COURT: Sir, the Court's not going to instruct
14 that. It's not a part of the elements, it's not appropriate.
15 If you want to argue it, that's fine, but the Court will not be
16 instructing that.

17 THE DEFENDANT: But if that's my argument I can't
18 offer --

19 THE COURT: No, sir, you cannot. You can argue it if
20 you'd like to, that you were exercising your first amendment,
21 but the Court's not going to instruct that, because I don't
22 think the evidence supports it.

23 THE DEFENDANT: Can I request the South Carolina
24 Jurisprudence definition so I can --

25 THE COURT: No, sir, I've already told you I'm going

1 to craft my own definition --

2 THE DEFENDANT: I know --

3 THE COURT: -- from black letter precedent, and
4 you're still rehashing it.

5 THE DEFENDANT: I don't want you to tell them, I said
6 I want to argue it.

7 THE COURT: Sir, I can't, I'm not trying to cover
8 what you can argue. I'm not giving you any legal advice. I'm
9 trying to do a charge conference so I can charge the jury the
10 appropriate law. That's not what a charge conference is for.
11 I can't give you any advice about the scope of your closing
12 argument, you have to figure that out on your own when you
13 decided to represent yourself.

14 THE DEFENDANT: I was just asking for access to the
15 South Carolina Jurisprudence, that's all I need access for.

16 THE COURT: I don't understand what you mean.

17 THE DEFENDANT: He just pulled up the page you're
18 reading off, I just would like to have that.

19 THE COURT: Sir, you can't have my computer, and I'm
20 not giving you access to it.

21 THE DEFENDANT: I'm talking about the text. I'm just
22 talking about the words. I just would like to know what it
23 says so I can argue it to them.

24 THE COURT: Sir, that's for you to figure out, you
25 brought it to the Court's attention. I merely told you that I

1 looked it up and I reviewed it as you requested.

2 THE DEFENDANT: I know, but I don't have access to
3 look it up.

4 THE COURT: Sir, I'm so very sorry, but this Court
5 cannot give you access to it, that would put me in the vantage
6 of being your advocate, and I am not, I do not practice law.
7 If you want to get a copy of that, you need to ask Mr. D'Angelo
8 for it.

9 MR. D'ANGELO: Your Honor, the Court going to charge
10 the jury on knowingly and --

11 THE COURT: I'm going to define for them what that
12 means.

13 MR. D'ANGELO: That's mens rea, she's going to define
14 that.

15 THE COURT: Sir, is there any other topic that you
16 want the Court to consider in instruction that you would like
17 for us to consider before we do the charge conference?

18 THE DEFENDANT: Let me read this real quick. Not
19 that I can think of at this time, Your Honor. I would like
20 them to --

21 THE COURT: Yes, sir? What were you about to say?
22 I'm sorry, I didn't hear you.

23 THE DEFENDANT: You said I can have them look at
24 Supreme Court cases, right?

25 THE COURT: Sir, you need to tell me something

1 specific. I can't be jumping around looking up everything that
2 you're referring to. I need to know exactly the specificity
3 what you're asking. There's only preemption by federal law
4 when South Carolina law is silent on something, and this is not
5 an example of preemption where I look to federal law when
6 instructing a jury, that would be completely inappropriate, and
7 the South Carolina Supreme Court would have already adopted the
8 US Supreme Court standards where it's appropriate.

9 THE DEFENDANT: Now, yesterday you spoke about the
10 federal Faretta warnings superseding --

11 THE COURT: Because South Carolina has adopted
12 Faretta -- no, I didn't say it superceded, South Carolina
13 adopted the Faretta warnings, so I am required to ask you of
14 them.

15 THE DEFENDANT: I'm sure, I'm sure that federal cases
16 can be --

17 THE COURT: Only when South Carolina law is silent on
18 it. As I've explained to you, they are two separate bodies of
19 law.

20 THE DEFENDANT: But South Carolina is kind of silent
21 on this when it comes to --

22 THE COURT: Sir, it is not silent.

23 THE DEFENDANT: -- case law. It is silent on the --

24 THE COURT: Sir, are there any other things that you
25 want the Court to consider regarding subject matter and

1 instructing the jury?

2 THE DEFENDANT: Definition of mens rea, the whole
3 definition strictly --

4 THE COURT: I don't know that that's appropriate, but
5 I'll think about it.

6 THE DEFENDANT: Can I ask you, why is it not
7 appropriate?

8 THE COURT: Because I'm going to define knowingly and
9 willfully, which is mens rea, and I don't think I need to say
10 it twice.

11 THE DEFENDANT: Well, can I ask Your Honor, why would
12 it be an issue for them to actually read the real definition
13 instead of just yours?

14 THE COURT: Because knowingly and willfully that's
15 defined in mens rea.

16 THE DEFENDANT: That's not what it says, though, as
17 the definition. I would like them to know the real definition.

18 THE COURT: The statute requires that you do it
19 knowingly and willfully, and I'm going to define that for the
20 jury.

21 THE DEFENDANT: But do you understand why that's
22 prejudicial to me when I'm asking for something as simple as --

23 THE COURT: Sir, I need to know if there is anything
24 else you want the Court to consider other than mens rea.

25 THE DEFENDANT: I need to understand why you're not

1 allowing me to give the definition of mens rea.

2 THE COURT: I need you to be articulate and tell the
3 Court what it is what you want the Court to consider, and I've
4 been very clear with you, I'm not debating with you, and I'm
5 not answering your questions.

6 THE DEFENDANT: I want the Court to --

7 THE COURT: If you have some objection, you can
8 appeal it, but right now I need to know if there is anything
9 else that you want the Court to consider regarding the jury
10 charge, other than mens rea.

11 THE DEFENDANT: I'm just going to argue that in
12 closing then. I don't have anything else, but I'm going to get
13 --

14 THE COURT: The Court has given you a full
15 opportunity --

16 THE DEFENDANT: You think --

17 THE COURT: No. When I don't agree with you, you
18 have a problem. I'm not required to agree with you. I'm under
19 no obligation to agree with you. My only obligation is to make
20 sure that I instruct the law as it is in South Carolina,
21 clearly and cogently to the jury so that they can understand
22 it. I'm giving you a full opportunity to ask this Court if
23 there are any subject matter topics that you want to address in
24 this jury charge. You continue to circumvent answering that
25 question. I'm giving you one other opportunity to do it so I

1 can consider it before I finalize this jury instruction. Other
2 than mens rea and the definition of threat, is there anything
3 else you want this Court to consider?

4 THE DEFENDANT: I'm just wondering, how can the
5 definition prejudice their decisions, like, how can it hurt the
6 jury for --

7 THE COURT: I'm not answering any questions you
8 profound to the Court. I've asked you a question, I need you
9 to answer it.

10 THE DEFENDANT: I mean --

11 THE COURT: If you don't answer, I'm giving you
12 notice you're waiving it.

13 THE DEFENDANT: So can I give a different definition?

14 THE COURT: Different definition for what?

15 THE DEFENDANT: Of something else? I mean, what can
16 I -- everything I said so far you said --

17 THE COURT: I don't know, sir, I've asked you --
18 Have I been unclear about what I've asked, Mr. D'Angelo?

19 MR. D'ANGELO: No, Your Honor.

20 THE DEFENDANT: You've just been saying that you
21 don't know if it's appropriate, but you haven't said that it's,
22 like, it's against the rules or something. You just said, I
23 don't know if it's appropriate, I would rather tell them this,
24 I just want them to --

25 THE COURT: Sir, I need to know if there's some other

1 topic that you want the Court to consider in the jury charge, I
2 need you to tell me, please. You make things so difficult and
3 they don't have to be. I've done everything I can to inure to
4 your benefit. I've bent over backwards to be --

5 THE DEFENDANT: I'm confused right now.

6 THE COURT: I've bent over backwards --

7 THE DEFENDANT: I'm confused.

8 THE COURT: I've been over backwards, really, to the
9 detriment of the State in looking out for your best interest,
10 and I'm surprised they haven't been on a soapbox screaming
11 about it, to tell you the truth, which I think it's been very
12 collegial of them not to. So I need to know if there's any
13 other subject matter you want covered in this instruction. You
14 asked for definition of a threat, you asked for mens rea, is
15 there anything else you want the Court to consider?

16 THE DEFENDANT: It's hard for me to think because I'm
17 trying to figure out the why the last two things I said is
18 denied, so that's kind of why --

19 THE COURT: I haven't denied anything, I'm asking you
20 if there's anything else you want the Court to consider.

21 THE DEFENDANT: It's hard for me to pick one, I don't
22 know --

23 THE COURT: It's really a very simple case, there
24 ain't much to pick from. I don't know what else you could tell
25 me, frankly, but I'm trying to give you an opportunity.

1 (Off the record discussion between defendant and Mr. D'Angelo)

2 THE COURT: I haven't denied anything, that's your
3 misperception of things. You're still stuck in your mind where
4 you are, you really aren't listening. I haven't denied
5 anything. I said I will consider anything. That's why I keep
6 asking you and you just keep refusing to answer.

7 THE DEFENDANT: No, I was just miswording what I
8 said. I'm saying that the last two things that I wanted to put
9 in, you said --

10 THE COURT: I didn't say I wasn't gonna do it, I
11 said, I'll consider it, that's why I'm asking you again and you
12 just keep going around this mountain --

13 THE DEFENDANT: Oh, I thought you said it was
14 inappropriate.

15 THE COURT: -- and you just won't answer the question
16 directly.

17 THE DEFENDANT: I thought you said it wasn't
18 appropriate. No, I don't know what to ask you. I don't know
19 really what I should be putting in because the things that I
20 try to put in you said kind of like, you didn't say you wasn't
21 gonna do it, but that's why I'm saying, I don't know what I
22 should be trying to put in at this point.

23 THE COURT: Well, that's up to you, sir, and you
24 asked to represent yourself, and I can't give you any guidance
25 about it.

1 THE DEFENDANT: I know, but the reason I'm saying
2 that I don't know now is because the first two things that I
3 tried to proffer you told -- you kind of like said, I don't
4 know, you're gonna consider it, but that's not really giving
5 me --

6 THE COURT: That's the best answer I can give you.
7 That's the only one I'm required to give you until I think
8 about it.

9 THE DEFENDANT: Yeah, so I got more confused of what
10 else I need.

11 THE COURT: It's pretty clear cut. There's nothing
12 complicated about this.

13 THE DEFENDANT: I would like to go to under the photo
14 is a Supreme Court case, Justice Sonia Sotomayor --

15 THE COURT: Sotomayor.

16 THE DEFENDANT: Sotomayor.

17 THE COURT: What's it about?

18 THE DEFENDANT: Urged the Court to re-evaluate, this
19 just came out, too, not too long ago: Urged the Court to
20 re-evaluate its true -- jurisprudence --

21 THE COURT: It's what? I can't hear you.

22 THE DEFENDANT: Justice Sonia Sotomayor urged the
23 Court to re-evaluate it's true threats jurisprudence in a
24 further case with the proper procedural posture.

25 THE COURT: What kind of case is that? I have no

1 idea. Is that a concurring opinion, is that a consent?

2 THE DEFENDANT: States must prove more than the mere
3 utterance of threatening words, which it goes right along --

4 THE COURT: What kind of case is it? I don't know.
5 What was the person charged with? Is that a decent? Is that a
6 concurring opinion? If it's a decent it don't count. Only the
7 direct opinion counts, and don't turn that phone on.

8 THE DEFENDANT: I have a footnote from it, I'm
9 reading the footnote from it that's pertinent to what we was
10 talking about, but if you want me to reference the dates, I
11 can.

12 THE COURT: What case is that, Mr. D'Angelo?

13 MR. D'ANGELO: Perez v. Florida, 2017 case, I don't
14 have the specific cite.

15 THE COURT: What was Mr. Perez charged with, and is
16 that even a criminal case? Is that a PCR, what is it?

17 MR. D'ANGELO: All I have is two sentences on it. It
18 just says she was urging the Court to re-evaluate its true
19 threat jurisprudence, so this would be probably in a dissenting
20 opinion.

21 THE COURT: Yeah. That's not the holding, sir, if
22 it's a dissenting opinion. If she's urging the Court to
23 reconsider that, it means she's urging her colleagues to
24 reconsider their holding in the main case.

25 THE DEFENDANT: Ma'am, but you --

1 THE COURT: I can't charge a dissent, it's not the
2 law.

3 THE DEFENDANT: I didn't say that. You pointed out
4 the dissent part. All I did was point out the case.

5 THE COURT: Yes, sir, but apparently, it doesn't
6 stand for what you think it stands for, or she would in not be
7 urging her colleagues --

8 THE DEFENDANT: It's the footnote.

9 THE COURT: I can't charge a footnote. If I'm urging
10 my colleagues to reconsider, that means their opinion wasn't
11 the same as mine.

12 THE DEFENDANT: No, they're difference in opinions
13 and this is a very important case as to right now. This is one
14 of the cases about --

15 THE COURT: It was a concurring opinion.

16 THE DEFENDANT: And I would like you to charge --

17 THE COURT: This is about first amendment protection
18 of speech case. This isn't even a criminal case.

19 THE DEFENDANT: Ma'am, the law is finding a threat,
20 whether it's in a civil case or not, the definition is still
21 going to be the same.

22 THE COURT: No, sir, it's not, it's different.
23 Different statutes require different things.

24 THE DEFENDANT: But that does not exist in reality,
25 though, ma'am, there's no laws and no differential for threats.

1 THE COURT: This was a statute in Florida that
2 criminal law is speech, and that's what this is about, and it's
3 not applicable to this case.

4 THE DEFENDANT: Ma'am, you're going off of the --

5 THE COURT: And Justice Sotomayor wrote a concurring
6 opinion, which is not the holding of the Court. Mr. Perez is
7 serving 15 years in a Florida prison when she perceives he made
8 a drunken joke. Let's see here. State prosecuted Perez for
9 violating a Florida statute that makes it a felony: To
10 threaten, to throw, project, place or discharge any destructive
11 device with intent to do bodily harm to any person, or with
12 intent to do damage to any property of any person, and that's
13 Florida statute, Section 790.162, it's a 2007 statute. He was
14 tried and found guilty.

15 THE DEFENDANT: The only reason I'm bringing these
16 two case up is because --

17 THE COURT: Sir, it's not applicable.

18 THE DEFENDANT: Ma'am --

19 THE COURT: This is about a Florida statute in a
20 different criminal realization of a different statute.

21 THE DEFENDANT: Let me try to tell you why I'm
22 bringing it up. The reason I brought it up is because they
23 define the threats inside the case. They define what a threat
24 is inside the case.

25 THE COURT: But it's a different statute, and I can't

1 apply that in this case.

2 THE DEFENDANT: I'm saying, this needs to go all into
3 the --

4 THE COURT: No. The Florida statute is different.

5 THE DEFENDANT: It's not Florida, it's Supreme Court.

6 THE COURT: No, it is not, it the Supreme Court
7 interpreting a Florida criminal statute, which he was throwing
8 a device, basically, what would be considered an incendiary or
9 type of device that could injure people at the public. This is
10 a statute that deals with threatening a public official, it
11 does not require a device. It is not analogist, it is not the
12 same.

13 THE DEFENDANT: The case is separate from the --

14 THE COURT: It is not the same, sir.

15 THE DEFENDANT: The case is separate from the --

16 THE COURT: I'm looking at the case, sir, it's not
17 the same, I'm looking at the facts.

18 THE DEFENDANT: You can have -- there's no way you
19 have all the facts.

20 THE COURT: You can't just pick and choose out of
21 cases and apply it to other cases, it doesn't work like that.

22 THE DEFENDANT: Ma'am, that's how cites work.

23 THE COURT: No, sir, it does not. It's not
24 applicable in this case.

25 THE DEFENDANT: Ma'am, what I'm saying is, if

1 there's --

2 THE COURT: Please explain to him how jurisprudence
3 works.

4 MR. D'ANGELO: I don't know if I can.

5 THE DEFENDANT: If there's a cite, if it's a Supreme
6 Court case, I'm just going to use this as an example. If
7 there's a Supreme Court case and in that cite it states that
8 SDS, and then it's going to have a quote, and the quote is
9 going to say the cite, that's all you need from that is the
10 cite.

11 THE COURT: No, sir, it has to be applicable, it has
12 to be analogist. I can't just go to a Florida case and pick
13 out some language and apply it in South Carolina, it just
14 doesn't work like that. It would have to be the same type
15 statute, the same type situation, and that would have to be the
16 holding of to Court. I can not rely on, as much as I respect
17 Justice Sotomayor, I cannot rely on her concurring opinion in a
18 case where I haven't even seen the holding of the majority and
19 the core, but it still doesn't matter, it's just analogous to
20 this case.

21 THE DEFENDANT: Ma'am, this is an example of what I
22 just brought up. These are cites out of cases right here, but
23 it's no the full case. You don't need to have no full case if
24 the cite is stating what you're trying to get across. He has
25 this right here that it says -- boom, it has a, see also,

1 United States v Metso (phonetic), so he's using a Supreme Court
2 case to charge the jury with some information.

3 THE COURT: No, that's a Supreme Court case that
4 South Carolina cited in another opinion, and that's a Supreme
5 Court case that the Black's Law Dictionary cited, not
6 analogous, not the same thing.

7 THE DEFENDANT: It is, ma'am.

8 THE COURT: No, it's not.

9 THE DEFENDANT: It is, because --

10 THE COURT: Sir, you are trying -- you have a very
11 elementary understanding of legal principles and you're
12 conflating things that don't apply --

13 THE DEFENDANT: This wasn't under the South Carolina
14 rules.

15 THE COURT: -- and I'm not going to go back and forth
16 about this, and I'm tired of kind of the tit for tat, well,
17 they did it, you won't let me do it. That's just not how it
18 works.

19 THE DEFENDANT: So it doesn't work fair?

20 THE COURT: I don't know, sir, I'm just, I'm
21 exhausted at this point. I really need you to tell me if
22 there's anything you want me to consider so I can do this
23 charge conference so we can close and charge in the morning.

24 THE DEFENDANT: I'm just trying to figure out how the
25 rules are different for me.

1 THE COURT: Sir, the case you're citing wasn't even
2 considered by the Supreme Court, they denied cert, and then
3 Justice Sotomayor wanted them to consider it and she wrote an
4 opinion saying I really feel like you should reconsider what
5 you're doing because you shouldn't have denied cert and I
6 really want you to make a decision on it, so there's not even a
7 decision from the Supreme Court on it.

8 THE DEFENDANT: *Elonis v. United States*, 2015.

9 THE COURT: I'm sorry, what did you say?

10 THE DEFENDANT: *Elonis* --

11 THE COURT: You need to tell me what concept you're
12 talking about. I'm not going to sit here and go through cases
13 with you and you recite the cases to me and me having to sit
14 here and go through cases all night long and then have them
15 marked inapplicable to what we're talking about.

16 THE DEFENDANT: *Elonis v. United States* --

17 THE COURT: What is it about?

18 THE DEFENDANT: It's about --

19 THE COURT: And why is it applicable?

20 THE DEFENDANT: It's about the case being reversed
21 because the conviction was based on a faulty jury instructions
22 without deciding the underlying first amendment issue that I've
23 been trying to get on the record this whole time.

24 THE COURT: I don't think that's applicable, sir.

25 THE DEFENDANT: Ma'am, everything I put up --

1 THE COURT: What's the name of the case? Because
2 you're looking at pin cites, that you're not even looking at
3 the whole opinion. You don't even know factually if they're
4 applicable, and you're expecting me to sit here at 6:32 and
5 look at every case you're citing. Most Supreme Court opinions
6 are 60 to 70 to 100 pages long. I'm not going to sit here all
7 night reading cases when you haven't taken the time to look
8 them up, tell me what the facts are, and tell me how they are
9 applicable and tell me what concept I'm supposed to be looking
10 at. That's a lot to ask of me. That's a lot to ask of all of
11 us in here. We've all got computers, and we're all looking up
12 these cases you're citing. Mr. D'Angelo is, Ms. Barber is, my
13 law clerk is, and none of them so far have been applicable. We
14 could do this to all night.

15 MR. D'ANGELO: Do you want the cite?

16 THE COURT: Yes, that would be helpful.

17 MR. D'ANGELO: 575 U.S. 723.

18 THE COURT: And what is that case about, Mr.
19 D'Angelo?

20 MR. D'ANGELO: I'm attempting to read it.

21 THE DEFENDANT: I mean, I don't understand why --
22 it's clear, I mean --

23 THE COURT: This is a case from a district court in
24 Pennsylvania about making threatening communications based on
25 comments he posted on a social network. I don't know what

1 Pennsylvania statute says. I don't know if it's analogous,
2 this looks like a private person he made threats to, so it's
3 not analogous to this situation.

4 THE DEFENDANT: So you're trying to tell me that you
5 can't cite Supreme Court cases unless the case is exactly the
6 same?

7 THE COURT: Not unless the statute is just like South
8 Carolina statute. The United States Supreme Court looks at
9 cases from all over the country. It has to be factually
10 analogous, and if it is South Carolina would have already
11 adopted it, and I believe they have not, up to this point, and
12 I would ask that you do not roll eyes and you not make deep
13 breaths and gestures when the Court rules.

14 THE DEFENDANT: Because it's frustrating when you sit
15 there and tell me --

16 THE COURT: No, sir, it's disrespectful, and I'm
17 documenting the record that every time the Court makes a ruling
18 you roll your eyes, you make hand gestures, you heave, and make
19 other inappropriate gestures, and I would ask that you not do
20 that any further.

21 MR. D'ANGELO: From my understanding, Your Honor,
22 this case is about a gentleman posted lyrics, rap lyrics which
23 were --

24 THE COURT: After his wife left him. Didn't he under
25 Tone Dougie or something?

1 MR. D'ANGELO: Correct, and it was posted on social
2 media.

3 THE COURT: And he worked the -- no, she worked for
4 the -- no, Anthony -- yeah, he worked for the FBI. It looks
5 like he did it from his agency computer --

6 MR. D'ANGELO: Correct, and I think --

7 THE COURT: And he violated a federal statute where
8 he wasn't supposed to be making comments from his federal
9 computer about his ex-wife.

10 THE DEFENDANT: That has nothing to do with what I'm
11 --

12 THE COURT: But that's why it's not applicable.

13 THE DEFENDANT: The case has a section in there where
14 they basically describe the threats --

15 THE COURT: Interpreting that statute. We're going
16 to do the charge conference. You can take your seat, sir. You
17 can't seem to articulate for me anything you want me to go
18 over.

19 THE DEFENDANT: Everything I articulate, you just say
20 that you don't think it's applicable.

21 THE COURT: It's not.

22 THE DEFENDANT: You didn't tell me why.

23 THE COURT: I just told you why.

24 THE DEFENDANT: Well, you just said a second ago that
25 you didn't even make a determination --

1 THE COURT: I told you that it's not applicable and
2 it's not factually analogous, it is not factually analogous on
3 the facts, it's not factually analogous on the statute. It is
4 not applicable.

5 THE DEFENDANT: So how is this one factually --

6 THE COURT: I'm not answering any questions. I will
7 give the jury a general instruction regarding their
8 responsibility and my responsibility, how they are to judge
9 witness credibility and believability. I will instruct them
10 that they must apply the law as it is instructed, they can't
11 set up an arbitrary standard as to what they believe the law
12 is or what the law should be. I will then instruct them,
13 again, how they are to judge witness credibility and
14 believability, the usual things, prejudice, bias, the usual
15 factors that you look at when judging witness credibility. I
16 will instruct on direct and circumstantial evidence, which
17 includes that language which means if the State relies on
18 circumstantial evidence that they must prove it. It has to go
19 beyond suspicion, whether they rely on direct or circumstantial
20 evidence, it all must point conclusively to their burden of
21 proof.

22 THE DEFENDANT: Well, ma'am --

23 THE COURT: Do not interrupt the Court.

24 THE DEFENDANT: Sorry.

25 THE COURT: I will charge them that the arrest, the

1 indictment are not evidence. I will instruct on the
2 presumption of innocence. I will give a reasonable doubt
3 charge, which is Victor versus Nebraska, and then I will
4 instruct on the elements of 16-3-1040(b) which is threatening
5 the life, person of a family, of a public official or a public
6 employee. I've redacted all language that was not applicable
7 in this case, and actually, before I instruct on the elements
8 of 16-3-10-40(b), I'm going to instruct on failure of the
9 defendant -- well, no, he testified, so that would not be
10 applicable in this case. I apologize, strike that. I will
11 then instruct on the elements of 16-3-1040(b) which is:

12 The State must prove beyond a reasonable doubt that
13 the defendant knowingly and willfully delivered or conveyed to
14 a public employee a letter or paper, writing, print --

15 MR. ZEIGLER: Your Honor?

16 THE COURT: Yes?

17 MR. ZEIGLER: A public official, not employee.

18 THE COURT: She's not a public official, she's a
19 public employee employed by the County of Charleston.

20 MR. ZEIGLER: Your Honor, that's the 30-day
21 misdemeanor.

22 THE COURT: Oh, then I need to amend. I apologize,
23 you're right, I'm wrong.

24 MR. ZEIGLER: And we stipulated to that, as well, so
25 I don't think it would be an issue, I just wanted to clarify.

1 THE COURT: No, I'll clarify, that's not an issue.
2 It's Subsection A, which is: The State must -- sir, I need you
3 to take your seat. The State must prove -- you need to take
4 your seat.

5 THE DEFENDANT: -- the statute is right here.

6 MS. BARBER: It was a different statute.

7 MR. ZEIGLER: You were offered to plea to that a long
8 time ago.

9 THE DEFENDANT: I was offered that a couple months
10 ago.

11 MR. ZEIGLER: I'm sorry, Your Honor.

12 THE DEFENDANT: I was also offered this to be
13 dismissed for a simple possession charge.

14 THE COURT: Well, I allowed you -- I told your lawyer
15 you could plead straight up if you wanted to.

16 THE DEFENDANT: I'm saying, they offered me to
17 dismiss it for a simple possession charge.

18 THE COURT: Yeah, but that was a long time ago, you
19 passed on that.

20 THE DEFENDANT: No, it was just last week, it was
21 just Friday. I know, I'm just bringing it up then.

22 MR. ZEIGLER: You're Honor, I believe I have another
23 copy if you need it.

24 THE COURT: I have it, I just need my law clerk to
25 get it for me.

1 MR. ZEIGLER: Okay.

2 THE DEFENDANT: I'm being charged under the wrong
3 statute them.

4 THE COURT: No, sir, you're being charged under the
5 right statute.

6 THE DEFENDANT: Can I ask is she a public employee or
7 is she a public official.

8 THE COURT: I don't know, I'm about to figure that
9 out, sir.

10 THE DEFENDANT: And if she is --

11 THE COURT: You all have already stipulated that
12 she's a public official.

13 MR. ZEIGLER: That's correct, Your Honor. The
14 State's --

15 THE COURT: She takes an oath, doesn't she?

16 MR. ZEIGLER: Yes, Your Honor.

17 THE DEFENDANT: I do have the Supreme Court that
18 stipulates that's it's a case, it is something I could argue
19 because they do stipulate that --

20 THE COURT: Sir, you're really confusing me right
21 now, I need you to not talk while I'm trying to look at
22 something. Okay? I appreciate it. How was she a public
23 official?

24 MR. ZEIGLER: Your Honor, let me pull it up on a
25 pretrial brief. I addressed that in length in my brief. I

1 will explain it to you once I have a chance to look at that
2 once again.

3 THE COURT: I'll instruct 16-3-1040, which is in an
4 unlawful of a person to knowingly -- sir, stop talking --
5 knowingly and willfully to deliver -- okay. Public official
6 definition: An elected or appointed official of the United
7 States. How is she an appointed official?

8 MR. ZEIGLER: So Your Honor --

9 THE DEFENDANT: I'll move to dismiss this on a
10 directed verdict.

11 THE COURT: Sir, you need to be quiet and sit down.

12 MR. ZEIGLER: I would direct the Court to Section
13 2(a)1 of my pretrial brief.

14 THE COURT: I just need you to tell me how she's a
15 public official.

16 MR. ZEIGLER: Okay. According to South Carolina
17 Supreme Court, a Deputy Sheriff is a public official that is --

18 THE COURT: I did read that, yes.

19 MR. ZEIGLER: McClain v Arnold, the Supreme Court
20 determined police officers are generally considered public
21 officials, city police officers are considered public officials
22 within the meaning of -- and I do want to point out that that
23 is a workers' compensation case, Your Honor.

24 THE COURT: Yeah, there's a 1996 case that says
25 they're public officials within the meaning of 16-3-1040.

1 MR. D'ANGELO: Yes. State versus Carter and State
2 versus Bridgers is very pertinent on this.

3 THE COURT: Supreme Court has already spoken on it.

4 MR. D'ANGELO: And that's why I stipulated it
5 originally, Your Honor.

6 THE COURT: I assumed that. Yeah, it was my fault, I
7 apologize. So what I would instruct is, the State must prove
8 beyond a reasonable doubt that the defendant knowingly and
9 willfully delivered or conveyed to a public official, and I'm
10 going to redact the stuff about teacher, elementary school,
11 letter or paper, writing, print, missive, document or an
12 electronic communication or verbal or electronic communication
13 which contained a threat to take the life of or to inflict
14 bodily harm upon the public official or members of his
15 immediate family, if the threat is directly related to the
16 public official's professional responsibilities, and that's
17 Section A of the statute. For definitional purposes, E-1
18 defines, and I will define public official, which means an
19 elected or appointed official of the United States or of this
20 state or of a county or municipality or other political
21 subdivision of the state. Under Subsection E-3, I will define
22 immediate family means the spouse, child, grandchild, mother,
23 father, sister or brother of the public official or public
24 employee. I will then define knowingly, and knowingly means
25 with knowledge consciously, not accidentally. Willfully means

1 that it was not done by accident, but it was done knowingly or
2 intentionally. I will then define threat, and this is how I
3 will define it: Threat is defined as a communicative intent to
4 inflict harm or loss on another or another's property. That's
5 cited in Black's Law Dictionary, the eleventh addition, which
6 is 2019, which is the most current addition. Webster defines a
7 threat as the expression of an intention to inflict evil or
8 injury on another, and that's pursuant to the Brooker case.
9 Threats can be communicated by actions, words or deeds, and
10 that's State versus Folk, which is the 1992 opinion. There's
11 something that I was thinking about that I forgot just that
12 quick. I'm going to give a curative instruction regarding
13 punishment because there's has been a reference that he
14 shouldn't be put in jail, and that's not appropriate for the
15 jury to consider. Whether somebody's going to get jail time or
16 not is not appropriate for the jury's consideration, so I will
17 give them a curative instruction regarding that, and I will
18 also give them a curative instruction regarding previous
19 uncharged offenses where it kind of, you know, that they can't
20 hold that against him and that he had some previous --

21 MR. ZEIGLER: Yes, Your Honor.

22 THE COURT: -- charged or uncharged conduct, and
23 that's not to be considered as to whether he's guilty of this
24 offense. There's something else I was going to include. Hold
25 on, I apologize, there's something else I think I might

1 include, I'll have to let you all know in the morning because
2 I'm a little tired. And then I will instruct on the form of
3 the verdict, which is either guilty or not guilty, the
4 unanimity of the verdict and not disclosing, you know, any kind
5 of the breakdown in the jury's numerical breakdown, et cetera,
6 et cetera, and giving the foreperson their instructions on how
7 to fill out the form and the verdicts --

8 THE DEFENDANT: There's something --

9 THE COURT: And that will be the extent of the
10 Court's instructions, at least at this point, and once I have
11 some dinner, if I think of something else I'll let you know in
12 the morning before we begin closing argument and an
13 instruction.

