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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Patrick Cleburne Fant, III, Circuit Court Judge

MARK ANTHONY KEYS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-002124

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
PLAINTIFF,)
)
-VS-)
)
MARK ANTHONY KEYS,)
)
DEFENDANT.)
_____)

2019-GS-23-01286A

TRANSCRIPT OF RECORD

OCTOBER 14, 2019
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE G. THOMAS COOPER, JR.

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

ATTORNEY FOR PLAINTIFF:

ANTHONY McCOLLUM, ASST. SOL.
JENNIFER TESSITORE, ASST. SOL.

ATTORNEY FOR DEFENDANT:

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CIRCUIT COURT REPORTER

INDEXWITNESSPAGE NO.

CERTIFICATE OF REPORTER

24

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>

(No Exhibits Were Presented During This Hearing)

1 **MS. TESSITORE:** May it please the Court, Your Honor? My
2 name is Jennifer Tessitore. I represent the State.

3 **THE COURT:** I'm sorry. You talk real fast.

4 **MS. TESSITORE:** Yes, sir.

5 **THE COURT:** Ms. what?

6 **MS. TESSITORE:** My name is Jennifer Tessitore. I
7 represent the State. And Anthony McCollum is also a
8 prosecutor in the office. We're both working on this case.

9 And this is in the matter of State versus Mark Keys,
10 charged with kidnapping and assault and battery of a high and
11 aggravated nature, 2018A-23-30209810 and 2019-1286A. And he
12 is presnt here, Your Honor. And I believe you've been advised
13 that we are asking the Court to provide Faretta Warnings to
14 him so that we know our position on Wednesday if we do get
15 reached for trial.

16 **THE COURT:** All right. You Mr. Keys?

17 **MR. KEYS:** Yes. Yes, Your Honor.

18 **THE COURT:** Raise your right hand. You solemnly swear or
19 affirm that you will tell me the truth during this hearing?

20 **MR. KEYS:** Yes, I do, Your Honor.

21 **THE COURT:** So help you God?

22 **MR. KEYS:** Yes, I do, Your Honor.

23 **THE COURT:** All right. Now let me ask you this. You can
24 stand over there or -- yeah, but I do need you to stand.
25 Let's let the courtroom clear out here. I can hear you okay.

1 I'm waiting for them to get out and shut the door.

2 (Pause)

3 **THE COURT:** Mr. Keys, what are you charged with?

4 **MR. KEYS:** They're ---

5 **THE COURT:** No, I want you to tell me. You don't have to
6 talk into that. Just tell me, what are you charged with?

7 **MR. KEYS:** They said I'm charged with assault and
8 battery. I've got my card, if I can get it.

9 **THE COURT:** Yeah. Y'all can be seated.

10 **MR. KEYS:** I'm sorry, I didn't bring my glasses either.
11 All I know is it's assault and battery and kidnapping.

12 **THE COURT:** Okay. That's what you're charged with.

13 **MR. KEYS:** I think so.

14 **THE COURT:** Okay. Do you know how long you could go to
15 jail on these charges?

16 **MR. KEYS:** Yes, Your Honor.

17 **THE COURT:** How long?

18 **MR. KEYS:** Well, they say it could be ten to 20 years.

19 **THE COURT:** Yeah, at least.

20 **MR. KEYS:** Yes.

21 **THE COURT:** Maybe kidnapping you could go 30 years.

22 **MR. KEYS:** Yes. Yes.

23 **THE COURT:** So you understand that?

24 **MR. KEYS:** Very serious charges, I know.

25 **THE COURT:** Okay. Now do you have an attorney?

1 **MR. KEYS:** No, Your Honor, I do not. I'm sorry.

2 **THE COURT:** You don't have to ---

3 **MR. KEYS:** I'm sorry.

4 **THE COURT:** Do you want an attorney?

5 **MR. KEYS:** No, Your Honor. I'm representing myself in

6 this -- in this matter.

7 **THE COURT:** All right. Well, that's a yes or a no. Do

8 you want an attorney?

9 **MR. KEYS:** No, sir. No. No.

10 **THE COURT:** All right. I'm going to tell you some

11 things, but they're contained on this piece of paper, this

12 document. And when I get through I'm going to ask you again

13 if you want an attorney, okay?

14 **MR. KEYS:** Okay.

15 **THE COURT:** Now ---

16 **MR. KEYS:** Can I say something before you ---

17 **THE COURT:** Sure.

18 **MR. KEYS:** --- before you start?

19 **THE COURT:** Yeah.

20 **MR. KEYS:** Your Honor, I've been through this matter.

21 It's almost been a year now since -- 'cause last October the

22 3rd I was in a car wreck. I injured -- I dislocated my

23 shoulder, hip. And ---

24 **THE COURT:** I noticed you're walking with a little limp

25 today.

1 **MR. KEYS:** --- and foot -- and foot broken in a car
2 accident. When this happened, I think on October 20th, that I
3 got arrested ---

4 **THE COURT:** Okay. Now don't -- let me tell you this.

5 **MR. KEYS:** No, I'm not going into the trial.

6 **THE COURT:** I don't want you to go into the case.

7 **MR. KEYS:** I'm not. I'm not.

8 **THE COURT:** All right.

9 **MR. KEYS:** So it's been a year. And I told her that I
10 wanted to get this matter resolved as soon as possible because
11 I'm not -- I'm not -- I'm ready to move forward with this.
12 And it's been -- and I've been here every time. I've got all
13 of these ---

14 **THE COURT:** No, I believe you.

15 **MR. KEYS:** --- all of these cards. For a year I've been
16 here every time they sent these out I showed up on time, I've
17 been here. And I -- and I just want to move forward.

18 **THE COURT:** Well, they ---

19 **MR. KEYS:** I know ---

20 **THE COURT:** I tell you, they do too.

21 **MR. KEYS:** I do. And I don't want to waste the Court's
22 -- anymore time by having her come up here, me and see you
23 guys because it's been a year. And I've been trying to get
24 this matter taken care of.

25 And then they're always -- it's prolonging it and

1 prolonging it. And she's like -- every time I come it's to
2 see if I want an attorney. And I made it very clear the first
3 time that I showed up in court, right after they let me out of
4 jail, okay, because when I got out and came here, and I said
5 I'm ready to proceed to go. Every time they would delay, and
6 delay me and delay me. And so here we are now a year later.

7 **THE COURT:** Well, right now you're scheduled to go to
8 trial on Wednesday.

9 **MR. KEYS:** Yes, but ---

10 **THE COURT:** You understand that?

11 **MR. KEYS:** Yes, Your Honor. But what I am stating is
12 that I haven't -- I haven't had, what do you call -- a fair --
13 I have a right to a fair and speedy trial.

14 **THE COURT:** Right.

15 **MR. KEYS:** Okay. It's been over a year. My work -- I
16 have lost -- I have lost so much. I've lost my home. I have
17 lost my children because I can't keep them with me. I have
18 lost my job. I have lost every -- all my -- everything
19 because of this trial because I've been -- I can't find work
20 because once you've got this kind of -- this kind of charge
21 behind you, you can't find work, okay?

22 So I'm having to live with my -- I've just -- I just want
23 to get this situated because I'm not guilty. I am not guilty
24 in this case, and I know I'm not. So that's why I'm not
25 hiring an attorney. All my money has been trying to keep my

1 property, to keep my home.

2 And I just want -- I just want to get this over with so I
3 can move on with my life. And this has been so unfair that
4 I've been here every time for over a year. And I'm saying if
5 you're going to take me to trial, take me to trial. But this
6 right here, it's -- and it's been a year.

7 And I'm asking Your Honor that -- for a dismissal of this
8 trial, not even -- because it's been a year that I've been
9 trying to get this resolved. If I'm found guilty of this
10 charge, which I know I'm not, and I shouldn't be, but I'm
11 ready to move forward. And it's been a year.

12 And I'm saying -- I've been telling her that. And she --
13 all she's been trying to do is to get me to cop a plea.

14 **THE COURT:** I understand.

15 **MR. KEYS:** And I would never -- now I would never cop a
16 plea to something I didn't do.

17 **THE COURT:** I understand.

18 **MR. KEYS:** And I think at my age and what I know in my
19 experience, nobody can tell my story better than me. So
20 that's why I'm here today representing myself because I've had
21 attorneys in the past. And they're ---

22 **THE COURT:** In this case?

23 **MR. KEYS:** No.

24 **THE COURT:** Okay.

25 **MR. KEYS:** They're usually wanting you to take a plea

1 deal.

2 **THE COURT:** I understand.

3 **MR. KEYS:** And the way I found out in my experience is
4 that I only have the truth to stand on. That's it. Just tell
5 you the truth. And I've been willing to do that since the day
6 that this situation occurred.

7 And nobody's been letting me -- wanting to hear the
8 truth. They just want to say, okay, you've been charged, take
9 a plea deal, take this, take that. And I'm like, no. And
10 I've been refusing the whole time for a year ---

11 **THE COURT:** Well, you ---

12 **MR. KEYS:** --- to this day.

13 **THE COURT:** You were sitting in the courtroom a few
14 minutes ago, weren't you?

15 **MR. KEYS:** Yes, ma'am. Yes, sir.

16 **THE COURT:** Did you hear that -- people talking in that
17 case? Did you hear it?

18 **MR. KEYS:** I don't remember what was said.

19 **THE COURT:** I just wanted to point out to you that that
20 case is five years old.

21 **MR. KEYS:** Yes, sir.

22 **THE COURT:** Now any delay, any delay affects you. I can
23 understand that. I don't know the facts of the case, don't
24 know anything about you, or your past, but I have -- the law
25 requires that I give you these warnings. Right now your case

1 is set for trial Wednesday.

2 **MR. KEYS:** Um-hum (affirmative).

3 **THE COURT:** You understand that?

4 **MR. KEYS:** Yes.

5 **THE COURT:** Now will you let me give you these warnings?

6 And then I'll ask you if you want an attorney. I'm doing it
7 because the law requires me to do that.

8 **MR. KEYS:** I understand. I understand. I understand.
9 You're only doing it because you -- that's your ---

10 **THE COURT:** And -- you seem like an intelligent fellow.
11 I think you can understand what I'm telling you.

12 **MR. KEYS:** I do. I do. I'm just, you know ...

13 **THE COURT:** All right. Let me go through this.

14 **MR. KEYS:** Okay. Okay.

15 **THE COURT:** All right. First off, if you decide to
16 proceed by yourself, and you obviously have made that
17 decision, but, nevertheless, let me advise you that
18 representing yourself can be dangerous. And you have a right
19 to assistance of an attorney at all stages of the proceedings.
20 And if you cannot afford an attorney, the State would appoint
21 an attorney to represent you.

22 Criminal defense is a highly specialized and technical
23 area of the law. There may be certain factual, legal or other
24 defenses to the charge that you are facing. And if you choose
25 to proceed without the services of a licensed attorney, you

1 may not be aware of these defenses.

2 There may be issues related to the conduct of the trial
3 or a guilty plea, which you said you're not going to do, that
4 could arise in the future that you may not be aware of. And
5 it would be your attorney's responsibility to make you aware
6 of these issues and how to properly address them before the
7 court and if necessary preserve the issues for an appeal.

8 There may be collateral consequences of a conviction or a
9 plea that you're not aware of including, but not limited, you
10 could face increased penalties for subsequent offenses,
11 suspension of your driver's license, the right -- the
12 restriction of the right to possess a firearm or ammunition
13 and if you were an immigrant, your immigration status.

14 If you exercise your right to proceed without the
15 services of an attorney, you are responsible for complying
16 with all applicable rules of court including the rules of
17 evidence, procedural rules and proper behavior before the
18 judge and/or a jury. You understand that you have -- if you
19 waive screening for a court appointed attorney that you're
20 responsible for hiring a private attorney if you want one?
21 Now do you understand what I've told you?

22 **MR. KEYS:** Yes, I do.

23 **THE COURT:** All right. I'm going to hand you this
24 document and I'm going to date it. And if you understand what
25 I've just told you -- now this is not a -- this is not a trick

1 question or anything, this is -- I just want you to -- I'm
2 going to ask you to sign that and acknowledge that I told you
3 these things.

4 **MR. KEYS:** Yes.

5 **THE COURT:** That's all it is. You're acknowledging that
6 I explained that to you.

7 (Pause)

8 **THE COURT:** All right. Ms. Tessitore, is the case ready
9 for trial?

10 **MS. TESSITORE:** Yes, sir, for Wednesday. We've -- just
11 to give you a little procedural history, we did make an offer
12 in this case.

13 **THE COURT:** Mr. Keys, you can sit down. She -- while she
14 talks.

15 **MS. TESSITORE:** We did make an offer in this case, Your
16 Honor, back in May after he was arraigned in April. He did
17 clearly reject the offer. We provided discovery to him on
18 July 24th of 2019, although he's filed no motions. We are
19 prepared to go forward on Wednesday. And if we're not reached
20 on Wednesday, on Thursday.

21 **THE COURT:** Well, as far as I can tell from this docket,
22 I'd suggest that you be ready on Wednesday.

23 **MS. TESSITORE:** Yes, sir.

24 **THE COURT:** The same goes for you, Mr. Keys. Be ready on
25 Wednesday.

1 **MR. KEYS:** Your Honor, can I say ...

2 **THE COURT:** Sure.

3 **MR. KEYS:** She hasn't sent me -- she sent me something
4 last month, but it's been, like I said, it's been almost a
5 year. It's been a year since this happened. I'm -- where's
6 the fact -- I'm asking for -- it's a year. That's what I'm
7 saying. I've not been brought to trial and I've been here.
8 She's spent a year just trying to get me to cop -- to cop a
9 plea.

10 **THE COURT:** Well, you don't have to. I just told you
11 that.

12 **MR. KEYS:** I understand that. But I'm asking for a
13 dismissal or for this whole case because I haven't had a right
14 for until -- I have a right to a fair and speedy trial.

15 **THE COURT:** All right.

16 **MR. KEYS:** And she's taking -- and she's taken only a
17 year just to try to get me to cop to a plea. That's all this
18 is all about. That's all this is all about.

19 **THE COURT:** Well, you've been ---

20 **MR. KEYS:** And it's not ---

21 **THE COURT:** You've been charged with a crime.

22 **MR. KEYS:** Your Honor, ---

23 **THE COURT:** Either you ---

24 **MR. KEYS:** Your Honor, ---

25 **THE COURT:** It's got to be -- it's got to be resolved.

1 **MR. KEYS:** Yes. Are you familiar with this?

2 (Whereupon Mr. Keys presented a Black's Law Dictionary)

3 **THE COURT:** For the last 50 years I've been familiar with
4 it.

5 **MR. KEYS:** Okay. I'm asking you to dismiss this trial on
6 the ground that I haven't had a fair -- a fair and speedy
7 trial because it's taken a year, and I've been here. I've
8 been here over ten, 12 times. I have more. They kept some of
9 them at first. These are not all of them.

10 **THE COURT:** Okay.

11 **MR. KEYS:** I would turn them in. So every time I'm
12 telling you I'm here to take care of the matter and wouldn't
13 take the carrot. So what I'm saying is the trial should have
14 been taken place.

15 So I'm asking for a dismissal of this whole proceeding
16 because she has -- she has been taking up the court's time for
17 over a year bringing different judges -- you're the first one,
18 but other judges. Every time I've been here over 12 times and
19 talked to -- and said the same thing that you've said that --
20 making sure that I understand all my rights. And I would tell
21 them like I told you.

22 I'm very -- I'm 53 years old, okay? I know -- I'm very
23 familiar with my rights. I know I have a right to an
24 attorney. I know everything you said. And I'm so ready to
25 proceed. I'm so ready, but this time, it's taken so much out

1 of my life for this year trying to get this behind me so that
2 I can move forward. And I've been doing everything I can to
3 say let's go forward, please let's go forward.

4 The first judge that I really seen, I said, yes, as soon
5 as we can, let's have -- let's go forward and have a trial.
6 She did everything she can to get me back in here to try to
7 cop to a plea. And she's been wasting the court's time for
8 over a year.

9 And my life's -- so what I'm saying, that's not -- that's
10 not fair to me. I've been accused. I haven't been -- I
11 haven't -- I haven't been convicted or ---

12 **THE COURT:** You're innocent ---

13 **MR. KEYS:** Yes.

14 **THE COURT:** --- today.

15 **MR. KEYS:** I'm innocent. But what I'm saying is I have a
16 right to a fair and speedy trial. And that hasn't been the
17 case today, Your Honor. That has not been given to me. I
18 have been denied that.

19 **THE COURT:** All right.

20 **MR. KEYS:** So with that being said, I would like you to
21 dismiss these charges and these proceedings because she's had
22 ample enough time to do what she needs. She had -- to get her
23 -- to get any witness, to do everything she needed to do. And
24 the only thing that she did in this allotted time, in this
25 year time since -- this year since I've been arrested, a year,

1 she's only wanted me to plead -- to cop a plea to this. She
2 can move forward and go on with her next case.

3 And I'm like, this is my life. And I would never take a
4 plea deal. And it's very serious. And I know that if I lose
5 this, this is my life. I got -- I'm facing 20 to 30 years for
6 these very serious charges.

7 That's where I'm taking it. I have the money to
8 represent myself. I have the money to hire a lawyer, okay? I
9 just sold some land in Travelers Rest. My people own a
10 hundred and something acres. I've got money I could show you.
11 I've got money to hire the best attorney. But I would not
12 spend money for a public defender or a expensive attorney when
13 I know that this is a farce.

14 The person that made this accusation against me is not --
15 I can't go into the details. But I'm just saying for me it's
16 not fair because when you bring a person under these charges,
17 it's been a year that I have been living like this. And I've
18 been stuck. I've been stuck in a hole because I'm not -- I
19 could not do anything for -- as trying to get a new home, to
20 do anything when I got these charges behind me.

21 This is -- this is my life. And that's why I'm taking
22 front seat and I'm here with myself, nobody speaking for me.
23 Just me. And I've been telling them the whole time since I
24 showed up to court that, please, yes, I am ready to proceed
25 because the longer this takes, it's destroying me.

1 **THE COURT:** I understand that.

2 **MR. KEYS:** And it's not fair for any citizen to be taken
3 off the street, arrested and charged for a crime and not have
4 a right to a fair and speedy trial.

5 **THE COURT:** Well, you're going to -- you're going to get
6 a fair trial.

7 **MR. KEYS:** No, I said a fair ---

8 **THE COURT:** I know ---

9 **MR. KEYS:** --- and speedy trial.

10 **THE COURT:** --- you said speedy trial, but let me just
11 tell you right now I have no authority to dismiss it based on
12 what you've just told me. You understand? I ---

13 **MR. KEYS:** Your Honor, ---

14 **THE COURT:** --- cannot dismiss this case.

15 **MR. KEYS:** Why is that? Why? Because it -- just because
16 on the facts you have every right to dismiss this case. You
17 are the sitting -- proceeding over this case today. You have
18 the right to say if it goes forward or it's dismissed.

19 And I've gave you -- I have gave you the only reason you
20 need to dismiss this case is this one fact alone, that I've --
21 I have a right as -- as a citizen I have a right to a fair and
22 speedy trial.

23 And this is the thing that I'm saying, if you're going to
24 try me, try me, let's go. But in that proceeding, I know
25 things takes time to develop, but this is not -- this is not

1 one that takes five years to bring someone to court. This is
2 not ---

3 **THE COURT:** Let me ---

4 **MR. KEYS:** --- this is not ---

5 **THE COURT:** Let me ---

6 **MR. KEYS:** --- this is not the case ---

7 **THE COURT:** Let me hear what the State has to say.

8 **MR. KEYS:** This is not the ---

9 **THE COURT:** Just ---

10 **MR. KEYS:** I'm just trying to finish my point. You're
11 not letting me finish my point.

12 **THE COURT:** I think I understand your point. You've
13 waited a year, ---

14 **MR. KEYS:** Your Honor, ---

15 **THE COURT:** --- you consider this not to have been
16 speedily resolved, you've asked for a trial, you're going to
17 get a trial.

18 **MR. KEYS:** No. I'm not -- I'm not willing to -- I'm not
19 willing to go through this anymore because -- what I'm saying,
20 I am here today to try and get this resolved, to get it
21 dismissed because what I'm saying, it's unfair to me.

22 You're saying let's go to trial. And I'm telling you she
23 had ample opportunity. She's wasted -- do you hear me? She's
24 wasted a year because every time that I came and I spoke with
25 her, it was the same result. She was never trying to get me

1 to a court date.

2 The only reason she's doing this court date, Your Honor,
3 is because I refused every time. I refused every time to take
4 the plea deal. This is the -- she don't want a trial because
5 she knows she will lose it.

6 **THE COURT:** Well, let's find out.

7 **MR. KEYS:** No. We can find out, but what I'm saying, you
8 still looking over the fact of my rights that I haven't had a
9 right to a fair and speedy trial. And that's what I'm
10 standing on because it doesn't take a -- it doesn't take a
11 year to get me into court when I've been -- the first time
12 that I've been brought into court and the situation was do you
13 plead guilty? No, I don't. Do you want an attorney? No, I
14 don't. Do you understand your rights? Do you want to
15 represent yourself? Yes, I do.

16 It's been a year. So if she -- she has -- she has been
17 wasting the taxpayers' time for a year. Taxpayers' time. Not
18 on my time, but taxpayers' time and, Your Honor, your time to
19 get me here to cop a plea. This is all this is about. And
20 that's what she wants today. But she knows she's nots going
21 to get it from me.

22 But what I'm saying, Your Honor, that's not -- that is
23 not fair for me as a United States citizen of America. As a
24 citizen of America, I have rights just like every one of you,
25 if you convicted, I mean, if you're charged with a crime, you

1 have a right to a fair and speedy trial.

2 And they have -- and what I'm telling you is that some --
3 in that year so much has gone on. If you're charged with that
4 kind of crime -- my name has been tarnished. My -- and I'm
5 ready to get this behind -- what I'm saying is that this is --
6 this is my right.

7 So if you're not -- if you're not willing to recognize my
8 right as far as that, you're doing the same thing she's doing.
9 You're not protecting my rights. And I'm asking you as Your
10 Honor, please, Your Honor, as a citizen, as a taxpayer, help
11 me, because it's been a year. And this is not ---

12 **THE COURT:** I understand ---

13 **MR. KEYS:** --- fair.

14 **THE COURT:** --- that. I understand.

15 **MR. KEYS:** Okay. So on the basis of that alone, I think
16 that you have the power to decide that. And I know you do.
17 And you know you do. That this is ---

18 **THE COURT:** I've already told you I am not going to
19 dismiss this case.

20 **MR. KEYS:** Okay. And I ask you -- and why again?

21 **THE COURT:** I'm not going to dismiss this case. That's
22 it.

23 **MR. KEYS:** Why? I'm just asking you ---

24 **THE COURT:** Your trial is scheduled for two days from
25 today.

1 **MR. KEYS:** Um-hum (affirmative). Your Honor, ---

2 **THE COURT:** You're going to get all the rights the
3 Constitution affords you ---

4 **MR. KEYS:** That's not a fair -- that's not a fair and
5 speedy trial.

6 **THE COURT:** You know, you could say if they don't try it
7 within 30 days it's not a speedy ---

8 **MR. KEYS:** No. I'm not ---

9 **THE COURT:** --- trial. If they don't ---

10 **MR. KEYS:** I didn't ---

11 **THE COURT:** --- try it within ---

12 **MR. KEYS:** --- say that.

13 **THE COURT:** --- six months, it's a speedy trial. A
14 speedy trial is -- this County -- if you were in a rural
15 county I might, and the docket was not full, then maybe you'd
16 have an argument. But in this County, as I understand it, I
17 don't live here, the criminal docket in this County is so
18 heavy, so many cases, that maybe you are lucky that you're
19 getting your case tried within a year. Some cases, like the
20 last one, takes five years.

21 I'm going to deny your motion. I'm sorry, and I'm sorry
22 that you disagree with me, but you've got a trial scheduled in
23 two days. I'm not dismissing a case that a trial is scheduled
24 for two days. Now that's it. I'm not going to argue with
25 you.

1 You either go -- you either go to trial or don't go to
2 trial. That's up to you. But the State's ready to try your
3 case. They'll call it on Tuesday. Good luck to you, sir.
4 That's all.

5 MS. TESSITORE: Thank you, Your Honor.

6 (Hearing Ended at 10:28 am)

7 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 14th day of October 2019.

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

March 19, 2021

s/Susan W. Hudgins

Circuit Court Reporter

1 STATE OF SOUTH CAROLINA
2 IN GENERAL SESSIONS
3 COUNTY OF GREENVILLE

4 State of South Carolina,
5 Plaintiff,

6 vs.

Transcript of Record
2019-GS-23-4199A

7 Mark Anthony Keys,
8 Defendant.

9
10
11 October 16, 2019
12 Greenville, South Carolina

13 B E F O R E:

14 The HONORABLE LETITIA VERDIN

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

16 Jennifer Tessitore, Representing the State of South
17 Carolina

18 Mark Anthony Keys, Pro Se
19
20
21

22 SHARON G. HARDOON, CSR
23 Official Circuit Court Reporter, II
24
25

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1 THE COURT: We are here this morning in
2 the case of Mark Keys. Are you Mr. Keys?

3 MR. KEYS: Yes, ma'am.

4 THE COURT: Come on up here and have a
5 seat at the table.

6 Our jury is going to be here very
7 shortly, and we will move to jury selection right
8 after that. Mr. Keys, I know that you talked to
9 Judge Cooper earlier this week. He went over your
10 right to have a lawyer with you. I won't go over
11 that with you again because that is on the record
12 and has already been taken care of.

13 Mr. Keys, the fact that you are here
14 representing yourself, which you have an absolute
15 right to do, I need to give you some instructions.
16 You and I don't know each other well. I think we
17 met one time, but I want you to know a few things
18 about me and about the rules of court before we
19 proceed.

20 MR. KEYS: If I don't look directly at
21 you, I'm paying attention.

22 THE COURT: Okay.

23 MR. KEYS: The bright lights gets me.
24 I'm still on medication.

25 THE COURT: I understand. Okay. All

1 right. Well, that's fine. That is perfectly
2 fine.

3 And if any time you got a question about
4 what I say then let me know. But once we start a
5 trying, the rules of court say that the judge
6 directs the manner of the trial. Okay? The
7 manner and flow of witnesses of the trial, period.
8 I want more than anything for you to be able to be
9 present for your trial. You got a right to, but
10 it's not an unlimited right. I also want you to
11 be able to participate in your own defense. You
12 got a right to do that, but it is not an unlimited
13 right.

14 When I tell either side that it's time to
15 sit down, then it's time to sit down. If I tell
16 either side that you cannot go into certain
17 aspects, then you cannot go into those things.
18 And if anybody violates, either side -- I say
19 either side violates this rule, in my discretion,
20 I may have to have you removed. And being removed
21 means I go put you in the holding cell and send
22 over to the law enforcement center. This trial is
23 happening today. Okay? This trial is happening
24 today, and it will be with or without you,
25 Mr. Keys, and that is up to you. All right?

1 I appreciate how courteous you're being
2 at this point, and I would hope that that
3 continues and that's all I ask for.

4 Now, in just a few minutes, we are going
5 to bring in the jury. I am going to ask a few
6 questions of the jury to find out if they know
7 anything about this case, and do they know anybody
8 involved in this case. And then we'll move to
9 jury selection. The State will have five strikes
10 and you will have five strikes. Okay? And so you
11 will be able to decide -- you will be able to
12 strike certain jurors if you don't want them to
13 serve. And then we'll move to opening statements
14 and those will be brief. All right? Those are
15 going to be brief.

16 All right. All that being said, are there
17 any matters that we need to take up, Miss Tessitore?

18 MS. TESSITORE: May it please the Court,
19 Your Honor? On behalf of the State, the State is
20 prepared to proceed. However, I did just want to
21 lay a little bit of groundwork on the record for
22 purposes of Mr. Keys assertion of his right to
23 represent himself.

24 THE COURT: Okay. I believe that's --
25 that's -- I've looked at that matter and I think

1 it's clear on the record, and I don't think we
2 need to go into that any further.