14 THE DEFENDANT: Ma'am, can I question you about --

15 THE COURT: Are there are any exceptions from the
16 State?

17 MR. ZEIGLER: No, Your Honor.

18 THE COURT: Any exceptions from the defense?

19 THE DEFENDANT: I would just ask the Court if I could
20 just offer you one more thing the instruction which would be
21 the Black's Law Dictionary definition of intent, to go along
22 with your definition that you broke down.

23 THE COURT: That is Black's Law Dictionary that I
24 used.

25 THE DEFENDANT: I know, but you said no --

1 THE COURT: Which is used to Black letter precedent
2 throughout every instruction in South Carolina. That's where
3 it comes from.

4 THE DEFENDANT: No, I know, but you said, in the
5 thing you said, willfully --

6 THE COURT: But the statute says knowingly and
7 willfully.

8 THE DEFENDANT: I just want --

9 THE COURT: It does not require that it be
10 intentional.

11 THE DEFENDANT: No, you just defined willful and
12 knowingly as an intent so I just --

13 THE COURT: That's the mens rea part, yeah.

14 THE DEFENDANT: No, I'm saying, you just said
15 knowingly --

16 THE COURT: But I can't go beyond that. The statute
17 says knowingly and willfully so I need to define knowingly and
18 willfully, which goes to your mens rea request?

19 THE DEFENDANT: I know, but when you defined
20 knowingly and willfully, you said that knowingly is the state
21 --

22 THE COURT: Knowingly means without knowledge -- it
23 means with knowledge, consciously, not accidentally. Willfully
24 means that it was done -- it was not done by accident, but it
25 was done knowingly or intentionally. I don't need to define

1 intentionally, I think every person reasonable person knows
2 what intentionally means. That's the mens rea you asked me
3 for. That's the state of mind charge, basically, that you
4 asked me for, which is, in other words, you didn't do it by
5 accident, they have to prove that you meant to do it. That's
6 what knowingly and willfully means, that you did it with full
7 knowledge you were doing it and it wasn't an accident, that you
8 did it with full intention of doing it that way.

9 THE DEFENDANT: But willfully and knowingly to me is
10 a common parlance talker and I believe to be it to be -- it's
11 very vague --

12 THE COURT: It's not vague.

13 THE DEFENDANT: And the mens rea definition is very
14 exact, exact.

15 THE COURT: But you're asking me to impose a
16 condition on the statute that it doesn't require.

17 THE DEFENDANT: I'm not asking you --

18 THE COURT: The statute says knowingly and willfully,
19 so I went the extra mile to define knowingly and willfully so
20 it wouldn't be left to the jury's imagination. Knowing means
21 it wasn't an accident, willfully means you meant to do it. You
22 added I didn't mean to do it. You've argued you that I didn't
23 mean to do it: It wasn't intentional, although my speech is
24 offensive, I'm protected by the first amendment, I can say
25 whatever offensive speech I want to utter to you as many times

1 as I want to, and it's okay. I'm embarrassed by what I did, it
2 was a long time ago, if I could do it again, I wouldn't do it
3 again. You can argue that, but that doesn't mean the Court
4 instructs that. That would be an improper comment on the
5 facts. Within the context of this entire case, you can argue
6 all of that.

7 THE DEFENDANT: So all my --

8 THE COURT: My only job is equip the jury how to make
9 a decision and how to interpret this particular statute. I'm
10 sorry, Mr. D'Angelo, did you want to tell me something?

11 MR. D'ANGELO: I think you just answered his
12 question.

13 THE COURT: Okay. Well, let me ask you, does the
14 State have any objection to what he's requested?

15 MS. BARBER: Your Honor, if we're being honest, I'll
16 just say that we're all tired and we are kind of --

17 THE COURT: I'm weary, I know you're all weary,
18 because it's 6:49.

19 MS. BARBER: And so, we kind of lost track of exactly
20 what he was requesting.

21 THE COURT: Sir, could you say it again what it was
22 you're request is of the State and they can tell me if they
23 have any objection to it.

24 THE DEFENDANT: I just want to add the definition of
25 intent and the definition of mens rea, that's it.

1 MS. BARBER: We do object to both of those. We think
2 that the definition --

3 THE COURT: I think I've already, mens rea, I've
4 already done it when I defined knowing and willful, because
5 that's about what your intention was, and I can't, like I told
6 you, I'm a strict constructionist. We all have different
7 functions to fulfill in this system. The judicial branch
8 interprets and enforces the law, the legislature makes the law.
9 I don't get to tell the legislature what they meant. They're
10 clear about what they mean, and when they want -- what you said
11 in there, they put it in the definitional section. Just like
12 they define these other things, if they wanted that in there,
13 they would have put that definition in there, and I cannot then
14 add to that statute by expanding its definition, when that's
15 not what the members of the House and the Senate meant to do,
16 but black letter precedent is very clear about what knowing and
17 willful means because it is scattered through almost every law
18 in South Carolina, those terms -- that term, that you knowingly
19 and willfully distributed drugs, that you knowingly and
20 willfully did this, that you knowingly and willfully committed
21 an assault and battery. That's why that definition is
22 scattered throughout every single Supreme Court case, and I
23 took that language directly from Supreme Court precedent, is to
24 what knowing and willful means.

25 THE DEFENDANT: And that's very vague and most people

1 --

2 THE COURT: It's not vague.

3 THE DEFENDANT: And most people in common parlance,
4 most people don't understand when you put that --

5 THE COURT: Sir, people know what knowing and willful
6 means. That's means I meant to do it and I did it, that's what
7 people interpret knowing and willful to mean. I don't think
8 that's vague for the average person.

9 THE DEFENDANT: But mens rea in knowing and willful
10 --

11 THE COURT: I think a fifth grader could tell me
12 knowing and willful means.

13 THE DEFENDANT: I know, but mens rea in knowing and
14 willfully does have a distinction --

15 THE COURT: That's all the same. It's about your
16 mental state, it means you meant to do it, and I'm going to
17 define knowing and willful, I think that's more than
18 reasonable, but I really don't even have to define it, to tell
19 you the truth, I'm defining it because I think it goes to your
20 benefit and because you asked me to, but the average -- most
21 laws are written at a tenth grade level. The average person
22 can tell you what knowing and willful means. It's not vague.
23 It's not subject to having to be interpreted.

24 THE DEFENDANT: Well, legalese is totally different
25 in common parlance.

1 THE COURT: Knowing and willful is not legalese.

2 THE DEFENDANT: The word "or" in common parlance is
3 different than the word "or" in legalese.

4 THE COURT: No, it's not.

5 THE DEFENDANT: Yes, it is.

6 THE COURT: "or" in the English language, it all
7 means the same thing.

8 THE DEFENDANT: No, it means --

9 THE COURT: It all means the same thing. These
10 lawyers are English majors and they all write the law and it
11 all means the same thing. "Or" doesn't have a different
12 meaning in the law than it has in regular grammar, that doesn't
13 make sense.

14 THE DEFENDANT: It does.

15 THE COURT: Alright, that's the end of it. It's
16 6:52, we're all tired. Now, against my better judgment, I'm
17 going to let you go home tonight, I really should take you into
18 custody, but I'm not going to put these gentlemen to that extra
19 work, because then that means they're going to be at work
20 another two hours dealing with you, and so in deference to
21 them, I'm not going to do that, but I'm advising you that you
22 need to be here in the morning on time, on time, on time.

23 THE DEFENDANT: What time?

24 THE COURT: On time means that if we're supposed to
25 be here at 9:30, you need to be here at 9:15, not at 9:25, not

1 at 9:28. The rest of us are going to be here probably at 9:15
2 or 9:20 waiting on you. I need you to be on time. If you are
3 not here on time and there is not some catastrophic accident on
4 the interstate, we're starting without you. I need to advise
5 you that you will be continued to be tried in your absence, and
6 if convicted I will sentence you and we will issue a bench
7 warrant and after we find you then we will bring out the
8 sentence. Okay? I need you to manage the time well, I need
9 you to get some sleep tonight so that you can make your closing
10 argument, go home, get your mind organized about how you want
11 to make your closing argument, discuss it with Mr. D'Angelo and
12 his co-counsel, if you need to, so you know what you need to
13 do. Okay? Come prepared and organized in the morning.
14 Alright? Now, take all your stuff with you, because I don't
15 want it to get mislaid somewhere if you need to look at it
16 tonight, and I don't want you to be missing anything when you
17 get home and you feel like you need it. I need you all to make
18 sure that all of the exhibits, that the court reporter has them
19 so that we're not looking for them, and if you plan to use any
20 of them in the morning, I need you to test it before we get
21 started so we don't have any hiccups, and we're also going to
22 need the laptop and computer in the jury room so they can view
23 that video.

24 MR. ZEIGLER: And Your Honor, for any frustration you
25 had, I got very flustered, and I apologize.

1 THE COURT: Oh, I didn't take it that way. It's been
2 a long day, and I hope I didn't convey that to you because I
3 didn't feel that way. I didn't perceive that at all, but I
4 appreciate that.

5 MR. ZEIGLER: May I approach to give the court
6 reporter my one exhibit?

7 THE COURT: Sure, go right ahead.

8 MR. ZEIGLER: I don't know if you want to leave this
9 here. That is all.

10 THE COURT: And in the morning, I'll give you a copy
11 of the verdict forms so that you'll have them.

12 MR. ZEIGLER: Thank you, Judge.

13 THE COURT: You all go home, have a good night, see
14 you in the morning at 9:30.

15 MR. ZEIGLER: Thank you, Judge, have a good night.

16 THE COURT: You too.

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13 **(Whereupon proceedings reconvened Wednesday, February 8, 2023)**

14 THE COURT: You may be seated. Good morning.

15 MS. BARBER: Good morning.

16 MR. D'ANGELO: Good morning, Your Honor.

17 THE COURT: I hope everyone is well. Did you all
18 check all of your technology to make sure that it is working as
19 you would like to utilize in any closings?

20 MR. ZEIGLER: Yes, Your Honor. The State plans on
21 using PowerPoint and it working fine.

22 THE COURT: Okay. Since it was so late in the
23 evening, I'm going to go over the instructions one more time so
24 that everybody is clear as to what the Court will be
25 instructing.

1 I'll give the jury a general instruction regarding
2 their responsibility and my responsibility, how they are to
3 judge witness credibility and believability. I'll give them
4 the general instruction on direct and circumstantial evidence.
5 I'll Give them a general instruction that the charge, the
6 arrest and the indictment are not evidence, as well as on the
7 presumption of innocence. I'll charge Victor versus Nebraska
8 on reasonable doubt, and also during the course of instructing
9 how they are to judge witness credibility and believability, a
10 part of that is that they are to consider any stipulations, and
11 I'll instruct them that a stipulation is an agreement and it
12 requires no burden of proof. I will then give them an
13 instruction from 16-3-1040, Subsection A, which will read as
14 follows: The State must prove beyond a reasonable doubt that
15 the defendant knowingly and willfully delivered or conveyed to
16 a public official, and I'm going to leave out or a teacher,
17 principle and all of that, because I just don't think it's
18 relevant to this case --

19 THE DEFENDANT: Ma'am?

20 THE COURT: -- any letter paper, writing, print,
21 missive, document or electronic communication or verbal or
22 electronic communication which contains a threat to take the
23 life of or to inflict bodily harm upon the public official or
24 members of his immediate family, if the threat is directly
25 related to the public official's professional responsibilities.

1 Public official means an elected or appointed official of the
2 United States or of this State, or of a county, municipality,
3 or other political subdivision of this state, and I will
4 instruct that the parties have stipulated that Sergeant Rainey
5 is a public official.

6 THE DEFENDANT: I object to --

7 THE COURT: Sir, you cannot speak when the Court is
8 speaking, and I'm not going to give you that instruction again.

9 Immediate means the spouse, child, grandchild,
10 mother, father, sister or brother of the public official.
11 Knowingly means without -- with knowledge, consciously, not
12 accidentally. Willingly means that it was not done by
13 accident, but was done knowingly or intentionally. The State
14 must prove beyond a reasonable doubt that the threat was
15 knowing and willful. Threat is defined as a communicated
16 intent to inflict harm or loss on another or on another's
17 property, and that is citing Black Law's Dictionary, which I
18 will not instruct to the jury but I give for your reference.
19 Webster defines a threat as the expression of an intention of
20 an intent to inflict evil or injury on another. That is also
21 referenced in case law. Threats can be communicated by
22 actions, words or deeds, and that's citing State versus Folk.
23 I will then give them a general instruction that they have
24 heard testimony regarding a reference to penalties a person can
25 serve for a crime alleged in the indictment. In determining

1 whether the State has met their burden of proof you cannot
2 consider any potential penalty for any particular crime, the
3 penalty for a crime is a matter of law for the Court to
4 determine and should never be considered by you in any manner
5 whatsoever in arriving at a fair and impartial verdict in this
6 case. Also, within, and I'm debating, probably I'll instruct
7 this after I instruct them on the credibility of witnesses. I
8 will advise them that they have heard reference to the fact
9 that the defendant was arrested for an act other than the one
10 for which he is now on trial, and I will tell them that they
11 are not to consider this testimony as evidence of the crime for
12 which he is accused of and it should not be considered as proof
13 of the defendant's guilt of the offense that is being tried
14 today. I'll then instruct on the form of the verdict which, of
15 course, you know as unanimity, in other words, all 12 must
16 agree and give the instructions to the foreperson regarding how
17 to fill out the verdict form.

18 MR. ZEIGLER: No exceptions or objections from the
19 State, Your Honor.

20 THE COURT: Yeah, I'm going to get to that in a
21 second. I just wanted you to have a copy of it. I appreciate
22 it, though. Now, I researched last night before I left. We do
23 on have a general instruction on criminal intent, I find it to
24 be a little convoluted, I find it difficult to understand
25 myself as a lawyer and I've always found that it's particularly

1 difficult for jurors to understand, but I think I probably
2 could redact it to instruct the following, and it might be just
3 a little cumulative to be a definition of knowing and willful,
4 but it must just really fall under no harm, no file standard:

5 In order to establish criminal liability, criminal
6 intent is required. for example, the mental state required to
7 be proven by the State for a particular crime might be intent,
8 purpose or knowledge. Criminal intent is always a matter that
9 must be determined by the jury from the circumstances
10 surrounding the situation. There is no way to prove intent to
11 a mathematical certainty, there is no way medical science can
12 dissect a person's brain and determine what the person had in
13 mind, so the law says that criminal intent may be inferred from
14 the circumstances shown to have existed. This is how you make
15 a determination of whether or not intent was present. It is
16 not necessary to establish intent by direct and positive
17 evidence, but intent may be established by an inference, and in
18 the same way as any other fact by taking into the consideration
19 the acts of the parties and all of the facts and circumstances
20 of the case. Criminal intent is a mental state, a conscious
21 wrong doing. It is up to you to determine what the defendant
22 intended to do based on the circumstances shown to have
23 existed. Criminal intent can arise from action or a failure to
24 act, it may arise from negligence, recklessness or an
25 indifference to duty or to consequences that are considered by

1 the law to be the equivalent of criminal intent.

2 Is there any exception from the State to include this
3 instruction?

4 MR. ZEIGLER: No, Your Honor.

5 THE COURT: Any exception, Mr. Charles?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Thank you, sir. And I will instruct that
8 right after I've instructed the statute. Is there are any
9 exception to the charges proposed from the State?

10 MR. ZEIGLER: No, Your Honor.

11 THE COURT: From the defense?

12 THE DEFENDANT: I just would like to raise a couple
13 of objections on the charges.

14 THE COURT: Just, sir, I'm listening.

15 THE DEFENDANT: Just, you stated that you was going
16 to be leaving out the fact, on the reason before --

17 THE COURT: Sir, I can't hear a thing you're saying,
18 you're mumbling, I need you to speak up, please.

19 THE DEFENDANT: You stated that you was going to be
20 leaving out the full reading of the statute. I would just
21 object to that. I would just like the whole statute to be read
22 because a lot of -- I know for me, myself, before doing any
23 kind of study on the law, it was very vague or very, like, not
24 in my frontal lobe, what a public official really is, so once
25 that is added in there, like, principal and things, that will

1 give the jury a full understanding of what a public official
2 is. I think leaving it at just -- stopping at just public
3 official --

4 THE COURT: Sir, I define public official directly
5 from the statute, I'm confused as to what you're saying.

6 THE DEFENDANT: You stated that you was gonna just
7 read the statute up until that point where --

8 THE COURT: No, sir. I just read exactly what I'm
9 going to instruct, which includes the definition of public
10 official, so I'm a little confused as to what you're trying to
11 bring to the Court's attention.

12 THE DEFENDANT: You said that you was gonna read the
13 statute as if like, you was gonna stop at public official and
14 not say principal or schoolteacher or something.

15 THE COURT: That's not applicable factually in this
16 case. There's no principal or teacher involved in this.

17 THE DEFENDANT: I understand, but I'm charged under
18 that statute so I just would like the whole statute to be
19 introduced, you know, the jury to know what statute I'm being
20 charged at and what the full wording of that statute is, that's
21 all I'm asking.

22 THE COURT: Is there anything else?

23 THE DEFENDANT: I would also like to ask about -- I
24 object to the part where you said there was a stipulation,
25 because I never agreed to anything.

1 THE COURT: Sir, at the time you were represented by
2 counsel, and your counsel agreed to the stipulation, and you're
3 bound by it. In addition to that, that stipulation is clearly
4 in your best interest because it precludes the State from
5 producing a whole bunch of other testimony and evidence that
6 clearly would inure to your detriment. Is there anything else
7 you'd like to note as an exception to the charge?

8 THE DEFENDANT: I mean, I just would like to say I
9 didn't agree to that, but I don't want to cause any issues
10 today, so I will further -- no further objections.

11 THE COURT: Your exceptions are noted for the record.
12 The Court is required to charge the accurate law and what is
13 applicable factually to a case. The superfluous language in
14 the statute is not necessary. It could prove confusing to the
15 jury, as it factually is not applicable to this case. A
16 teacher, principal, or otherwise, is not involved in this case,
17 only a public official is involved, that being Sergeant Rainey.
18 A teacher or a principal is not involved, and therefore, it is
19 not appropriately, although it could be charged, I just think
20 it adds an element of confusion that is not necessary. In
21 addition, the statute is not vague, it is plain and clear on
22 its face based on its ordinary language, and so the motion --
23 or the exception to the instruction is noted and declined.
24 Alright, are you all ready with your closing arguments?

25 MR. ZEIGLER: Yes, Your Honor.

1 THE COURT: Mr. Charles, are you ready with your
2 closing argument?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you need help with any technology, or
5 otherwise? Are you going to be utilizing any computers or
6 anything that you need help or assistance or direction from the
7 Clerk staff?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Do we have all the jurors? Are they
10 ready to proceed?

11 THE BAILIFF: Yes, Your Honor.

12 THE COURT: Is the defense ready to proceed? Mr.
13 Charles, are you ready to proceed?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And I would just caution you all that
16 that shelf on that podium is very finicky and it falls. I
17 wouldn't put anything on it if I were you because you don't
18 want to have it sort of fall while you're talking. You can go
19 ahead and get the jury. Thank you. And Mr. Charles, while
20 we're waiting on the jury, did you have any exception to the
21 form of verdict?

22 THE DEFENDANT: I just don't understand. I don't
23 know if it's a big deal or not, but I just don't understand why
24 it doesn't say the charge under the not guilty section, as
25 well.

1 THE COURT: It's just not necessary. That's just not
2 the way we generally do it, but if you want us to add it, we
3 can. Does the State have any exceptions?

4 MR. ZEIGLER: Your Honor, maybe just take out the
5 teacher or principal part, that's your charge.

6 THE COURT: No, we're talking about the verdict form.
7 He says he wants it to say not guilty of threatening the life.

8 MR. ZEIGLER: No, no, Your Honor. If he want to
9 include that, that's fine with the State.

10 THE COURT: We'll add it.

11 THE DEFENDANT: Thank you.

12 THE COURT: You're welcome. Anything else, sir?

13 THE DEFENDANT: That's it. Oh, yes, I do have an
14 issue with this.

15 THE COURT: I'm listening.

16 THE DEFENDANT: My name is not on here properly.

17 THE COURT: Pardon me?

18 THE DEFENDANT: My name is not on here properly.

19 THE COURT: It sure isn't.

20 THE DEFENDANT: Well, I object to that, but you're
21 going to overrule that.

22 THE COURT: No, sir, I'm going to put your full name
23 on it. You don't know what I'm gonna do, so don't anticipate
24 what this Court is going to do.

25 THE DEFENDANT: I thought you just stated that it was

1 on there correctly.

2 THE COURT: No, sir, I said it is not, and I just
3 directed my Clerk to fix it. That was his oversight.

4 THE DEFENDANT: But when I say it's not correct, it's
5 not put on there just as Akim Jammarr.

6 THE COURT: Sir, that's not your legal name. It will
7 be, your legal name will be on the document. We're required to
8 do that. When you have your birth certificate changed and you
9 have your name altered, you let us know, and I'll be glad to
10 put that name on it. I'll put whatever name you have it
11 changed to on the document.

12 THE DEFENDANT: The birth certificate is included
13 agent of the State so it's owned by the State, it's the State's
14 property, it's not mine. I don't accept it, you all just
15 forced it on me, but I'm just gonna go ahead and --

16 THE COURT: You could have corrected that long before
17 today, sir, you can get your name changed.

18 THE DEFENDANT: It's self-determination, I never
19 signed a contract with the DMV.

20 THE COURT: Sir, I would ask that you stop speaking,
21 the jury is about to enter.

22 **(Jury entered to courtroom at this time.)**

23 THE BAILIFF: All jurors are present.

24 THE COURT: You may be seated. Thank you. Good
25 morning, ladies and gentlemen of the jury. I hope everybody

1 had a pleasant evening. I hope everybody got some rest. It
2 was indicated to you on yesterday both the State and the
3 defense have rested their cases. We have now reached the stage
4 of the trial where we will have closing arguments and the
5 Court's instructions. I would ask that you give all that
6 parties your undivided attention. Under our rules of procedure
7 the party with the burden of proof gets the first and last say,
8 so to speak. So you will hear from the State, followed by the
9 defense, and then you will have last argument from the State,
10 after which I will instruct you on the law applicable to this
11 to case. I would ask that everyone in the gallery, as well as
12 counsel, make sure that all of your cell phones are off. If
13 they go off they will be taken and they will not be returned to
14 you, and there will be no movement in the courtroom while
15 closing argument and instruction is going on. You may proceed.

16 MR. ZEIGLER: Thank you, Your Honor.

17 THE COURT: You're welcome.

18 MR. ZEIGLER: May it please the Court?

19 THE COURT: Yes, sir.

20 THE DEFENDANT: Ma'am, may I approach the bench?

21 THE COURT: No, sir.

22 THE DEFENDANT: I need to have a matter of law
23 discussed.

24 THE COURT: Madam Forelady, ladies and gentlemen, we
25 appreciate your indulgence while I take up this brief matter of

1 law. Please do not discuss the case, and you don't have to
2 take them back to the jury room, just have them stand in the
3 hallway for me, please.

4 THE DEFENDANT: Um --

5 THE COURT: Do not talk in the presence of the jury.

6 **(Jury exited the courtroom at this time.)**

7 THE COURT: You may be seated.

8 THE DEFENDANT: My understanding of the South
9 Carolina law is that unless I bring up some kind of something
10 saying that they did something, lied or falsified something
11 then I should have the last say so in the --

12 THE COURT: Sir, you testified, you forfeited your
13 right to last argument.

14 THE DEFENDANT: Um --

15 THE COURT: That's evidence.

16 THE DEFENDANT: What's that, ma'am?

17 THE COURT: You testified, so you forfeited your
18 right to last argument. Your testimony is evidence.

19 THE DEFENDANT: So the state would be --

20 THE COURT: Sir, the rules are, if you admit any
21 evidence or testimony, that being a document or if you
22 testified, you'd give up your right to last argument. That's
23 why I instructed you regarding your right to testify, and I'm
24 sure Mr. D'Angelo advised you of that. When you took the
25 witness stand, you gave up your right to last argument.

1 THE DEFENDANT: So you're saying that this is the
2 normal procedure?

3 THE COURT: Yes, sir, it sure is. That's why people
4 tell their clients not to testify.

5 THE DEFENDANT: So the prosecutor always --

6 THE COURT: They get last argument.

7 THE DEFENDANT: So prosecutor always has the closing
8 argument last, not the person that's being accused?

9 THE COURT: They have the burden of proof, sir, yes,
10 sir, civil and criminal. The party with the burden of proof
11 always gets the last argument. The only difference in criminal
12 court is if the defendant presents no evidence he maintains
13 last argument. When you took the stand, you gave evidence, you
14 forfeited your right to last argument. That's probably why Mr.
15 D'Angelo advised you not to testify. Wait, let me ask one. Is
16 there any exception to that ruling from the State?

17 MR. ZEIGLER: No, Your Honor.

18 THE COURT: Does the State have any other
19 understanding of the law procedure other than the Court's?

20 MR. ZEIGLER: I understand the law as you do.

21 THE COURT: Mr. D'Angelo, is the Court inaccurate in
22 its recitation?

23 MR. D'ANGELO: No, Your Honor, the State v Beaty that
24 lays that out, Your Honor.

25 THE COURT: And it requires the State to open in

1 full, correct?

2 MR. D'ANGELO: Open in full, and if the defense put
3 in any evidence they go last.

4 THE COURT: Okay. I just wanted to make sure I
5 didn't miss something, I appreciate the clarity.

6 MR. D'ANGELO: Yes, Your Honor.

7 **(Jury entered the courtroom.)**

8 THE COURT: We appreciate your patience. You may be
9 seated. Ladies and gentlemen of the jury, I would ask that you
10 give the parties your undivided attention in closing argument.
11 I will determine when and if we need to take any comfort
12 breaks, and, also, we've ordered your lunch and it should
13 arrive around 12:00 noon. Mr. Zeigler, you may proceed.

14 MR. ZEIGLER: Thank you, Your Honor, may it please
15 the Court?

16 THE COURT: Yes, sir.

17 **(Mr. Zeigler presented a closing argument on behalf**
18 **of the State at this time.)**

19 MR. ZEIGLER: Mr. Charles. Ladies and gentlemen,
20 thank you for being here, and thank you for being so patient
21 with us. I know it's been a long week on such a short case,
22 but I appreciate it, as does the defense, your patience. The
23 defendant is charged with threatening the life of or inflicting
24 harm upon a public official. The judge is going to instruct
25 you on the law, I just want to cover a couple of things very

1 briefly before I get started. Beyond a reasonable doubt is the
2 standard by which I have to prove each element, so I have to
3 prove each element beyond a reasonable doubt, and that just
4 means that it is more likely than not that the defendant
5 committed each of those elements of the crime. Again, she will
6 instruct you on beyond a reasonable doubt again.

7 This is the statute: It is unlawful to knowingly and
8 willfully convey to a public official any verbal communication
9 which contains a threat to inflict bodily harm upon a public
10 official if the threat is directly related to her professional
11 responsibilities. As far as public official goes, the State
12 and defense have stipulated to that. You will have a Court's
13 Exhibit indicating the same. Sergeant Rainey is a public
14 official, she's a police officer in South Carolina, that is all
15 that is required to a public official. As far as directly
16 related to her professional responsibilities, we've also
17 stipulated to this element. This obviously happened while she
18 was carrying out her professional responsibilities as a law
19 enforcement officer. As far as bodily harm goes, this is
20 common sense, it just means any physical harm. As long as he
21 threatens to inflict any physical harm on Sergeant Rainey, that
22 moment is met. Now, the two that I haven't covered are
23 knowingly and willfully, and threat. Knowingly and willfully,
24 it's also pretty much common sense. It just means not by
25 accident and the defendant clearly knows what he's saying, when

1 he admitted in his testimony with my co-counsel's
2 cross-examination that he knowingly and willfully made those
3 statements to Sergeant Rainey.

4 So now let's define threat. Threat is defined as the
5 declaration of a purpose or intention to do an unlawful act
6 that will work injury to the person or the expression of an
7 intention to inflict evil or injury upon another. The
8 defendant is likely going to argue as far as threat goes that
9 he's prefaced all these statements with, if I could I would:
10 If I could I would. If I could I would slap the shit out of
11 you, beat the fuck out of you, spit on you, punch you, and the
12 last one, which I'm not going to say, it's disgusting. That's
13 exactly what a threat is. When you say, if I could I would do
14 this to you, that just means when I can I will, or at least
15 that's how she interprets it. Each of these threats made by
16 Mr. Jean-Charles would cause bodily harm. This is the first
17 set of threats: If I could I would slap the shit out you, I
18 would beat the fuck out you, I would punch a woman like you, I
19 would beat the fuck out of a woman like you. That's the second
20 threat. You'll have the DVD with the clips back in your
21 deliberation room to watch, and I urge you to do that. I know
22 it was hard to hear yesterday, and I apologize for that
23 technical difficulty, I should have brought speakers or
24 something for you guys, so I'm sorry for that, but you will
25 have the disc with the clips on it. This is the second threat

1 that he made, and I'm not going to say that one, I felt bad
2 doing it yesterday, so use your common sense, I mean, those are
3 threats. Some statements that people make can only be
4 interpreted as a threat, and these are one of those statements.
5 Again, Sergeant Rainey interpreted these statements as threats.
6 They are not, under the statute, she does not have to interpret
7 these things as threats. That's not a requirement, she doesn't
8 have to take them as threats, but she did. She felt
9 threatened, you heard her testify that she felt threatened that
10 day, and she still feels threatened to this day. She said she
11 has kids, she has a family. You never know. I mean, yes, it's
12 been six years, but you never know. A threat is a threat. You
13 don't have to have the present ability to carry it out and you
14 don't have to actually carry it out, a threat is a threat. She
15 also doesn't have to fear for her safety. She did, but she
16 doesn't have to. That's not required under the statute that
17 the defendant is charged with.