3 MS. TESSITORE: Okay.

4 THE COURT: I think Mr. Keys been very clear
5 he wants to represent himself.

6 MR. KEYS: Yes, ma'am.

7 THE COURT: All right.

8 MS. TESSITORE: And, Your Honor, may I just
9 make these a Court's exhibit, the Faretta warning --

10 THE COURT: Sure, sure.

11 MS. TESSITORE: -- that was given to him
12 by Judge Cooper.

13 THE COURT: That's the things from
14 Judge Cooper's hearing. The things that you
15 signed from Judge Cooper's hearing.

16 MR. KEYS: I signed one from him.

17 THE COURT: I got you.

18 MR. KEYS: I'm very aware.

19 THE COURT: Mr. Keys?

20 MR. KEYS: I've been here 12 times
21 asking --

22 THE COURT: Mr. Keys? Okay. And when I
23 put my hand up like this, okay, that's my nice way
24 of saying, okay, we're good. You don't have to go
25 into it. We're just making this part of the

1 record. You're not a lawyer, but you'll be held
2 to -- unfortunately, when you represent yourself,
3 you're held to the same standard as a lawyer, and
4 this is, we've got certain things that we have to
5 make an exhibit. Okay? And you'll hear that
6 throughout this trial.

7 All right.

8 MS. TESSITORE: Thank you, Your Honor.

9 Your Honor, just one scheduling matter,
10 we do have Dr. Stanton on our witness list, as you
11 can see. He is working today and we have him on a
12 one-hour standby. So we may need to just try to
13 get a sense -- maybe after we get started -- just
14 to be able to make sure that he's going to be
15 available.

16 THE COURT: All right. Well, you know, I
17 want to make sure that he's here in a very timely
18 manner.

19 MS. TESSITORE: Oh, yes.

20 THE COURT: I don't know how early you
21 plan on calling him, but I'm -- I'm ready to get
22 moving.

23 MS. TESSITORE: Yes, ma'am.

24 THE COURT: All right. Now, anything
25 else from the State?

1 MS. TESSITORE: Your Honor, the only
2 other thing would just be -- obviously, I know
3 that the Court will take great precaution when the
4 victim is testifying, as well as her sister, that
5 they feel safe in the courtroom.

6 THE COURT: Absolutely.

7 MS. TESSITORE: And that there would be
8 some ground rules set up ahead of time to make
9 clear where -- physically where both myself and
10 where Mr. Keys position ourselves in the courtroom
11 to make sure that that's --

12 THE COURT: All right. I'm going to say
13 that both of you can question the victim in this
14 case, and the victim's sister, both of you from
15 counsel table.

16 MS. TESSITORE: Okay. Thank you, Your
17 Honor.

18 THE COURT: So right where you are. And
19 you can stand up and question the witness from
20 here and the same goes for the State. All right?

21 MS. TESSITORE: And if I have exhibits to
22 show her, may I request permission to approach at
23 that time?

24 THE COURT: All right. Yes. What we'll
25 do is, there's going to be a deputy up here in

1 this area during that testimony, and I'll have the
2 deputy give it to her from both the State and the
3 defense so it doesn't look any different.

4 MS. TESSITORE: Yes.

5 THE COURT: So the deputy can hand the
6 exhibits to the witness.

7 MS. TESSITORE: Thank you, Your Honor.

8 THE COURT: All right. Fair enough?

9 MS. TESSITORE: Thank you, Your Honor.

10 THE COURT: That's it from the State?

11 MS. TESSITORE: Yes.

12 From the defense, Mr. Keys?

13 MR. KEYS: I'm good. Thank you. I had
14 my question answered.

15 THE COURT: Okay, good.

16 Now, just so you know, throughout the
17 trial, just so that it doesn't look strange to the
18 jury, you stand when you approach the Court --
19 when you address the Court. Okay? So you stand
20 up when you talk to me. And when you'll talk to
21 the jury in your opening statement, you stand?
22 Okay? And, at that point, you can move to this
23 area. I'll allow you to move up to this area and
24 do that in front the jury. Okay? Fair enough?

25 MR. KEYS: (Nods head up and down.)

1 THE COURT: All right then. Very well.

2 And he's nodding in the affirmative.

3 Do we have 35 jurors?

4 Mr. Keys, just so you know, there's some
5 water in front of you with cups. That's helpful
6 to you.

7 MR. KEYS: Thank you.

8 THE COURT: Yes, sir.

9 MR. KEYS: When you get the jury, I don't
10 have a notepad.

11 THE COURT: Let me give you a notepad and
12 pen. You don't have to return this to them.
13 That's yours to keep just so that you got it.

14 MR. KEYS: Thank you.

15 THE COURT: Thank you.

16 Is there anyone here who's getting a
17 Rule 403, or anything like that? These two ladies
18 right here? You all can certainly stay in here
19 for jury selection so you can see how it's done.
20 Okay?

21 Those are law students, or near lawyers,
22 who are watching different trials.

23 MS. TESSITORE: Your Honor, may the
24 victim stay in the courtroom?

25 THE COURT: Of course, absolutely. They

1 have an absolute right to stay in the courtroom.

2 MS. TESSITORE: Thank you.

3 MR. KEYS: Your Honor, she can stay, too,
4 because she's a witness?

5 THE COURT: No, sir. Not witnesses,
6 okay? No.

7 MR. KEYS: She's not a witness.

8 THE COURT: It's okay.

9 MR. KEYS: But she has testimony.

10 THE COURT: Hold on one second. Let me
11 explain something to you. There is a law called
12 the Victim's Rights Act, and it says that the
13 victim can be in here for any type of -- any type
14 of proceeding related to it. Everybody else, all
15 the other witnesses, I send out of the courtroom.
16 Okay? But we're -- she has a right to stay in
17 here, okay, under the law.

18 MR. KEYS: I'm not concerned about her.
19 I'm just asking about the witness.

20 THE COURT: And I'm telling you that I
21 send all the other witnesses out, including her.
22 Okay? We need room for the jury. You'll see in a
23 just a minute They're going to all be in here. We
24 were not excluding witnesses at this point. We're
25 just making room for jurors.

1 (Court EXH. 1, Faretta Warning, was
2 marked and entered into evidence.)

3 (Court EXH. 2, Faretta Warning, was marked
4 and entered into evidence.)

5 (Court EXH. 3, Appointment of Attorney, was
6 marked and entered into evidence.)

7 THE COURT: Yes, sir. Mr. Keys?

8 MR. KEYS: Before we start, I'm just
9 thinking about what you were saying about I need
10 to come up and down, I'm still -- I was in a car
11 wreck --

12 THE COURT: Okay.

13 MR. KEYS: -- October the 3rd. I injured
14 my back, neck, so -- and my hip.

15 THE COURT: Absolutely.

16 MR. KEYS: Okay. How about this,
17 Mr. Keys then, let's just did it like this: I
18 find for good cause that you do not need to rise
19 to address the Court. You don't need to -- as
20 long as my court reporter can see him.

21 Do you think you can see him?

22 THE COURT REPORTER: I'll move.

23 THE COURT: Okay. She's going to move so
24 she's able to see you because she's taking down
25 everything everybody says. And if you don't mind,

1 I'll let the jury know that I've excused because
2 of an injury from rising and that you asked. I'm
3 more than happy to do that. That's exactly the
4 kind of thing that I really do appreciate you
5 talking to me about.

6 MR. KEYS: Thank you.

7 THE COURT: Yes, sir.

8 Another thing, Mr. Keys, just to let you
9 know, I said to you just a minute ago about
10 opening statements, but I want to advise you and
11 let you know, you are not required to make an
12 opening statement if you don't want to. You don't
13 have to present any evidence. You don't have to do
14 anything. The burden is on the State.

15 MR. KEYS: I understand that. I
16 appreciate you telling me that. Thank you.

17 THE COURT: Yes, sir.

18 Mr. Keys, we're going to pick one
19 alternate juror, just in case a juror gets sick,
20 or something like that. You will get two strikes
21 on that alternate juror. The State will only get
22 one, but you'll get two. We'll guide you through
23 it.

24 Also, you get five strikes on the main
25 jurors. When you get to five, I'm going to make a

1 motion to you that you've struck five. Sometimes
2 when you get in the heat of things, I'll tell you
3 from when I practiced law, you kind of lose track
4 a little bit. So I'll keep up with it for you
5 too.

6 MR. KEYS: How long have you been a
7 judge?

8 THE COURT: Eleven years. Eleven years.
9 Two as a Family Court judge and nine in this job,
10 yes, sir.

11 Mr. Keys, just so you know, this man
12 sitting beside me is a lawyer. He's my law clerk,
13 just so you know who all everybody is. And this
14 lady is, of course, the court reporter, and this
15 lady is the clerk of court.

16 MR. KEYS: Thank you.

17 THE COURT: Good morning, Ladies and
18 Gentlemen. I met with you on Monday and qualified
19 you as juries to serve in Greenville County this
20 week. Now, I need to find out if you're
21 particularly qualified to serve in the trial of
22 this case. The caption of this case is the
23 State of South Carolina vs. Mark Anthony Keys.

24 And, Ladies and Gentlemen, I want to
25 begin by saying to you -- Mr. Keys is seated here

1 at the counsel table -- a few things: He is
2 representing himself as is his absolute right to
3 do, and you are to draw no conclusions from that,
4 whatsoever. Every citizen has the right to
5 represent themselves in court and he has exercised
6 that right. Next, Mr. Keys has had an injury in
7 the past couple of weeks and sometimes he has to
8 put his head down, and I do not want you to think
9 that he is not listening or sleeping, or doing
10 something like that, because he is absolutely not.
11 He is just putting his head down to sort of take a
12 break, but he's still listening. And then also,
13 he asked me and he wanted you to know it was no
14 sign of disrespect whatsoever, but, due to his
15 injury, he does not -- he will not be able to
16 stand up and sit down as you, a lot of times,
17 might see folks do in the court. And he asked me,
18 very graciously, if he could be excused from doing
19 that. He did want that to be as a sign of
20 disrespect to the court or to you jurors in any
21 way, so I want you to know that and be clear on
22 that. So he'll be probably sitting most of the
23 time, but I found that it was necessary that he be
24 able to do that.

25 Thank you, Mr. Keys for asking me about

1 that.

2 MR. KEYS: Thank you.

3 THE COURT: All right. Ladies and
4 Gentlemen, when I talked with you on Monday, I
5 asked you to hold your answers until the end and
6 then we just talked about it one by one. I'm
7 going to ask you to do a little bit different here
8 today. I'm going to ask some questions. Most of
9 them are whether or not you know anything about
10 the allegations in this case, or whether you know
11 anybody involved in the case. That's pretty much
12 it. If you need to respond to me, I'm going to
13 ask you to stand. If you don't -- and then what
14 I'll ask you to do is, I'll just call on you when
15 I finish my question and you give me your name and
16 your juror number at that time, and we can talk
17 about who you might know and what you might know.

18 And if at any time you feel like it's
19 something you don't want to discuss out loud, if
20 you want to approach, then we can all approach
21 here at the bench and discuss the matter if we
22 need to, but I don't think I'm going to be asking
23 you anything of a personal nature in any way
24 whatsoever.

25 All right. All that being said, we're

1 going to begin with some introductions, and I'm
2 going to ask Miss Tessitore to introduce the folks
3 at her table.

4 MS. TESSITORE: May it please the Court,
5 Mr. Keys, my name is Jennifer Tessitore and I
6 represent the State. This is Anthony McCollum and
7 he is my co-counsel. Seated before you is the
8 victim in this case Sheila Watkins and her sister,
9 Kimberly Vaughn, and my investigator, Lynn Crouch,
10 and we all work at the Solicitor's Office.

11 THE COURT: Is any member of the jury
12 panel related by blood or marriage, or otherwise
13 acquainted with in any way, Miss Tessitore,
14 Mr. McCollum, Miss Watkins, Miss Vaughn, anyone
15 seated here at this table whatsoever, and if so,
16 please stand. None are standing.

17 I'll ask that question just a little more
18 broadly. Any member of the jury panel related by
19 blood or marriage or otherwise acquainted with
20 anyone employed at the 13th Circuit Solicitor's
21 Office? 13th Circuit is Pickens and
22 Greenville County. Solicitor means the
23 prosecutor. In some states, it's called the
24 District Attorney, something like that. And, if
25 so, please stand. And none are standing.

1 Mr. Keys, you can certainly remain
2 seated, but if you would, please introduce
3 yourself, just your name, to the jurors, please.

4 MR. KEYS: I'm Mark Keys.

5 THE COURT: All right. Any member of the
6 jury panel related by blood or marriage, or
7 otherwise acquainted with in any way to Mr. Keys?
8 And if so, please stand. And none are standing.

9 Can everyone see Mr. Keys? If you all
10 need to stand, please do. If you need stand up --
11 if any juror needs to stand up, please do. All
12 right. Everybody think you got a look at him?
13 All right. Anybody think you might know Mr. Keys
14 in any way? And, if so, please stand. And none
15 are standing.

16 Mr. Keys, there was a lady that stepped
17 out outside to give the jurors more room to sit in
18 the benches so it would take up any room. Tell me
19 what her name was. The lady who came with you,
20 yes.

21 MR. KEYS: Donna.

22 THE COURT: Donna? And what's her last
23 name.

24 MR. KEYS: Give me one second.

25 THE COURT: Okay. I'll tell you what,

1 let's go hold on one second. I'm ask her to step
2 in here.

3 MR. KEYS: Hilgar.

4 THE COURT: Hilgar. Let's just -- thank
5 you, ma'am, first of all for stepping outside to
6 give the jurors a little bit more room. We all
7 appreciate that. But, secondly, thank you for
8 stepping back in here. Would you come and stand
9 right beside this deputy right here and maybe a
10 little bit up a little bit? I just want
11 the jurors to be able to see you. Will you turn
12 and face the jury? And tell them your name,
13 please.