18 Now, some of you might be thinking of rendering a not
19 guilty verdict because this happened six years ago, it's not
20 that big of a deal, maybe you think that she signed up to be
21 treated this way, that's what she does when she swears that
22 oath to become a police officer and gets her badge, but first
23 of all, she didn't sign up for that. Nobody signs up for that.
24 Nobody signs up to be threatened in their profession, and as
25 the defendant testified, she did nothing to follow her

1 protocols and do her job that night, and I commend her for
2 that. You know, maybe that's one of the reasons she's been
3 promoted so many times to be Sergeant over community
4 involvement. I mean, these days we have situations like this
5 pop up a lot, and she handled this extremely professionally, so
6 I do nothing but commend her for that. She's a level-headed
7 officer, and we need more officers like her on the force.

8 I leave you with this, you took an oath, I guess that
9 was yesterday. Your oath indicated you would be with fair and
10 impartial to all parties, and I want you to be fair and
11 impartial to the defendant, but you also under that oath swore
12 to be fair and impartial to the victim and to me, the State.
13 So regardless of whether or not you think it's a big deal or
14 you believe his apology up here on the stand, in opening he
15 said that we were going to pull your heart stings, that's not
16 the case, he's the one who got up there and cried, but if you
17 believe he's apologizing because he actually means it and is
18 remorseful for what he did, or if maybe he's facing the writing
19 on the wall that he is guilty of this crime, and even if he
20 thinks she signed up to be treated like that, like, just
21 despicable, honestly. As long as you find beyond a reasonable
22 doubt that he threatened Sergeant Rainey, you still must find
23 him guilty. As long as you find that those threats were made
24 knowingly and willfully, you must find him guilty and you must
25 convict him. I'm not asking you to condemn him for his

1 behavior that night, I'm not asking you to call him a bad
2 person, or anything like that, I'm asking you to hold him
3 responsible for what he did that night. He threatened to
4 inflict bodily harm on Sergeant Rainey. Thank you.

5 THE COURT: Sir, you may proceed.

6 (Akim Jammam Jean-Charles presented a closing
7 argument at this time.)

8 THE DEFENDANT: I'm not going to be up here too long
9 because I'm just going to stick to, I'm gonna try to stick to
10 the law and try to stick to what you guys are going to be
11 discussing. I want to point out some things, because I want to
12 point out some things that he just stated because they kind of
13 go -- I didn't know what he was going to say, but they kind of
14 go totally opposite of what I was going to say, but we're kind
15 of saying the same thing. So this is going to show you to go
16 inside and look at the tactics that they're trying to pull over
17 people's heads and try to get you to believe something that's
18 not actually the case. I don't have a projector with the words
19 that I want you to get mostly triggered by in red, and then the
20 words that -- the note, the fact that it's obviously not a
21 threat in white. I don't that, I just have the definitions of
22 the words that you all are going to be using to make your
23 decision, and then I'm going to basically say my opinion, what
24 happened, and then what you guys do is to make your decision
25 based on those facts and the fact that the State has to prove

1 beyond a reasonable doubt that my intentions was to threaten
2 her, and that's what he has to prove, not to convince you all
3 that pulling heart strings, like he said I was trying, that was
4 genuinely, you know what I'm saying? I can't help that. So
5 I'm going to start with what he tried to swiftly put swiftly
6 pull -- he said knowingly, and he put the word common sense
7 right behind it. That's a trigger to try to put -- so think of
8 what you would mean by knowingly. Knowingly is a technical
9 term in the law and it has meaning and knowingly, I'm just
10 going to read the definition: With knowledge, consciously,
11 intelligently, willfully, intentionally -- an individual acts,
12 that's a period after intentionally. An individual acts
13 knowingly when he acts with the awareness of the nature of his
14 conduct State v. Crow (phonetic) --

15 THE COURT: Sir, they are having difficulty hearing
16 you. I'm going to need you to project your voice a lot louder
17 than you are. I know that I'm having to strain to hear you,
18 I'm certain the court reporter probably is, and I am very
19 keenly aware the jury is straining to hear you, so I need you
20 talk as loudly as you can so that they can have the benefit of
21 your closing argument.

22 THE DEFENDANT: Okay. So like I said, I was going to
23 breakdown the definitions that you guys are going to be using
24 to make your decision. So we're going to go with knowingly
25 first. He put up knowingly and his definition only had three

1 little things on it. The real definition is not that short, he
2 tried cherry picking. So I'm just going to read the whole
3 definition of all of these words, I'm not cherry picking
4 nothing. I'm going to read everything so that you guys can
5 make your own decision: Knowingly means with knowledge,
6 consciously, intelligently, willfully, intentionally, period.
7 An individual acts knowingly, and that was in quotation, when
8 he acts with awareness of the nature of his conduct, State V
9 Crow (phonetic). Act is done knowingly or purposely if it is
10 will -- if his will is product of conscious design, intent or
11 planning it to be done and is done with awareness of probable
12 consequences. So that's explaining it like when you make this
13 decision to knowingly do this, you're knowing that you probably
14 could be -- it could be some consequences behind this if you --
15 you know what I'm saying -- if you're knowingly doing something
16 that brings consequences, you're not thinking that you're just
17 saying something that is innocently being said. A person acts
18 knowingly with respect to a material element of an offense
19 when, one, if the element involves the nature of his conduct or
20 the intended circumstances. He is aware that his conduct is of
21 the nature of that such circumstances exist, and if the
22 elements involve a result of his conduct, he is aware that it
23 is practically certain that his conduct will cause such a
24 result. The use of the word an indictment is equivalent to an
25 averment that the defendant knew what he was about to do and

1 with certain knowledge proceeded to the act charge. Then it
2 says: See also, intent. So that's one word: Knowingly. I'm
3 going to read willfully. These are the legal terms, not just
4 the common dictionary version that you get. These are the ones
5 that are tried and true by the Supreme Court in the law which I
6 will be stating to for the meaning: Willful, proceeding from a
7 conscious motion of will, voluntarily, knowingly, deliberate,
8 intending the result which actually comes to pass. Designed,
9 intentional, purposeful, not accidental or involuntary.
10 Premeditated: Malicious, done with evil intent or bad motive
11 or purpose or with indifference to the natural consequences
12 unlawful without legal justification, an act or omission is
13 will willfully done if done voluntarily and intentionally and
14 with the specific intent to do something the law forbids, with
15 a specific intent to do something the law forbids, or with the
16 specific intent to fail to do something that the law requires
17 to be done, semicolon, that is to say, with bad purpose either
18 to disobey or to disregard the law, it is a word of many
19 meanings with its instruction often influenced by its context:
20 Screws (phonetic) versus United States, and this is the second
21 definition that pretty much is the same. It is the same so I'm
22 not going to read it. So knowingly and willfully, we got that
23 out of the way because I wanted -- well, I can't say that, so
24 knowingly and willfully.

25 I now have the definition of mens rea. Mens rea is,

1 the definition of mens rea refers to criminal intent. The
2 literal translation from Latin is guilty mind. The plural of
3 mens rea is mentes rea (phonetic,) as mens rea refers to the
4 state of mind statutorily required in order to convict a
5 particular defendant of a particular crime.

6 Guilty mind, the term is used to describe the mental
7 element required to constitute the crime. Generally it
8 requires that the accused meant or intended to do wrong, or at
9 least knew he was doing wrong. The precise element varies from
10 crime to crime. So that means, like, according to that
11 specific statute. Okay. So that's mens rea, willful, knowing.
12 I have threat. He also put a threat in there when he cherry
13 picked the definition of threat. There's multiple different
14 ones in different jurisdictions, but they all pretty much have
15 the same underlying body of principles behind it.
16 So threat: A communicated intent to inflict physical or other
17 harm on any person or on property. A declaration of an
18 intention to injure another person or his property by some
19 unlawful act, State versus, I can't pronounce that, Schwepy
20 (phonetic.) A declaration of intention or a determination to
21 inflict punishment loss or gain or another or to injure another
22 or his property by the commission of some lawful -- unlawful
23 act. Threat: Means an about -- present determination to
24 intent to injure presently or in the future. A statement made
25 to constitute a threat even though it is subject to a possible

1 contingency to the maker's control. The prosecution must
2 establish a true threat which means a serious threat as
3 distinguished from words uttered as mere political argument,
4 idle talk, or just. In determining whether word were uttered
5 as a threat, the context -- the context in which they were
6 spoken must be considered. Threats against the president and
7 successors to the president knowing threatening communications
8 to other acts -- It explains like separate things like the
9 president getting threatened. One thing I want to point out,
10 also I have the definition of true threat.

11 True threat, the definition of true threat, because
12 we just read where it said the prosecution had to establish
13 that it was a true threat. So now let's go to the definition
14 of a true threat. So a threat that a reasonable person would
15 interpret as a real and serious communication of an intent to
16 inflict harm, true threats are not protected free speech by the
17 first amendment of the United States Constitution and render
18 the person making the liable to criminal prosecution. So what
19 they are saying is, if it's a true threat then it's not
20 protected by free speech, but if it doesn't fall in line with a
21 true threat, which means a threat that a reasonable person
22 would interpret as a real serious communication of intent to
23 that threat, then it does fall under protected speak, because
24 they made that distinction right there. So one thing I want
25 to -- the reason I pointed out all of those definitions,

1 because it's a common thread that's in all four of those
2 definitions and that common thread is the word "intent." And
3 like the judge will instruct you guys, she already instructed
4 you guys, nobody can go into somebody's brain and determine
5 intent, so therefore, it's on the State's -- it's the State's
6 duty to prove it somehow, to prove my state of mind, which is
7 hard to do, but there's been no evidence today or to prove
8 anything, just him saying, I think, in my opinion, when he said
9 it's a threat, they didn't offer any proof, they didn't offer
10 any proof of any, no real proof besides the words that I say
11 that I think common sense says it's not a threat, but I'm going
12 to get to that in one second. The common thread between all of
13 those is the word "intent." So I have the definition of
14 intent.

15 Intent: The act or fact of intending as a design or
16 purpose to commit a wrongful or criminal act. The design or
17 purpose, so it's saying that you know robbing a bank is a
18 crime, I'm going to go rob a bank. Regardless of the
19 consequences or not, I know the consequences. Not saying
20 you're mad, you're arrested, I wish I could do this right now,
21 but I'm here, I wish I could. That's not knowing what you just
22 said is a crime and that constitutes that, that's not that.
23 What I actually said, I'm going to describe to you all guys how
24 it's not a crime and it's clearly not. But intent: To design
25 a purpose to commit a wrongful or criminal act. "B", the

1 purpose to commit a torturous act having consequences that the
2 actor desires and believes or knows will occur. That's very
3 important. So it's basically saying that the purpose to commit
4 to what intent is to "B", saying the one of the other factors
5 to definition, the purpose to commit a torturous act having
6 consequences that the actor, means the person delivering the
7 threat, believes or knows what occurred. So I'm, like me, a
8 true threat. I'm going to break down common sense-wise why any
9 prudent person can tell that what I was saying that night was
10 not a threat. I had constructive intent. Intent that is
11 inferred to exist as from willfulness or recklessness, in
12 retaliation to an act, criminal intent which is what we're
13 discussing, criminal intent.

14 The definition of criminal intent: The intent to
15 commit a crime. That means you with are intending to commit a
16 crime. I knew there's a crime, I'm going to commit in ways,
17 hopefully I don't get caught. If I do get caught we can't
18 argue about this in court like I'm arguing right now. The
19 intent to commit a crime -- malice, comma, has evidence by a
20 criminal act, an intent to deprive the fraud the true owner of
21 his property, people need more -- I have to read the numbers
22 down to you. I know that's how they came to these definitions,
23 but I just have to get these out because these are important.
24 These are basically what you've to make your decision off of.
25 She's saying that the person has to knowing and willfully,

1 that's the only reason I've written all of these down because
2 I'm saying he wanted to break those words down to get that in
3 your brain. I want to give you all the full picture because he
4 just gave you all what helps his case. Now, reasonable doubt,
5 I'll define reasonable doubt, because he had his version of
6 what reasonable doubt was and it's not what this is. Well,
7 it's not all of the full picture.

8 Reasonable doubt, which will justify acquittal is the
9 doubt based on reason and arising from evidence or lack of
10 evidence, and it is doubt which a reasonable man or a woman
11 might entertain, and it is not fanciful doubt, it is not
12 imagined doubt, it is not doubt that the juror might conjure up
13 to avoid performing an unpleasant task or duty. U.S. v.
14 Johnson: Reasonable doubt is such a doubt as would cause a
15 prudent to hesitate before acting in matters of importance to
16 themselves, and then it gives you a prompt to basically go see
17 the definition of beyond a reasonable doubt, because that's
18 what they have to prove. So they define what reasonable doubt
19 is, and then they go into define what beyond reasonable doubt
20 is which is the burden of proof that's on the State. So beyond
21 a reasonable doubt, it says in evidence means fully justified,
22 entirely convinced. In evidence means fully -- so beyond a
23 reasonable doubt: In evidence means fully satisfied, entirely
24 convinced, satisfied to a moral certainty. A phrase is the
25 equivalent of the words, clear, so that means it's clear, that

1 it's clearly what happened. He clearly had the intention of
2 carrying out these threats if he could, which I'm going to show
3 you how that argument makes no sense in one second. Where did
4 I stop at? Entirely convinced, comma, satisfied to a moral
5 certainty, semi-colon, and phrased is the equivalent of the
6 words, clear, comma, precise, and in duly, period. In criminal
7 case the accused guilt must be established beyond a reasonable
8 doubt, which means that the facts proven must by virtue of
9 their probative force, establish guilt.

10 Now I'm going to, basically -- okay. So just a
11 second ago the prosecutor was trying to get you to believe --
12 this is how he was trying to get you to believe this was a
13 threat and that he has proven that my intentions was to
14 threaten, I guess is his reason for that. So he said that I
15 said, if I could. If I could. If I could. I point that out.
16 Meaning, and this is what he said, meaning, that if I could, if
17 to I wasn't handcuffed, that I would have carried it out.
18 That's what he just said, if I'm not mistaken. I don't know if
19 I heard that wrong or not, but that's what he just said, I
20 would have carried the act out if I wasn't in handcuffs, but
21 what you the start of that argument is a couple minutes later
22 in the same video, the supposed other threat is, I wish I
23 could, or if I could I would spit on you, but what's the facts
24 to a reasonable and prudent person? The officer is standing
25 right here the whole time, I'm sitting right here the whole

1 time a couple feet away from her so, technically, I could have
2 spit on her easily. I could have kicked, I could have did all
3 type of different things, so if he's trying to point out, oh,
4 if he could he would have did this, then why wouldn't you --
5 why wouldn't I have done that when it comes to the spitting
6 thing? Because, it's clear, I was in the situation venting, I
7 was not directing any kind of direct threats, definitely
8 intentionally at all, I had no intent of doing any of the
9 things I was saying. So if I -- oh, I wrote it down. Let me
10 see.

11 So I just want to bring back the fact that this whole
12 thing started with quotations on an incident report proffered
13 to a magistrate to go after a warrant for my arrest for
14 threatening the life of a public official, but in that incident
15 report, in that affidavit, the quotations that was claimed to
16 be said was -- you've got the report.

17 THE COURT: Sir, you can't make reference to it, it's
18 not in evidence.

19 THE DEFENDANT: Well, you heard the quote yesterday.
20 The quote was not seen today, was not proffered into evidence,
21 because it doesn't exist. So the point is, it was made in that
22 incident police report and in that affidavit so the charge
23 could be acquired, because if they would have put on the
24 document that the man said he wished he could, or if I could I
25 would, then we would have never rose to the level of me

1 actually being charged and me actually being indicted for it,
2 so they had to manipulate the wordings, the context, because
3 that's what it's all about, it's about the context, they had to
4 manipulate the context and basically say that he said he's
5 going to. So he keeps pointing out that if I could part is,
6 like it doesn't matter, but if it didn't matter then why would
7 that matter, the quotes, the initial thing? It's clear to see
8 to a reasonable prudent person that if that is not being
9 discussed today, if we're not discussing what was quoted to
10 start this whole process, then something went wrong along the
11 lines, somebody is lying along the lines, somebody changed
12 their story along the lines. So that's already a credibility
13 factor when it comes to are you all actually getting the truth
14 of what happened, or are you all just getting something that's
15 trying to get somebody charged with a certain crime to fit the
16 crime? I also just want to bring you to everything about this
17 now is about context and totality of the circumstances and
18 basically just context. So we also seen yesterday on the
19 video, and you probably will see when you all watch the video,
20 you will see the demeanor of the officer. The demeanor of the
21 officer was calm, like she stated, the whole time, but she
22 stated when she was here on the stand so she can get you to
23 believe something, so you all can vote a certain way against
24 me, she said that she was in danger and fear, but I would just
25 like to ask you all, if you was -- if somebody is threatening

1 to spit on you and you're sitting right next to them and you're
2 actually in fear that that threat is a credible threat, would
3 you not step away, would you not go get one of the spitting
4 masks that they have for several different inmates, because a
5 lot of inmates actually really do spit on officers and they put
6 masks? Would you not get that, would you not say, you better
7 not, if you do I'm gonna charge you with assault? Would you
8 not -- if you're just sitting there calmly not paying any
9 attention to what I'm saying, obviously, you're not taking this
10 as a threat, obviously, you're not in fear, and your demeanor
11 is showing it. So I just want you all that -- to bring that to
12 your attention, because that goes to context, that goes to
13 exactly like my intentions and what my intent was. So you can
14 go down to exactly what I said and when I said it. So I said,
15 I wish I could spit on you, and in context, and especially in
16 the law, little words can change the whole meaning of the
17 sentence, could change the whole consequence of the sentence.
18 So I'll use an example like somebody saying, oh, this person,
19 some gossip-type stuff, like, this person did this, this person
20 did that. They're a bad person, they sold the security off
21 like that to somebody. Now, if that's not true, that could
22 actually have consequences against you, but if you say one
23 world, allegedly, legally-wise, now it's a different context.
24 If I'm not a licensed professional financial adviser and I'm
25 trying to give people financial advice and I don't say the

1 words, oh, by the way it's not financial advice, it's going to
2 be two totally different situations if I didn't say it or if I
3 did say it. I'm not saying that that's strictly applicable
4 exactly to this case, but I'm using as the context in the
5 words, you can't claim that man is saying that he's stating
6 that he's going to do this if he's clearly saying that he
7 wished he could. Just the words, I wish I could, by itself, by
8 itself denotes that I know that I can't, so the reason that I
9 knew that I can't because it would be a crime if I was to slap
10 you, or anything like that, so obviously, if I'm saying, I wish
11 I could, this is basically in just. It's idle talk from being
12 frustrated from feeling like I was unlawfully arrested, that's
13 what this was, it was no threat, the State has not proven at
14 all, definitely not beyond a reasonable doubt, that my
15 intentions was to threaten her. None of the totality of the
16 circumstances for proof of a reasonable prudent person would
17 actually believe that I'm actually meaning that, oh, when I get
18 out I'm going to get you, or I'm going to do anything, none of
19 that stuff makes sense when you look at what was actually said,
20 you look at the actions of me and her, my voice, my movements.
21 Oh, she said I was kicking the seats and all this stuff on the
22 way to get locked up. This is another thing that's not true,
23 it's another thing to make me sound bad, and I guarantee, if I
24 was actually doing that, I would have been charged with
25 something. I would have been charged with, I don't know,

1 vandalizing some kind of property, or something, especially if
2 she found a way to charge me for this stuff. This was after, I
3 didn't get charged for this that night, it came later on, and
4 it's my opinion that it's because the DUI was dismissed. It
5 was dismissed eventually, but I think that it was because she
6 knew that it would be dismissed, and I just think that she -- I
7 definitely don't think that I made friends with her that night,
8 so I already told you guys that, I was very mean in my words in
9 my opinion, but I didn't break the law. I knew that she wasn't
10 my friend that night so it's not past my mind to think that she
11 would go ahead and fit that charge to that to really to
12 basically stick it to me, basically retaliation of my free
13 speech, rights. I'm not saying that people, just because you
14 got free speech go say, go talk about them and say whatever you
15 want, I'm not saying that. I'm not trying to excuse my words
16 from that night, I'm just trying to say that the State did not
17 prove beyond a reasonable doubt legally that I intended to
18 threaten anybody or that I even made a threat, because a true
19 threat was not established and I'm innocent and I just hope
20 that you guys could just look at it in a reasonable prudent way
21 and just look at all of the evidence. I don't know if you guys
22 want to have these definitions, you can look them over and make
23 your decision off that. I just want to ask you guys to find me
24 not guilty, and that will be it. Thank you guys.

25 THE COURT: Mr. Zeigler?

1 MR. ZEIGLER: Thank you, Your Honor. May it please
2 the Court?

3 THE COURT: Yes, sir.

4 **(Mr. Zeigler presented a Reply on behalf of the State**
5 **at this time.)**

6 MR. ZEIGLER: Madam Clerk, can you please put that
7 up? Thank you. That's the statute, ladies and gentlemen. The
8 judge is going to instruct you on the law. He's throwing a lot
9 of civil law at you and a lot of confusing things to throw you
10 off here. There's no motive requirement in this case. There's
11 no intent requirement in this case. The mens rea in this case
12 is knowingly and willfully, and it's right there in front of
13 you on the statute, and that's what you have to hold him
14 accountable for. It doesn't matter if he thought or she
15 thought it was a threat, it was a threat. A threat was made,
16 and that's it, period. Now, a couple other things he said, you
17 know, regarding the spitting. Obviously, he's handcuffed, like
18 I said, but he's also surrounded by law enforcement officers in
19 jail, and he knows if he spits on her he's going to be charged
20 with another offense, and that's called throwing bodily fluids.
21 He could be charged with assaulting a police officer or
22 resisting arrest, I mean, any of those things could be charged
23 and they weren't that night. What was charged is threatening
24 to inflict bodily harm on a public official, because that's
25 what he did. They aren't throwing things at the laws, cops

1 aren't throwing stuff at the law in this case to see what
2 sticks. All things that he was charged with that night were
3 charged that night. The DUI and this, that night. It wasn't
4 some later day that we came and served him with a warrant,
5 that's not how it worked in this case. Additionally, you heard
6 both the defendant and Sergeant Rainey testify. You get to
7 decide who you think is being honest in this case, I think
8 that's pretty clear, I'm not going to go into that, you're the
9 trier of fact, and again, the judge is the law here, so listen
10 to what she says as far as the law goes. Her statute is going
11 to be very, very close to that. I left out a couple of words,
12 I left out threatened the life of, because he didn't threaten
13 to take her life, he threatened to inflict bodily harm on her,
14 we can count, on video, one, two, three, four, five, six, seven
15 times, on video, threatened to inflict bodily harm on her. I
16 mean, it's that simple. His financial advice example, I mean,
17 he's right, you wouldn't want to take financial advice from
18 somebody who's not a financial expert, well, he's not a lawyer
19 or judge, so don't take his word for the law, take her word for
20 the law. Thank you.

21 THE COURT: Madam Forelady, ladies and gentlemen, I'm
22 going to give you a brief comfort break. During the break,
23 please do not discuss the case. Please leave your notepads in
24 your seats. As soon as you're done refreshing yourselves,
25 please let the bailiffs know and at that time I will give you

1 the Court's instructions on the law. Again, please leave your
2 notepads in your seats and please do not discuss the case. You
3 can go with the bailiffs. You may be seated. We'll be at ease
4 for five minutes.

5 **(Recess taken)**

6 THE BAILIFF: Are you ready for them?

7 THE COURT: Yes, sir, I'm ready.

8 **(Jury entered the courtroom at this time.)**

9 **JURY CHARGE**

10 THE COURT: You may be seated.

11 THE BAILIFF: All jurors are present.

12 THE COURT: Thank you. Ladies and gentlemen, you
13 have heard the closing arguments of both the State and the
14 defense. I will now instruct you on the law applicable to this
15 case. During this trial, ladies and gentlemen, you and I have
16 certain duties to perform. As the trial judge, it is my
17 responsibility to preside over the trial of the case, and I
18 also have the duty the pass upon or to rule upon evidence
19 offered during the trial. You are to consider only the
20 confident evidence which is before you, and you are to consider
21 only the confident evidence that is before you. You are to
22 consider only the testimony which has been presented from the
23 witness stand together with any exhibits which have been made a
24 part of the record in this case and any stipulations of
25 counsel.

1 Ladies and gentlemen of the jury, I instruct you that
2 a stipulation is an agreement and it requires no further proof.
3 I have the additional duty to charge or instruct you on the law
4 applicable to this case. As the presiding judge, I am the sole
5 judge of the law in this case, and it is your duty as jurors to
6 accept and apply the law as I now instruct it. If you have a
7 preconceived idea as to what the law is or what the law ought
8 to be in a case or in this case and it should not agree with
9 what I now tell you the law is, you are obligated under your
10 oath to abandon this preconception on your part because you are
11 sworn to accept the law and apply the law precisely as I now
12 state it to you. In every case tried in this court before a
13 jury the jury becomes the sole and exclusive judges of the
14 facts. You the jury are the judges of the facts in this case,
15 this Court is the judge of the law. The Constitution of our
16 State has declared that a trial judge shall not intimate, state
17 comment upon, or make any statement to a trial jury about the
18 fact in a case. Since you the jury are the sole judges of the
19 facts in this case you are not to infer anything from what I've
20 said during the progress of this trial and ruling upon the
21 admissibility of evidence, or otherwise, or anything that I say
22 now to you during the course of this instruction that I have
23 any opinion about the facts. The law does not permit me to
24 have an opinion about the facts. This is a matter solely for
25 you the jury to determine. As jurors, then, it is your duty,

1 as I've instructed, to determine the effect, the value, the
2 weight, and the truth of the evidence presented during this
3 trial. Necessarily, you must assess the credibility of
4 witnesses who have testified in this case. Credibility is
5 simply a legalistic term meaning believability. It becomes
6 your duty as jurors to analyze and to evaluate the evidence and
7 determine that evidence which convinces you. Some of the
8 things you may consider as you decide whether or not to believe
9 a witness's testimony about a particular matter include: What
10 was the manner and appearance of the witness who testified; was
11 he or she straight forward or hesitant in answering; was the
12 testimony of the witness consistent or inconsistent; how did
13 the witness come to know the things that he or she testified
14 to; and what was his or her ability to know these facts; is
15 there some reason a witness would want to give testimony which
16 would help or hurt one side or the other, in other words, was
17 the witness biased or prejudiced; and was the testimony of a
18 witness strengthened or weakened by other testimony or
19 evidence?

20 I further instruct you that in determining the
21 question of the credibility or believability of witnesses who
22 have testified, you may believe one witness as against several
23 witnesses, or several as against one witness, you may believe
24 part of the testimony of a witness and reject the remaining
25 part of the testimony of that same witness. If you have a good

1 and sound reason, you may believe the testimony of a witness in
2 its entirety or reject the testimony of a witness in its
3 entirety. Again, as I have instructed you can believe as much
4 or as little of each witness's testimony as you think proper,
5 and of course you do not determine facts merely by counting the
6 number of witnesses presented by each side. You may consider
7 the demeanor of a witness, that is the manner and appearance of
8 the witness from the witness stand. You can believe as much or
9 as little of each witness's testimony as you think appropriate.
10 Ladies and gentlemen, you have but one objective, to find the
11 facts, regardless of their source.

12 You have heard testimony that the defendant was
13 arrested for a crime unrelated to and on other than the one for
14 which he is now on trial. I instruct you that you should
15 disregard evidence of this arrest as proof of the defendant's
16 guilt of the charge we are trying today. It should not be
17 considered by you as evidence of guilt of the crime for which
18 he is charged today.

19 Ladies and gentlemen, there are two types of evidence
20 which are presented during a trial, direct evidence and
21 circumstantial evidence. The law makes absolutely no
22 distinction between the weight or value to be given to either
23 direct or circumstantial evidence. I instruct you that direct
24 evidence is the testimony of a person who asserts or claims to
25 have actual knowledge of a fact, such as an eyewitness.

1 Circumstantial evidence is proof of a chain of facts and
2 circumstances indicating the existence of a fact. Again, as
3 I've instructed, the law makes absolutely no distinction
4 between the weight or value to be given to either direct or
5 circumstantial evidence, nor is a greater degree of certainty
6 required of direct evidence than of direct evidence.

7 I instruct you, to the extent that the State relies
8 on circumstantial evidence all of the circumstances must be
9 consistent with each other, and when taken together point
10 conclusively to the guilt of the accused beyond a reasonable
11 doubt. If these circumstances merely portray the defendant's
12 behavior as suspicious, the proof has failed. The State has
13 the burden of proving the defendant guilty beyond a reasonable
14 doubt. This burden rests with the State regardless of whether
15 the State relies on direct evidence, circumstantial evidence or
16 some combination of the two. You should weigh all of the
17 evidence in this case, ladies and gentlemen. After weighing
18 all of the evidence, if you are not convinced of the guilt of
19 the defendant beyond a reasonable doubt, you must find the
20 defendant not guilty. Conversely, if you are convinced of the
21 guilt of the defendant beyond a reasonable doubt, you must find
22 the defendant guilty. I instruct you, ladies and gentlemen,
23 that the fact that the defendant was arrested, charged and
24 indicted, is not evidence and cannot be considered by you as
25 evidence of guilt, nor does it create any presumption or

1 inference of guilt. This documentation, ladies and gentlemen,
2 is simply the formal written instrument which contains the
3 charge or charges made against the defendant. It simply serves
4 as the formal documentation by which the case is processed or
5 brought into this Court. The defendant has pled not guilty to
6 the indictment, and this plea casts the burden on the State to
7 prove the defendant guilty, because a person charged with
8 committing a criminal offense in South Carolina is never
9 required to prove himself innocent. I instruct you that it is
10 a cardinal, an important rule of the law of evidence, that the
11 defendant in a criminal trial, no matter what the seriousness
12 of the charge or charges made against him may be, will always
13 be presumed to be innocent of the crime for which he is
14 indicted, unless his guilt has been proven by evidence
15 satisfying you of that guilt beyond a reasonable doubt. This
16 presumption of innocence does not cease when you retire to
17 deliberate, but it accompanies the defendant from the time of
18 his initial appearance throughout the trial until you reach a
19 verdict in this case. Our Supreme Court has said that the
20 presumption of innocence is like a robe righteousness placed
21 about the shoulders of the defendant and it remains with him
22 and assigns him to that class of innocence until that
23 presumptive robe of righteousness has been struck from his
24 person by evidence satisfying you of that guilt beyond a
25 reasonable doubt. The presumption of innocence is not mere

1 legal theory, it is not just a legal phrase, it is a
2 substantial right to which every defendant is entitled, unless
3 you, the jury, are satisfied from the evidence of his guilt
4 beyond a reasonable doubt.

5 The State has the burden of proving the defendant
6 guilty beyond a reasonable doubt. Some of you may have served
7 as jurors in civil cases where you were told that it is only
8 necessary to prove that a fact is more likely true than not
9 true, such as by the greater weight or preponderance of the
10 evidence. In criminal cases the State's proof must be more
11 powerful than that, it must be beyond a reasonable doubt.
12 Proof beyond a reasonable doubt is proof that leaves you firmly
13 convinced of the defendant's guilt. There are very few things
14 in this world that we know with absolute certainty, and in
15 criminal cases the law does not require proof that overcomes
16 every possible doubt. If based on your consideration of the
17 evidence you are firmly convinced that the defendant is guilty
18 of the crime charged, you must find the defendant guilty. If
19 on the other hand you think there is a real possibility that
20 the defendant is not guilty, you must give the defendant the
21 benefit of that doubt and find him not guilty.

22 Ladies and gentlemen, the defendant is charged by
23 indictment 2018-GS-10-4368 with the offense of threatening the
24 life, person or family of a public official. The State must
25 prove beyond a reasonable doubt that the defendant knowingly

1 and willfully delivered or conveyed to a public official any
2 letter or paper, writing, print, missive, document or
3 electronic communication, or verbal or electronic communication
4 which contains a threat to take the life of or to inflict
5 bodily harm upon the public official or members of his
6 immediate family, if the threat is directly related to the
7 public official's professional responsibilities. Public
8 official means an elected or an appointed official of the
9 United States or of this state or of a county, municipality, or
10 other political subdivision of the state. Immediate family
11 means the spouse, child, grandchild, mother, father, sister, or
12 brother of the public official.

13 Ladies and gentlemen, the parties have stipulated
14 that Sergeant Rainey is a public official and that the
15 statements were made in her professional responsibility, and as
16 I've instructed, a stipulation is an agreement and it requires
17 no further proof. Knowingly means with knowledge,
18 conscientiously, not accidentally. Willfully means that it was
19 not done by accident but was done knowingly or intentionally.
20 The State must prove beyond a reasonable doubt that the threat
21 was knowing and willful. Threat is defined as a communicated
22 intent to inflict harm or loss on another or on another's
23 property. Webster defines a threat as the expression of an
24 intention to inflict evil or injury on another. Threats can be
25 communicated by actions, words or deeds.

1 I further instruct you that in order to establish
2 criminal liability, criminal intent is required. For example,
3 the mental state required to be proven by the State for a
4 particular crime might be purpose, intent or knowledge.
5 Criminal intent is always a matter that must be determined by
6 the jury from the circumstances surrounding the situation.
7 There is no way to prove intent to a mathematical certainty.
8 There is no way medical science can dissect a person's brain
9 and determine what the person had in mind, so the law says that
10 criminal intent may be inferred from the circumstances shown to
11 have existed. This is how you make a determination of whether
12 or not intent was present. It is not necessary to establish
13 intent by direct and positive evidence, but intent may be
14 established by inference in the same way as any other fact by
15 taking into consideration the acts of the parties and all of
16 the facts and circumstances of the case. Criminal intent is a
17 mental state, a conscious wrong doing. It is up to you to
18 determine what the defendant intended to do based on the
19 circumstances shown to have existed. Criminal intent can arise
20 from action or a failure to act. It may arise from negligence,
21 recklessness, or an indifference to duty, or the consequences
22 that are considered by the law to be the equivalent of criminal
23 intent.

24 Ladies and gentlemen, you have heard testimony
25 concerning any potential penalty a person can serve for the

1 crime alleged in this case. In determining whether the State
2 has met their burden of proof, you cannot consider any possible
3 penalty for any particular crime. Any potential punishment or
4 penalty for a crime is a matter of law for the Court to
5 determine, and you should never be considered and should never
6 be considered by you in any way, whatsoever, at arriving at a
7 fair and impartial verdict in this case.

8 Ladies and gentlemen, there are two potential
9 verdicts in this case. I will go over them with you. You
10 don't have to try to write it down because the verdict form
11 will go into the jury room with you. I instruct you, ladies
12 and gentlemen, that your verdict must be unanimous, which means
13 that all 12 of you must agree to reach a verdict, and the
14 Foreperson will then fill out the verdict form, sign and date
15 the form and advise the bailiffs that the jury has reached a
16 unanimous verdict.

17 Again, ladies and gentlemen, I instruct you that your
18 verdict must be unanimous, and the options are as follows. As
19 to indictment 2018-GS-10-4368, we, the jury, by unanimous
20 consent find the defendant guilty of threatening the life,
21 person or family of a public official, teacher or principal, or
22 not guilty of threatening life, person or family of public
23 official, teacher or principal. Actually, I need to make a
24 correction to this verdict form, because it should simply read:
25 Threatening the life person or family of a public official, and

1 I apologize that I missed that scrivener's error. So the
2 verdict form will read as follows: We, the jury, by unanimous
3 consent find the defendant guilty of threatening the life,
4 person or family of a public official, or not guilty of
5 threatening the life, person or family of a public official.
6 Again, ladies and gentlemen, your verdict must be unanimous in
7 order to reach a verdict in this case. Madam Forelady, once
8 the jury has reached a verdict, it is your responsibility to
9 fill out the verdict form and to sign and date the form and
10 knock on the door and advise the bailiffs that the jury has
11 reached a unanimous verdict. It is also your responsibility to
12 write out any questions the jury may have during deliberations,
13 and you would do that on the notebook you've been provided.
14 You should sign and date any note, and then follow the same
15 process by knocking on the door and advising the bailiffs that
16 the jury has a question. Any note sent out should never
17 indicate a numerical breakdown of the jury, as jury
18 deliberations should be confined to the jury room and should
19 never be disclosed outside of the jury room.

20 Ladies and gentlemen, if you have any question,
21 please know there will be a delay in our response. We're not
22 ignoring you, there is just a procedure mandated by law that we
23 have to follow in answering your questions. So know, if you
24 have a question, there will be a delay in our response, but
25 that is because we're following the procedure that is mandated

1 by state law and our procedures. I'm going to ask that you
2 return to your jury room, but do not yet begin your
3 deliberations. I have some matters of law that I need to take
4 up with the parties that may require clarification of an
5 instruction or further instruction. If there is no further
6 instruction we will send in the evidence along with the verdict
7 form and at that time we will excuse the alternate. Your lunch
8 should arrive by noon, it is currently 11:21. We also have a
9 computer in the room so that you're able to play any electronic
10 forms of evidence. I would ask that you leave your notepads in
11 your seats, please go with the bailiffs and do not yet begin
12 your deliberations until instructed to do so.

13 **(Jury exited the courtroom at this time.)**

14 THE COURT: You may be seated, I apologize. I'm
15 having that scrivener's error fixed, I want it to reflect
16 exactly what the indictment says and I'll give you all copies.
17 Are there any exceptions to the charge from the State?

18 MR. ZEIGLER: No, Your Honor.

19 THE COURT: From the defense?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Yes, sir?

22 THE DEFENDANT: I would just like raise all previous
23 objections and I also would like to request a mistrial due to
24 the fact that the jury was charged with something that will be
25 a very prejudicial to me.

1 THE COURT: Sir, we've already had a charge
2 conference, and you should have raised it previous. There is
3 no basis for a mistrial. If there is an additional instruction
4 you're requesting, you need to make me aware of it. That's why
5 they haven't begun their deliberations yet.

6 THE DEFENDANT: Well, I would like to --

7 THE COURT: And I've already noted all of your
8 objections to the charge at the charge conference.

9 THE DEFENDANT: I would like to renew my motion for a
10 mistrial because that's going to greatly -- that's going to
11 greatly prejudice the jury --

12 THE COURT: Sir, I don't understand what you're
13 arguing.

14 THE DEFENDANT: The jury is going to think that I
15 agreed that what's in that --

16 THE COURT: Sir, you have agreed.

17 THE DEFENDANT: I did not agree, that was you --

18 THE COURT: Sir, you have agree. You had a lawyer,
19 which means your bound by that.

20 THE DEFENDANT: But that was before I fired him.

21 THE COURT: That was before I relieved your lawyer.

22 THE DEFENDANT: Exactly, so any previous agreement
23 cannot --

24 THE COURT: Any previous agreement, yes, sir, you're
25 bound by, whatever --

1 THE DEFENDANT: I never even seen that paper.

2 THE COURT: Sir, you did, you had to have seen it
3 because I went over it multiple times in your presence.

4 THE DEFENDANT: Yeah, I'm talking about before he
5 agreed to it, I didn't see it, so he agreed to it without me
6 seeing it, then after me relieving him --

7 THE COURT: Sir, you should have raised that long
8 before now so I could have allowed the State to put in all of
9 the other evidence against you regarding all of the other
10 elements of the offense.

11 THE DEFENDANT: I wasn't aware of the stipulation,
12 you --

13 THE COURT: Sir, you were aware, we went over it in
14 your presence multiple times.

15 THE DEFENDANT: Ma'am, an agreement cannot be valid
16 if it was not made between me.

17 THE COURT: Yes, sir, you're bound by your lawyer's
18 decisions.

19 THE DEFENDANT: He's not my lawyer no more.

20 THE COURT: He was your lawyer when the decision was
21 made so you're bound by it.

22 THE DEFENDANT: But how can I be --

23 THE COURT: Everything after I relieved him you're
24 not bound by, everything that happened before that you're bound
25 by, and you were present in this courtroom, we've spent

1 multiple times going over the stipulation, in fact, I required
2 them to remove several things from the stipulation. It had to
3 be redrafted. I saw Mr. D'Angelo go over it with you, so to
4 say that he didn't is disingenuous, and it's perpetrating a
5 fraud on the Court. He did go over it with you. I watched him
6 go over with you.

7 THE DEFENDANT: Ma'am --

8 THE COURT: I watched him go over the original form
9 of the stipulation and I watched him go over the redacted form
10 of the stipulation. The case law and the precedent from the
11 Supreme Court, you are bound by your lawyer's decisions until
12 such time that I relieved him and he was no longer your lawyer,
13 so any decisions Mr. D'Angelo made with or without your
14 consent, because he's not required to get your consent to make
15 decisions, he's only required to act in your best interest,
16 which the Court will make a finding of fact that this
17 stipulation is clearly in your best interest and inure to your
18 best interest because it eliminated the State having to prove a
19 whole lot of information that would have been detrimental to
20 you. So I'll note your exception to the stipulation. You
21 should have raised that long before now, you did not, and there
22 are is no basis for a mistrial.

23 THE DEFENDANT: Well --

24 THE COURT: If there is an additional instruction
25 that you would like --

1 THE DEFENDANT: I will renew that motion in writing.

2 THE COURT: Do not speak over the Court. If there is
3 an additional instruction that you would like for me to give
4 the jury, I would be glad to entertain it.

5 THE DEFENDANT: I'm just going to renew that motion
6 in writing because that's very prejudice to my case and very
7 detrimental to my case.

8 THE COURT: Would the State like to respond?

9 MR. ZEIGLER: We wouldn't pose additional charges
10 regarding that, Your Honor.

11 THE COURT: I need you to respond to his motion for a
12 mistrial.

13 MR. ZEIGLER: The State agrees with the Court that
14 the stipulation occurred before Mr. D'Angelo was relieved, it's
15 on the record multiple times, you reading that stipulation and
16 watching Mr. D'Angelo and the Defendant go over that
17 stipulation, as well as the fact that as Your Honor stated, it
18 was purely beneficial to him to agree to that stipulation so
19 that the vulgar statements that he made in that video were not
20 given to the jury --

21 THE COURT: Sit down.

22 MR. ZEIGLER: -- even though the State fought and
23 fought, the judge gave him the benefit of the doubt on every
24 occasion regarding that, and for that reason the State agrees
25 with Your Honor. Thank you.

1 THE COURT: Anything further, Mr. Charles?

2 THE DEFENDANT: I just would disagree with that. I
3 want to renew my motion because it is very detrimental to my
4 case. I did not know that that was -- when you stated a
5 stipulation today, that was the only time when I realized that
6 you meant that's an agreement between me and the State that
7 this is what I'm saying that the law is that you all can go on.
8 I would not have stipulated to that if I was aware, so that was
9 the wool being pulled over my eyes by my attorney because he
10 did not -- he did not even describe to me what that meant and
11 what it was. He just showed me the paper, I looked at it in
12 the mist of us going back and forth about a bunch of other
13 different topics. That's why today was the first time I raised
14 it when I heard you talking about the charges. You said, I'm
15 going to say this to the jury, this is the stipulation, the
16 stipulation was an agreement --

17 THE COURT: Sir, that's not the first time you heard
18 me refer to the stipulation. I told you that language last
19 night when we did the charge conference. I went over it again
20 with you this morning.

21 THE DEFENDANT: That's the first time I --

22 THE COURT: The Court can't be responsible for how
23 you process information, but I, out of an abundance of caution,
24 I went over it more than three times, what a stipulation is and
25 how it would be instructed, so for you to say that you weren't

1 aware how I was going to instruct the jury is, again,
2 disingenuous, because I virtually verbatim read my instructions
3 to everyone, which I never do, and I did it out of an abundance
4 of caution because you're a pro se litigant, and the lawyers
5 pretty much know what the Court's going to say because they
6 are cognizant of black letter precedent, but out of an
7 abundance of caution I read it all into the record so that you
8 could process what was going to be said prior to making your
9 closing argument in the event that you wanted to adjust any of
10 your argument or tailor any of your argument, so to say that
11 you were not told, that is not accurate --

12 THE DEFENDANT: No --

13 THE COURT: -- and I am not going to allow this
14 record to reflect any more of your inaccuracies,
15 misrepresentations or mistruths.

16 THE DEFENDANT: I'm not misrepresenting, I'm saying
17 that when you said stipulation is an agreement, that was the
18 first time I realized what you was saying. When you said
19 "stipulation" yesterday, it did not register with me because of
20 my lawyer, my previous lawyer never discussed this stipulation
21 with me at all, he never discussed this agreement with me, and
22 an agreement is a meeting of the minds, an agreement is another
23 word for a contract. For a contract to be, it has to be a
24 mutual setting, it has to be a meeting of the minds, it has to
25 be an agreement. I totally had no idea what this piece of

1 paper was until today. That's when I really -- when I put two
2 and two together and realized, now, hold on, they're saying
3 that I agreed to this, I never agreed to this. My lawyer may
4 have agreed to it, but when he agreed to it he wasn't -- when
5 he agreed to it that was when he was my lawyer and that was
6 when I was stipulating that I did not want him to be my lawyer.

7 THE COURT: Get them the evidence and get them the
8 verdict form. Go ahead, sir, I'm listening.

9 THE DEFENDANT: Any decisions made on behalf of my
10 attorney that he never discussed with me is not in my best
11 interest if I would not have agreed to it if he would have
12 discussed it with me, so I can't be bound by something I never
13 agreed to. I never agreed for him to be my attorney, I never
14 discussed what that document really was about, we never went
15 over it so I was in the dark about that. When I didn't say
16 anything about it yesterday, the reason I didn't raise anything
17 because I was already prejudiced against that because I never
18 was discussed -- I never got discussed it about, you know what
19 I'm saying? So there's no possible way that I could be in an
20 agreement that I never agreed to. You're forcing a decision
21 that was made by someone that I fired to stay with me, so that
22 is a grounds for a mistrial and I just want to renew it in
23 writing because it's clear -- it's clear --

24 THE COURT: No, sir. You've already made your motion
25 for the record and the Court has noted your motion and is going

1 to rule on your motion. Anything further from the State?

2 MR. ZEIGLER: No, Your Honor.

3 THE COURT: The Motion for Mistrial is denied.' There
4 is absolutely no basis for a mistrial on this case. The
5 defense asked for no additional instructions, such that could
6 cure any sort of defects that he claims in this trial. A
7 motion to grant or deny mistrial is within the sound discretion
8 of the Court and will only be overturned if there is an abuse
9 of discretion. There has been no showing of any incident so
10 grievous or prejudicial that the effect cannot be removed in
11 any other way, and clearly the defendant is not entitled to a
12 mistrial. For purpose of this record, frankly, the stipulation
13 has absolutely no bearing on Mr. Charles' strategy in this
14 case. His strategy has been, in the crux of his strategy, is
15 one of free speech and a lack of intent, and that what he
16 communicated to Sergeant Rainey was not a threat, so the Court
17 cannot perceive and does not perceive how any of the
18 stipulations somehow affect his defense or are prejudicial to
19 him, as the Court has already found the stipulations -- if you
20 continue to murmur, you're going to be put into custody.

21 THE DEFENDANT: I was agreeing with you --

22 THE COURT: You don't need to agree with me when I'm
23 making a ruling. The stipulation inures completely to Mr.
24 Charles' benefit. It eliminates a great amount of what I
25 ordered redacted from his statements and the video from the

1 DataMaster room, which this Court finds would inure greatly to
2 his detriment and would also reflect poorly on his character
3 and could have been construed against him and inured again
4 extremely to his detriment in being found guilty in this case
5 if that were, in fact, what happened, and it ran the risk of
6 the jury thinking he was just a poor individual with lack of
7 character, instead of looking at the elements of the offense
8 and finding whether the State had met their burden of proof
9 beyond a reasonable doubt. Until the morning of the, what's
10 today, the 6th was Monday, the 7th was Tuesday -- until the
11 7th, I had not -- Mr. D'Angelo was still Mr. Charles' attorney.
12 He, under case law, is bound by any decisions that Mr. D'Angelo
13 rendered on his behalf. The case law is very clear. A lawyer
14 is required to consult with his client, but he is under no
15 obligation to do what a client directs him. He is required to
16 explain strategy, but he does not have to have his client's
17 consent and strategy. He is bound by the ethical rules to do
18 and advocate what is in his client's best interest, and I'll
19 make a finding for the record in anticipation of a PCR that Mr.
20 D'Angelo at all times has acted appropriately, has been an
21 active and ardent advocate in spite of many impediments to act
22 in the best interest of Mr. Charles, has been very patient with
23 him, has taken the time to go over every single item he has
24 raised to Mr. D'Angelo's attention, that he wanted him to
25 investigate, and otherwise, and I don't make this finding based

1 on an abstraction. It is based on what I observed in this
2 courtroom for the last three days, and it's also based on any
3 status conferences this Court held in its capacity as Chief
4 Administrative Judge. Also, for the record, I observed Mr.
5 D'Angelo go over the stipulation on multiple occasions at
6 counsel table during the Court's conversation colloquy with
7 regarding the original stipulation, which started out as, I
8 believe it was five items or six items.

9 MR. ZEIGLER: Six, Your Honor.

10 THE COURT: It was six items, and after discussion
11 clearly in the presence of Mr. Charles and where Mr. D'Angelo
12 was in consultation with him, as well as co-counsel, it was
13 redacted and reduced down to four stipulations, which was
14 presented on the morning of the 7th prior to -- and was marked
15 as a joint exhibit prior to me relieving and making a ruling on
16 Mr. Charles' Faretta request and appointing Mr. D'Angelo and
17 co-counsel as shadow or standby counsel. So it is disingenuous
18 and an utter misrepresentation of this record to say that Mr.
19 Charles was unaware of the stipulation, that it was not
20 explained to him, and I normally would not go this far in a
21 finding, but I cannot allow a record to be misrepresented and
22 manipulated, and I cannot allow an attorney who clearly has
23 worked very hard to be a zealous advocate for his client, to
24 have his professional preparation discounted or misrepresented,
25 and so I feel the record needs to reflect that, and in addition

1 to that, as I've already indicated, he is bound by any
2 decisions that Mr. D'Angelo made prior to the Court relieving
3 him, and again, there is no basis for a mistrial in this case,
4 and again, without belaboring the point, the stipulations inure
5 very greatly to Mr. Charles' benefit and eliminates a whole lot
6 of testimony that would have come into this record that clearly
7 would not have been in his best interest, so I'll note your
8 exception for mistrial, sir, it is denied. If you all could
9 get their notebooks for me, please, get all the evidence, and
10 the verdict form, and go ahead and take that back to the jury
11 and then I will indicate at which time they began their
12 deliberations. Their lunch is coming at 12:00. Once they get
13 their lunch, I'll give you all a break to go to lunch, as well.
14 Mr. Charles, you, I don't think are going to be able to leave the
15 courthouse while the deliberations are going forward, however,
16 have you all made arrangements for lunch for today?

17 MR. ZEIGLER: No, Your Honor. I was just planning on
18 either sitting here, going to my office.

19 THE COURT: Unless you all just want to leave, you've
20 all been sitting here.

21 MR. D'ANGELO: I haven't even thought about it yet,
22 Your Honor.

23 THE COURT: You all can stay here.

24 MR. D'ANGELO: Probably just going to be bouncing
25 back and forth.

1 THE COURT: And the deputies will be here, I think
2 they'll switch out, because I don't want you all to have to put
3 him in a cell, so he could sit in here.

4 THE DEPUTY: Yes, ma'am, as long as he behaves.

5 THE COURT: I'm sorry?

6 THE DEPUTY: As long as he behaves.

7 THE COURT: I agree, and you know I leave all
8 security to you all's discretion, I don't interfere. And so
9 that you are all aware, there is a computer in the jury room so
10 that they are able to play the DVD themselves because they
11 should be able to see all evidence and deal with the evidence
12 as they feel appropriate and watch as many times as they like,
13 that being under our watchful eye. And also while they're
14 collecting that, I do feel the need to also append the record,
15 and again, just in anticipation that the demeanor of everyone
16 in this courtroom has been professional, it has been very
17 patient and I have appreciated it. Mr. D'Angelo, you and Mr.
18 Henley's demeanor has been abundantly patient and thoughtful
19 toward Mr. Charles, and I would just like the record to reflect
20 that --

21 THE DEFENDANT: I object.

22 THE COURT: -- because hindsight is 20/20, I need a
23 contemporaneous record.

24 THE DEFENDANT: I object to that.

25 THE COURT: You can take that back to them. Sir, you

1 don't have a basis to object.

2 THE DEFENDANT: I do have a basis, I have firsthand
3 knowledge.

4 THE COURT: Have a seat.

5 THE DEFENDANT: I have firsthand knowledge of it.
6 You violated my rights.

7 THE COURT: Have a seat. You continue to violate the
8 rules. There are to be no statements once the Court has ruled.

9 THE DEFENDANT: Can I move to renew a motion?

10 THE COURT: No, sir, you can not, you've already made
11 your motion and I've ruled. The record should reflect that the
12 jury has begun its deliberations at 11:38. Mr. Charles, I'm
13 advising you if your behavior becomes disruptive, the deputies
14 are going to remove you, and I'm leaving the security
15 completely to their discretion, so I would suggest you comport
16 your behavior appropriately. Are you all going to stay in the
17 courtroom, what are you all going to do, because I need to let
18 the deputies know what they need to do.

19 MS. BARBER: I'm going to need to go to my office for
20 a moment and then I'll probably be back.

21 THE COURT: Do you all plan to do the same? I would
22 ask that you all stay close until I -- actually, I really would
23 ask that somebody remain here in case there's a question from
24 the jury before they get their lunch so I don't have to send
25 for you all to answer any question. If we did that, that would

1 be helpful, I appreciate. They can give their cell phone
2 number, too, but I find that sometimes they have questions
3 before their lunch gets here, so if we could have that, if you
4 all could hang tight until they get their lunch, I appreciate
5 it.

6 I need the alternate. I need you all to sit tight
7 while I excuse the alternate. Sir, we thank you for your time
8 and your attention to this case. An alternate's responsibility
9 is to to take the place of a juror should they become
10 incapacitated and unable to continue to serve. Your lunch will
11 arrive at 12:00, we're going to put you in one of the
12 multi-purpose rooms so you can wait for your lunch to come, and
13 once it comes, you're welcome to go about your business.
14 You're welcome to stay with us, if you'd like, to see how the
15 trial turns out, just let the bailiffs know what your
16 preference is. You're excused for the remainder of the week.
17 I would ask that you do not discuss your service until the
18 entire panel is excused. I hope it's been an educational
19 experience for you and you're excused with the Court's profound
20 thanks.

21 THE ALTERNATE: Yes, ma'am. Thank you.

22 THE COURT: Have a wonderful day.

23 THE ALTERNATE: You as well.

24 THE COURT: The record should reflect, and I stand
25 corrected, because they have not yet begun their deliberations,

1 11:44, the alternate was excused. See if he wants to be in one
2 of the multi-purpose rooms until his lunch comes. We have a
3 note from the jury, and it reads as follows: Is there a
4 transcript to the videos? So I guess the simple answer would
5 be no?

6 MR. ZEIGLER: There's not. I have one, but there's
7 not in evidence, Your Honor.

8 THE COURT: Is there any exception from the State to
9 the Court simply writing no on the note?

10 MR. ZEIGLER: No objection from the State.

11 THE COURT: Mr. Charles, is there any objection to
12 the Court writing "no" on the note?

13 THE DEFENDANT: I mean, we did have a transcript, I
14 just don't have it with me right now, but I know there is one.

15 MR. ZEIGLER: Your Honor, if the defense would like,
16 I can provide a version of the transcript that I have it
17 interpreted it as.

18 THE COURT: Sir, do you want to look at the
19 transcript the State has?

20 THE DEFENDANT: No, I don't have no objection. You
21 can leave it as no. I don't have objections.

22 MR. ZEIGLER: Thank you, Your Honor.

23 THE COURT: You're welcome. The note will be marked
24 as Court's Exhibit, and they will be instructed not to discard
25 it.

1 MR. ZEIGLER: Thank you, Judge.

2 THE COURT: You're welcome. Alright, if you all
3 could stay close for me because I don't know if we're going to
4 have another question.

5 THE DEFENDANT: Your Honor, could I renew that
6 motion?

7 THE COURT: Renew what motion, sir?

8 THE DEFENDANT: Renew my previous statement just now.
9 I was under the impression that you meant the full --

10 THE COURT: Hold on one second before that note goes
11 back there. Okay, sir, what were you saying? There wasn't an
12 objection. Is there something you'd like to state about the
13 note? What were you saying, sir?

14 THE DEFENDANT: I was under the impression that the
15 transcript was the full transcript, but the transcript that
16 they would see would be just of the two threats?

17 THE COURT: I don't know. You can agree to that if
18 you want to. It's up to you, it's your decision.

19 THE DEFENDANT: What is the jury asking to see?

20 THE COURT: The jury's notes says: Is there a
21 transcript to the videos, question mark. You could let them
22 know that there's a transcript for the first threat.

23 MR. ZEIGLER: We have that.

24 THE COURT: Sir, if there's a transcript and the
25 State has it, I need you to look at it and see if you agree to

1 the jury seeing it.

2 MR. ZEIGLER: Just for Your Honor's knowledge, I
3 would only be interested in the transcript as it pertains to
4 the video that's in evidence, not the entire video, and that
5 begins at 8:23 and ends, I don't know the actual end time, but
6 it continues until the end of the statement and then it begins
7 again at 2601, and it's just those two lines.

8 THE COURT: I need you to show him.

9 MR. ZEIGLER: Sorry.

10 THE COURT: That's okay. Mr. D'Angelo, you said you
11 all have the actual transcript you all had done?

12 MR. D'ANGELO: I paid for All Is On Time to do a
13 transcript of the video.

14 THE COURT: Do you have those particular portions?

15 MR. D'ANGELO: I do. I can provide another copy of
16 it.

17 THE COURT: We redacted so that all those two places,
18 I'm sorry --

19 MR. D'ANGELO: So I have two more copies.

20 THE COURT: Can I see so we can all be on the same
21 page?

22 THE DEFENDANT: I actually don't agree with this.

23 THE COURT: Sir, I need to see what we're talking
24 about. How do we know where it starts at with where the 808
25 is?

1 MR. D'ANGELO: The first one is page eight, line 18
2 through line 21.

3 THE COURT: Page 8, line 18.

4 MR. D'ANGELO: Through 21.

5 THE COURT: Through 21, which is?

6 MR. D'ANGELO: I believe that's the clip that was
7 played.

8 THE COURT: I swear to God, if I could, I would slap
9 the bleep out of you, I would beat the bleep out of you, I
10 would -- I would punch women like you, I would beat the bleep
11 out of women like you because you all deserve it. So that
12 would be lines 18 through 21. That's the 823. What page would
13 26 be on?

14 MR. D'ANGELO: Page 19, starting at line 22.

15 THE COURT: Page 19 starting at line 22.

16 MR. D'ANGELO: And then it goes on to page 20 first
17 two lines.

18 THE COURT: So 19 starting at 22, which is: Blank
19 pieces of blank, I can't stand you all. I wish I could spit on
20 you all. I wish I could bleeping spit on you all, bleep, take
21 a bleep and put it in my hand and throw it in your bleeping
22 face and smash that bleep, rub it all in your face and be like,
23 yeah, you stupid bleep, that's what you deserve, that is what
24 you deserve.

25 THE DEFENDANT: Well, I would say, no, because it

1 doesn't match exactly to this other one -- word for word.

2 THE COURT: This is the one your lawyer's had done,
3 so which one are you referring to?

4 MR. D'ANGELO: This is what is professionally done
5 from the video.

6 THE COURT: Your lawyer had a court reporter, Mr.
7 D'Angelo had a court reporter listen to the transcript and do
8 an exact transcription. The State's version is what they think
9 they heard and they did their own. A court reporter didn't do
10 that.

11 THE DEFENDANT: Well, only because, because this was
12 a little bit different and I'm not 100 percent sure what the
13 Court had going on.

14 THE COURT: Sir, the court reporter has a whole
15 ethical obligation, she doesn't have an obligation to Mr.
16 D'Angelo. She got paid to do this. Her job so to be accurate.
17 She don't have a dog in the fight. She don't know you, she
18 don't know Mr. D'Angelo, she doesn't know anybody else. They
19 transcribe for a living. That's what they do, they listen to
20 tapes and type them.

21 THE DEFENDANT: I'd rather not use it, because I
22 wasn't there, I didn't even have any.

23 THE COURT: Do you want to use any of them?

24 THE DEFENDANT: No. Definitely not this.

25 THE COURT: You stopped me from giving the jury the

1 note.

2 THE DEFENDANT: And I don't want to use this one
3 because the two are different, so now I know that one of them
4 is not right, and I don't know which one it is, but I know that
5 they're not both not the same.