14 MS. HILGAR: I'm Donna Hilgar.

15 THE COURT: Okay. And the jurors sitting
16 over here too. I want them to be able to see you.

17 MS. HILGAR: Donna Hilgar.

18 THE COURT: Okay, perfect. Thank you so
19 much. And you can just step back outside. Thank
20 you. I appreciate it.

21 Any member of the jury panel related by
22 blood or marriage or otherwise acquainted in any
23 way with Miss Hilgar? And if so, please stand.
24 And none are standing.

25 I'm going to read out a list of

1 witnesses. And if there anyone -- and I see that
2 Miss Hilgar is on this list, I apologize. If
3 there is anyone who thinks you might know any of
4 these witnesses in any way, please let me know.
5 Now, a couple of these names might be, kind of
6 common, so if you even think you might know
7 someone with this name, stand and let's talk about
8 it and figure it out.

9 Okay. Jason Cassell of the Greenville
10 County Sheriff's Office, Investigator James Perry
11 of the Greenville County Sheriff's Office,
12 Dr. John Stanton of Pelham Medical Center,
13 Investigator Shannon McHale of the Greenville
14 County Sheriff's office Greenville County
15 Sheriff's Office, Deputy Juan Olalde of the
16 Greenville County Sheriff's office and Deputy
17 Austin Fowler of the Greenville County Sheriff's
18 Office, also a custodian of records from Pelham
19 Medical Center. Don't know if these witnesses are
20 going to testify or not, but just in case every
21 potential witness is listed. Anyone believe he or
22 she knows any of these potential witnesses? And
23 if so, please stand.

24 Yes, sir. Tell me your name and juror
25 number, please.

1 JUROR 176: David Roberts, 176.

2 THE COURT: 176. Yes, sir.

3 JUROR 176: One of the names sounds
4 familiar. I'm not sure if I know him or not.

5 THE COURT: Okay. Which name sounded
6 familiar to you?

7 JUROR 176: Jason Cassell.

8 THE COURT: Jason Cassell. He is with
9 the sheriff's office. Do you think that the
10 Jason Cassell -- do you have any idea about how
11 old Mr. Cassell would be?

12 JUROR 176: He's about 45 to 50.

13 MS. TESSITORE: He is outside the
14 courtroom, Your Honor.

15 THE COURT: Okay. Let's see if he could
16 step in for us. And you said you're jury number
17 176?

18 JUROR 176: Yes.

19 THE COURT: Yes, sir. Is this the fellow
20 you know?

21 JUROR 176: No.

22 THE COURT: Okay. Very good then.
23 That's exactly the kind of information we need to
24 know, if you even might think you might know
25 somebody. Okay, thank you so much.

1 Anyone else think you might know any of
2 these potential witnesses?

3 Now, if anybody -- well, I'll say that
4 those of you who are chosen to serve as jurors in
5 this case, you're going to hear a lot about what
6 an indictment is and what an indictment is not.
7 The first thing I want to tell you is, an
8 indictment is not in any sense evidence of
9 anyone's guilty, whatsoever. It's not. It's
10 simply the document by which somebody is brought
11 into court. That's it.

12 Okay. The only thing that it does for us
13 here today, right here as I'm reading this to you,
14 is just to tell you the barest bones of the
15 allegations that the State would be required to
16 prove at trial. That's it. Okay? And the only
17 reason I'm reading this to you is so that you can
18 tell us if you know anything about the potential
19 allegations in this case. All right?

20 The first indictment is for assault and
21 battery of a high and aggravated nature and it
22 does allege that Mark Anthony Keys did in
23 Greenville County on the 20th day of October 2018
24 unlawfully injure Sheila Watkins whereby the
25 victim suffered great bodily injury or the act was

1 accomplished by means likely to produce death or
2 great bodily injury.

3 The second indictment is for kidnapping,
4 and it alleges that Mark Anthony Keys did in
5 Greenville County on or about the 20th day of
6 October 2018 unlawfully seize, abduct, confine,
7 inveigle, decoy, or carry away Sheila Watkins
8 without authority of law.

9 Any member of the jury panel believe he
10 or she knows anything about the allegations in
11 this particular case? And if so, please stand.
12 And none are standing.

13 All right. Ladies and Gentlemen, you've
14 met Mr. Keys. You've met the prosecutors in this
15 case. You've heard the names of potential
16 witnesses. You've even gotten to meet four
17 potential witnesses in this case. You know the
18 nature of the allegations in the case. Is there
19 any reason whatsoever, whatsoever that any member
20 of the jury panel believes he or she could not be
21 a fair and impartial juror, for whatever reason
22 whatsoever? And if so, please stand. And none
23 are standing.

24 All right. We're now ready to move to
25 jury selection in this case. And what's going to

1 happen is, you might hear your name and juror
2 number called. Then you might hear something said
3 like, please present the juror, or please excuse
4 the juror, or please swear the juror, or something
5 like that. You don't even have to worry about it.
6 Okay? You don't have to worry about what's said
7 because we'll direct you from then on. Okay?
8 We'll tell you what to do.

9 If you're chosen to be a juror in the
10 case, if you'll take all your belongings that you
11 got with you and come over here and have a seat in
12 the juror box -- once again, we'll direct you --
13 because you won't be returning to the seat that
14 you're in, if you are selected. But for right
15 now, if you hear your name and juror number
16 called, all you got to do is stand up. That's it.
17 All right? All right. Thank you.

18 We're are ready to begin.

19 THE CLERK: Juror Number 66, Patricia
20 Fogle. What says the State?

21 MR. KEYS: I can't hear you. Can you
22 speak up, please.

23 THE COURT: I'm sorry. I turned off our
24 mics. I apologize.

25 MR. KEYS: Couldn't hear you.

1 THE COURT: It's Juror Number 66. She's
2 standing. Thank you.

3 MS. TESSITORE: Please present the
4 juror.

5 THE COURT: Go ahead. You go ahead.

6 THE CLERK: What says the defendant?

7 THE COURT: Mr. Keys, now is -- remember
8 we talked about this where you say yes or no on
9 the juror.

10 MR. KEYS: Sure.

11 THE COURT: Yes. Ma'am, if you'll come
12 and have a seat.

13 THE CLERK: Juror Number 176,
14 David Roberts. What says the State?

15 MS. TESSITORE: Please present the
16 juror.

17 THE CLERK: What says the defendant?

18 MR. KEYS: I would like to say, I have no
19 rejection to any witness that stands up --

20 THE COURT: Hold on, Mr. Keys. Hold on,
21 Mr. Keys. That's okay. I just want you -- here's
22 what I want you to say -- we can, kind of, go
23 through rituals, I guess you would say in court,
24 and so you can go ahead and say yes or no on
25 either one -- any of them that you want to, but we

1 have to do it one by one. I appreciate your
2 statement, though.

3 So, on this juror, yes or no?

4 MR. KEYS: Yes.

5 THE COURT: Sir, if you'll come up here
6 and be seated.

7 THE CLERK: Juror Number 70, Jaclyn
8 Gaulden. What says the State?

9 MS. TESSITORE: Please present the
10 juror.

11 THE CLERK: What says the defense?

12 MR. KEYS: Yes.

13 THE COURT: Okay, thank you.

14 THE CLERK: Juror 201, Christopher Smith.
15 What says the State?

16 MS. TESSITORE: Please present the
17 juror.

18 THE CLERK: What says the defendant?

19 MR. KEYS: Yes.

20 THE CLERK: Please proceed to the jury
21 box.

22 Juror Number 14, Paula Bond. What says
23 the State?

24 MS. TESSITORE: Please present the
25 juror.

1 THE CLERK: What says the defendant?

2 MR. KEYS: Yes.

3 THE CLERK: Please proceed to the jury
4 box.

5 Juror number 127, Andra Martin. What says
6 the State?

7 MS. TESSITORE: Please present the
8 juror.

9 THE CLERK: What says the defendant?

10 MR. KEYS: Yes.

11 THE CLERK: Please proceed to the jury
12 box.

13 Juror 135, Stephanie McCutcheon. What says
14 the State?

15 MS. TESSITORE: Please present the
16 juror.

17 THE CLERK: What says the defendant?

18 MR. KEYS: Yes.

19 THE CLERK: Please proceed to the jury
20 box.

21 Juror 225, Sarah Theis. What says the State?

22 MS. TESSITORE: Please present the
23 juror.

24 THE CLERK: What says the defendant?

25 MR. KEYS: Yes.

1 THE CLERK: Juror Number 147,
2 Vanity Norman. What says the State?

3 MS. TESSITORE: Please excuse the juror
4 from this case.

5 THE CLERK: Please take a seat. You've
6 been excused.

7 Juror 180, Tammie Robinson. What says the
8 State?

9 MS. TESSITORE: Please present the
10 juror.

11 THE CLERK: What says the defendant?

12 MR. KEYS: Yes.

13 THE CLERK: Please proceed to the jury
14 box.

15 Juror Number 41, Brendan Davis. What
16 says the State?

17 MS. TESSITORE: Please present the
18 juror.

19 THE CLERK: What says the defendant?

20 MR. KEYS: Yes.

21 THE CLERK: Juror 178, Kristin Robinson.
22 What says the State?

23 MS. TESSITORE: Please present the
24 juror.

25 THE CLERK: What says the defendant?

1 MR. KEYS: Yes.

2 THE CLERK: Juror Number 144, Reginald
3 Neal. What says the State?

4 MS. TESSITORE: Please excuse the
5 juror.

6 THE CLERK: Please take a seat. You've
7 been excused.

8 Juror number 159, Donna Peck. What says the
9 State?

10 MS. TESSITORE: Please present the
11 juror.

12 THE CLERK: What says the defendant?

13 MR. KEYS: Yes.

14 THE COURT: All right. And now we pick
15 an alternate.

16 THE CLERK: Juror Number 222,
17 Miranda Taylor. What says the State?

18 MS. TESSITORE: Please present the
19 juror.

20 THE CLERK: What says the defendant?

21 MR. KEYS: Yes.

22 THE COURT: All right. Any objection to
23 the selection of the jury by the State?

24 MS. TESSITORE: No, Your Honor.

25 THE COURT: Any from the defense?

1 MR. KEYS: (Witness moves head from side
2 to side.)

3 THE COURT: Okay. And for the record, he
4 motioned no.

5 All right. Ladies and Gentlemen who were
6 not selected for this particular case, if you'll
7 step downstairs for some more instructions. I
8 believe your instructions will be just to call
9 back later in the week. All right. Thank you so
10 much.

11 Our witnesses can come back in, if they
12 like.

13 MS. TESSITORE: Thank you.

14 THE COURT: Mr. Cofield, our witnesses
15 can come back in if they like.

16 All right. Madame Clerk, would you swear
17 the jury, please.

18 THE CLERK: Please stand and raise your
19 right hand. The correct response for this
20 is "I will." You shall will and truly try the
21 case 2019-GS-23-12868, State vs. Mark Anthony Keys
22 indicted for assault and battery of high and
23 aggravated nature, and 2018-23-09868 for
24 kidnapping, and a true verdict render according to
25 the law and the evidence, so help you God.

1 JURY PANEL: I will.

2 THE COURT: Thank you. If you'll have a
3 seat.

4 Mr. Cofield, is Miss Hilgar out there?

5 THE BAILIFF: I don't know.

6 THE COURT: Thank you. She may have
7 stepped away for a moment, but I just wanted her
8 to know that she certainly had the right to be
9 back in here.

10 All right. Ladies and Gentlemen, just to
11 let you know, I'm going to now give you some
12 instructions. They are not my instructions on the
13 law. I'll instruct you on the law applicable in
14 this case at the end of this trial. I don't think
15 that either side anticipates this being a very
16 lengthy trial, but, rather -- it's an important
17 case to both sides. And so -- but I want to just
18 tell you a little bit about the procedures that
19 we're going to follow throughout the trial.

20 The defendant, as you know, is charged
21 with two indictments, two charges on the
22 indictment for kidnapping and assault and battery
23 of a high and aggravated the elements of which
24 will be explained to you later. And as I said,
25 those indictments serve no purpose. They have

1 no -- they are no evidence of any's guilt. It's
2 Just simply the document by which somebody is
3 brought in here to court. That's it.

4 You are the sole judge of the facts in
5 this case and you are to the determine the facts
6 based on the testimony and evidence that is
7 presented from this witness stand and any
8 exhibits.

9 The defendant in this case has pled not
10 guilty to these charges; and, therefore, the
11 burden of proof is on the State to prove him
12 guilty these charges beyond a reasonable doubt,
13 and the State has to prove that to your
14 satisfaction beyond a reasonable doubt.

15 I previously explained to you and I want
16 to reemphasize that Mr. Keys has decided that he
17 wants to represent himself and that is the
18 absolute right of anyone. He understands -- and
19 he has been extremely respectful of the Court
20 procedures thus far, and he understands that he is
21 held to those same court procedures as a lawyer
22 would. But on the other hand, you are to not hold
23 that against him in any way that he has decided to
24 represent himself and that is his absolute
25 constitutional right.

1 I told you that you are the sole judge of
2 the facts, and, with equal emphasis, I'm the judge
3 of the law. So I'm going to give you the law at
4 the end of this trial and you are to take the law
5 exactly as I give it to you and apply the facts as
6 you find them to be, and from that you will come
7 up with your verdicts in this case.

8 Now, if, at any point, I make any comment
9 on the facts in the case, you are to disregard
10 that because the trial judge can't have an opinion
11 on the facts of the case. I don't know anything
12 about the facts of this case, and I don't have an
13 opinion on the facts of the case.

14 You might have an idea as what you think
15 the law is or what the law ought to be, but you
16 got to take it just as I give it to you and apply
17 the facts just as you find them to be. All right?

18 Until I advise you to begin your
19 discussions, you can't discuss this case with
20 anyone, even your fellow jurors. And that sort of
21 surprises people from time to time because that's
22 definitely how it looks in movies and things like
23 that. But you'll back in your deliberation room
24 with one another during breaks and things like
25 that. But under your oath, you can't discuss the

1 case with each other.

2 As you're in the courthouse -- we
3 anticipate we'll go past the lunch hour, so we'll
4 probably take a break for lunch -- or we will take
5 a break for lunch. And you might be around the
6 courthouse, if anyone is discussing this case with
7 you, or talking about this case in front of you,
8 identify yourself as a juror. If they don't stop
9 discussing the case with you, then you let
10 Miss Fryer here know immediately. She will let me
11 know and I promise I will take care of that
12 situation. But I don't think there's going to be
13 anything like that happening. It's just so you
14 would know what to do.