6 THE COURT: You listened to the tape, have you not?

7 THE DEFENDANT: Yeah, exactly.

8 THE COURT: You told the jury what you said, right?

9 THE DEFENDANT: That's what I just told him.

10 THE COURT: So you should know what's accurate,
11 right?

12 THE DEFENDANT: Exactly, I didn't agree with this
13 one, I just told him that.

14 THE COURT: So you're telling me this isn't accurate?

15 THE DEFENDANT: It's not -- that's not what I recall
16 and that's why I wouldn't, I don't want to use --

17 THE COURT: It's not what you recall, the tape is
18 self-authenticating. It sounds like what I heard on the tape,
19 and I listened to it.

20 THE DEFENDANT: That's why I'll just use tape, it's
21 self-authenticating. I have not discussed this --

22 THE COURT: But I would like to be able to mark this
23 from the court reporter as a Court's Exhibit. Is this your
24 only copy?

25 MR. D'ANGELO: No, Your Honor, I have a digital copy.

1 THE DEFENDANT: Objection, Your Honor.

2 THE COURT: Sir, a Court's Exhibit is for me. You
3 don't get a vote in that.

4 THE DEFENDANT: I didn't proffer that into evidence.

5 THE COURT: It doesn't matter, you don't have to.
6 The Court's Exhibit means it's just for the Appellate Court to
7 see. It doesn't have anything, the jury's never going to see
8 this, that's why it's a Court's Exhibit.

9 THE DEFENDANT: I didn't understand what that meant.

10 THE COURT: Yeah. Maybe you might want to take a
11 deep breath and have a cogent understanding before you begin to
12 speak. So, as I understand it, we are still on the same page
13 about this note, which is the Court wrote no on it and
14 everybody is fine with that?

15 THE DEFENDANT: Yes, ma'am.

16 MR. D'ANGELO: Yes, Your Honor.

17 MR. ZEIGLER: Yes, Your Honor.

18 THE COURT: We have a note from the jury that reads
19 as follows. Question, hyphen, copy of the affidavit. And I
20 don't know what they are referring except maybe the reference
21 in closing by the defendant was made to the arrest affidavit,
22 which is inadmissible, it is not in evidence. And copy of the
23 statute, which, of course, I cannot provide to them. So I will
24 instruct them as follows: Madam Forelady, and ladies and
25 gentlemen of the jury, you may only consider the testimony in

1 evidence that has been submitted into the record for the
2 purposes of your deliberations. All of the evidence that
3 you're entitled to review is with you in the jury room. You
4 are not to speculate or draw any inferences or conclusions as
5 to why the document or documents have not been sent with you
6 for purposes of your deliberations. If you desire to have any
7 of the testimony replayed, please advise the bailiff and we
8 will accommodate your request. And as a response to their
9 request for the statue: Ladies and gentlemen of the jury, our
10 procedures do not allow for a copy of the jury
11 charge/instructions to be given to you. If there is a specific
12 instruction that you would like given again or the entire
13 instruction, please advise us and I will accommodate your
14 request immediately. Any exceptions to these responses from
15 the State?

16 MR. ZEIGLER: No, Your Honor.

17 THE COURT: From the defense?

18 THE DEFENDANT: Yes. I would just like them to be
19 able to put the affidavit in and admit it as a charging
20 document.

21 THE COURT: Sir, you made no effort to admit the
22 affidavit, and even if you had it's inadmissible, it's hearsay.

23 THE DEFENDANT: It's hearsay? That's what's been
24 sworn to that's by penalty and perjury --

25 THE COURT: It's hearsay. It's an out of court

1 statement, offer the Court's truth. You can use it to refresh
2 memory, you can use it to impeach, it's inadmissible.

3 THE DEFENDANT: But that's the incident report --

4 THE COURT: Sir, number one, you did not ask for it
5 to be admitted at the time, so you've now waived it, we're past
6 the point of admitting evidence. Both the State and the
7 defense have rested, so you cannot now admit evidence. Even if
8 you had moved to admit it at the time, it would have been
9 inadmissible because it's inadmissible hearsay under the rules
10 of evidence. It's an out of court statement made by someone
11 else offered for its truth. The rules allow you to use the
12 affidavit to impeach a witness or allow the document to refresh
13 a witness' memory.

14 THE DEFENDANT: I would have to object to that
15 because the affidavit has been sworn to under penalty and
16 perjury document that actually brought this to the court and
17 this case would not be on the docket unless without that
18 affidavit, and I think that it's gonna prejudice the jury and
19 my case extremely if they are not allowed to see what brought
20 this case, that document is sworn to by the officer and by the
21 officer who brought it to the magistrate which brought this
22 into existence and I think it would 100 percent unfair to the
23 jury and 100 percent unfair to me to not allow them to see that
24 affidavit. That's just my position.

25 THE COURT: Would the State like to respond?

1 MR. ZEIGLER: No, Your Honor. We disagree with the
2 defendant.

3 THE COURT: You need to place your position on the
4 record so that there is a record regarding his request. He is
5 asking that the affidavit be given to the jury. I need to know
6 what your responses -- what your position is in response to
7 that request.

8 MR. ZEIGLER: Yes, Your Honor. The affidavit has not
9 been entered into evidence in this trial and it's inadmissible
10 and it's hearsay anyways. Thank you.

11 THE COURT: You're welcome. Anything further, Mr.
12 Charles?

13 THE DEFENDANT: Yes. I would like to rebut what he
14 just said. What he just said is factually incorrect. It's not
15 possible that a sworn to affidavit that brought this whole
16 charge into existence can be considered hearsay. It's actually
17 to, it's the only document that's sworn to, and it's the reason
18 that we're in court today, so without that the jury's gonna
19 have a hard time making a clear decision and that's probably
20 why they're asking. So in fairness to me and fairness to the
21 jury, I would say the affidavit has to come in. Another reason
22 it should come in is because I've continued since the start of
23 Nicholas D'Angelo being my attorney, although, it's against my
24 will and a lot of things have not been discussed, so the
25 affidavit being admitted has never been discussed between me

1 and him, so I'm under the understanding that if it's the
2 original charging document it has to be already admitted
3 because it has to already be a part of the record because it's
4 what brought this case into existence. So I never thought that
5 I would have to admit that as evidence when it's on the record,
6 it is the record. It's the start of the record, so, therefore,
7 I feel like the law supports it, the truth supports it, and the
8 jury's asking for it, I see a -- the Solicitor has came up with
9 no lawful legal reason to deny the jury from seeing that. The
10 judge is a fair referee, so she has no dog in the fight to
11 decide whether they see it or not. The jury is asking to see
12 it, I see no reason why the judge would deny the jury access to
13 that affidavit.

14 THE COURT: The request is denied. First, there was
15 no motion to admit the affidavit at the time that it was used
16 with the witness, therefore, any request to admit evidence is
17 waived. We have reached the conclusion of the trial.

18 THE DEFENDANT: Well, I would like a motion --

19 THE COURT: Do not interrupt the Court again. I've
20 instructed you multiple times regarding the rules and you
21 persist in violating them. This is not a colloquy between you
22 and the Court. You've made an argument, they've made an
23 argument, I let you make a rebuttal argument, and now I'm
24 ruling. There is to be no further argument pursuant to the
25 rules. I ask that you abide by that instruction, and abide by

1 the rules.

2 THE DEFENDANT: I would just renew my motion.

3 THE COURT: Sir, I've given you every opportunity to
4 speak. The Court is in the middle of ruling. There was no
5 request made to admit the affidavit. Even if the request had
6 been made, the affidavit is inadmissible. It is clear black
7 letter precedent that the affidavit is hearsay. It is an out of
8 court statement offered by a witness who was not present,
9 offered for its truth. The affidavit -- even if the witness
10 had been present, it is unlikely that the affidavit would have
11 been admissible, so it is not in evidence, there is no basis
12 under the rules to admit evidence after the close of the case,
13 the motion is denied. The exception to the jury's request is
14 denied. The Court will send in its standard instruction
15 regarding evidence that has not been admitted, and the Court
16 will send in its standard instruction regarding as we know jury
17 instructions are not given to the jury and it would not be
18 appropriate to give an isolated portion of a statute to a jury
19 during its deliberative process, however, if they desire, the
20 Court will reinstruct them as necessary. The note will be
21 marked as a Court's Exhibit. It will be given to the jury and
22 they will be instructed not to discard it. Anything further
23 from the State?

24 MR. ZEIGLER: No, Your Honor.

25 THE COURT: Anything further from the defense?

1 THE DEFENDANT: Just to put on the record that I will
2 renew my motion in written form.

3 THE COURT: Sir, you've already made your motion and
4 it is preserved.

5 MR. D'ANGELO: Your Honor, if I may, what he was
6 referencing, he was prepared a number of motions that he'd like
7 me to file.

8 THE COURT: Did he make them at the time that we were
9 doing the motions? Are those the ones that I told him he could
10 finish writing and file?

11 MR. D'ANGELO: Yes, Your Honor.

12 THE COURT: What are they?

13 MR. D'ANGELO: These are the rest of written motions.

14 THE COURT: If you can read them into the record for
15 me, please, what the titles are.

16 MR. D'ANGELO: Title, a notice of termination of
17 court-appointed attorney and an affidavit to change venue in
18 criminal case.

19 THE COURT: Do you want to number those pages so the
20 Clerk's office will know that that is one document and not two
21 separate documents?

22 MR. D'ANGELO: And it's numbered, Mr. Charles did
23 that, so it's numbered at the bottom, pages one of two and two
24 of two.

25 THE COURT: Perfect.

1 MR. D'ANGELO: And then a motion for new trial, and
2 that's a three-page document.

3 THE COURT: Okay. If you would file those for him, I
4 would appreciate it.

5 MR. D'ANGELO: Yes, ma'am.

6 THE COURT: We'll be at ease until we get further
7 instructions from the jury.

8 **(Verdict)**

9 THE COURT: The jury has reached a verdict. Is there
10 anything before we receive the verdict, from the State?

11 MR. ZEIGLER: No, Your Honor.

12 THE COURT: From the defense?

13 THE DEFENDANT: I just would like to -- well, I
14 already put the motion on the record. No, ma'am.

15 THE COURT: Sir, I can't hear you, what did you say?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Thank you. Please get the jury. Mr.
18 D'Angelo, I assume you filed those documents that I gave you
19 and filed?

20 MR. D'ANGELO: I did, Your Honor.

21 THE COURT: And you brought him the copies?

22 MR. D'ANGELO: I did, Your Honor.

23 THE COURT: Thank you, sir. I appreciate that.

24 **(Jury entered the courtroom at this time.)**

25 THE BAILIFF: All jurors are present, Your Honor.

1 THE COURT: You may be seated. Madam Forelady, has
2 the jury reached a verdict?

3 THE FOREPERSON: Yes, Your Honor.

4 THE COURT: If you would give the verdict form to the
5 bailiff for me, please. Thank you, sir. If you could publish
6 the verdict? Sir, you would stand?

7 THE CLERK: State of South Carolina, County of
8 Charleston, State of South Carolina versus Akim Jammarr
9 Jean-Charles, as to Indictment Number 2018-GS-10-04378, we, the
10 jury, find unanimous consent find the defendant guilty of
11 threatening the life, person or family of a public official.
12 Signed and dated Foreperson of the jury, February 8, 2023. If.

13 THE COURT: Ladies and gentlemen, if this is your
14 verdict, please raise your right hand. Let the record indicate
15 that all raised their right hand. You can put your right hand
16 down. Sir, you can take your seat. Is there any request to
17 poll the jury, from the State?

18 MR. ZEIGLER: No, Your Honor.

19 THE COURT: Any request to poll the jury from the
20 defense?

21 THE DEFENDANT: Yes, Your Honor.

22 **(Polling of the jury)**

23 THE COURT: Madam Clerk, if you would proceed with
24 polling the jury. You can take your seat. Ladies and
25 gentlemen, the Clerk is going to ask you a series of questions,

1 I would ask that you follow her directives. You may proceed.

2 THE CLERK: Ladies and gentlemen of the jury, I will
3 call out your jury number and when I do, please raise your hand
4 and I will ask you each a question. Please answer yes or not
5 to each question. Juror Number 122. Is this your verdict?

6 THE JUROR: Yes.

7 THE CLERK: Is this still your verdict?

8 THE JUROR: Yes.

9 THE CLERK: Please be seated. Juror Number 296. Is
10 this your verdict?

11 THE JUROR: Yes.

12 THE CLERK: Is this still your verdict?

13 THE JUROR: Yes.

14 THE CLERK: Juror Number 119.

15 THE JUROR: Yes.

16 THE CLERK: Is this still your verdict?

17 THE JUROR: Yes.

18 THE CLERK: Juror Number 63, is this your verdict?

19 THE JUROR: Yes.

20 THE CLERK: Is this still your verdict?

21 THE JUROR: Yes.

22 THE CLERK: Juror number 273. Is this your verdict?

23 THE JUROR: Yes.

24 THE CLERK: Is this still your verdict?

25 THE JUROR: Yes.

1 THE CLERK: Juror number 112, is this your verdict?
2 THE JUROR: Yes.
3 THE CLERK: Is this still your verdict?
4 THE JUROR: Yes.
5 THE CLERK: Juror Number 45, is this your verdict?
6 THE JUROR: Yes.
7 THE CLERK: Is this still your verdict?
8 THE JUROR: Yes.
9 THE CLERK: Juror Number 234. Is this your verdict?
10 THE JUROR: Yes.
11 THE CLERK: Is this still your verdict?
12 THE JUROR: Yes.
13 THE CLERK: Juror Number 240. Is this your verdict?
14 THE JUROR: Yes.
15 THE CLERK: Is this still your verdict?
16 THE JUROR: Yes.
17 THE CLERK: Juror Number 107. Is this your verdict?
18 THE JUROR: Yes.
19 THE CLERK: Is this still your verdict?
20 THE JUROR: Yes.
21 THE CLERK: Juror Number 281. Is this your verdict?
22 THE JUROR: Yes.
23 THE CLERK: Is this still your verdict?
24 THE JUROR: Yes.
25 THE CLERK: Juror Number 93. Is this your verdict?

1 THE JUROR: Yes.

2 THE CLERK: Is this still your verdict?

3 THE JUROR: Yes.

4 THE CLERK: Your Honor, the jury has been polled and
5 the verdict stands.

6 THE COURT: Ladies and gentlemen, we thank you for
7 your time and your attention to this case. As I said during
8 jury qualification, I hope it has been educational for you.
9 You have been incredibly patient with us this week, and we
10 appreciate it. You have your Court's profound thanks. Does
11 anyone need a work excuse before they leave today? Okay.
12 We'll make sure you get that, sir, if you will just remain.

13 Madam Foreperson, the Clerk is going to have you sign
14 the original indictment and she will show you where you need to
15 execute that. You need to write "guilty," which is the
16 verdict, and then sign and date the indictment. Give her a
17 moment to do that. Again, if anyone needs a work excuse, just
18 stay behind and once you exit the courtroom, the bailiffs will
19 accommodate you, we'll make sure you get one before you leave.
20 Otherwise, your checks and your work excuses will be mailed to
21 you probably today or tomorrow, probably tomorrow. Since we're
22 going to excuse you for the remainder of the week your service
23 is concluded with today and you won't have to come back again
24 for another three years for your service. You're welcome to
25 discuss this case if you would like. sometimes the attorneys

1 will contact you because they want to know how they can do a
2 better job, sometimes they want a layperson's perspective on
3 the case, that's why we call it the practice of law, because
4 it's never quite perfected. So you are welcome to discuss the
5 case if you would like, however, if you don't want to and
6 someone exceeds your level of comfort, please let the Clerk's
7 Office know so that we can take the appropriate action to
8 protect your privacy. if anyone feels they need to be escorted
9 to the garage, again, please let the bailiffs know, we'll make
10 sure we accommodate that request. You are welcome to remain
11 for sentencing if you would like. if there's any member that
12 wishes to do that, just remain seated in the jury box, but for
13 those who do not wish to remain you're welcome to go on with
14 your day, and you're excused with the Court's profound thanks.
15 Is there anyone that wishes to stay? Alright, have is a great
16 day. And we'll destroy your notes so you don't have to worry
17 about your privacy being invaded. Have a seat. You're welcome
18 to remain with us. Yes, ma'am, you're welcome to stay. Yes,
19 ma'am, we have a work excuse for you. We'll make sure you have
20 it before you leave today. You may take your seats. Are there
21 any post-trial motions for the State?

22 MR. ZEIGLER: No, Your Honor.

23 THE COURT: From the defense? Sir, do you want to
24 just renew the motions you made earlier?

25 THE DEFENDANT: I would like to renew the motions I

1 made earlier, but I also would like to stipulate something on
2 the juror poll. I'm not familiar with his name, the bald, the
3 bald older black fellow, I actually know him. I think I used
4 to work with him or he was a coach of mine, so I just wanted to
5 put that on the record. I think his name is Bernard or it
6 starts with a B or something like that. I do have a
7 familiarity with him --

8 THE COURT: I'm sorry, I couldn't hear what you said,
9 the last part, sir. I said I have a familiarity, is that the
10 word you were looking for?

11 THE DEFENDANT: Yes, ma'am, so I just want to put
12 that on the record. I don't know if it affected anything or
13 not. I don't remember exactly the extent of how long I knew
14 him, but I know that we either worked together at BP or --

15 THE COURT: You said his first name was Bernard, sir?

16 THE DEFENDANT: I think it starts with a B, I'm not
17 100 percent sure, but I do know for a fact that I know him.

18 THE COURT: There's no gentleman on the jury with the
19 first name that starts with B or is a Bernard.

20 THE DEFENDANT: I could have got the name wrong, you
21 could probably ask him. He probably does remember me. I was
22 looking at him and I didn't want to say anything and he was
23 looking at me, so I would just like to put that on the record
24 that I'm pretty sure I'm familiar with one of the jurors, but I
25 just would like to renew all of my other motions, a motion for

1 mistrial, the motion for new trial and the motion because of my
2 procedural rights have been deprived of me. Like I said, when
3 I stated that the affidavit should have been put into the
4 record, I believe it should, so I think that greatly hindered
5 me. I think if the jury would have been able to see that
6 original document then they would have been able to compare it
7 to what I'm actually being accused of here and they would have
8 been able to determine that that's not actually what I was
9 actually charged with so there's no way I should have been
10 found guilty for something that I wasn't charged with. They
11 charged me for saying a specific thing, I didn't say those
12 specific things, and I'm still found guilty and I think the
13 only reason I was found guilty was because of the hindrance
14 that was to my case, the declarations of rights of civil rights
15 under the state law by the officers of this Court, one being my
16 attorney, several things went into play that I disagree with.
17 You all proffered a stipulation to the jury, which is an
18 agreement between the Solicitor and the defense, but you all
19 did not stipulate to the jury that I did not make that
20 agreement, I never seen that agreement before it was made, and
21 then when it was made, Your Honor, you forced me to be bound by
22 the decision of my attorney when I clearly stated I did not
23 want his service. So I just feel like my case has been
24 hindered greatly, I've just been prejudiced and it is the
25 reason that I definitely need a new trial and a fair trial from

1 the start. I will be putting the notice in for notice of
2 rehearing and if that is denied then I will be putting a notice
3 of appeal in, and I just would like the Court to consider the
4 things I just said because those greatly hinder my case. The
5 jury asked for the original charging document so they could be
6 aware of what really was going on, and they were denied being
7 able to see that and that was against my will, I wanted them to
8 see it, I feel like they should have been able to see it. I
9 feel like if that's what I was charged with, if that's what the
10 officer was claiming at first, then that should have been
11 something that -- that should have been the main thing that was
12 in the evidence. I don't believe that it's actually lawful to
13 state that the affidavit that charged this document is not
14 admissible as evidence. I've never heard that before, I don't
15 know that to be true, if it is that's very strange to me that
16 the actual document that charged you with a crime can not be
17 presented to the jury. I think that the jury would have a
18 great deal of more insight of actually how this case came about
19 if they were afforded that opportunity to see that original
20 affidavit which was sworn to under penalty of perjury and was
21 the reason why I was even charged. If they was able to see
22 that somebody lied under penalty and perjury about what
23 happened and about what was said and then they could have
24 compared it to the video, they would have been able to see
25 that, that was never said, so somebody along the lines was

1 giving false statements under penalty and perjury, but the
2 Court, in my opinion, has prejudiced my case by not allowing
3 the jury to see that, and all of the other reasons that I
4 stipulated throughout this case and all the other motions that
5 I rose and I was stating my grievances about not having the
6 opportunity to properly present my case. You was forcing me to
7 go through an attorney who I clearly and put on record that
8 it's against my religious belief to allow him to just represent
9 me. You also stated that you can't hear hybrid representation,
10 which from your explanation was you can't hear from me if I
11 have a lawyer so had to go straight through my lawyer. Once
12 this case started I've been feeling that you've been talking
13 over me and going directly with my attorney and having all of
14 the business being talked about between you all two, and I'm
15 not satisfied with his services and I said that from the start,
16 so that's also prejudice to my case if you're going over my
17 head and talking to the person who I've expressly said that I
18 do not want to represent me, and I have that right from Article
19 1, Section 14 of the Constitution which states that any man,
20 any person charged with any crime has the right to defend
21 himself or the right to an attorney or the right to be heard by
22 him and his attorney. That's what the constitution said but
23 the Court told me that it's either one or the other or if he's
24 my attorney then you can't hear from me. That is inconsistent
25 with the Constitution so that means that my constitutional

1 rights were violated in this case so that means that that's a
2 deprivation of rights and that is the reason I need a new
3 trial, several reasons, several different reasons. I've
4 already been arrested twice in this case, I've already
5 proffered that as evidence. I've already showed the record,
6 the Court has not been inclined to address those in any manner.
7 You said that you was going to give me a chance to correct the
8 record. You allowed James Malone to put a record on the record
9 that was not the actual true record. I had all the documents
10 with me the next day to proffer that, and you would not really
11 allow me to explain it and proffer my proper case. I know
12 you're going to say that you did allow me, but I contest that
13 you didn't. I contest that every time I spoke up, instead of
14 you allowing the Solicitor to do the argument and to rebut my
15 points, you was doing the rebutting and you was shutting down
16 everything I tried to, all of my defenses. I feel like this
17 was a predetermined action between -- this is one of the main
18 reasons I wanted him off the case. I have noticed and seen
19 things between him and the Solicitor that were against my best
20 interests. Everybody else in this matter including the Court
21 has been telling me that he has been appointed to me for my
22 best interest. I believe, and the Constitution believes and
23 God given under legal rights believe that nobody else can tell
24 you what's in your best interest. You have the right to decide
25 what's in your best interest and since I was not given he

1 opportunity to be fully heard in my own defense defending my
2 own cause as I have the right to do, that has prejudiced me
3 greatly in this case, the undue delay that's prejudiced me
4 greatly in this case, this case could have been brought to
5 trial way before COVID when they started using that as an
6 excuse. I was arrested in 2017, COVID did not start until
7 2020, March, officially, with the Government when it started
8 shutting down things, so they had three years, approximately,
9 to bring this so-called simple case to the forefront, they did
10 not, that undue delay prejudiced me, as well, and I referenced
11 State versus Langford for that when they explain what undue
12 delay is and how it can prejudice somebody's case and I guess I
13 just want to -- I just really want to put all of these on the
14 record so they could be reviewed by other courts because I feel
15 like it's not possible for me to get a fair trial in this venue
16 and this is the reason why I put the change of venue affidavit
17 in. This has been going on for a long time. I've already had
18 an incident on January 15th of 2020 where I received a notice
19 to come for this case and I let them know that it was
20 improperly served. It came at too short of a time, but I let
21 the Court know that since I still got it that I will be coming,
22 I just may be a little bit late. I was like 15 to 20, 30
23 minutes late, and a reasonable prudent person can clearly see
24 that there was no court cases that day, that I've been in court
25 several times for this case, I've never come to court and court

1 being completely emptied within 10 minutes after starting at
2 2:30, I mean, 2:00 and it was, everything, everybody, nobody
3 was here at 2:30. I was e-mailing James Malone telling him I'm
4 going to be on my way. I seen James Malone standing outside
5 smoking a cigarette when I arrived here at like 2:15, I walked
6 upstairs to the court and I was arrested in court for missing
7 court that day. That's also against the rules of South
8 Carolina Code, when a person is going to and from court to
9 their court date that day, they're not even supposed to be
10 arrested, but technically, I was arrested at around two
11 something and then they retroactively put out the bench warrant
12 which is against the law and a false arrest and they
13 retroactively put out the bench warrant after I was already
14 arrested, so that's a violation of SC Code 1755, I'm not sure
15 the rest, it's the right to be informed, and it states that the
16 moment you're arrested and handcuffs are put on you then you
17 have the right to be informed, and you must receive the true
18 and correct reason why you're being arrested and the person
19 does not give you the truth, if they don't respond truthfully
20 that person is in violation of a federal offense. That
21 happened within the course this case. Now, it's proof that it
22 was invalid because the next day the judge released me because
23 of those reasons, and then he gave me a Faretta hearing and
24 then he put on the record that I can represent myself. That
25 was three years ago in 2020. Once I put that on the record

1 that I could represent myself, this case went dark for another
2 couple years prejudicing my defense, making me believe that
3 these guys are just playing around, they are not really trying
4 to take this case seriously, because, obviously, I know it's
5 because the falsified affidavit. They are basically trying to
6 avoid putting that into evidence as it happened today, so the
7 jury was not allowed to see a falsified affidavit. That
8 affidavit led to the indictment. The indictment should never
9 have been reached because the Solicitor was in possession of
10 the DVD the whole time, so when he received that affidavit from
11 an officer stating that these words were said and that he saw
12 that DVD and that he seen that those words were not said and
13 then still decided to take that to a grand jury and lied under
14 oath and say that those words were said in order for him to
15 acquire procurement of this case to start, that is basically a
16 violation. You can't procure anything under false pretenses.
17 You can't require anything under fraud. Anything reached in
18 fraud is void, so I have evidence of all of this, like I stated
19 before. I told to the Court I could produce all of this, but
20 since my case has been so drastically prejudiced and I have not
21 been allowed to have a fully chance to be heard in the way I
22 see fit, which I have a constitutional right to do, my case has
23 been greatly prejudiced. So for all of these reasons I move
24 for a new trial, a mistrial, and I would just like to put on
25 the record that several of my constitutional rights have been

1 deprived by state actors under the color of state law which
2 rises to civil penalties, which I told James Malone, and this
3 is another reason why I believe how can I have a fair trial and
4 a trial where I've had contractual disagreements and
5 combativeness with an attorney, I've had personal disagreements
6 and personal discussions about civil suits that will be coming
7 before the January 20 incident. I was waiting until this was
8 resolved because of my understanding that I was becoming a
9 certain way, I was waiting for this to be resolved to attack
10 that. I actually asked my attorney about that and he basically
11 said that you -- he agreed at the time that you probably have a
12 civil suit, so if that's the case and if you have a civil suit
13 then that obviously means somebody deprived your rights. If
14 somebody deprived your rights within the course of a case then
15 that means that that should be, it's a dismissible offense.

16 I have is a long list of grievances, a long list of
17 errors that happened in this case, I feel like the Court has
18 erred several times in matters of law, and I feel like the
19 matters of law that the Court did error just happened to help
20 the State's case. The presentation that would -- how the case
21 was presented to the jury, I clearly stated before they even
22 went back for deliberation that I had an issue with the
23 stipulation that you said was an agreement. You put it to the
24 jury as, you let them know that a stipulation means that the
25 State and the defense has agreed, so if they are looking at the

1 piece of paper that says any words on it they're going to take
2 that as a fact and they're going to say, well, he agreed so
3 that's not a problem, but if I did, I never agreed to that
4 stipulation. I never even was aware of that stipulation in its
5 full capacity until it was already made. It was not discussed
6 with me beforehand, and after it was discussed with me I had
7 already fired the attorney, so therefore, any agreement made
8 before that should not be valid, it should be void and it is
9 void if you're talking lawfully, but you said that it doesn't
10 matter, every decision that he made, I'm bound by. That's a
11 contractual fallacy. That's freedom of will fallacy, like,
12 people have freedom, people can do, can make decisions for
13 their self. I feel like I've not been given the opportunity.
14 I just want to put all of this on the record because I know I
15 might be inconveniencing other people, but I'm the one being
16 inconvenienced the most right now because my rights have been
17 totally violated and I'm being arrested and sent to jail for
18 it. So I'm also inconveniencing, I apologize, but I've got to
19 get this all on the record because when I put these things in
20 front of another judge I want them to be able to see how many
21 times I've tried to fairly defend myself properly by the rules
22 of procedure and I've been being met with people who are
23 telling that because they went to law school that -- they are
24 basically trying to manipulate and act like because they went
25 to law school that they can tell me the law instead of

1 providing to law and why I'm wrong. Every time I try to
2 provide the law I was told I was wrong, but I was provided the
3 counter law that said I was wrong, so therefore, none of those
4 objections should have been denied because most of the
5 objections that were denied were never argued by the Solicitor,
6 you argued them, which in my understanding of the law is
7 practicing from the bench and is an error of discretion, abuse
8 and discretion, but I could be wrong, but I want to be able to
9 put these in front of another judge so he can or they can go
10 over everything in this case and see if I'm right, because I
11 know for a fact if people can see the real record in this case
12 and see the true affidavit, the true indictment, not just the
13 number on top of the word that they purposely left the words of
14 the indictment off of this verdict form so they couldn't read
15 it, in my opinion, they never even seen the indictment, they
16 never seen the affidavit, so how can it be a fair trial? But I
17 don't have really much else to say. I understand, totally,
18 that this is what I believe in my understanding, that this is
19 100 percent partial to the Court. I know that when I say
20 things like that it might be taken out of disrespect, but I'm
21 just simply defending my rights calling out blatant unlawful
22 acts blatant prejudices to my case, and blatant deprivations of
23 my rights, and I've got nothing else further to say. Thank
24 you, Your Honor.

25 THE COURT: You're welcome. Would the State like to

1 respond?

2 MR. ZEIGLER: No, Your Honor.

3 THE COURT: You need to make a record. You need
4 respond to his motion to new trial, otherwise, the record is
5 going to be silent.

6 MR. ZEIGLER: The State opposes the defendant's
7 motion for a new trial. Everything he has stated has been
8 noted multiple times on the record over the last three days and
9 it's just not applicable in this case. The State hasn't
10 prejudiced him in any way and neither has the Court.

11 THE COURT: And out of an abundance of caution, Mr.
12 D'Angelo or Mr. Henley, is there anything you all would like to
13 mention for the record?

14 THE DEFENDANT: Objection. What is the relevance?

15 THE COURT: Because he represented you. Sir, I've
16 instructed you on multiple occasions that you do not have the
17 authority nor discretion to query this Court. He represented
18 you up to a point until I relieved him under Faretta and had
19 appointed him as standby counsel. It's within this Court's
20 prerogative to ask him anything that deems appropriate, and you
21 are not to interrupt the Court again. Mr. D'Angelo or Mr.
22 Henley, is there anything you wish to place on the record?

23 MR. D'ANGELO: I don't think it's needed, Your Honor.
24 I think previously that at the last motion when Mr.
25 Jean-Charles placed his motion for mistrial, I think Your Honor

1 kind of summarized it nicely. I don't really think I have
2 anything to add. It's, in sentencing I'd be happy to speak if
3 Mr. Jean-Charles would like me to and add some benefit to the
4 Court, but in regards to everything that was just said, I don't
5 think I have anything else. Thank you.

6 THE COURT: I just wanted to give you that
7 opportunity. Mr. Henley?

8 MR. HENLEY: Your Honor, as it relates to sentencing,
9 I believe you've been extremely patient, your level of patience
10 is something to be with admired and I hope you do the same as
11 you look at the sentencing of Mr. Jean-Charles. Thank you.

12 THE COURT: You're welcome, sir. Out of an abundance
13 of caution, and not to belabor the hour, I'm going to try to
14 address the matters that have been raised by the defendant. I
15 think they have been, probably, covered multiple times during
16 the course of this record, and the in camera proceedings that
17 have been conducted, but maybe I'll go in opposite order. I
18 don't know that I'll go in any particular order, I may not
19 follow the order that Mr. Charles went in, but I hope to cover
20 all of the matters before we proceed to sentencing.

21 Mr. Charles raises an issue regarding the
22 stipulation, and as I advised him, that if he had an issue
23 about that, one, it should have been raised earlier, which he
24 did not raise it and so to some extent it was waived, but in
25 any event, when the stipulation was entered he was represented

1 by Mr. D'Angelo, which means he's bound by Mr. D'Angelo's
2 decisions as his counsel. Mr. D'Angelo is required to discuss
3 strategy. He is required to discuss certain things with his
4 client, but he's not required to do what his client, in effect,
5 orders him to do, he's required to do what is manifestly in his
6 client's best interest, but the Court had the ability to
7 personally observe Mr. D'Angelo go over the stipulation on
8 multiple occasions while in court with Mr. Charles. In
9 addition, there were several discussions about the wording of
10 the stipulation, the elimination of portions of the
11 stipulation, and at each juncture Mr. D'Angelo went over those
12 with Mr. Charles, so at this point, really, in this Court's
13 estimation, it's disingenuous for him to now raise that issue.
14 In addition, the Court can discern no prejudice to him in the
15 stipulation, frankly, as I've already found. It inured greatly
16 to his benefit because it eliminated about an hour of that
17 video, which would have been grossly prejudicial to him, and
18 even more importantly, the crux of his argument or his defense
19 was free speech and a lack of intent, and that what he said to
20 the victim in this case was not a threat, and so, the
21 stipulation really only dealt with what office the Sergeant
22 held, which is that she was a public official and that she was
23 acting in that capacity at the time she interacted with Mr.
24 Charles. So again, the Court reinforces that that argument is
25 without merit. I've already addressed the motion for mistrial,

1 which I also at that time found that there was no merit.

2 As regards to the affidavit which formed the basis of
3 his arrest, an affidavit is merely a statement designed to
4 establish probable cause for an arrest. It should not be
5 admitted for any evidentiary purpose, and I think without going
6 through every case that interprets that black letter precedent
7 that is well established, it is hearsay. It is a statement
8 made by someone out of court offered for its truth and would
9 not have been admissible, but even more importantly in taking
10 these in the stages as they developed, Mr. Charles made no
11 attempt to admit the affidavit at the appropriate time so he
12 waived that. He attempted to enter it after the close of the
13 evidence after closing arguments had been made, which
14 procedurally would have been inappropriate, and the law is very
15 clear that any affidavit regarding an arrest is merely a notice
16 document. The State is not bound by the allegations in the
17 affidavit, so it really, again, is a red herring, because it
18 would, again, have made no difference. Mr. Charles' goal from
19 the beginning of this was to have his case dismissed, and he
20 simply had no basis for a dismissal, whether it be the passage
21 of time, the affidavit, or any of the other spurious
22 allegations he's raised. The affidavit filed by the officer
23 clearly complied with 17-13-160, which is the affidavit
24 requirements for arrest warrants, and the Court has already
25 gone over that and would incorporate that portion of those

1 findings into this portion of the record without belaboring the
2 hour, but however, even in light of all of that, in leniency
3 and really in compliance with the rules I allowed Mr. Charles,
4 and I mean in compliance with the evidentiary rules, allowed
5 him to use that affidavit to cross-examine the victim in this
6 case, which really was outside of the rules because she didn't
7 create the document, but I still allowed him to use it. I
8 allowed him to let her refresh her memory with the document she
9 didn't create, nor could she really, theoretically, under the
10 rules had been cross-examined with, but I still allowed it. So
11 I do not think he can claim any prejudice in that regard when
12 the Court bent over backwards to allow him to have something
13 that was not even his right within the rules. Again, an
14 affidavit for an arrest is merely a notice document and it has
15 no evidentiary value and the State is not bound in developing
16 their case based on what is in an affidavit.

17 And again, the stipulation inured grossly to his
18 benefit and it had nothing to do with the theory of his case,
19 which was free speech, he had no intent, and the statements
20 were not a threat. In fact, on examination he admitted and in
21 his opening argument, admitted he made the statements, but
22 questioned what his motivation was in making those statements,
23 and again, conceding to his request, the Court stayed late last
24 night and found an instruction on mens rea, or otherwise,
25 intent, and incorporated that in its jury instructions.

1 Contrary to Mr. Charles' misrepresentations of this
2 record, he has had a full opportunity to be heard, frankly, to
3 the gross exclusion of others, and I have been very lenient.
4 We were here until almost 6:00 on Monday night and we didn't
5 break until, I don't have my continuum, but he spoke about four
6 hours, basically, uninterrupted where I allowed him to put
7 every single thing on the record he deemed appropriate, and we
8 did not leave until well after 5:00 while he was allowed to do
9 that, and piggybacking on that concept, the Court stands by its
10 interpretation of uncontroverted case law, there is no hybrid
11 representation in South Carolina. If you have a lawyer, your
12 lawyer speaks for you. If you have a lawyer, they file all
13 documents for you. Up until the time that the Court made a
14 decision on Mr. Charles' Faretta motion, Mr. D'Angelo was his
15 lawyer of record, but in spite of that, I still allowed Mr.
16 Charles to do all of the talking. Mr. D'Angelo did no talking
17 on Monday, or very little talking on Monday, as it regards Mr.
18 Charles, and even before the Court made a decision on Faretta,
19 he in essence represented himself and made every statement he
20 felt he needed to make for the record in that regard. So To
21 represent that somehow he was not allowed to represent himself
22 is again, a gross misrepresentation of this record. Sir, if
23 you continue to speak under your breath, I'm going to allow the
24 deputies to take you into custody.

25 THE DEFENDANT: I was speaking with Mr. D'Angelo.

1 THE COURT: Then do it after the Court's done ruling.
2 The Court allowed Mr. Charles, even after his lengthy
3 recitation on Monday, he indicated that he did not have the
4 documents that he needed to support his propositions, although
5 he went in great length regarding his propositions during his
6 presentation to the Court, and in great -- I deferred to him,
7 because his bond was called when this case was called, and I
8 should have taken him into custody on Monday, and I did not, I
9 allowed him to go home, I deferred to his request, and I
10 allowed him to go get all of the documents he said he needed to
11 support his proposition, and at that time I advised him that he
12 would be allowed to supplement the record with any documents,
13 case law, statutes, rules, or otherwise, that he wanted to put
14 into the record to support his proposition, and to my
15 recollection, every document that he brought with him that he
16 wished to have marked for the record has been marked as Court's
17 exhibits, and those being marked were facilitated by Mr.
18 D'Angelo.

19 Now, dealing with his averment, for lack of a better
20 word, that somehow this Court hasn't assisted him I've made Mr.
21 Charles clear that this Court is not an advocate, I do not
22 practice law, it is not this Court's responsibility to give him
23 advice. When you make the decision to represent yourself and
24 while the Constitution gives you the ability to represent
25 yourself, it precludes this Court from acting as an advocate.

1 It precludes this Court from giving you advice, and so when you
2 say that no one would give you advice, no one would answer your
3 questions, the Court is under no obligation to do so, and quite
4 frankly, would be a violation of the rules to do so, because
5 while you have rights, the State has rights, as well, and this
6 Court is an impartial arbiter of the facts and the law, and
7 even though the State has resources and otherwise, they are
8 still entitled to a fair trial, as well, and this Court is not
9 going to overstep those bounds and give you more assistance
10 than it would give the State, and while you are correct there
11 is some leniency given to a pro se litigant, when you decide to
12 represent yourself, the law charges you with the same knowledge
13 and responsibility ethically, and otherwise, as a lawyer. So
14 once you decided you wanted to represent yourself, which was
15 contrary to your advisements, contrary to your best interest,
16 you then became the architect of your own situation and your
17 own dilemma to some extent, so the Court was under no
18 obligation to entertain any inquiries from you, although, I did
19 entertain, probably, far more of them than I should have.

20 Unfortunately, Mr. Charles, you perceive that when
21 people don't agree with you that they don't know the law, that
22 they are misrepresenting the law, and that they are treating
23 you unfairly, and what is even more unfortunate is that because
24 you've done a little bit of reading you have a gross
25 misapprehension of what you believe the law is and the

1 applicability of the rules. You somehow think that there is
2 some cross germination between the civil rules and the criminal
3 rules, that somehow there's some cross pollination between the
4 federal body of law and state body of law, and I've tried the
5 best that I can to make you clear that the civil rules do not
6 apply in criminal court, that the federal rules do not apply in
7 state court. So it is unfortunate that you have misunderstood
8 the Court's attempts to clarify those matters for you, but
9 again, the Court could not cross the line and become an
10 advocate for you. We have all left court late every night in
11 an effort to assist you, to accommodate you, and to allow you
12 to speak on every issue you felt pertinent in this case, and
13 unfortunately, while you have, and I believe perception is
14 reality for many people, and I do believe you do perceive that
15 we have been rude to you, I think you perceive that we have
16 been insulant, that somehow we have been unfair to you, and
17 that is your reality, however, to the other folk in this
18 courthouse and in this courtroom, their perception is your
19 behavior has been rude, insulant and discourteous. You've
20 often violated the rules of procedure and you've often spoken
21 discourteously, not only over this Court, which I can take, it
22 really doesn't matter to me, but to the State's counsel, as
23 well as, really, frankly, toward Mr. Henley and Mr. D'Angelo.
24 While you may perceive that this Court has been discourteous
25 with you, this Court has a greater responsibility, it is

1 charged with the decorum of these proceedings, and while I can
2 ignore a lot, personally as a judge who sits in an office in
3 this Court, there are things that I cannot ignore and that I
4 cannot allow, because if I allow you do to it then I'll have to
5 allow everyone else to do it, and then what will happen is we
6 will be in organized chaos, and that is not what the public
7 expects of this institution, nor should any litigant entering
8 the doors of this courthouse expect of this institution.

9 I have addressed your speedy trial motion at length
10 and I am not going to go back over that. I've made findings of
11 fact and conclusions of law regarding your speedy trial motion,
12 which you couched as a motion of delay, and I will incorporate
13 those findings into this portion of the record. The issues on
14 the bench warrants, the bonds and other appearances really have
15 no bearing on the trial of this case, nor in your ability to
16 prepare for this case. In fact, as adamant as you have been
17 about preparing for this case, you have known since 2017 that
18 you've wanted to represent yourself, you've known at least
19 since December that this matter was set for trial and would go
20 forward, so I do not think there can be any good faith argument
21 that you did not have an opportunity to be prepared to try this
22 case, nor for this Court to grant what you've requested, which
23 was the ability to represent yourself, which I allowed, which,
24 again, I made those Faretta findings on the record, and I will
25 not rehash that, as well, as well as this Court's perception

1 that, unfortunately, was not in your best interest to represent
2 yourself, but in an abundance of caution I allowed and really
3 prevailed on Mr. D'Angelo and Mr. Henley to remain as shadow
4 counsel, in the event that you had any procedural questions or
5 questions of law or if you needed case law, or otherwise, so
6 that they could assist you in the presentation of your case and
7 again, in deference to you, instead of taking you into custody
8 on Monday night, I allowed you to go home so that you could
9 adequately prepare for this trial, your presentation of your
10 case, as well as your opening and closing arguments.

11 Unfortunately, Mr. Charles perceives that when the
12 Court makes an independent ruling regarding matters before it,
13 that it is taking a side. Of course, as I have reinforced, the
14 Court is merely like a referee, it has no side. The Court is
15 bound by the current and prevailing law, and the Court has made
16 decisions based in the law. Often times when Mr. Charles has
17 asked questions and the Court has given clarity, he perceives
18 that as taking a side, and once I realized that, I then
19 determined it would not be appropriate to continue to try to
20 assist him.

21 The jury saw the indictment, it was read to them at
22 the time of your formal arraignment, but we do not generally
23 send indictments back, and the reason we do that is so that the
24 defendant will not be prejudiced in any way by any superfluous
25 language that might be in the body of that document, and what

1 the jury saw were two very small snippets, which is what the
2 State contended were the elements of this offense, what they
3 contended the threat was at 8:23 of that video and at 26
4 minutes of that video, but we all know the full version of that
5 video is an hour and 23 minutes, which contains extremely
6 profane, abusive and offensive language. I took the liberty,
7 or discretion, to have that video redacted so that the State
8 was limited to the jury only seeing those portions of the video
9 that they contended supported the elements of the offense,
10 contrary to their objection, because they wanted the whole
11 video in. They thought the whole video showed the entire
12 context and the entire circumstances of Mr. Charles' intent,
13 his state of mind, and his behavior, and that it was not
14 accidental, the way he behaved on that night, that it was, in
15 fact, willful, knowing and intentional, but, again, out of an
16 abundance of caution I redacted that entire video down to what
17 really ended up being about less than two minutes of video,
18 which greatly inured to his benefit, and then again, also ties
19 into the entire stipulation issue.

20 Now, I think I've covered everything that he raised,
21 and if I didn't, I apologize. I think the record is so replete
22 and complete in this matter that if I overlooked anything I
23 would incorporate any portions of the record into this portion
24 of the record that was covered, and his motion for new trial is
25 denied. And just so the record is clear, Mr. Charles, we get

1 sued all the time, it wouldn't affect us. Sometimes, frankly,
2 I get sued, and I don't know until I go to the screen and I've
3 been sued, because people don't know how to perfect service.
4 It's a regular part of what we do for a living, so people sue
5 the Court, they sue the Court staff, all the time, and it does
6 not cause us to be impartial -- I mean, to be partial in any
7 way. We don't take it personal, we just figure it's just a
8 part of what we do, so I don't know that that would have any
9 discernible effect on anything that this Court has done or in
10 any way this Court has treated you regarding this matter. The
11 lawyers are used to PCR's, they're used to being sued, the
12 court staff is used to being sued, and so is the Court used to
13 being sued, so those things would have absolutely no effect in
14 any way this Court has treated you this week, and I would say
15 even for the deputy staff, the bailiff staff, and the court
16 staff, they have been inordinately respectful of your rights
17 and kind to you this week, in spite of, really, your behavior,
18 so I would commend them for their professionalism this week.
19 We'll now move on to sentencing. I'll be glad to hear from the
20 State.

21 MR. ZEIGLER: Thank you, Your Honor, may I approach
22 with the sentencing sheet?

23 THE COURT: Sure.

24 THE DEFENDANT: Ma'am, my motion to reconsider, my
25 motion to reconsider, I have an objection.

1 THE COURT: The motion is denied, sir. There is no
2 provision for a motion for reconsideration on a motion for new
3 trial in criminal court.

4 THE DEFENDANT: Ma'am --

5 THE COURT: Sir, I'm not going to caution you again,
6 that pursuant to the rules, once the Court has ruled there is
7 to be no further statements.

8 THE DEFENDANT: Ma'am, there is a -- I can motion --
9 once you deny me, I can motion again to be reconsidered on that
10 motion.

11 THE COURT: No, sir, not in criminal court, only in
12 civil court.

13 THE DEFENDANT: Ma'am, that's not true.

14 THE COURT: Your next option, sir, is to file an
15 appeal.

16 THE DEFENDANT: Ma'am, you just said a bunch of
17 things and you're not going to allow me to respond?

18 THE COURT: For the benefit of the record, sir, your
19 motion for reconsideration is denied.

20 THE DEFENDANT: So are you --

21 THE COURT: And stop interrupting Mr. Zeigler.

22 THE DEFENDANT: You're not going to allow me to
23 respond?

24 THE COURT: No, sir, I'm not. Mr. Zeigler, I'll be
25 glad to hear from you.

1 MR. ZEIGLER: Thank you, Your Honor.

2 THE COURT: And if you would give us Mr.
3 Jean-Charles' record so that you can refresh my memory.

4 MR. ZEIGLER: Yes, Your Honor, I believe that was on
5 Monday morning.

6 THE COURT: It was, and I wrote it down, but I think
7 it needs to be in this portion of the record so that we have a
8 complete regarding any aggravating or mitigating circumstances
9 that the Court might consider in sentencing him.

10 MR. ZEIGLER: Yes, Your Honor. Thank you.

11 THE COURT: You're welcome.

12 MR. ZEIGLER: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. ZEIGLER: In 2009, Mr. Jean-Charles was convicted
15 and pled to marijuana; in 2016 entering after warning; in 2017
16 failure to stop for blue lights, reckless driving and
17 disorderly conduct; 2021 he was tried in his absence after
18 failing to appear in magistrate court for two separate driving
19 under the influence charges --

20 THE DEFENDANT: That's not true.

21 MR. ZEIGLER: -- two separate driving under
22 suspension charges, two separate open container charges --

23 THE COURT: I need you to slow down for me.

24 MR. ZEIGLER: Okay.

25 THE COURT: So in '21 he was tried in his absence for

1 failure to appear in magistrate's court for a DUI?

2 MR. ZEIGLER: Two separate DUI's, Your Honor.

3 THE COURT: And both in '21?

4 MR. ZEIGLER: Both in '21.

5 THE COURT: And then he had a DUS?

6 MR. ZEIGLER: Two DUS seconds in 2021.

7 THE COURT: And where were those tried?

8 MR. ZEIGLER: Magistrate court, as well, with the
9 DUI.

10 THE COURT: DUS second in magistrate's court?

11 MR. ZEIGLER: Yes, Your Honor. The third or
12 subsequent if --

13 THE COURT: -- current jurisdiction, but if it's a
14 subsequent it's mandatory that it be taken care of here.

15 MR. ZEIGLER: Certain levels, yes, Your Honor.

16 THE COURT: And if it's DUI or non-DUI related, okay.

17 MR. ZEIGLER: Yes, that's correct.

18 THE COURT: Alright, you may continue.

19 MR. ZEIGLER: Okay. Open container affiliated with
20 those same charges, as well, possession of marijuana, and
21 trespassing, all in 2021. He was tried in his absence and
22 found guilty, Your Honor.

23 THE DEFENDANT: That's disputed.

24 THE COURT: That was in '21, correct?

25 MR. ZEIGLER: That's correct, Your Honor.

1 THE COURT: Alright.

2 MR. ZEIGLER: And I will say --

3 THE COURT: That is the extent of his prior record,
4 correct?

5 MR. ZEIGLER: That is the extent of his convictions,
6 Your Honor, yes, Your Honor.

7 THE COURT: You may continue.

8 MR. ZEIGLER: I don't really know where to start with
9 what he said in the rest of that video. I'm going to leave
10 that to Your Honor, you've viewed the video, I don't want to
11 make a spectacle of what he said. Other than the sexual
12 harassment, profanity, name calling, disrespect, using certain
13 terms over 100 times in referring to Sergeant Rainey who was
14 nothing but respectful to the defendant that night, no, he
15 didn't threaten to kill her, but he threatened to inflict
16 bodily harm on her, and that falls squarely under the statute.
17 The State is requesting five years for this defendant with
18 mental health counseling. Which I believe it's clear that he
19 needs, as you know it's a 65 percent offense. He's done 90
20 days, he would do about three and a half years. This is one of
21 the most disrespectful things that I have seen in my four years
22 as an assistant solicitor. The defendant didn't contend that
23 he was -- he was found not guilty, according to him, or
24 dismissed his DUI. He's not saying -- his argument was never
25 about whether he was so intoxicated that he said these things

1 out of drunkenness, and so, the fact that he was sober when he
2 was doing it makes it even more despicable and just more
3 reprehensible. He has not afforded, without going into the
4 continuances and all of that stuff, which you've done on the
5 record multiple times, the reason this case took so long to
6 here is not because of the State, I took this case over at the
7 end of 2020, in December, and as soon as the courts rolling
8 docket came up he was up for trial. We pushed all we could to
9 get a trial before this Court, and unfortunately, it took a
10 couple extra years for the Court's docket to roll around and
11 reach it. So he has multiple pending charges I will be
12 dismissing, a possession of marijuana second offense --

13 THE COURT: What year is that?

14 MR. ZEIGLER: From January 15th of 2023.

15 THE COURT: And what was the circumstances of that
16 arrest?

17 MR. ZEIGLER: He was off of King Street downtown
18 smoking marijuana in a car, officers approached the vehicle --

19 THE DEFENDANT: Objection. I can't allow him to just
20 keep putting these lies on the record.

21 MR. ZEIGLER: I'll telling you I'm dismissing the
22 case.

23 THE COURT: Sir, don't interrupt Mr. Zeigler, I will
24 give you an opportunity to respond. If you interrupt him
25 again --

1 THE DEFENDANT: I'm sorry, I'm sorry, Your Honor.

2 THE COURT: This Court has never eclipsed your
3 ability to respond, but don't be discourteous and interrupt
4 him, he has never been discourteous and interrupted you.
5 Continue, Mr. Zeigler.

6 MR. ZEIGLER: Thank you, Your Honor.

7 THE COURT: You're welcome.

8 MR. ZEIGLER: He was smoking marijuana in his vehicle
9 in a parking lot, an officer approached the vehicle, as it was
10 after dark and the area was known for drug use, after hours,
11 alcohol use, you know, 2:00 in the morning, people doing --

12 THE DEFENDANT: Objection.

13 MR. ZEIGLER: -- drugs and alcohol after partying on
14 Kings Street all night, he opened the door, they saw -- or
15 smelled marijuana, and he was ultimately arrested for three
16 grams of marijuana. The State contends that if you give him
17 the requested sentence, or even if you don't, we will dismiss
18 that charge. It's irrelevant to the State.

19 THE COURT: So you're going to do a status change?

20 MR. ZEIGLER: I will be submitting a status change
21 for him this afternoon on that charge, Your Honor. I can't
22 speak for the Berkeley County charges that he has pending.

23 THE COURT: That was my next question, what does he
24 have pending in Berkeley?

25 THE DEFENDANT: And that's what you were saying with

1 the driving under suspension, he currently has two pending
2 charges in Berkeley County, one of which is a driving under
3 suspension as a result -- driving under suspension third
4 offense as a result of a DUI conviction. So he was suspended
5 for a DUI at which point he was caught driving under suspension
6 for a third time, and therefore, he was charged appropriately
7 with that. I can reach out to the solicitor there after you
8 hand down your sentence and let them know what he receives.

9 THE COURT: So he only has one charge pending in
10 Berkeley?

11 MR. ZEIGLER: I am just checking real quick, I beg
12 the Court's indulgence. He also has -- okay, yes, his other
13 pending Berkeley charges were dismissed.

14 THE COURT: When was that?

15 MR. ZEIGLER: He had a strong armed robbery charge
16 dismissed in -- that was from 2019. He had a criminal sexual
17 conduct third degree dismissed because of the victim
18 recantation in 2018.

19 THE COURT: You said '18?

20 MR. ZEIGLER: Yes, Your Honor. That was dismissed in
21 2020 during COVID. I apologize, right before COVID, February
22 of 2020.

23 THE COURT: Anything further from the State?

24 THE DEFENDANT: Yes, ma'am, I have --

25 THE COURT: I said from the State.

1 MR. ZEIGLER: No, Your Honor, just that he thrives on
2 doing stuff like this, and again, no matter what sentence you
3 give, we would request that mental health counseling be a part
4 of it for sure. Oh, I apologize, the victim would like to
5 address Your Honor at the appropriate time, as well.

6 THE COURT: This is the appropriate time. Ma'am,
7 I'll be glad to hear from you. If you would tell us your name
8 for the record?

9 MS. RAINEY: My name is Danielle Rainey. I am an
10 employee of the Charleston County Sheriff's Office. I am a
11 sergeant. I just want to say thank you for your lenience.
12 Thank you for the jury for your patience. The video was
13 grotesque. The actions were extremely grotesque, and I would
14 not want anyone's wife, mother, child, even their son's, their
15 brothers, to go through what I went through. I really can't
16 say anything, but I pray for you, and I hope that in some light
17 that you get better, because, obviously, everything that was
18 said, it was morally wrong, and even when you said that you
19 looked me up and you realized afterwards what I have been
20 through, without knowing what I have gone through, no one
21 deserves that much disrespect. No one deserves a threat. I
22 didn't join this job to be threatened, I joined this job to
23 protect and serve, and all I was doing that night was my job,
24 so I thank you, Judge, for everything that you have done and I
25 thank the jury. I thank the Solicitor's Office and for your

1 defense attorneys, I applaud their patience with so much grace.

2 THE COURT: Thank you, ma'am. Anything further from
3 the State?

4 MR. ZEIGLER: Nothing further, Your Honor. He did
5 make statements before that were recorded, but we're not going
6 to get into that. I appreciate Your Honor's patience this
7 week.

8 THE COURT: I'm sorry, tell me what you're referring
9 to, I need more clarity.

10 MR. ZEIGLER: So he made threats in the backseat of
11 the police car.

12 THE COURT: Oh, I just needed the record to be clear
13 what you were referring to.

14 MR. ZEIGLER: Yes.

15 THE COURT: Okay. Mr. Charles, do you want to
16 proceed with sentencing on your own or do you want some
17 assistance from Mr. D'Angelo and Mr. Henley, that they've
18 offered to you?

19 THE DEFENDANT: I need to object to the State's
20 proffer --

21 THE COURT: I need you to answer my question first,
22 and then you'll be able to say anything you want.

23 THE DEFENDANT: Okay. What was the question again?

24 THE COURT: The question is do you want to represent
25 yourself in sentencing, which I'm certain you can still make a

1 statement anyway, but do you want to take advantage of the
2 professional experiences of Mr. D'Angelo and Mr. Henley in any
3 presentation in your sentencing?

4 THE DEFENDANT: I would like to ask you, if he was to
5 present anything to you is it going to make a difference on how
6 you sentence, I mean, I don't understand how it would.

7 THE COURT: Mr. Charles' you have persistently
8 answered the Court's inquiries with questions, and I have been
9 very lenient and tried to be helpful and answer as many of your
10 questions as I can. Your question presumes that I've already
11 made a decision, which I have not, that is why you make
12 argument in sentencing, to aid the Court in clarity in that
13 process. So I will ask the question again, do you want the
14 assistance of your standby counsel in this process?

15 THE DEFENDANT: I don't think I will need them
16 just -- on just basically saying, you know what I mean, why I
17 shouldn't be sentenced, be sentenced, I mean --

18 THE COURT: It's up to you, sir, the Court doesn't
19 take a position.

20 THE DEFENDANT: No, ma'am, I don't I would need them
21 to do the sentencing.

22 THE COURT: I'd be glad to hear from you, sir, on
23 sentencing.

24 THE DEFENDANT: Yes, ma'am. I would just like to
25 respond to the certain things that were just said --

1 THE COURT: Go right ahead, sir.

2 THE DEFENDANT: -- because they were -- this was my
3 whole issue with this case and the way that everything's been
4 going. Now, I have to point out two examples of things that
5 you just said and things that he just said that's going to
6 prove my point of what I'm saying.

7 THE COURT: I'm not allowing you to reargue once this
8 Court has already ruled and I've been very clear about that.
9 If you want to respond to anything that Mr. Zeigler has said in
10 regards to sentencing and in regards to the fact that he's
11 requesting a five-year sentence for you, you're welcome to do
12 that, I am not, however, rehashing your arguments on a motion
13 for new trial, I am not rehashing any of your renewed motions,
14 the Court has ruled pursuant to the rules, there is to be no
15 further comment on that. Your remedy is an appeal, I would
16 suggest you exercise it.

17 THE DEFENDANT: I'm not trying to --

18 THE COURT: Yes, sir, you are.

19 THE DEFENDANT: I'm not trying to rehash the motion.
20 I'm trying to clarify --

21 THE COURT: No, sir, you're trying to circumvent this
22 to Court's ruling.

23 THE DEFENDANT: No, I'm not.

24 THE COURT: I need you to respond to sentencing.

25 THE DEFENDANT: I have to respond to what he said,

1 but I do have to respond to the one thing that was said by you.
2 It's not a rebuttal to or rehash or reargument, this is just
3 something I have to point out as back on the record.

4 THE COURT: Sir, it's the same thing. Once the Court
5 has ruled, there is to be no further argument.

6 THE DEFENDANT: But this is my point, ma'am, this is
7 my issue of why I'm being prejudiced. Every time I have
8 something to say, I'm not rebutted with a law, I'm rebutted
9 with your interpretation of the law that you are making me take
10 as the law.

11 THE COURT: Mr. Charles, if you would like to make an
12 argument regarding your sentencing, this is the time for you to
13 do that.

14 THE DEFENDANT: First, the Solicitor just said some
15 things that are totally false. He doesn't know the intricate
16 details of criminal history. He does not -- he should not --

17 THE COURT: Sir, is there some portion of the record
18 that's not accurate that he read to me?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: What portion is that?

21 THE DEFENDANT: When he was talking about those 2021
22 missed court dates. All of those are in dispute. All of these
23 -- everything that --

24 THE COURT: Did you appeal them, sir?

25 THE DEFENDANT: I didn't appeal them, but they are in

1 dispute.

2 THE COURT: Sir, they can't be in dispute if you
3 didn't appeal them, they're now the law of the case, so they're
4 in your NCIC record, so as far as the law is concerned, that is
5 your record, you were tried in your absence. There is nothing
6 to contest at this point.