15 I don't think there's going to be any
16 news reports or news accounts about this case, but
17 in this day and age, I will tell you, under your
18 oath, not to do any independent research, or look
19 into that case in any way, or read the news, or do
20 anything like that until the end of this trial.

21 Now, you're going to have to determine
22 credibility of witnesses in this case. It's going
23 to be your duty to determine who, if anyone, is
24 telling the truth. And you do that just like you
25 do every day. You see how the witness acts. You

1 see how it matches up with what other witnesses
2 have said or the physical evidence in this case,
3 if any, and you decide from that who you believe
4 is telling the truth. You take into consideration
5 whether you think anybody has any bias or interest
6 in the outcome of the case. And from that you
7 will decide who, if anyone, you believe is telling
8 the truth.

9 Now, in just a moment the solicitor is
10 going to make what's called an opening statement,
11 and she's going to lay out or he's going to lay
12 one, one of the two, what they believe the issues
13 in the case to be. It's not evidence. It's just
14 merely their contention as to what the case is
15 going to be.

16 Mr. Keys will have the opportunity to
17 make an another opening statement in this case.
18 But as I told you, he doesn't have to say anything
19 if he doesn't want to. He does not have to make
20 an opening statement in this case.

21 From time to time, we might have to
22 excuse you to your jury deliberation room. But I
23 guarantee you, if you are back there waiting on
24 us, that we will be in here working but we might
25 have to take up a matter of law very quickly. And

1 if we do, then I'll ask you to step out because I
2 might have to say something about the facts in the
3 case in order to rule on a matter of law. So as
4 we don't influence you in any way, I'll ask you to
5 step to your jury deliberation room.

6 Miss Martin, you are sitting in the exact
7 perfect chair. I am going to appoint you as
8 foreperson of this jury. I'd appreciate it if you
9 would serve in that capacity. You might know
10 this, and I will say this to all the jurors, your
11 verdict has to be a unanimous one so no one's
12 opinion is more important than another. I just
13 need someone to lead the discussions in the jury
14 room and then, ultimately, sign the verdict forms
15 in this case. Would you be willing to do that?

16 JUROR 127: Yes.

17 THE COURT: Thank you so much. I
18 appreciate it.

19 Miss Taylor, you're our alternate. You
20 probably know what an alternate does, but so I've
21 said it: If I had to remove a juror or the juror
22 had an emergency, or something like that, you
23 could just step in as if you've been one of the
24 12 jurors all along. If we get to jury
25 deliberation and we don't need your services, I'll

1 excuse you then. I sure do appreciate your
2 service in this case, and I appreciate all your
3 service in this case.

4 Now, I got a couple rules in my courtroom
5 and here they are: As we're changing up
6 witnesses, if you need to stand and stretch, you
7 do it. Don't feel like you're chained to that
8 seat, okay? And the next thing is, if you need to
9 take a break at any time, then you just motion
10 Miss Friar here or motion to me, we will take a
11 break immediately. I want you to be comfortable.

12 You have really lucked out. You have the
13 two best bailiffs in the whole courthouse, and I'd
14 say that to anybody. I'd say it in front of
15 anybody. You got Miss Friar and Mr. Cofield and
16 they're going to look out for you as nobody else
17 would while you're with us here today.

18 All right. With all that being said, are
19 we ready to proceed with the brief opening
20 statement? Maybe not more than five minutes.

21 MR. MCCOLLUM: Yes, ma'am.

22 THE COURT: Thank you.

23 MR. MCCOLLUM: May it please the Court?

24 THE COURT: Yes, sir.

25 MR. MCCOLLUM: Ladies and Gentlemen of

1 the Jury, on October 20th, 2018
2 Miss Sheila Watkins, the victim in this case, was
3 attending a cookout with her boyfriend. On the
4 evening of October 20th, 2018 certain events would
5 arise that can only be described as one of the
6 worst moments in Miss Watkins' life. While she's
7 at the cookout with her boyfriend, he somehow
8 became angry and dragged her to his car, forcing
9 her in the passenger seat, beating her in the
10 head, face, and neck area. He then drove
11 Miss Watkins, confining her to the seat, to his
12 home.

13 When he arrived, he told Miss Watkins to
14 get her things and to get out of the house. At
15 some point, there had been an exchange, one was
16 Miss Watkins decided that she would stay in the
17 house. So he forced her back to the house,
18 berating her, threatening her, and assaulting her.

19 When she was in the house, he put her in
20 the bedroom and forced her to strip. He got on
21 top of her and then pinned her down to the bed.
22 She could not move.

23 Miss Watkins' only means to escape from
24 the room is when the boyfriend fell asleep.
25 Ladies and gentleman, that boyfriend is the

1 defendant, Mark Keys.

2 After that incident, she was able to get
3 to the ER where she was checked out and they found
4 potentially life-threatening injuries.

5 As a result of his actions that day,
6 Mr. Keys was charged with assault and battery of
7 high and aggravated nature and kidnapping. A
8 defendant is guilty of assault and battery of a
9 high and aggravated nature when they unlawfully
10 injure another with injuries resulting in great
11 bodily injury or the unlawful injury of another
12 with means likely to produce great bodily injury.

13 Great bodily injury is an injury
14 potentially likely to produce life-threatening
15 injuries, or an injury to a body member or organ
16 that significantly reduces its usefulness.

17 A defendant is guilty of kidnapping when
18 they unlawfully kidnap, confine, inveigle, or
19 carry away by any means, whatsoever, another
20 person without the authority of law to do so.

21 Ladies and Gentlemen, the State today
22 will present their case. You will hear testimony
23 from Miss Watkins who will explain what happened
24 that evening. You will hear testimony from
25 Miss Watkins' sister who explained the injuries

1 she observed on her sister after this incident.
2 You will hear from Greenville County forensic
3 investigator who examined Miss Watkins' phone and
4 found text messages from the defendant. And you
5 will also hear from the doctor that treated
6 Miss Watkins when she went to the ER and treated
7 her for potentially life-threatening injuries.

8 Ladies and Gentlemen, this is not a
9 complicated case. You know who the parties are,
10 and you'll know what happened as the evidence is
11 presented through the duration of this trial.

12 At the conclusion of this case, we will
13 ask that you find the defendant, Mark Keys, guilty
14 of assault and battery of a high and aggravated
15 nature and kidnapping because the facts prove that
16 he is, in fact, guilty.

17 Thank you.

18 THE COURT: Thank you, Mr. McCollum.

19 Mr. Keys, it's your opportunity to make
20 any statement you'd like to make. You can
21 certainly make it seated there, or, if you are up
22 to it, you can stand in front of the jury. And
23 I'd ask you, if you do address the jury, just
24 speak up. I think you got a soft voice.

25 MR. KEYS: Stand here?

1 THE COURT: You can stand there, or you
2 can stand in front of the jury. You do have a
3 microphone here.

4 MR. KEYS: I want to thank you all for
5 coming out, first of all. This is a very
6 important case for me. I guess you all know that.
7 But I wanted to thank them for coming today,
8 because I know it took time for you all to come
9 out here and do this, and it's very important. I
10 want to thank you all for being here.

11 I'm here defending myself today because
12 when something happens like this -- I don't know
13 if this is the time. I got five minutes, but I
14 want to very honest. I came here today because I
15 didn't care. I know they were particular about
16 who they chose to come. They let the black guy
17 go. They got more women and men. That's fine
18 with me. I do not care if it was all women. I
19 believe in people. I've been raised this way all
20 my life. I believe in humanity. I believe -- I
21 believe that in truth.

22 If I come up here and I tell you the
23 truth and I tell you all the truth that I know,
24 and hopefully it conveys to you and you can see
25 through that, and you can see through what they're

1 trying to do and what's going on here.

2 So, hopefully, you all -- everybody here
3 is mature. So that's all I'm standing on, just
4 the truth, and that's all I have. That's why I
5 didn't get me a lawyer because I've been through
6 this before, and I know -- it's my life that's on
7 the line. My reputation. It's kidnapping and
8 30 years. I'm very aware of how serious these
9 charges are.

10 MR. MCCOLLUM: Your Honor?

11 THE COURT: We don't go into the
12 sentence.

13 MR. KEYS: I'm sorry.

14 THE COURT: It's okay.

15 MR. KEYS: I apologize.

16 THE COURT: It's okay. You all disregard
17 that, please.

18 MR. KEYS: I'm only stating that to let
19 you know how serious I know that this is. I want
20 you to know that everything I tell you is from my
21 heart. It's the truth. And I would not lie to
22 you. I would not try to save myself with what
23 I've done wrong. I will admit, I will be the
24 first one to tell you when I'm wrong, and I expect
25 that from anybody.

1 So that's all I want to say. What you
2 hear from me today is not trying to save myself,
3 to get myself out of trouble. I'm a grown man.
4 I'm 53 years old. I might look older. I know I
5 look older with all the gray hair, but I am 53.
6 And one thing you'll get from me is the truth.

7 I just thank you all. That's why I
8 didn't care about the jury selection. You know, I
9 could have been particular, and I could have
10 canceled half of you guys just on whatever I feel
11 like you guys -- just like they did. But I'm
12 like, I just want people up here to hear my truth
13 and let you all decide.

14 So that's it.

15 THE COURT: Thank you, Mr. Keys. Thank
16 you very much.

17 All right. Are we ready to call the first
18 witness in this case?

19 MS. TESSITORE: Yes, Your Honor. The
20 State would call Sheila Watkins.

21 THE CLERK: Ma'am, please pause and place
22 your -- raise your right hand, place your left
23 hand on the Bible. Do you swear to tell the
24 truth, the whole truth, and nothing but the truth,
25 so help you God?

Testimony of Sheila Watkins

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1 THE WITNESS: I do.

2 THE CLERK: Please take a seat and state
3 your name for the record.

4 THE WITNESS: Sheila Watkins.

5 WHEREUPON:

6 SHEILA WATKINS,
7 after having been sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. TESSITORE:

10 Q Miss Watkins, if you could speak nice and loud and
11 clear. That's why I'm going to stand back here so you
12 can hear me, and just project to make sure that we can
13 hear you back here. Okay?

14 A Yes, ma'am.

15 Q Miss Watkins, how old are you?

16 A I'm 62.

17 Q And what do you do for work?

18 A I'm a massage therapist in a chiropractor's
19 office.

20 Q How long have you worked there?

21 A Fifteen years.

22 Q And how long have you been a massage therapist?

23 A Twenty.

24 Q How long have you been in the Greenville area?

25 A All my life.

Testimony of Sheila Watkins

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- 1 Q Do you have kids?
- 2 A I do. I have a daughter.
- 3 Q And does she live around here?
- 4 A She lives in Minnesota.
- 5 Q Do you have any other family around here?
- 6 A My sister, aunts and uncles.
- 7 Q Are you married?
- 8 A No, ma'am.
- 9 Q Were you married?
- 10 A No, ma'am. Well, I was, yes. Several
- 11 times.
- 12 Q Okay. But currently not married?
- 13 A No, ma'am.
- 14 Q And tell the jury a little bit about -- well, how
- 15 many hours do you work a week?
- 16 A I work anywhere from 50 to 60 hours a week.
- 17 Q And are you financially independent?
- 18 A Yes, ma'am.
- 19 Q Do you live on your own?
- 20 A Yes, ma'am.
- 21 Q And tell the jury a little bit about how you came
- 22 to meet the defendant in this case, Mark Keys?
- 23 A There's a small bar that is in the area where
- 24 we live, and we met there one night.
- 25 Q Okay. Like a neighborhood bar?

Testimony of Sheila Watkins

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1 A Kind of like a Cheers, I guess you would
2 say.

3 Q How often would you see him when you first started
4 to get to know him?

5 A Sometimes we'd see -- you know, he would be
6 in there every week. Sometimes it would be
7 several weeks before we would see each other.

8 Q Did you have a friendship that emerged from
9 that?

10 A Yes, we did.

11 Q Did that friendship change to a romantic
12 relationship?

13 A Yes, ma'am.

14 Q How long were you all friends before you started
15 dating?

16 A Several months.

17 Q And just so that the jury has an idea, this
18 happened last October right about this time.

19 A We actually met Halloween, October of 2017.

20 Q Okay. So a full year. And when did you actually
21 start dating?

22 A Probably -- the best I can remember, it was
23 like the summer of the following year 2018.
24 Somewhere in that ballpark.

25 Q Okay. Did you ever live with Mr. Keys?

Testimony of Sheila Watkins

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1 A No, ma'am.

2 Q Did you live in Greenville County?

3 A No, ma'am. I live in Spartanburg County.

4 Q Do you know where the defendant lived at the
5 time?

6 A Yes, ma'am. He lived in Greenville County.

7 Q Do you recall his address?

8 A It was Logan Road. I think it's ■ Logan
9 Road.

10 Q Was that in a neighborhood?

11 A It's a neighborhood off of White Horse Road,
12 yes, ma'am.

13 Q Okay. Did he live by himself or did he live with
14 anybody while you knew him?

15 A When we first met, I was under the impression
16 that he had a live-in girlfriend.

17 Q Do you know who she was?

18 A I don't.

19 Q Do you know her name?

20 A I do not.

21 Q So you never met her?

22 A No, ma'am.

23 Q And would you -- so I guess the romantic
24 relationship began after she moved out?

25 A Supposedly, she had moved out. That's what

Testimony of Sheila Watkins

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1 he told me, yes, ma'am.

2 Q Did he ever stay over at your place?

3 A A couple different times, yes, ma'am.

4 Q Did you ever stay over at his place?

5 A Yes, ma'am.

6 Q Were you say that you were ever living together?

7 A No.

8 Q So you enjoyed the living on your own as well?

9 A Yes, ma'am.

10 Q Now, during the time that you did have this
11 courtship with him, this relationship that became more
12 than friends, what was that relationship like? I
13 mean, how did it make you feel?

14 A He made me feel special. He would always
15 tell me that he couldn't believe I was spending
16 time with him. And he said, I don't understand
17 why you want to spend time with me. He just made
18 me feel good.