7 THE DEFENDANT: Ma'am, this is my point right here.
8 When I make a point, you respond with your interpretation of
9 the law.

10 THE COURT: No, sir, I am telling you what the law
11 is.

12 THE DEFENDANT: You didn't point to any law, so are
13 you just saying what the law is.

14 THE COURT: Sir, the law in this state --

15 THE DEFENDANT: Where is the proof?

16 THE COURT: -- is that when an action of final
17 judgment has taken place --

18 THE DEFENDANT: What law is that?

19 THE COURT: -- you have a certain amount of time to
20 appeal the judgment. If you feel to appeal the judgment, it
21 becomes the law of the case. Once you did not appeal those
22 trials in absence in magistrate's court, they became the law of
23 the case, which means when your record is run, your NCIC, it
24 reflects that you were tried in your absence for DUI's for
25 magistrate's court in 2021.

1 THE DEFENDANT: In the State of South Carolina any
2 and all cases can be reopened for several different reasons,
3 fraud being one, mistake being others just because you don't
4 fraud being one, mistake being others, and several other
5 remedies, so just because you don't take the remedy of appeal
6 does not mean you don't have several other remedies.

7 THE COURT: Sir, the timeframe for you to have avail
8 yourself of any of those remedies has long run, you only have a
9 year, and we're now in 2023, so they are the law of the case,
10 and as far as the NCIC, that is your record, but I don't know
11 that it makes any appreciable difference, I just have to have
12 your record for purposes of this record when it's time for
13 sentencing.

14 THE DEFENDANT: I'm just putting it on the record
15 that this has happened every single time I've brought up the
16 law. I have not been rebutted with a law, I've been rebutted
17 with you saying that this is the law. You didn't show me that
18 this is the law, you didn't show anybody in this courtroom that
19 this is the law. There's no proof on the record that what
20 you're saying is the law, and I want to point out this example
21 because you did say in your statement when you was telling me
22 --

23 THE COURT: Sir, I'm not rehashing those motions.
24 Move on. Is there something you wanted --

25 THE DEFENDANT: I'm not rehashing the motion.

1 THE COURT: You are rehashing it. Is there something
2 that you want the Court to hear on sentencing? This your time
3 to do it. I'm going to give you a few more minutes. If you
4 don't avail yourself of it, it's going to be waived.

5 THE DEFENDANT: I'm going to let Nicholas help me
6 with that, but I'm saying because you just said --

7 THE COURT: You said you want Mr. D'Angelo to help
8 you with that?

9 THE DEFENDANT: I'm going to let him help me when it
10 comes to the sentencing.

11 THE COURT: Then that's where we're at now, sir.

12 THE DEFENDANT: I'm responding to the solicitor's
13 statements that he just made.

14 THE COURT: No, sir, I need to hear about sentencing.

15 THE DEFENDANT: But this is my problem with why my
16 case is being prejudiced. I'm not given the opportunity to put
17 anything on the record. Every time I do, I'm being
18 interrupted, told what the law is, no proof of what the law is.
19 You just let this to man say that he has suggested mental
20 health. Now, I have been to Faretta Hearings in this same
21 case, which was -- you did not even respond to that how you
22 should have. You already examined my mental health and you
23 wouldn't let me take a Faretta Hearing.

24 THE COURT: Sir, there's nothing for me to respond
25 and Mr. Zeigler has a right to ask for anything in your

1 sentencing --

2 THE DEFENDANT: You're right, you're right.

3 THE COURT: -- he things is appropriate.

4 THE DEFENDANT: You're right, that wasn't --

5 THE COURT: And theres nothing for me to respond to.

6 THE DEFENDANT: That's true, but you just said that
7 as a pro se litigant, the Court, you do have a little bit of
8 leniency.

9 THE COURT: And I've gave you a lot of leniency in
10 the last three days.

11 THE DEFENDANT: I understand that, but this is my
12 whole point. Since the first day of the trial when I stated
13 that pro se litigants need a little bit of leniency, you said
14 in the State of South Carolina that's not true.

15 THE COURT: You are held to the same standard as a
16 lawyer practicing in this Court. We need to move beyond this.
17 We are at the sentencing stage. You again, want to engage and
18 debate with the Court. You seem to think that you and I are an
19 imparity and that I'm an advocate, I am not, and I am not going
20 to engage in any colloquy with you about anything. This is the
21 stage in your trial where you have the opportunity to present
22 anything in mitigation you want about your sentencing. The
23 State is asking that you go to the Department of Corrections
24 for five years.

25 THE DEFENDANT: And that's unreasonable.

1 THE COURT: I think that you need to take this time
2 to address that and stop rehashing things that have already
3 been discussed, already been ruled upon. You have a fixed
4 opinion where you seem to think that you're supposed to be in
5 debate with this Court --

6 THE DEFENDANT: I'm not.

7 THE COURT: -- that is contrary to the rules. I have
8 allowed you to -- I let you speak a long time today, and I let
9 you say everything you wanted to say. You seem to think that
10 once you do that and the Court rules you get to rebut that
11 again and this is some volley that goes back and forth until
12 you have your way. It does not work that way. Procedurally,
13 it is inappropriate. We are now at the stage of the trial
14 where you need to make any arguments regarding sentencing and I
15 strongly suggest you take advantage of it. I'm not going
16 around in this circle again. I've been very clear with you
17 about what the rules are, and if you need to talk to Mr.
18 D'Angelo about it, do that. If you need to take a woosah or
19 take a few moments to collect your thoughts, I'll give you
20 that, but I'm not entertaining this anymore.

21 THE DEFENDANT: Well, it's not --

22 THE COURT: It is grossly disrespectful. I am not
23 entertaining it anymore.

24 THE DEFENDANT: How is it disrespectful?

25 THE COURT: I'm not entertaining it anymore.

1 THE DEFENDANT: How is me putting --

2 THE COURT: I'm not answering any questions.

3 THE DEFENDANT: -- real grievances on the record
4 disrespectful? I'm not saying it in a disrespectful way, I'm
5 saying that you literally made a contradiction on the record.
6 On the other day when you said a pro se litigant does not get
7 any more leniency than a regular State Solicitor.

8 THE COURT: Mr. D'Angelo, do you need to speak with
9 him about what he needs to be doing right now?

10 MR. D'ANGELO: I'll try, Your Honor.

11 THE COURT: Thank you.

12 THE DEFENDANT: If you did that with that, then how
13 many other times did you do that?

14 THE COURT: And Mr. Zeigler, I need to know if the
15 victim in this case is requesting a no contact order from Mr.
16 Charles?

17 MR. ZEIGLER: Certainly, Your Honor. She will be.
18 Thank you.

19 THE COURT: You're welcome.

20 MR. D'ANGELO: Your Honor, Mr. Jean-Charles would
21 like me to make a few remarks on his behalf.

22 THE COURT: I'll be glad to hear from you, Mr.
23 D'Angelo.

24 MR. D'ANGELO: Thank you, Your Honor.

25 THE COURT: You're welcome.

1 MR. D'ANGELO: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. D'ANGELO: This has been a long three days that
4 we've had. I've had several people make comments to me of,
5 wow, you've done a really good job of being patient, or I can't
6 believe you're continuing to try to still help him. Your
7 Honor, I'm a public defender for cases like this. I truly
8 believe --

9 THE COURT: That's precisely why I left you on as
10 shadow counsel, because I know you have a heart for Mr.
11 Charles.

12 MR. D'ANGELO: Akim is not a bad guy. Akim accused
13 me of thinking he was dumb. I do not. Akim is genuinely a
14 smart guy with who has read, I think, a lot of law. Law is
15 complicated. I also think Akim has been led astray by a lot of
16 other people. This is not my first case like this. This is
17 not my first case where I've been appointed standby counsel and
18 have had to sit through a case like this. I think a lot of
19 this is Akim has been led astray by people that have been put
20 in his head things that he needs to argue. At the end of the
21 day, I agreed with Akim, that I thought we had a case. I have
22 spent, and Mr. Henley with me, I have spent a lot of hours
23 preparing. I had a cross-examination ready to go, I had an
24 opening, I had a closing, all because, at the end of the day, I
25 felt like we actually did have a case. The things that Akim

1 said in that room were offensive, were wrong, were a bunch of
2 other words that I won't use in a court of law, but at the end
3 of the day, most of that is not necessarily illegal, while
4 being morally repugnant is not illegal. I do think the jury
5 saw, and I think all of us saw, Akim, I think, had a very
6 genuine moment on that stand where I think he did get check
7 choked up. I don't think that was for show, I think that was
8 genuine. I think he truly is regretful of what he said. We
9 had a conversation when I first started representing him about
10 trying to get to know him a little bit, I know he has a
11 daughter, I know he has a mother.

12 THE COURT: Which also begs the question, is his
13 family present with him today?

14 MR. D'ANGELO: Not to my knowledge, Your Honor.

15 THE COURT: Have they been present with him at any
16 stage of these proceedings?

17 MR. D'ANGELO: Not to my knowledge, Your Honor.

18 THE COURT: Do you know the reason for that?

19 MR. D'ANGELO: I do not. We've never been able to
20 get to the point to have that conversation.

21 THE DEFENDANT: I can tell you the reason. They
22 100 percent support me, they just work.

23 THE COURT: That's reasonable, people have jobs,
24 uh-huh.

25 MR. D'ANGELO: Certainly, and I know his mother

1 works. I have spoken to her, but we did have a conversation
2 where he told me, you now, I asked him, I said, the things that
3 you said, would you want someone to say that to your mother,
4 and he said, no, and I think we had a very genuine
5 conversation. Would you want someone to say things like that
6 to your child? No. At the end of the day, I do think a lot of
7 this was, and you know, obviously, Akim still maintains he did
8 not mean that as a threat. I feel a lot what we have been
9 debating was a definition of threat, did he mean those words?
10 I will say, and Your Honor knows better than I, I have
11 represented plenty of these cases, while this does not excuse
12 the behavior that was done, I have certainly represented people
13 charged with far more egregious threats, and again, that is not
14 minimizing anything. Akim did 104 days on this. Your Honor, I
15 think the worst punishment that Akim can receive is this
16 conviction. You've seen how passionately and --

17 THE COURT: Well, what is very unfortunate, and then
18 I'm going to let you resume your argument, is that he was
19 offered a 30-day offense, and he, because of whatever
20 machinations, has refused that. He was offered time served, he
21 refused that. He was offered probation. And what is most
22 unfortunate is that when he was offered the misdemeanor versus
23 the felony, it probably could have gone to transfer court,
24 through away the opportunity, so now he finds himself in this
25 unenviable position of now having been convicted of a felony,

1 and you're correct --

2 THE DEFENDANT: And I would just would like to speak.

3 THE COURT: -- he now has that on his record.

4 MR. D'ANGELO: Yes, ma'am, and that's the point I was
5 about to make, is that he had that offer of time served 30-day
6 misdemeanor and be done, but he felt in his heart that it was
7 not a threat and he wanted to take it to this point. I would
8 just ask for a sentence not of five years. I feel that is, to
9 me, it is an egregious punishment. Again, I understand the
10 words he said are egregious --

11 THE COURT: Well, they were more than words. He
12 accompanied those words with actions. When he did his hands
13 from behind his back with those handcuffs, he indicated an
14 intent that if his hands were free he would have done exactly
15 what he was indicating he was capable of doing. So it wasn't a
16 little, and no matter -- and I agree with you, words, you know,
17 it's like when you're growing up and your parents say sticks
18 and stones break your bones but words can never hurt you.
19 There's a certain level of words, however, that our Supreme
20 Court go from being free speech, to go and beyond, and I've
21 watched that whole video, and he meant every word he said. The
22 only thing alcohol does is remove inhibitions of what you
23 really feel, and I am amazed that the officer in this case kept
24 her composure in that room knowing everything that happened up
25 to that point of where I isolated those two portions of what I

1 allowed the jury to hear. It's very troubling. Go ahead.

2 MR. D'ANGELO: I and certainly don't argue with that,
3 Your Honor. Again, the last thing I will just say is, again, I
4 think the strongest punishment that can happen is that Akim has
5 been found guilty, that he has this conviction, this felony
6 conviction. Your Honor, I would ask for something under the
7 max of five years, because I just do feel, even based on all of
8 that that is an egregious punishment. Thank you.

9 THE COURT: You're welcome. Anything further from
10 the State?

11 THE DEFENDANT: Can I speak? I just want to speak,
12 too.

13 THE COURT: Sure. I would be glad to hear from you,
14 sir.

15 THE DEFENDANT: Yes. Like he said, I was offered 30
16 days. That was after I had already did 90 days. I mean, yes,
17 after I did 80-something days on a bench warrant that I am
18 still contesting was fraudulent, because I was not on the
19 docket for that date that they claimed I missed. I was
20 arrested for missing a date that I never was scheduled for, and
21 then I was in this jail for 90 days, and then I was offered the
22 30-day offer, which would mean I would get out right then, but
23 I refused it because of my innocence, and when I say, my
24 innocence, I'm strictly speaking to the letter of the law. I
25 already admitted that the words that I said that were morally

1 wrong were wrong. I already apologized for that. I mean, it's
2 nothing I really can do about it now. I'm a whole different
3 person now, like, years later, but I still contest that what I
4 said was not a threat because of the letter of the law on what
5 a threat is and what intent is and what the State's -- his
6 burden was to prove my intent. The State didn't offer not one
7 thing to prove my intent and so I feel like, although, I feel
8 like everything that was just said just now by the Court was
9 pointing out how bad the video was, but that, it sounds like
10 that's -- that sounds like that's going into your mental when
11 it comes to the sentence.

12 THE COURT: I'm allowed to. I'm allowed to, the law
13 allows me to have my own independent judgment about sentences,
14 it allows me to have my own perspective on the facts, it allows
15 me to make my own judgment about what I see, how I perceive it
16 and what I think is appropriate. I can't convey that to a
17 jury, but I'm allowed to have my own opinion about it when it
18 comes to sentencing, because that's the Court's prerogative,
19 not the jury's.

20 THE DEFENDANT: But now you're stating on the record
21 that your leaning on un-legal acts to --

22 THE COURT: No, sir, I'm relying on the two isolating
23 portions of that record to make a decision.

24 THE DEFENDANT: But you just stated that you wasn't.

25 THE COURT: No, what I said was, much to your

1 benefit, I had to watch the whole video to know what I was
2 going to let in and what I wasn't going to let in. The law
3 does not require me to disabuse my mind of what I saw. Just
4 because it's inadmissible doesn't mean it didn't happen.

5 THE DEFENDANT: If it's illegal how can it go to
6 your --

7 THE COURT: Sir, it wasn't illegal.

8 THE DEFENDANT: I mean, if it's not illegal how could
9 it go to your --

10 THE COURT: I could have let that whole video in,
11 really, if I wanted to, but I didn't, because I was trying to
12 balance a decision that wouldn't be prejudicial to you, but,
13 frankly, the State's argument was founded, and I could have
14 allowed that entire video in, I just didn't.

15 THE DEFENDANT: I wouldn't even been that opposed to
16 that, because there's also other times in there where I say, I
17 don't call women B's, I don't do this and I don't to do that,
18 I'm just mad right now, so I wouldn't have minded the whole
19 video going in.

20 THE COURT: Okay. Well, then if you had told me that
21 earlier you could have saved me a whole lot of watching.

22 THE DEFENDANT: But all of that was discussed with
23 the attorney and you wouldn't allow me to speak.

24 THE COURT: No, sir, you had an opportunity to be
25 heard on that.

1 THE DEFENDANT: When it came to the opportunity --

2 THE COURT: Sir, I'm not rehashing all of that, sir.
3 I need you to tell me what you need me to tell me on
4 sentencing.

5 THE DEFENDANT: So I have a daughter, I have a
6 business and I -- the State, the Court, the Solicitor, has
7 already offered me no time. They offered me no time. He
8 offered to -- he offered --

9 THE COURT: How old is your daughter, sir?

10 THE DEFENDANT: She is turning 11 on November 27th.

11 THE COURT: And who does she live with?

12 THE DEFENDANT: She lives with her mother, but she
13 comes with me --

14 THE COURT: Is that in Charleston?

15 THE DEFENDANT: Summerville.

16 THE COURT: How far often do you see your daughter?

17 THE DEFENDANT: I see her every weekend.

18 THE COURT: Where is your mother?

19 THE DEFENDANT: Right now she's at work right down
20 the street, and we have a very great, great relationship. I do
21 a lot of --

22 THE COURT: I don't question that at all, sir.
23 Alright, you may continue.

24 THE DEFENDANT: I have my own business and I am
25 trying to help the State. I pay taxes, I am trying to be a

1 good citizen. I am trying to promote young entrepreneurship.

2 I'm not a criminal how the Solicitor just tried --

3 THE COURT: You told me that you own your own -- that
4 you're renting a home?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: How long have you been renting that home?

7 THE DEFENDANT: Ten years around, approximately.

8 THE COURT: Go ahead, I'm listening. You said about
9 ten years?

10 THE DEFENDANT: Yes, I said ten years.

11 THE COURT: And you said it's in Goose Creek,
12 correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And you live alone?

15 THE DEFENDANT: I live alone, I live somewhat alone.
16 It's my place but people live with me.

17 THE COURT: Like who?

18 THE DEFENDANT: My brother and his girlfriend.

19 THE COURT: So your brother and his girlfriend live
20 with you?

21 THE DEFENDANT: Yes.

22 THE COURT: Full time, off and on?

23 THE DEFENDANT: Well, the girlfriend, not full time,
24 but basically.

25 THE COURT: Okay. You may continue.

1 THE DEFENDANT: So I'm --

2 THE COURT: Did you drive here today?

3 THE DEFENDANT: No, I was dropped off, because I had
4 a feeling that I was not going to get a fair trial, but like I
5 said, the State has already offered a 30-day. The Solicitor
6 just on Friday offered, the same that he said he was going to
7 dismiss, he offered that if I plead to that that he would
8 dismiss this charge, so that's already showing that the State
9 is not really trying to get that much. That's showing that
10 just the retaliation of me fighting them for my rights has now
11 changed the Solicitor's idea of this charge being not serious
12 enough that he can throw away the charge on a simple possession
13 charge and throw this away after six years two days before the
14 trial if I just would plead to the simple possession, but now
15 that I went through the trial and I guess inconvenienced people
16 because I fought for my rights, now he wants me to go for five
17 years.

18 THE COURT: No, sir, you didn't inconvenience
19 anybody, we do this every week, we don't punish people --

20 THE DEFENDANT: I'm just saying the State --

21 THE COURT: -- for having trials.

22 THE DEFENDANT: I'm just saying the totality of the
23 circumstances and the totality of the statements that have been
24 made today, it's been very clear on the record that everybody
25 the things that I've been inconveniencing them and everybody

1 else --

2 THE COURT: Sir, the record does not reflect that,
3 sir.

4 THE DEFENDANT: You literally just said that.

5 THE COURT: No, sir, I did not say anybody was
6 inconvenienced by you. This Court is in the business of trying
7 cases. We try cases about 48 weeks out of the year, so if we
8 didn't have cases to try, other than a nonjury work, we would
9 not be at work. Nobody is ever penalized for exercising their
10 constitutional right to have a trial. Nobody ever said this
11 Court has been inconvenienced by you. If I wouldn't have tried
12 your case, I would have been trying something else, so people
13 are never penalized for having a jury trial, and I'm sorry that
14 you may have misperceived that. You also probably misperceived
15 when I told you I had to balance everybody's time. It's not
16 fair to have a jury sitting in a jury room for three hours to
17 accommodate someone else, and I'm sorry if you don't understand
18 the fairness of that equation. You have to accommodate
19 everybody in this circumstance. You don't get more rights than
20 everybody else. Everybody else has to be treated fairly and
21 it's not fair to have people waiting when you're not on time
22 for court --

23 THE DEFENDANT: I wasn't trying to be.

24 THE COURT: -- or you're not prepared for court.
25 Everybody was delayed, but they still got here within a

1 reasonable time.

2 THE DEFENDANT: I did, too.

3 THE COURT: No, you were here an hour late. Or when
4 we have to make -- so I'm sorry that you believe your rights
5 were paramount the everybody else's, but this Court cannot
6 perceive it that way, I have to balance everybody's rights, I
7 can't just accommodate yours.

8 THE DEFENDANT: Ma'am, you just twisted what I said.
9 I didn't say everybody's rights should be under mine, all I
10 said was the totality of the statements that was made today,
11 you said everybody could notice that I was being discourteous
12 and I was making everybody wait, so that's, obviously, you're
13 basically saying I'm inconveniencing people, but what I'm
14 saying is it's disingenuous for the Solicitor to sit there and
15 recommend five years because this case is so serious and
16 everybody's so hurt, but just two days he offered to throw the
17 whole case out for a simple weed charge that he's willing to
18 throw out right now. So he's being very disingenuous on the
19 record by saying all of that stuff that he just said, that's
20 why I pointed out all the stuff that he was saying, not
21 because -- and what you were just trying to twist it to be is
22 it's because of what he said himself. He was trying to offer
23 me 30 days three months ago, he tried to offer me no days and a
24 misdemeanor weed charge two days ago, and now today, because I
25 took it trial and exercised my rights, now he wants me to go to

1 jail for five years. To me, that's simply through retaliation.
2 It's retaliation of, e exercising my rights and now he's
3 suggesting five years. I just wanted to point out for the to
4 courts consideration so she can really analyze that and clearly
5 see that that's disingenuous. How can you offer somebody no
6 time two days ago, and just because they take it to trial and
7 you wanted trial now you want to offer five years because of
8 the seriousness. If you really was genuinely thinking hurtful
9 and feeling like this crime was so bad you would not have even
10 offered to get rid of it for marijuana. So like I was stating,
11 when it comes to me paying taxes, me already being offered
12 30-days, no days, I believe that time served will be a
13 reasonable, off the totality of the circumstances that would be
14 reasonable just because of the simple fact that the Solicitor
15 has already offered those times, so for him to turn around and
16 claim that he wants so much more time would be disingenuous and
17 dishonest and only retaliation for me to exercise my rights in
18 having this trial. Furthermore, I stipulate and agree with the
19 Court, if the Court so inclines, and can be and can really
20 analyze this and can try to penalize me real quick, regardless
21 of the discussions and the debates and all of this stuff that
22 I've been having, to take into consideration the fact that I
23 have a daughter, to take into consideration the fact that I
24 have no violent crimes in my criminal history, ever, to take
25 into consideration that I have my own business, take into

1 consideration that I showed up, I knew I probably was not going
2 to get a fair shake today, I didn't run from it, I'm not
3 running from my sentences that's coming, but I ask the Court to
4 just really be with genuinely honest in analyzation of me,
5 because I truly believe that you don't that I'm a bad guy or a
6 danger to the community or danger to society, so to put me in a
7 place where that's where you're supposed to be because of that,
8 I don't think that that would be beneficial to the State in any
9 way because they will get more money from taxes from me than
10 they will get from me being in jail the 330-some days, the
11 state gets paid every time an inmate is in jail, whatever the
12 amount it. I just feel that I'm just asking on a direct
13 personal level, I'm willing to do some community work for the
14 State.

15 THE COURT: Like what?

16 THE DEFENDANT: To raise awareness of not
17 representing yourself in Charleston County.

18 THE COURT: Not a good joke.

19 THE DEFENDANT: Yes, ma'am, I was joking.

20 THE COURT: Yeah, I understand, but this ain't the
21 time to be joking. Yeah, this is serious.

22 THE DEFENDANT: But I'm literally willing to women's
23 shelter, the batter domestic women's shelter assistance.

24 THE COURT: To do what?

25 THE DEFENDANT: Whatever help they need, cut their

1 grass, help around the house, community service program to help
2 the battered women, since the Court has claimed that I am --
3 not the Court --

4 THE COURT: I didn't claim anything, sir.

5 THE DEFENDANT: That was a misquote since.

6 THE COURT: I don't form any opinions about anybody
7 until a jury comes back, then it volleys into my court to have
8 to make a decision, and then I start formulating opinions about
9 what I have seen, but up until that time I really am a blank
10 slate. I told you before, I'm not invested one way or the
11 other, I'm not the finder of fact. I've sat in a court where I
12 was the finder of fact where I had to determine people's
13 credibility, believability, make findings of fact when I was on
14 the Family Court, and I don't envy when I -- I loved the Family
15 Court, I enjoyed it, it was a great calling on my life, but
16 when I came to Circuit Court and 12 folk got to make a
17 decision, it was a beautiful thing for me. So I get to rely on
18 their common sense, their collective experience and their
19 collective wisdom. I have not once every not once ever vacated
20 a jury's verdict, because not once have I ever thought it was
21 wrong. I think they have an innate amount of common sense. I
22 think they have an innate amount of fair play, and they don't
23 have anybody to reward or punish, and neither does this Court,
24 so I don't formulate opinions, and I think sometimes people
25 think that judges think people are bad people. That doesn't

1 even come into anybody's -- very rarely does that come into a
2 determination about sentencing. Eighty percent of the people
3 that we see just make bad decisions, there's another 20 percent
4 that are evil, and I'm a witness, evil exists in this world,
5 because I've been in the presence of it. I've tried evil
6 people who have done some very evil things, so on a spectrum,
7 there isn't much I haven't seen, although, I do not foreclose
8 the possibility that I'm going to see some stuff before I
9 decide to retire that I have never seen, because something
10 different happens in this court every day, but in terms of
11 calling people bad people, that is not a part of the equation,
12 because I recognize, and I have a mentor, I'm very blessed, he
13 is 103-years-old. I hold his seat, I was his law clerk, and he
14 told me, Dear, you have to learn in this job the difference
15 between people who are misguided and people who are evil, and
16 there is a difference. I think, sir, that you are misguided.
17 I think that you are very intelligent. I think it is
18 unfortunate that you have not used your intelligence in another
19 way. I think it is unfortunate until recently that you have
20 accepted about this much responsibility for your behavior on
21 that day, and you owe Sergeant Rainey an apology, because the
22 things that you said to her as a woman were meant to demean
23 her, they were to make her feel bad about herself, and they
24 were meant to intimidate and bully, not good, and it would make
25 me feel a whole lot better if you had the present sense and the

1 introspection to say you were wrong without having to have a
2 butt with it, because there really is, there is no free speech
3 equation of what happened that night, even down to those two
4 little clips I saw. And you argued it, you argued it very
5 well, but it doesn't meet the criteria of free speech. Mr.
6 D'Angelo and all the lawyers in this room will tell you, the
7 Supreme Court of the United States wouldn't support that as
8 free speech, it's beyond offensive, so whether it helps, my
9 life is going to go on, Mr. D'Angelo's life, Mr. Henley, Mr.
10 Zeigler, Ms. Barber, everyone's life is going to go on, but you
11 still have to deal with you, so from today forward, you're
12 going to have to start making some decisions instead of excuses
13 so that you can move beyond this so that you never have to come
14 back here again. And I agree with Mr. D'Angelo, whoever you've
15 been talking to, it sounds like sovereign citizen lingo, like,
16 I don't recognize my legal last name --

17 THE DEFENDANT: That's what started it years ago but
18 I --

19 THE COURT: I don't recognize -- but it's still in
20 your psyche.

21 THE DEFENDANT: Now, I've elevated the real law into
22 it.

23 THE COURT: And I could populate this room with the
24 people who are at the Department of Corrections who believe
25 that lingo and who are there for 25 years of their life for

1 mandatory minimums because they let somebody get in their
2 psyche that didn't know what they were talking about.

3 THE DEFENDANT: And that's another reason I thought I
4 was being prejudiced because I know that once you label that
5 sovereign citizen language --

6 THE COURT: No, you labeled yourself that by the
7 language you were using.

8 THE DEFENDANT: But that's what I'm saying, certain
9 language automatically labels you that in certain people's eyes
10 because of their --

11 THE COURT: No, they start treating you a different
12 way and they start wondering about, you know, like, how clearly
13 you perceive reality, which is a reasonable assumption on their
14 part.

15 THE DEFENDANT: But there's a lot of truth in the
16 sovereign citizen stuff, it's just it's a lot of --

17 THE COURT: No, sir, there's no truth in it.

18 THE DEFENDANT: There's a lot of truth in it.

19 THE COURT: Ask Wesley Snipes, there's no truth in
20 it, after he spent five years in federal prison. There's no
21 truth in it.

22 THE DEFENDANT: When we was discussing --

23 THE COURT: Do you want to talk to Lauren Hill about
24 sovereign citizen beliefs after she spent four years in federal
25 prison on tax evasion.

1 THE DEFENDANT: That's because she didn't pay her
2 taxes. You can't just be a sovereign citizen --

3 THE COURT: She had a sovereign citizen philosophy,
4 and that's why she went to prison. That's why Wesley Snipes
5 had all of his challenges. It is a very -- you know, the
6 problem with the sovereign citizen lingo and it's verbiage is
7 that it really appeals to a certain level of your intellect,
8 and what it does is it get you caught in a circular logic and
9 it keeps you going in circles.

10 THE DEFENDANT: What it is, they have a lot of agents
11 out there that manipulate the sovereign citizen doctrine which
12 throw a lot of false law in there that has a lot of people
13 running around doing things like I was doing at first, some of
14 the motions I put in at first, but other elements now as I read
15 the state laws, and there is some truth to the sovereign
16 citizen --

17 THE COURT: And maybe you need to put your time into
18 going to tech or something and taking a paralegal program.
19 That might be a better use of your time, if you really want to
20 learn the law.

21 THE DEFENDANT: Well, maybe then we can become
22 friends and you can help me learn the law.

23 THE COURT: No, sir, I don't -- yeah, I've two
24 friends and every year I try to make the list shorter, other
25 than my family. It's a lot of attention and time that has to

1 be expended in friendship because to have a friend you got to
2 be one, and I'm in everything 100 percent that I do so, you
3 know.

4 THE DEFENDANT: Could I offer the Court just to look
5 at the message that I did send her? I don't know if she ever
6 got it, but I do have it on Facebook.

7 THE COURT: What message that you sent who?

8 THE DEFENDANT: Sent Officer Rainey apologizing.

9 THE COURT: And by what means did you send it?

10 THE DEFENDANT: It was Facebook Messenger. I wanted
11 to --

12 THE COURT: You DM'd her? Is that the language,
13 because I don't use social media? You all have to enlighten
14 me, I don't know what --

15 THE DEFENDANT: Yeah, I DM'd her.

16 THE COURT: You DM'd her, and what did you say?

17 THE DEFENDANT: Huh?

18 THE COURT: What did you say?

19 THE DEFENDANT: I said, it was like long, it was
20 like, I made sure I let her know that I still am adamant, I did
21 not threaten you that night and I never meant it.