19 Q Did he do things to show his affection for you?

20 A Yeah. I mean, you know, he would tell me how
21 pretty I was, or how good I looked. You know,
22 those kind of things.

23 Q Were your communications with him primarily just
24 when you were with him, or did you have contact with
25 him through emails or texts?

Testimony of Sheila Watkins

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1 A We would text a lot. Occasionally, we would
2 talk on the phone, but mostly it was by text.

3 Q Now, let's -- I'm going to bring you back to that
4 day, Saturday, October 20th. What was the plan that
5 day?

6 A We were going to cook out at his cousin's
7 house.

8 Q And where was his cousin's house?

9 A It was over off of Augusta Road. I can't
10 remember the exact address, but it was over behind
11 that QT over there.

12 Q Okay. If I told you it was Echols Drive, does
13 that sound --

14 A I think it was Echols Drive, yes, ma'am.

15 Q So downtown Greenville?

16 A Right.

17 Q Whose house was that?

18 A It was his cousin's. I think her name was
19 Mary.

20 Q Had you ever been there before?

21 A No, ma'am.

22 Q And tell me -- tell the jury a little bit about,
23 prior to going to that cookout, were you with the
24 defendant during that day?

25 A I was. Yes, ma'am. I actually -- I had

Testimony of Sheila Watkins

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1 actually been over there on Friday night and
2 stayed. And then I had gone home on Saturday
3 morning and did some things around the house, took
4 a shower, got dressed, and came back Saturday
5 afternoon for us to go to this cookout.

6 Q So did you drive yourself to his house?

7 A I did.

8 Q And then what was the driving arrangement? Was
9 there a discussion about going to the cookout, who was
10 going to drive?

11 Well, let me ask you this: You had your own
12 car?

13 A I had my car at his house. Yes, ma'am.

14 Q And did he have a car?

15 A He had a rental car because he had the
16 accident, the automobile accident.

17 Q When you say "the accident," what are you
18 referring to?

19 A He had an automobile accident. Someone hit
20 him in the rear on Pleasantburg Drive, like the
21 1st of October.

22 Q So the beginning of October. Did he have physical
23 injuries that you observed?

24 A He complained with his neck and back.

25 Q Okay. Any other injuries?

Testimony of Sheila Watkins

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- 1 A Not that I know of.
- 2 Q Did it change the way he walked or functioned?
- 3 A It didn't seem to. No, ma'am.
- 4 Q Okay. Did he spend any time in the hospital?
- 5 A Not that I know of. No, ma'am.
- 6 Q Was he working at the time?
- 7 A He was. Yes, ma'am.
- 8 Q Where did he work?
- 9 A Lear Seating.
- 10 Q Do you know what he did there?
- 11 A They make seats for BMW.
- 12 Q Okay. Do you know what his job title was?
- 13 A I don't. No, ma'am.
- 14 Q Okay. Like a labor-type --
- 15 A I think he was on their line. Yes, ma'am.
- 16 Q So, did this accident prevent him from going back
- 17 to work?
- 18 A Yes, ma'am. He did stay out of work.
- 19 Q For how long?
- 20 A He was out for a couple of weeks, as far as I
- 21 know, before this incident happened on the 20th.
- 22 Q Okay. Do you know if he returned to work?
- 23 A I don't.
- 24 Q Okay. Let's see. Did he have any crutches or any
- 25 kind of -- any aide that he used when he was walking?

Testimony of Sheila Watkins

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1 A Oh, no.

2 Q So he was well enough to go to a cookout?

3 A Yes, ma'am.

4 Q So now you said he had a rental car. And what was
5 the occasion with the rental car? Was that because of
6 the wreck?

7 A Yes, ma'am.

8 Q So how did you decide and who drove over the
9 cookout?

10 A When we got ready to leave, he handed me the
11 keys and asked me to drive because he had
12 previously told me that he was having some kind of
13 issue with his driver's license?

14 Q Okay. And was he from South Carolina, or had he
15 been in another state?

16 A I think he lived in Michigan.

17 Q So did you drive to the cookout?

18 A I did drive to the cookout. Yes, ma'am.

19 Q And who was in the car with you?

20 A It was just me and Mark.

21 Q What was the tone? I mean, the feeling?

22 A Everything was fine. I mean, you know, he
23 was happy. I was happy. We were talking.
24 Everything was fine.

25 Q Was there any occasion for this family cookout?

Testimony of Sheila Watkins

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1 A Not that I know of. No. I think it was just
2 she wanted to have a get-together.

3 Q The fact that it was your birthday that Monday and
4 this was Saturday --

5 A It had nothing to do with it. No, ma'am.

6 Q Okay. And so tell the jury, when you got to this
7 location, if this was a house on Echols Drive?

8 A It was. Yes, ma'am.

9 Q So, who was there when you got there?

10 A Several people. I mean, it was the lady that
11 owned the house, which was his cousin, her
12 husband. There was some other cousins there. I
13 think her son was there with his wife and
14 children.

15 Q So approximately how many people, when you got
16 there first?

17 A I'd say we got there, I'd say there was maybe
18 10 people there.

19 Q And did more people arrive after you got there?

20 A Yes, ma'am.

21 Q Was it daylight when you got there?

22 A It was. Yes, ma'am.

23 Q Do you recall approximately what time?

24 A I would say it was probably between 5:00 and
25 6:00.

Testimony of Sheila Watkins

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1 Q Okay. Did you all bring any food or fixings to
2 the cookout?

3 A We didn't bring anything. They had
4 everything there. They were cooking everything
5 there.

6 Q All right. When you arrived, did you maintain the
7 keys to the vehicle?

8 A Yes, ma'am.

9 Q Was there any discussion about that?

10 A No, ma'am.

11 Q While you were at the cookout, tell the jury, did
12 you leave the cookout at any point in time?

13 A Yes, ma'am. They had ran out of alcohol, and
14 a couple of other things that they needed from the
15 grocery store. And I took the car and left and
16 went to the grocery story, the Bi-Lo there, and
17 went and picked up what they needed and picked up
18 alcohol and went back.

19 When I went back, instead of parking the
20 car --

21 Q Let me just back you up one second. Did you go by
22 yourself?

23 A I went by myself. Yes, ma'am.

24 Q Did Mr. Keys know that you went?

25 A Yes, ma'am. I told him.

Testimony of Sheila Watkins

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1 Q Did he have any problem with you going?

2 A No, ma'am.

3 Q All right. So it sounds like there was some
4 drinking going at the cookout?

5 A Yes, ma'am.

6 Q But you were good enough to drive?

7 A Yes, ma'am.

8 Q And when you got back to the cookout, you were
9 about to tell the jury where you parked.

10 A When we originally got there, we parked on
11 the side of the road in front of the house. When
12 I got back, there was no place to park there, so I
13 actually pulled the car up in the driveway because
14 there was a space there, and that's where I left
15 the car.

16 Q And is there a porch on the front of this house?

17 A There was, I think, a small porch.

18 Q Was that near where you parked?

19 A No. Actually, it was, kind of, down in the
20 driveway.

21 Q Okay. So when you parked the car, what did you do
22 then?

23 A I went back in the house, took the stuff back
24 in, went back out on the porch.

25 Q And where was Mr. Keys?

Testimony of Sheila Watkins

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1 A He was sitting on the porch.

2 Q And when we're we talking about Mr. Keys, can you
3 identify Mr. Keys in the courtroom?

4 A Sitting at defendant's table.

5 MS. TESSITORE: Let the record reflect,
6 she's identified the defendant.

7 THE COURT: Sure.

8 BY MS. TESSITORE:

9 Q And what was he doing at the cookout while you
10 were scurrying about trying to get supplies and
11 replenish things?

12 A Just sitting around talking and cutting with
13 everybody.

14 Q And the mood there?

15 A Seemed to be fine. He was happy.

16 Q Okay. Did -- so after you got back from
17 delivering this stuff, then tell the jury what
18 happened.

19 A We just, kind of, all sat around. We ate,
20 everybody. They were playing music. They were
21 playing cards. They run out of paper plates and
22 Mary said something about her son going to get
23 paper plates, and I said, well, I'll run him down
24 to the store which was the little QT which was
25 just a block down the road. And so I went out

Testimony of Sheila Watkins

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1 front, got in the car, started it, waited on him
2 to come around, and he was coming around to get in
3 the car and Mark came around the corner of the
4 house, came to the car, the side window -- I had
5 it down, the car was running -- and he told me, he
6 said, you get out of the f'ing car. I was like,
7 you know, why? He's like, you're not going
8 anywhere, and he reached in and hit me. And I
9 turned the car off. He opened the door and
10 dragged -- and pulled me out of the car.

11 Q And when he hit you, where did he hit you?

12 A On the left side of my face.

13 Q So what did you do?

14 A I got out of the car, and I went around the
15 back of the car and I was walking to leave. I was
16 going to go down to the store or whatever, and he
17 grabbed me by the hair of the head and pulled me
18 down and made me fall, and told me I wasn't going
19 any f'ing where.

20 Q Then what happened?

21 A He hit me again. And, of course, the people
22 there at the party tried to pull him off, and he
23 kept hitting me. And then he made me go back
24 around in front of the house or to the back of the
25 house where everything was going on. And I had

Testimony of Sheila Watkins

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1 blood on my face and on my shirt, and the girls
2 took me in the house and wiped my face off.

3 Q When you say "girls," you're referring to who?

4 A Well, Mary, and a couple of the other girls
5 were there. And we came back out, and I was just,
6 kind of, standing over by the corner of the house
7 away from everybody, and he came and got me and
8 said, we're going. And, of course, he made me get
9 in the car. And we're leaving, and he reaching
10 across hitting me.

11 When we got down to the end of the road
12 and he's riding around and he's ranting and raving
13 what I did, why I did it, you know, what did I
14 mean by doing what I -- you know, leaving and
15 taking his car and it was his property. And he's
16 hitting me the whole time.

17 And then he gets mad because he can't find
18 his way back to the party. He wants to go to the
19 party. So he's fussing at me because I won't tell him
20 how to get back and I finally showed him which road to
21 turn on. We go back. He makes me get back out of the
22 car. We go back around.

23 Q Let me stop you there for a quick second. Going
24 back to when you were the car and he was hitting you,
25 where were you positioned in the vehicle?

Testimony of Sheila Watkins

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1 A I was in the passenger seat.

2 Q And what kind of vehicle was this?

3 A It was a Nissan Rogue.

4 Q And when you say he was hitting you, tell the jury
5 where he was hitting you?

6 A He kept reaching across, hitting me on the
7 left side of my face.

8 Q And what was your response? Were you fighting
9 back?

10 A I was trying to keep him from hitting me. I
11 just kept pushing -- you know, putting my hands up
12 and trying to push him away.

13 Q Did you feel like you were free to leave at that
14 point?

15 A No.

16 Q Going back to when you said that the girls came up
17 when you were trying to pull him off, what was --
18 could you tell -- how did they react to this eruption
19 of violence?

20 A They were cussing and yelling at him that he
21 shouldn't be doing it, but they didn't seem to act
22 like it was a big deal.

23 Q Had you ever seen any of these people before?

24 A I'd seen a couple of them at different
25 things. They'd been to his house, and we had been

Testimony of Sheila Watkins

1 to one of his cousin's house for a cookout.

2 Q Did they ever talk to you about this after?

3 A No, I haven't heard or seen any of them.

4 Q Do you know their full names or phone numbers?

5 A I couldn't tell you their full names.

6 Q And this is the defendant's family?

7 A Yes, ma'am.

8 Q Now, you were explaining that you helped him get
9 back to the house where you were.

10 A Right.

11 Q Were you able to get back to Echols Drive there?

12 A Yes, ma'am.

13 Q Tell the jury what happened then.

14 A We get back and he pulls in, cuts the car
15 off, and he gets out. I was just going to sit in
16 the car, and he said, no, you're going to get out.
17 He made me get out of the car, go back around.
18 And we're standing there, and then they all get to
19 fussing and fighting, and then that's when he
20 wants to leave again.

21 And so we leave again. He's driving.

22 And the whole time we're going back to his house,
23 he's reaching over hitting me. And kept telling
24 me, he said, when we get back to the house, I want
25 you to get your f'ing stuff and get out of my

Testimony of Sheila Watkins

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1 house, I don't ever want to see your ass again. I
2 said, okay, that's what I'll do.

3 So we get back to the house. We go in. I
4 got the stuff that I had brought over that day because
5 I had planned on spending the night that Saturday
6 night. I get my stuff. I go out to my car. I open
7 my car and I'm putting the stuff in the back seat. I
8 had a bag and I was putting it in the back seat. And
9 as I'm putting it in the back seat, I didn't know he
10 was anywhere around and walks up behind me and he
11 tells me that I'm not going any f'ing where. I said,
12 yes, I am. You told me to get out that's what I'm
13 doing. He said, no, you're not because you're going
14 back in the house. And he, kind of, grabbed me around
15 the neck, and I said, all right.

16 And so I go to close the doors on the car and
17 he's like, no, get all that stuff out, bring it in.
18 So I had to get all my stuff back out and we went back
19 in the house. When we get in the house and I put my
20 stuff down on the couch, and he -- I went over to sit
21 down, and when I went over to sit down he said, no, he
22 said, you get up and take all your f'ing clothes off.
23 And I'm like, no, I'm not going to do that. He said,
24 yes, you are. And so he hits me again, and so I did
25 what he asked me to do. And then he tells me to get

Testimony of Sheila Watkins

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1 on the bed, so then I do that. I have no idea what
2 he's fixing to do.

3 In the meantime, I had a taser that I had in
4 my pocketbook. One of those little tasers, you know.
5 And so I had snuck it out of my pocketbook when I set
6 my pocketbook down thinking, well, if I can just use
7 this, maybe I get out of here, you know. And I had it
8 in my hand, so when I got on the bed, I reached to try
9 to do something with it and he seen it. He got on top
10 of me and placed his knees on my shoulders, and he's
11 hitting me. And he told me, he said, drop the damn
12 thing, I'll use it on you. So I dropped it and he
13 threw it across the room. The whole time he's on top
14 of me and he's hitting me. And he finally says, I
15 ought to just kill your fucking ass, and all I can do
16 is just -- I'm trying to fight him off.

17 Q If you need to take a minute.

18 A He finally gets off of me, and I needed to go
19 to the bathroom, and he wouldn't let me. He said,
20 you pee on yourself, I don't care.

21 So I had gotten up and was sitting in a
22 chair beside the bed, and I'm just sitting there.
23 And he finally -- he lays down on the bed and he
24 goes to sleep, or I think he's asleep. And so I
25 get up and carefully go the bathroom, because, I

Testimony of Sheila Watkins

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1 mean, I got to go. And when I come back, he's
2 still laying there asleep.

3 So I take my shirt. I slide my shirt on.
4 I don't mess with anything else. I get my stuff,
5 I open the door and I run and get in my car and
6 leave, and go home.

7 Q Now, let me just stop you there for a minute and
8 take you back just a few steps. When you first
9 arrived at the house, at his house, and it appeared
10 that he was going to let you go, and that was your
11 chance to escape, was there anybody else around?

12 A No, ma'am.

13 Q About what time was this when you go back to the
14 house?

15 A I was there around 10:00, 10:30.

16 Q And when you got -- were forced to go back inside
17 and you described it that he continued to hit you
18 repeatedly when he had you pinned down, tell the jury
19 and show the jury where he was hitting you on your
20 body?

21 A It was all on the left side of my face.
22 Everything was pretty much on the left side. I
23 did have a black eye on the right side, but all
24 the damage -- primary damage was on the left
25 side.

Testimony of Sheila Watkins

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1 Q Had you ever been in a situation like this
2 before?

3 A No, ma'am.

4 Q And had he ever physically been abusive with
5 you?

6 A No, ma'am.

7 Q So you've never been in this kind of situation
8 before. What were your thoughts at the time that he
9 made you strip and get on the bed?

10 A I didn't know what he was going to do. I
11 didn't know if he was going to sexually assault
12 me. I mean, you know, try to make me have sex
13 with him. I didn't know what he was doing. I
14 didn't know the reason for that.

15 Q Was there anything that he was demanding from you,
16 verbally telling you?

17 A He just kept demanding for me to tell him why
18 I did what I did. His thing was, I took his car
19 without his okay.

20 Q And was he referring to, if you know, the time
21 that you took it to go the first time?

22 A It was the second time, when I was -- and
23 then the second time, I took it without saying it
24 was okay.

25 Q Okay. But just for clarification, I thought you

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1 testified that you didn't actually go anywhere in the
2 car?

3 A We didn't.

4 Q Okay. So you just sat in the driver's seat?

5 A I was just in the driver's seat with the car
6 running supposedly going to the store, but the car
7 never left the driveway.

8 Q And you mentioned that there was another man that
9 was getting in the car or was in the car?

10 A He opened the door to get had in, yes.

11 Q So he was going to go to the store with you?

12 A He was going to ride to the store and get
13 paper plates. I was taking him to the store to
14 get the paper plates.

15 Q Okay. Who was "he"? What relation was he to this
16 defendant or to Mary, the homeowner?

17 A I'm saying that he was Mary's son, the best I
18 remember.

19 Q Okay. About how old was he?

20 A Probably in his mid-20s.

21 Q Good-looking guy?

22 A Wasn't a bad-looking guy.

23 Q Good shape?

24 A Yes, ma'am.

25 Q Attractive?

Testimony of Sheila Watkins

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1 A Yes, ma'am.

2 Q Was there any plan to do anything other than to go
3 get plates?

4 A No.

5 Q Now, you said when you were driving you were
6 leaving his house, trying to get out of there. Did
7 you have your cell phone with you?

8 A I did.

9 Q Okay. Where was that cell phone while all of this
10 was happening in the bedroom?

11 A It was actually laying on the couch.

12 Q Okay. And did you try to -- did you feel like you
13 could have used that cell phone?

14 A No.

15 Q Did you feel like you were free to leave at any
16 time after he made you go back into the house?

17 A No.

18 Q So, when you left you were able to take your cell
19 phone with you?

20 A Yes, ma'am.

21 Q And what was the first thing you did with that
22 cell phone?

23 A When I got home, I didn't do anything with it
24 until I got home.

25 Q Did you call anyone?

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- 1 A When I got home, I called my sister.
- 2 Q Oh, you called your sister. Okay. So you got
- 3 home, called your sister.
- 4 A Uh-huh.
- 5 Q And where does your sister live?
- 6 A She lives in Duncan.
- 7 Q Why did you call your sister?
- 8 A Because I wanted her to be with me. I was
- 9 scared. I didn't know what else to do.
- 10 Q How were you feeling at that point in time,
- 11 physically first?
- 12 A I was hurting, bruised. I was scared,
- 13 because after I left his house he started calling
- 14 on my phone. I didn't answer it.
- 15 Q Is this while you were driving?
- 16 A Yes, ma'am.
- 17 Q And how did you know he was calling?
- 18 A Because I could tell it was his number. I
- 19 have him programmed into my phone by his name.
- 20 Q So you did not answer the phone?
- 21 A I did not.
- 22 Q And what was your -- so your intention in calling
- 23 your sister was to have her with you?
- 24 A Yes, ma'am.
- 25 Q All right. And did she come and find you?

Testimony of Sheila Watkins

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1 A She did. She came to my house.

2 Q Approximately, what time do you think it was that
3 she arrived there?

4 A I would say 11:30, twelve o'clock.

5 Q Excuse me. I did forget to ask you one question
6 about going back into -- right before you left his
7 house and before he went to sleep. Did you ever
8 apologize to him for what you did?

9 A Yes, I did.

10 Q Why did you apologize?

11 A Hoping that he would leave me alone and let
12 me go.

13 Q And after that apology was delivered to him
14 verbally, did you -- so you said you were sorry?

15 A I did.

16 Q And after that, was there any further hitting or
17 abuse at that point?

18 A No, that was pretty much when he laid down
19 and we went to sleep. And his response was, why
20 did I have to beat it out of you.

21 Q Had he been drinking at the cookout?

22 A He had.

23 Q How would you describe his level of
24 intoxication?

25 A I didn't think he was that intoxicated. I've

Testimony of Sheila Watkins

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1 seen him a lot worse.

2 Q He was able to drive the car?

3 A Yes, ma'am.

4 Q And he drove it all the way back to his house?

5 A Yes, ma'am.

6 Q While he was hitting you and maintaining
7 control?

8 A Yes, ma'am.

9 Q And never had a problem driving or getting to his
10 house?

11 A No, ma'am.

12 Q All right. Let's move back forward to when your
13 sister arrived. You said it was around 11:30 or
14 midnight.

15 A Uh-huh.

16 Q And how -- what was her reaction when she saw you,
17 do you recall?

18 A She was very upset.

19 Q And did you tell her what happened?

20 A I did.

21 Q Were you honest with her about it?

22 A I was, yes.

23 Q Did she -- had you called the police at that
24 point?

25 A I did not.

Testimony of Sheila Watkins

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1 Q Did you seek any kind of medical attention?

2 A I did not.

3 Q Did your sister want you to?

4 A She begged me to all night long.

5 Q And can you tell the jury why you didn't?

6 A Because when you're 62 years old, you're not
7 supposed to be in that kind of situation. You're
8 not supposed to let somebody take advantage of you
9 like that. It was embarrassing. You don't want
10 anybody to see you like that.

11 Q You've never been in --

12 A No.

13 Q -- looking like that?

14 A No.

15 Q Was there a reason that you didn't -- is that the
16 same reason you didn't want to go to the hospital?

17 A Yes.

18 Q Can you describe -- well, let me -- let me just
19 take a couple minutes.

20 MS. TESSITORE: I beg the Court's
21 indulgence.

22 THE COURT: Certainly.

23 MS. TESSITORE: Your Honor, may I
24 approach the court reporter?

25 THE COURT: Certainly.

Testimony of Sheila Watkins

1 (PLF. EXH. 1, Photo, was marked for
2 identification.)

3 (PLF. EXH. 2, Photo, was marked for
4 identification.)

5 (PLF. EXH. 3, Photo, was marked for
6 identification.)

7 (PLF. EXH. 4, Photo, was marked for
8 identification.)

9 (PLF. EXH. 5, Photo, was marked for
10 identification.)

11 BY MS. TESSITORE:

12 Q Miss Watkins, I'm showing you what has been marked
13 as State's Exhibit 1, 2 and 3. Just one moment.

14 MR. KEYS: I have all of them.

15 THE COURT: Okay. Just so I've explained
16 the procedure in the courtroom, any time something
17 is offered into evidence, one side will show it to
18 the other.

19 MR. KEYS: I understand.

20 THE COURT: So that's, again, one of
21 those rituals we talked about.

22 All right. Go ahead.

23 MS. TESSITORE: Thank you, Judge.

24 BY MS. TESSITORE:

25 Q Now, I'm showing you State's Exhibit 1, 2 and 3.

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1 I just ask that you take a look at those. Do you
2 recognize those?

3 A Yes, ma'am.

4 Q And are those fair and accurate depictions of the
5 way you appeared that?

6 A Yes, ma'am.

7 Q After the beating?

8 A Yes, ma'am.

9 Q State's Exhibit 1 being just of your face and your
10 head?

11 A Yes, ma'am.

12 Q Did you take this picture?

13 A That was picture I took when I got home that
14 night.

15 Q And State's Exhibit 2 as well?

16 A Yes, ma'am.

17 Q That night?

18 A That actually was the next day.

19 Q The next day.

20 A Yes, ma'am.

21 Q And Number 3, what does that show?

22 A That's my arm. It was all bruised where he
23 was on top of me.

24 Q Is that your right arm or left arm?

25 A I think that's my left arm.

Testimony of Sheila Watkins

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1 Q Okay.

2 MS. TESSITORE: At this time, the State
3 would move Exhibit 1, 2 and 3 into evidence, Your
4 Honor.

5 THE COURT: Any objection?

6 MR. KEYS: No.

7 THE COURT: All right. They are so
8 admitted.

9 (PLF. EXH. 1, Photo, was entered into
10 evidence.)

11 (PLF. EXH. 2, Photo, was entered into
12 evidence.)

13 (PLF. EXH. 3, Photo, was entered into
14 evidence.)

15 MS. TESSITORE: Thank you.

16 BY MS. TESSITORE:

17 Q So, Miss Watkins, that's you?

18 A Yes, ma'am. It is.

19 Q And did you have any other injuries with respect
20 to your mouth, or anywhere else on your head that's
21 not shown in this picture?

22 A The inside of my mouth was cut.

23 Q Was that the cut from, if you know?

24 A Just from where he was hitting me, and my lip
25 kept hitting my teeth.

Testimony of Sheila Watkins

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1 Q I'm showing you -- that was States's Exhibit 1.

2 I'm showing you State's Exhibit 2. And tell the jury
3 when that picture was taken?

4 A It was taken the next day.

5 Q And is that -- so that's the bruising as it
6 evolved into the next day, which was the 21st --

7 A Sunday.

8 Q That Sunday, okay.

9 I'm showing you State's Exhibit Number 3 and
10 that's the picture of your arm?

11 A Yes, ma'am.

12 Q And that would have been -- your left arm, that
13 would have been closest to him while he was driving?

14 A Yes, ma'am.

15 (PLF. EXH. 6, Text messages, was marked for
16 identification.)

17 (PLF. EXH. 7, Photo, was marked for
18 identification.)

19 (PLF. EXH. 8, Photo, was marked for
20 identification.)

21 (PLF. EXH. 9, Photo, was marked for
22 identification.)

23 (PLF. EXH. 10, Photo, was marked for
24 identification.)

25 BY MS. TESSITORE:

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1 Q Okay. Miss Watkins --

2 MS. TESSITORE: Just one moment.

3 Mr. Keys, I'm just showing you these
4 additional exhibits.

5 MR. KEYS: Can I say something?

6 THE COURT: It's probably best not to.
7 I'll just ask you in a minute if you object, okay?

8 MR. KEYS: Yes, ma'am.

9 I object. I'm just saying those -- all those
10 I have. For her to come -- because I have them. I
11 have them.

12 THE COURT: Right.

13 MR. KEYS: I'm horrified by them, but I
14 don't need see that. I got it. Trust me, I do.

15 THE COURT: Well, if you want to waive
16 viewing the exhibits --

17 MR. KEYS: Oh, no. Let them see it.

18 THE COURT: No, wait. Your right to
19 see the exhibits.

20 MR. KEYS: Yeah, I have it. I've seen
21 it. I have it.

22 THE COURT: I got you. We just want to
23 make sure that you know what's being entered.

24 MR. KEYS: I just don't want any more
25 time to be wasted. I'm very well aware.

Testimony of Sheila Watkins

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THE COURT: I got you.

MR. KEYS: I have all those photos.

THE COURT: Thank you.

MS. TESSITORE: Thank you, Your Honor.

THE COURT: Thank you.

MR. KEYS: It's not that I don't want to look at them. She put them on the board to show them to everybody.

THE COURT: No. I appreciate you wanting to speed things up.

MR. KEYS: She already showed them, and I have them.

THE COURT: Thank you, Mr. Keys.

BY MS. TESSITORE:

Q Okay. Miss Watkins, just to get back on track here, can you explain a little bit about what happened the next day on Sunday? Let's go there. Did your sister stay with you overnight?

A She stayed with me all night until Sunday morning, and she left around 8:00, 8:30. I had purchased tickets to go on the railroad at Bryson City, for Marcus and I to go for my birthday, which was on Monday the [REDACTED]. I had purchased those tickets several years ago for another incident that got canceled and ruined for

Testimony of Sheila Watkins

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1 my birthday, and I was determined on Sunday
2 morning that I was going on this trip for my
3 birthday. Nobody was going to ruin it for me.

4 So I got up on Sunday morning and I put on
5 make-up and covered up the bruises as best I could. I
6 dressed and I drove myself to Bryson City.

7 Q And did your sister advise against that?

8 A She did. She did.

9 Q But you were pretty hard-headed about going?

10 A I'm a pretty hard-headed person, yes.

11 Q Okay. So I'm going to show you State's Exhibit
12 Number 4 and ask you to identify that?

13 A That's the morning that I was getting ready
14 on Sunday morning.

15 Q And is that a fair and accurate depiction of the
16 make-up you applied and then the injuries that were
17 visible on your chest?