22 THE COURT: See, but we're back our original point.

23 THE DEFENDANT: Because that's a legal thing.

24 THE COURT: It ain't a legal thing. A threat is
25 common parlance. A threat means the same thing -- if I asked

1 ten people in this courtroom, they may all about say the same
2 thing.

3 THE DEFENDANT: But in the legal sense it's totally
4 difference. They have an actual statute.

5 THE COURT: Uh-uh, it's all the same thing. The law
6 is grounded in common sense in every day living.

7 THE DEFENDANT: But it's also grounded in court cases
8 and precedence and, you know, it's not the same.

9 THE COURT: Same thing. It all employs common sense
10 in every day living.

11 THE DEFENDANT: But, yes, I did -- I extremely
12 profuse my apologies to her because I genuinely and sorry for
13 the words that I said to her that were mean, but I am genuinely
14 --

15 THE COURT: I think it would soften the State's
16 position, and I think it would mean a whole lot to them if you
17 apologize and you didn't qualify it every time you said it.

18 THE DEFENDANT: Well, can I take time to apologize to
19 her?

20 THE COURT: You certainly can apologize to
21 Lieutenant -- and I keep calling her by the wrong title, and I
22 apologize. I do that, too, to my officers in if Berkeley. I
23 know Agular (phonetic) gets upset with me because one day her
24 an Officer, one day I call her a Sergeant, one day I call her a
25 Lieutenant, I always get it wrong, I apologize ahead of time if

1 I got your title incorrect, Sergeant Rainey, because you've
2 worked for it and you're entitled to be called that. Do you
3 have any opposition to Mr. Charles apologizing to you in this
4 open form?

5 MS. RAINEY: I do, I don't need it.

6 THE COURT: Sir, you're welcome to apologize to
7 Sergeant Rainey, if that's your desire.

8 MS. RAINEY: No.

9 MR. ZEIGLER: Your Honor, I believe she said no.

10 THE COURT: She said, no, I'm sorry, I didn't hear
11 you. Okay. She does not wish to -- but you can say it, you
12 don't have to address her, but you can apologize if you would
13 like to.

14 THE DEFENDANT: Yes. I would just like to say that
15 my intentions of that night was just because I was mad and it
16 was all out of frustration. That's not an excuse, though, and
17 I should never have talked to a woman like that, especially not
18 a black woman like that, and I apologize, and I'm definitely
19 sorry for hurting her feelings, making her feel bad, and going
20 forward from that date, that taught me a lot from that day. I
21 actually respond better to people. You might not think so
22 because of the way I responded to you quick, but that's only
23 rights and fighting for my rights frustrations. When it comes
24 to talking to women, I don't talk to women in any kind of
25 disrespectful way, and I kind of made that clear in the video.

1 I know you've seen that part, I don't normally call women B's
2 and all that stuff like that, so I just totally apologize. I
3 don't want to -- yeah, I don't want to preface it too much, I
4 just want to say --

5 THE COURT: Well, you wouldn't want somebody to speak
6 to your daughter that way?

7 THE DEFENDANT: Of course not.

8 THE COURT: I think you'd get violent if a man spoke
9 to your daughter that way.

10 THE DEFENDANT: Of course I would, but that's why
11 I'm -- that's why I was so quick -- I had to -- it took me work
12 to find her. I had to go find her, I to go look up her name --

13 THE COURT: Yeah, she might have felt like you were,
14 I don't want to use the word stalking, but she might have felt
15 like that wasn't a welcome contact, I would assume, after what
16 happened.

17 THE DEFENDANT: So I'm just saying I'm sorry, I am
18 genuinely sorry, and I've been genuinely sorry.

19 THE COURT: Alright, sir, is there anything you want
20 to share with me?

21 THE DEFENDANT: I would just like to put that
22 stipulation in an agreement where I can literally do some kind
23 of community work that goes directly to the heart of this --
24 the heart of the issue, like, I don't know, battered women, old
25 folks, I don't know, a homeless shelter, anything that can help

1 the State, help the county, keep me out of jail, help my
2 daughter, keep my business afloat, but still serve some kind of
3 consequences for being found guilty for this matter.

4 THE COURT: Anything further from the State?

5 MR. ZEIGLER: Your Honor, just that a lot of the
6 reason for those plea offers was that the victim was on FMLA at
7 the time. She also didn't want to have to go through all of
8 this again, and she sat here for three days and put up with the
9 torment of having to look that man in the eye, and basically
10 just all the stuff that was redacted knowing what really was
11 said, and it's just very difficult, so those are the reasons
12 for the plea offer, it's got nothing to do with prejudice.

13 THE COURT: Oh, I -- yeah, there are lots of reasons
14 for plea offers, and I understand, lots of them are just to
15 spare the State expense, you know, there are myriad of reasons
16 why plea offers are extended, but I merely place that on the
17 record just as in terms of the fact that he had been really
18 treated very fairly at this point, yeah.

19 MR. ZEIGLER: Yes, Your Honor, just in closing, we
20 stand by our five-year sentence. We think this -- the only
21 thing at this point that I think can fix him and his perception
22 of fairness in the law and punish him according to what he did
23 is a five-year sentence with mental health counseling and maybe
24 a mandatory class to educate him.

25 THE COURT: Yeah, the problem, well, and I'll explain

1 why I structured the way I structured what I did, because if I
2 give him what you're asking, he is going to max out pretty
3 quickly, and what I would want to accomplish, which I think is
4 in the best interest of society, the best interest of law
5 enforcement, as well as his best interest, I couldn't
6 accomplish, because I can't give him what I need to get him and
7 hold him accountable for that within the Department of
8 Corrections. The way that is structured is solely for
9 punishment, and he'd just twiddle his time away, probably
10 fixate, and max out, and pretty much that -- even if I split a
11 sentence and gave him probation in a maximum sentence, he would
12 really have already maxed out the sentence and probation --
13 even if he were on probation, there would be nothing to send
14 him back to because of the fact that it's 65 percent sentence,
15 but I think the way that I've determined to structure this will
16 accomplish the same goal, which is corrective action, as well
17 as protection of the community, and then if he fails to abide
18 he still has the motivating factor of that time over his head
19 to get it together, for lack of a better way of putting it, and
20 I -- you know, people hear me say this, they don't think I
21 believe it, maybe they do think I believe it, but I don't think
22 people should be penalized for exercising their constitutional
23 right to a trial, and no matter how much somebody taxes us, I
24 feel like that's our job.

25 MR. ZEIGLER: I agree, Your Honor.

1 THE COURT: That's why we come to work every day, and
2 you'll never hear me complain about it because I just feel like
3 it's my responsibility, I signed up for this, and you know, I
4 don't think that -- I think if it was appropriate before, it's
5 appropriate now, although, sometimes in a trial you hear more,
6 you do hear more facts and circumstances than you would hear in
7 a plea, so I think sometimes people perceive they get a greater
8 penalty because they had a trial, but that's really not the
9 case, it's just that there's so many more facts that came out
10 during a trial that make the circumstances so much more
11 egregious that it's just the appropriate remedy.

12 MR. ZEIGLER: I agree.

13 THE COURT: So the way I've structured this, I hope,
14 sir, will bring some corrective action. I hope that you will,
15 and I think Mr. D'Angelo is great, but I heard Mr. Zeigler give
16 you a great compliment after argument, he said you're very
17 intelligent and you made a great -- am I missaying what you
18 said?

19 MR. ZEIGLER: You're correct, Your Honor.

20 THE COURT: Which I thought was very kind and very
21 gentlemanly. You said, you did a great job, you're very --
22 well, you said it the opposite way: You're very intelligent,
23 you did a great job. And unfortunately, in this system, I see
24 a great many very intelligent people who have wasted away their
25 intellect on enterprises that are bringing them no return and,

1 sir, you have wasted your intellect for the last three days on
2 something that was never going to bring you a return, and I
3 hope from today forward you will use that intellect, because
4 you are very bright, on something that will bring you a
5 measurable return, not only for you, but for your legacy, which
6 is your daughter, because kids learn from what we do, they
7 learn from how with behave, they don't learn from what we talk
8 about. Kids see a lot more than you think they see, and they
9 mimic what we see, so I have no doubt that you've represented
10 to the Court that you have a close relationship with your
11 child, and that you are involved in her life, and little girls
12 learn how to love are from their fathers. They learn how to
13 let other people treat them from their parents, and so I hope
14 that you will take advantage of this opportunity to be a great
15 example to her.

16 Officer Rainey, you have the Court's profound
17 apologies that you ever had to experience this event, and I
18 know that you've been on, without, I don't want to go into your
19 personal business and disclose anything you don't desire, but I
20 know that it's been a sacrifice for you to be here, as well,
21 and the Court acknowledges that. I don't want you to think in
22 any way that that is diminished, but what I'm doing is I'm
23 structuring this in a way so that I believe I can aid Mr.
24 Charles in moving beyond this point and never coming back into
25 this system. If he fails to do that, that's on him, he would

1 have made an independent decision. I learned a long time ago,
2 I don't lecture adults because how you behave is about the
3 condition of your heart, and you're gonna do what you want to
4 do anyway and there's no point in me talking to a grown person
5 about their behavior, so I don't tend to waste that type of --
6 I don't do that, and anyway, people feel like you're preaching
7 to them, and frankly, you know, however you comport your
8 behavior is your own decision. Sir, if would stand for
9 sentencing.

10 (SENTENCING)

11 THE COURT: Sir, you're sentenced to the State
12 Department of Corrections for a period of four years. That is
13 provided upon 109 days time served and four years of probation.
14 You'll get credit for the 109 days pursuant to 24-13-40 of the
15 Code of Laws. There are some conditions of your probation that
16 I'm mandating and you are to strictly comply with them. You
17 are to successfully complete substance abuse counseling; you're
18 to have random drug and alcohol tests; you are to have a mental
19 health assessment, and when I say a mental health assessment, I
20 want you to have an appointment with mental health within five
21 days of today. You are to have an assessment, and you are to
22 strictly follow all recommendations of that assessment and any
23 medications that they prescribe for you. You're also to have
24 no contact with Sergeant Rainey, either direct, indirect,
25 through third parties, or through social media. You're to

1 complete 40 hours of public service, that will be left in the
2 discretion of the Department of Probation and Pardon and Parole
3 how that is to take place, however, for a period of six months
4 you will be on strict house arrest with a GPS monitor through
5 the Department of Probation and Pardon and Parole Services.
6 You will be allowed to leave the home to go to the doctor, to
7 see your attorney -- well, you'll be able to leave to go to
8 work, see your attorney, church, doctor, and public service
9 employment, and you're to successfully complete an anger
10 management counseling course, which you probably will be able
11 to do online, you need to check with probation regarding that.
12 Now, do I have somebody from probation present?

13 THE PROBATION OFFICER: Yes.

14 THE COURT: I thought I saw you, how are you doing?
15 So can you process here, or does he need to come to room 381
16 with you?

17 THE PROBATION OFFICER: Well, yes, because I didn't
18 bring my laptop, but I can go and get it, yes.

19 THE COURT: Well, no, it's up to you. Do you want
20 him to come to room 381?

21 THE PROBATION OFFICER: Yes, please.

22 THE COURT: Sir, you need to go to room 381 and see
23 probation before you leave the courthouse today so they can
24 process you. I need to advise you that if you fail to appear
25 before them today before you leave, that will be an act of a

1 violation of your probation for which you could be revoked. I
2 need to advise you that if you fail to complete any of these
3 special conditions, including any violation of house arrest,
4 that the Court has mandated that your sentence can be revoked
5 and you'll have to go to the Department of Corrections and
6 serve the four years. Do you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Alright, thank you so much. Again, I
9 thank you all for your professionalism, have a wonderful day.

10 MR. ZEIGLER: Thank you, Your Honor.

11 MS. BARBER: Thank you, Judge.

12 MR. D'ANGELO: Thank you, Your Honor.

13 THE COURT: Thank you.

14 **(Trial concluded Wednesday, February 8, 2023)**

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CERTIFICATE
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, Julie A. Kevish, Official Court Reporter for 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 Court of General
Sessions for Charleston County, South Carolina, on the 8th of
February, 2023.

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

February 8, 2023



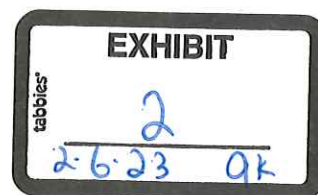
JULIE A. KEVISH
OFFICIAL COURT REPORTER

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	WARRANT NO.: 2017A1010205317
	)	
AKIM JEAN-CHARLES,	)	INDICTMENT NO.: 2018-GS-10-04368
	)	
Defendant.	)	
	)	DEFENDANT'S PROPOSED JURY
	)	INSTRUCTIONS
	)	

The Defendant, by and through his undersigned attorney, respectfully requests the Honorable Judge presiding over the above captioned trial to include the following jury instructions:

1. Failure of the Defendant to Testify:

I INSTRUCT YOU AND EMPHASIZE THAT THE FACT THE DEFENDANT DID NOT TESTIFY IS NOT A FACTOR TO BE CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATION AND IN YOUR CONSIDERATION ON THE QUESTION OF THE GUILT OR THE INNOCENCE OF THE DEFENDANT. IT MUST NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER. A DEFENDANT HAS THE CONSTITUTIONAL RIGHT TO REMAIN SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT BE CONSIDERED BY YOU IN YOUR DELIBERATIONS. I REPEAT, UNDER YOUR OATH, YOU ARE TO DRAW NO CONCLUSION WHATSOEVER FROM THE FACT THAT THE DEFENDANT IN THIS CASE DID NOT TESTIFY. THE FACT THAT THIS DEFENDANT DID NOT TESTIFY SHOULD NOT EVEN BE DISCUSSED IN THE JURY ROOM. THE



BURDEN OF PROOF, AS I HAVE STATED TO YOU, IS ON THE STATE. THE DEFENDANT IS NOT REQUIRED TO PROVE HIS INNOCENCE. THE BURDEN OF PROOF REMAINS ON THE STATE TO PROVE GUILT BEYOND A REASONABLE DOUBT.

2. Definition of Threat

A THREAT IS DEFINED AS, A COMMUNICATED INTENT TO INFLICT PHYSICAL OR OTHER HARM ON ANY PERSON OR ON PROPERTY. A DECLARATION OF AN INTENTION TO INJURE ANOTHER OR HIS PROPERTY BY SOME UNLAWFUL ACT. THE TERM "THREAT" MEANS AN AVOWED PRESENT DETERMINATION OR INTENT TO INJURE PRESENTLY OR IN THE FUTURE. THE PROSECUTION MUST ESTABLISH A "TRUE THREAT," WHICH MEANS A SERIOUS THREAT AS DISTINGUISHED FROM WORDS UTTERED AS MERE POLITICAL ARGUMENT, IDLE TALK OR JEST. BLACK'S LAW DICTIONARY, 5TH EDITION.

Respectfully submitted,

Nicholas G. D'Angelo
Assistant Public Defender
Attorney for Defendant

Charleston, South Carolina
February 5, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	WARRANT NO.: 2017A1010205317
	)	
AKIM JEAN-CHARLES,	)	INDICTMENT NO.: 2018-GS-10-04368
	)	
Defendant.	)	
	)	
	)	REQUEST TO CHARGE
	)	

The State respectfully request your honor, charge the following for “threat”:

“Threat” is defined in criminal law as the declaration of a purpose or intention to do an unlawful act that will work injury to the person, property, or rights of another. *Black’s Law Dictionary*, 3d Edition. See also *United States v. Metzdorf*, 252 F. 933 (D. Mont. 1918) and *U.S. v. Nicolas*, 1954 WL 2202 (1954).

OR:

“Threat”...“the expression of an intention to inflict evil or injury on another.” *Brooker v. Silverthorne*, 111 S.C. 553 (1919). See also *Merriam-Webster Dictionary*, 11th Edition. A threat only promises a future injury and usually gives ample opportunity to provide against it, while an assault must be resisted on the instant. *Brooker* citing *Cooley*.

Respectfully Submitted,



Lemuel C. Zeigler
Assistant Solicitor



STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	WARRANT NO.: 2017A1010205317
	)	
AKIM JEAN-CHARLES,	)	INDICTMENT NO.: 2018-GS-10-04368
	)	
Defendant.	)	
	)	STATE'S POSITION ON THE
	)	TERM "THREAT"
	)	

Section 16-3-1040

(A) It is unlawful for a person knowingly and wilfully to deliver or convey to a public official any [verbal] communication which contains a threat to take the life of or to inflict bodily harm upon the public official...if the threat is directly related to the public official's...professional responsibilities.

1. Threat

A "threat" is defined in criminal law as the declaration of a purpose or intention to do an unlawful act that will work injury to the person, property, or rights of another. Black's Law Dictionary, 3d Edition. See also *United States v. Metzdorf*, 252 F. 933 (D. Mont. 1918) and *U.S. v. Nicolas*, 1954 WL 2202 (1954). Webster defines a "threat" as "the expression of an intention to inflict evil or injury on another." *Brooker v. Silverthorne*, 111 S.C. 553 (1919). See also Merriam-Webster Dictionary, 11th Edition. Threats can be communicated by actions, words, or deeds. *State v. Fulp*, 310 S.C. 278, 423 S.E.2d 149 (App. 1992).

i. State v. Breyan

In our case, the Defendant makes the following statements:

I swear to God, if I could, I would slap the shit out you. I would beat the fuck out you. I would punch a woman like you, I would beat the fuck out a woman like you. Because y'all deserve it.

And,

I wish I could spit on y'all niggas, man. I wish I could spit on y'all motherfuckers. Take a shit and put it in my hand and throw it in your fucking face, and I would smash that shit and rub it all in your face, be like you're a stupid bitch and that's what you deserve. Because that is what you deserve.

"Some statements can only be interpreted as a threat. *State v. Breyan*." 2019 WL 9518220 (S.C. App. 2021) (State's Appellate Brief). *State v. Breyan*, 2021 WL 5109497 (S.C. App. 2021).¹ Even in cases of multiple interpretation of such statements, submission to the jury is the proper recourse. *Breyan*. When evidence is susceptible to more than one interpretation or reasonable inference, it is the province of the jury to weigh the evidence and determine guilt. *State v. Richburg*, 250 S.C. 451 (1968).

These statements are clearly declarations of an intention to do an unlawful act (assault) that will work injury to Sergeant Rainey, as well as an expression of an

¹ The referenced quote is from the State's appellate brief. The Court of Appeals ruled that because there was direct evidence that the Defendant threatened the Victim, the trial court did not err in denying the Defendant's motion for a directed verdict. *State v. Breyan*, 2021 WL 5109497 (S.C. App. 2021). In *Breyan*, the Defendant told the judge he was going to "Fuck [him] and [his] family up" which is similar in meaning to the threats made in our case.

intention to inflict injury on Sergeant Rainey, meeting both the law and layman dictionary definitions. These statements can only be interpreted as threats. In *Breyan*, the State utilized Urban Dictionary in its brief when arguing that a Defendant stating he would “fuck up” a magistrate judge made an explicit threat to harm the judge and could only be interpreted as a threat.² Similarly, in our case, Urban Dictionary defines “beat the fuck out of” as “to beat someone down really bad with punches, kicks, elbows, and so forth...there doesn’t really have to be a whole lot of blood (though the more the merrier)...but as long as the dude’s hobbling off and wakes up the next day with a good reminder of why it’s a bad idea to fuck with you in the first place.” See, e.g., *Beat the fuck out of*, Urban Dictionary, <https://www.urbandictionary.com/define.php?term=Beat%20the%20fuck%20out%20of>. This is just one example of the statements made in our case that can similarly only be interpreted as a threat. Additionally parallel to *Breyan*, Sergeant Rainey immediately interpreted the Defendant’s statements as a threat, indicated by her charging the Defendant with Threatening the Life of and/or Harm to a Public Official upon receiving said threats, and as will be shown through her testimony.

ii. Other Case Law & Statutes

“A threat to commit an injury is also sometimes made a criminal offense but is not actionable private wrong.” *Brooker*³ citing Cooley on Torts, p. 29. A threat only

² In *Breyan*, the Defendant tried arguing that this was not an explicit threat to inflict bodily harm on Judge O’Brien. The State utilized urban dictionary to define “fuck someone up” and found that it meant, “viciously and relentlessly attacking someone, usually to the point of visible injury.” The State additionally argued that Judge O’Brien and a narcotics officer both immediately interpreted the statement as a threat. The Court ruled that there was direct evidence that *Breyan* threatened the Victim and denied *Breyan*’s appeal.

³ While *Brooker* can be distinguished from our case because it is a civil tort action from 1919, the Court confirms the lay person definition of “threat” and makes clear that a threat can be inactionable in civil court but still be a

promises a future injury and usually gives ample opportunity to provide against it, while an assault must be resisted on the instant.⁴ *Brooker* citing *Cooley*. The State may not punish a person for voicing an objection to a police officer where no fighting words are used. *State v. Poinsett*, 250 S.C. 293, 157 S.E.2d 570 (1967). It can be deduced that when fighting words are used, it is considered a threat, and a person may be punished for making those statements towards an officer. *Pointsett*. See also *In re Jeremiah W.*, 361 S.C. 620 (2004).⁵ Conditional threats are included under Penal Code if their context reasonably conveys to the victim that they are intended, and the First Amendment is not implicated by such threats since they do not concern political or social discourse, or the so called marketplace of ideas. *People v. Brooks*, 26 Cal. App. 4th 142 (1994). For future conditional threat ("I'm going to..."), see *State v. Bridgers*, 323 S.C. 185 (1996).⁶

violation of criminal law. According to *Brooker*, in order to be actionable in *tort law*, a threat must produce fear in the mind of the person against whom it is made and must be of such a nature and be made under such circumstances as to affect the mind of a person of ordinary reason and firmness, so as to influence his conduct. Their initial statement that "a threat to commit an injury is also sometimes made a criminal offense but it is not actionable private wrong" makes clear that this fear element is not a requirement in criminal law, otherwise, there would be no case in which you could prosecute under this statute as almost every time, the Defendant is restrained or physically incapable of actually carrying out the threat at that moment, thereby not inciting fear in the Victim.

⁴ The difference between an assault and a threat in tort law is that while a threat allows for preventative remedies but in an assault, there are no remedies available beyond what the victim has in their own power of physical resistance. *Brooker* citing *Cooley*.

⁵ See attached copy. In *In re Jeremiah*, the Family Court adjudicated a juvenile for breach of peace and threatening a public official. The Court of Appeals reversed, stating that since the arrest for breach of peace was an unlawful arrest, the threat made that led to the threatening a public official charge was fruit of the poisonous tree. The Supreme Court reversed the Court of Appeals, ruling that a new and distinct crime is a sufficient intervening event to provide independent grounds for an arrest. This case is on point because similarly to our case, the 14-year-old Defendant was handcuffed and sitting in the back seat of a police car when after he was pepper sprayed he yelled that he was going to get his gun and blow the officer's head off. Obviously, while cuffed in the back of the car, this is not possible at the time of the threat, just like in our case, where the threats are not possible at the time they are made due to safeguards put in place by our sheriff's department. In that case, as in our case, there was no questioning whether the statement was a threat because, as stated in *Breyan*, some statements can only be interpreted as a threat.

⁶ In *Bridgers*, the defendant, upon being arrested for hit and run, stated "I'm going to get my gun. I'm going to come to your home in Lake City and I'm going to kill you." In our case, the Defendant says, "If I could, I would beat the fuck out of you." Both of these are conditional threats that both could happen but for the defendant being in police custody.

In our case, while making these threats, the Defendant was handcuffed in the Datamaster room. Sergeant Rainey told him he was being recorded and he acknowledged her, stating, “why am I being recorded, ma’am?” He also later apologized for calling Sergeant Rainey a bitch, stating, “I apologize *to the camera...*” Had he not knowingly been on video, he may have attempted to carry out these threats even while handcuffed. At the time of this arrest, the Defendant was a late twenties, athletically built male. Even with his arms behind his back in handcuffs, he could have carried out these threats. The only two things preventing him from “beat[ing] the fuck out of” Sergeant Rainey are the handcuffs and the fact that he is being video recorded.

The Defendant prefaces each of his threats with, “if I could, I would...” and “I wish I could...” which aligns with *Brooker* in that he is promising to carry out an action that will cause bodily harm to Sergeant Rainey. In doing so, he acknowledges that there are safeguards in place to prevent him from being able to carry out his threats at that point in time. He is in handcuffs, being recorded, with additional officers in close proximity to the Datamaster room. But *if he could, he would* beat the fuck out of Sergeant Rainey. *He would* slap the shit out of her. *He would* punch, spit on, defecate, and smother her. Fortunately, as in *Jeremiah*, he was not able to carry out the threats because of those safeguards put in place. It is clear that as laid out in *Brooker*, these threats only promise future injury. Our police force has had ample opportunity to provide against these types of threats by adding the aforementioned safeguards. These safeguards prevent threats from becoming assaults, but

nonetheless the law against threatening public officials exists to prevent these threats from occurring. Our case is a prime example of a criminal offense which is not an actionable private wrong – just as described in *Brooker*.

Even the California Court of Appeals acknowledged that conditional threats fall under their penal code, so long as their context reasonably conveys to the victim that they are intended, and the First Amendment is not implicated by such threats since they do not concern political or social discourse, or the so-called marketplace of ideas. *Brooks* at 149.

Further, section 16-25-0020 of the South Carolina Code defines one version of criminal domestic violence as “to offer or attempt to cause physical harm...with apparent present ability under circumstances reasonably creating fear of imminent peril.” At first glance, this may seem to go against the State’s position in our case in that it requires “present ability” to carry out the threat and interpretation of the threat as such. However, it actually works towards our point, because the legislature did not include such language in the statute regarding threats to public officials. In our case involving a public official, there is no requirement of the Defendant to have the present ability to carry out his threat in order to be in violation of section 16-3-1040. Had the legislature intended to make “present ability” an element of 16-3-1040, they would have done so, just as they did for domestic violence. Likewise, the statute would require that the threat “be interpreted as such” if it intended interpretation as an element. The fact that the language is not in the statute makes clear that the legislature did not intend to require that as an element of the offense.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'L. Zeigler', is written over a horizontal line.

Lemuel C. Zeigler
Assistant Solicitor

DOCKET NO. 2018-GS-10-04368

The State of South Carolina

County of Charleston

FILED

8/13/2018 12:48:24 PM

JULIE J. ARMSTRONG

CLERK OF COURT

COURT OF GENERAL SESSIONS

AUGUST TERM 2018

THE STATE

VS.

AKIM JAMAAR JEAN-CHARLES

B/M DOB: [REDACTED]-1989

Indictment for

THREATENING LIFE, PERSON OR
FAMILY OF A PUBLIC OFFICIAL

SC Code: § 16-03-1040(A)

CDR Code: 0541

SNE/0334319

WITNESSES

Charleston County Sheriff Office

AGENCY CASE NUMBER

2017-014536

ARREST WARRANT NUMBER

2017A1010205317

DATE OF ARREST

09/05/2017

ACTION OF GRAND JURY

TRUE BILL

AUG 06 2018

Date:

VERDICT

Date:

Foreperson of Petit Jury

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened August 2018, the Grand Jurors of Charleston County present upon their oath:

THREATENING LIFE, PERSON OR FAMILY OF A PUBLIC OFFICIAL

That in Charleston County, South Carolina, on or about September 5, 2017, the Defendant, Akim Jamaar Jean-Charles, knowingly and willfully did deliver or convey to a public official, teacher or principal of an elementary or secondary school, by way of letter, writing, print, missive, document, or electronic or verbal communication, a threat to take the life of or to inflict bodily harm upon such public official, teacher or principal or her immediate family and such threat was directly related to her professional responsibilities, in violation of Section 16-3-1040 of the South Carolina Code of Laws (1976) as amended.

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



SHANNON ELLIOTT
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2018-GS-10-04368

VS.

AKIM JAMMAR JEAN-CHARLESAKA: Akim Jamaar Jean-Charles, Akim Jammam Jean-CharlesRace: Black Sex: M Age: 33DOB: 1/1989SS#: [REDACTED]Address: Jean Wells Drive

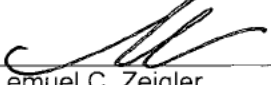
City, State,

Zip: Goose Creek, SC 29445-0000DL#* [REDACTED] SID# SC01803258*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐A/W#: 2017A1010205317Date of Offense: 09/05/2017S.C. Code §: 16-03-1040(A)CDR Code #: 0541

SENTENCE SHEET

In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Threatening Life, Person or Family Of A Public Official (NMT 5 years)In violation of § 16-03-1040(A) of the S.C. Code of Laws, bearing CDR Code # 0541☒ 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:


Lemuel C. Zeigler,
Assistant Solicitor

103314

SC Bar #

Defendant

Attorney for Defendant

102574

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 4 days/months/years/Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$, provided that upon the service of 109 days/months/years/Time Served and or payment
of \$, plus costs and assessments as applicable*; the balance is suspended with **probation** for 4months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDoc.109 days/months☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.

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

SPECIAL CONDITIONS:

STATE AKIM JAMMAR
VS. JEAN-CHARLES

INDICTMENT/CASE#: 2018-GS-10-04368

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☒ *Successful Completion*
Substance Abuse Counseling ☐ Completion of GED ☒ Random Drug/Alcohol Testing
- ☐ Attend Voc. Rehab. Or Job Corp ☒ No Contact with Victim ☐ Domestic Violence Intervention Program
- ☒ *Strict Compliance*
Mental Health Counseling ☐ May serve W/E beginning: _____
- assessment and all medication*

☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☒ Public Service Employment 40 days/hours

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☒ Other: *Strict House arrest for 6 months with a GPS monitor through SCDPPPS. Accepted: Work, attorney, church, doctor & PSE.*

Successful completion of Anger Management Counseling.

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

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

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

***Fine:**

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ 100.00
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150 \$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41 \$
§50-21-114 (BUI Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
3% to County (if paid in installments)	TBD \$ 3.75

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk: Lindsey Helm
Court Reporter: Julie Kevish

Presiding Judge: AL Jefferson
Judge Code: 2128
Sentence Date: sep. 8, 2023

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Apr 18 2025

SC Court of Appeals



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2025.

RECEIVED

Apr 18 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

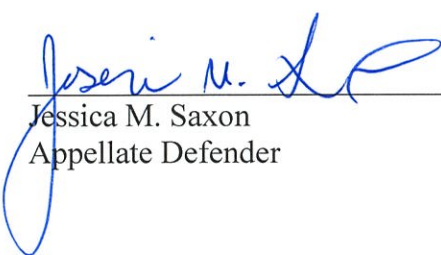
V.

AKIM JAMMAR JEAN-CHARLES,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) this 18th day of April, 2025.



Jessica M. Saxon
Appellate Defender