18 A Yes, ma'am.

19 MS. TESSITORE: Okay. At this time, the
20 State would move State's Exhibit 4 into
21 evidence.

22 THE COURT: Any objection?

23 MR. KEYS: No, ma'am.

24 (PLF. EXH. 4, Photo, was entered into
25 evidence.)

Testimony of Sheila Watkins

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1 BY MS. TESSITORE:

2 Q Now, I'm going to put this up on the projector so
3 you can describe it for the jury. So what do they see
4 in that picture as far as the -- you said you applied
5 make-up. I don't know if the coloring is going to --

6 A I applied the make-up as much as I could to
7 cover up the bruising.

8 Q Okay. And the area down here, what was that
9 from?

10 A That was where he was on top of me with his
11 knees holding me down.

12 Q Did you apply makeup to that?

13 A No.

14 Q Okay. So that is the way it appeared without any
15 kind of make-up?

16 A Yes, ma'am.

17 Q Okay. Did you go on this train ride?

18 A I did.

19 Q And what -- describe for the jury, was this just
20 for -- what did the train ride -- was it for scenery?

21 A It was basically just to look at the
22 leaves.

23 Q So no activities?

24 A No.

25 Q How were you feeling while you were on this train

Testimony of Sheila Watkins

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1 ride, physically?

2 A I seemed to feel okay. I had a little bit of
3 a headache, you know, I was a little out of it.
4 Just kind of numb feeling.

5 Q And emotionally?

6 A Emotionally, very upset. Trying to keep
7 myself together.

8 Q And you were able to drive up there and drive
9 back?

10 A Uh-huh.

11 Q This was just a day trip?

12 A It was, yes.

13 Q Did you have any contact with your sister during
14 this day trip?

15 A She texted me a couple of times.

16 Q Was she concerned?

17 A She was.

18 Q Did you hear from the defendant at all?

19 A Oh, yes.

20 Q Okay. When did you begin hearing from him?

21 A Sunday morning, first thing.

22 Q And how did you hear from him?

23 A He started texting.

24 Q And how long did those texts go on for, if you
25 recall?

Testimony of Sheila Watkins

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1 A All day.

2 Q All day?

3 A Uh-huh.

4 Q Okay. Did you respond to any of those?

5 A I did.

6 Q Did you -- just generally, what was the tone or,
7 kind of, the general substance of those text
8 messages?

9 A Basically, he was telling me that it was my
10 fault and that I deserved it because I wouldn't
11 tell him the truth about what was going on and why
12 I did what I did. And that I was supposed to be
13 there with him. I need to come back. And that he
14 loved me, and that it was my fault. He just kept
15 on saying it was my fault, that I got what I
16 deserved which was an ass whooping.

17 Q And you had been texting and calling for months
18 before this?

19 A Oh, yeah.

20 Q When you sent those texts to him, did you indicate
21 to him that you were open to discussing this or
22 meeting with him again or anything?

23 A I told him that we were done and to leave me
24 alone.

25 Q Now, on this train right, were you alone?

Testimony of Sheila Watkins

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1 A I was.

2 Q When you returned back to Greer -- is that where
3 you lived?

4 A (Witness nods head up and down.)

5 Q -- were you experiencing any physical symptoms at
6 that point?

7 A Actually, when I was on the train, I started
8 seeing spots in my eyes.

9 Q Were you concerned about that?

10 A I was, because I've never had it before. And
11 with all the bruising and the hitting to my head
12 and face, I didn't know what was going on.

13 Q So when you got back to Greer, did you contact
14 anybody with the sheriff's office?

15 A I didn't until Monday morning.

16 Q And who was the first person that you contacted?

17 A Jason Cassell.

18 Q And do you know what his position is with the
19 sheriff's office?

20 A He's a deputy this with the sheriff's
21 office.

22 Q A deputy, okay. And how did you happen to know
23 him to be able to contact him directly?

24 A His wife actually works with me at the
25 chiropractor's office.

Testimony of Sheila Watkins

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1 Q All right. So did you contact him?

2 A I sent him a message through messenger on
3 Facebook, and basically all I asked him was what I
4 needed to do to file a restraining. That's all I
5 was going to do, was file a restraining order
6 because he had texted me all day on Sunday and I
7 just wanted him to leave me alone.

8 Q So, at this point, you still didn't want to report
9 it to the police?

10 A No, ma'am.

11 Q Still feeling ashamed?

12 A Yes, ma'am.

13 Q Did what was his -- well, let me ask you this: In
14 response to what Deputy Cassell told you, what did you
15 do?

16 A When I sent Jason the message, he wanted to
17 know why, and so I sent him a picture of my
18 face.

19 Q Is that the picture that we saw earlier?

20 A Yes, ma'am. And that's when emphatically
21 urged me to go to the emergency room.

22 Q Okay.

23 A And I kept telling him I was okay, and he
24 kept telling me that I didn't know I was okay.
25 Because with injuries like that, you might think

Testimony of Sheila Watkins

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1 you're okay but there's things going on that you
2 don't know about.

3 Q Like the spots that you were seeing?

4 A Right.

5 Q And so, at that point, did you go to the
6 hospital?

7 A I did. I called a friend to take me to the
8 emergency room.

9 Q Okay. And which emergency room did you go to?

10 A I went to Pelham Medical Center.

11 Q Pelham Medical Center?

12 A Uh-huh.

13 Q Is that where the met Dr. Stanton?

14 A Yes, ma'am.

15 Q Okay. And when you were there and met with him,
16 that was Monday morning?

17 A Yes, ma'am.

18 Q Did you explain to him how you came to receive
19 this beating?

20 A Yes, ma'am.

21 Q And did you explain to how the injuries were
22 inflicted?

23 A Yes, ma'am.

24 Q And, at that point, did they conduct testing?

25 A They did.

Testimony of Sheila Watkins

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1 Q Do you recall, just generally, what kind of
2 testing they did?

3 A I think they did a CT scan.

4 Q A CT scan?

5 A Yes, ma'am.

6 Q Did you have any other, like, vision issues? I
7 mean, what were your symptoms at that point?

8 A I still had a headache and just the spots in
9 my eyes. Just, you know, really sore from the
10 beating.

11 Q And the areas -- well, we'll get into that with
12 the doctor.

13 So, at that point, did you realize the
14 seriousness of your condition?

15 A I did.

16 Q Okay.

17 A Not really. I mean, I just thought it was
18 bruising, and I really didn't know what the spots
19 were, but I didn't think it was that big of a
20 deal.

21 Q Okay. Did the doctor make you aware of the
22 seriousness of it?

23 A He did.

24 Q And did you remain at the Pelham Medical Center or
25 were you transferred?

Testimony of Sheila Watkins

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1 A They actually transferred me by ambulance to
2 Spartanburg Regional.

3 Q And how long did you stay at Spartanburg Regional?

4 A I was there probably until around 6:30, they
5 finally released me.

6 Q That night?

7 A Yes, ma'am.

8 Q Did you receive any medication while you were
9 there?

10 A They actually gave me some medicine to take
11 for seizures and to help the healing of the
12 brain.

13 Q Okay. Now, you say healing of the brain, did they
14 explain what had happened with the trauma to your
15 head?

16 A They told me that it was a brain bleed.

17 Q Okay.

18 A I'm not real sure what that actually means,
19 but it was a brain bleed.

20 Q Now, when you were there at the hospital, at
21 Pelham Medical Center, did the police officers
22 arrive?

23 A Yes, ma'am.

24 Q And was that in response to the hospital
25 calling?

Testimony of Sheila Watkins

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1 A Yes, I asked them to call.

2 Q So that point, you were ready to --

3 A Yes, ma'am.

4 Q All right. I'm going to show you
5 State's Exhibits 6, 7, 8, 9 and 10, and just ask you
6 to look at those. Do you recognize those?

7 A Yes, ma'am.

8 Q What are those pictures? Where were those
9 pictures taken?

10 A They were actually taken in the emergency
11 room at Pelham Medical.

12 Q Okay. And these pictures were taken on Monday.
13 This happened on Saturday night and this was Monday?

14 A Yes, ma'am.

15 Q Are these fair and accurate depictions of how you
16 appeared that day?

17 A Yes, ma'am.

18 MS. TESSITORE: The State would move
19 State's Exhibits 6 through 10 into evidence.

20 THE COURT: Any objection?

21 MR. KEYS: No, ma'am.

22 THE COURT: All right. They are so
23 entered.

24 (PLF. EXH. 6, Photo, was entered into
25 evidence.)

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1 (PLF. EXH. 7, Photo, was entered into
2 evidence.)

3 (PLF. EXH. 8, Photo, was entered into
4 evidence.)

5 (PLF. EXH. 9, Photo, was entered into
6 evidence.)

7 (PLF. EXH. 10, Photo, was entered into
8 evidence.)

9 MS. TESSITORE: May I just publish those
10 to the jury?

11 THE COURT: Sure.

12 BY MS. TESSITORE:

13 Q Moving along, Miss Watkins, when you did meet with
14 the officer at the hospital, did you, again, tell the
15 officers what had happened?

16 A Yes, ma'am.

17 Q Did you identify this defendant?

18 A Yes, ma'am.

19 Q Was there any -- did you provide the officers with
20 some of the text messages that he was sending to you
21 on all day on Sunday?

22 A I did.

23 Q Okay. I'm going to show you what's been marked as
24 State's Exhibit 5 and ask you if you recognize that.

25 A Yes, ma'am.

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1 Q What is that?

2 A It's a text message from him telling me why
3 he did what he did.

4 Q And is that a screenshot, or how was that
5 provided?

6 A It's actually a screenshot. One of the
7 officers actually screenshotted it from my phone
8 because I didn't know how to do it.

9 Q Okay. So you're not technologically savvy?

10 A No, ma'am.

11 Q But he helped you?

12 A Yes.

13 Q All right. So this is one screenshot from many
14 other text messages?

15 A Yes, ma'am.

16 Q Is this a fair and accurate photograph of that
17 text message string there?

18 A It is.

19 Q And those are texts that were sent to you by?

20 A Marcus Keys.

21 Q Marcus Keys?

22 A I did.

23 Q And you received them on your cell phone?

24 A Yes, ma'am.

25 Q You have an Apple phone?

Testimony of Sheila Watkins

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1 A I do.

2 Q And did he have the same kind of phone?

3 A No, I think his was a Samsung.

4 MS. TESSITORE: All right. At this time,
5 I'd move State's Exhibit 5 into evidence.

6 THE COURT: Any objection?

7 MR. KEYS: No.

8 THE COURT: All right. So admitted.

9 MS. TESSITORE: Publish this to the jury,
10 Your Honor?

11 THE COURT: Sure.

12 MR. KEYS: Your Honor, can we put that there
13 because I haven't seen it?

14 THE COURT: All right. If you have that?

15 MS. TESSITORE: Yes, Your Honor.

16 THE COURT: That's fine.

17 MS. TESSITORE: This was provided in
18 discovery. I'll show that to you, Mr. Keys.

19 MR. KEYS: Your Honor, could we put it up
20 on the board so we can all see it? I'm going to
21 read it, because I don't --

22 THE COURT: Okay. You're saying that you
23 want it on the screen because it would be easier
24 for you to read there.

25 THE COURT: All right. You can't really

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1 say anything about it other than -- you know, you
2 can ask her questions about it when it's your
3 opportunity.

4 MR. KEYS: That's fine.

5 THE COURT: Then I'll ask you to publish
6 on the screen, please.

7 MS. TESSITORE: Okay. Yes, Your Honor.

8 BY MS. TESSITORE:

9 Q So if you could -- are you able to see it from
10 your position right there? Can you read that,
11 Miss Watkins?

12 A Out loud?

13 Q No. I'm just asking if you can read it.

14 A Yes.

15 Q Those text messages, are any of those from you to
16 Mr. Keys?

17 A No, it's all him.

18 Q They're all from him to you?

19 A Uh-huh.

20 MR. KEYS: Hold on. Hold on. In your --

21 THE COURT: One second. We'll deal with
22 that when it's your opportunity.

23 MR. KEYS: I can't object to none of
24 that? I mean, to something? Can I say something?

25 THE COURT: Are you objecting to the

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1 admission of that exhibit?

2 MR. KEYS: No, not to the admission of
3 it. To that's what I said.

4 THE COURT: That's something for you to
5 take up on cross-examination, okay, in just a
6 moment. All right.

7 MS. TESSITORE: Thank you, Your Honor.

8 BY MS. TESSITORE:

9 Q So that was the text messages that you provided to
10 the initial responding officers at the hospital?

11 A Yes, ma'am.

12 Q Okay.

13 MR. KEYS: Can I --

14 THE COURT: Sir?

15 MR. KEYS: I'm sorry.

16 MS. TESSITORE: We're going to come back
17 to the text messages, Your Honor.

18 THE COURT: Hold on just one second.

19 MR. KEYS: That's fine.

20 THE COURT: Okay. And you're going to
21 have an opportunity to question this witness and
22 you can question her about this. This is just --
23 this is the State's opportunity.

24 MR. KEYS: I understand. Could I have a
25 copy of that, because that transcript I'm not

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1 familiar with at all.

2 THE COURT: It's up here. It's in
3 evidence, so it will be right here and I can the
4 deputy to hand it to you when you have an
5 opportunity.

6 MR. KEYS: But I was focusing on one part
7 of that text message, and I would like to see all
8 of it.

9 THE COURT: Understood.

10 MR. KEYS: Because some of that is
11 unfamiliar.

12 THE COURT: Understood.

13 MS. TESSITORE: May it please the Court, Your
14 Honor?

15 THE COURT: Thank you.

16 MS. TESSITORE: Thank you.

17 BY MS. TESSITORE:

18 Q Now, you indicated that you were transferred to
19 the other hospital, you were released from there, and
20 did you have any other further symptoms after you were
21 released from the hospital?

22 A Just a headache and the spots in my eyes
23 continued.

24 Q Okay. And did you see a medical provider for
25 that?

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1 A I actually went to the doctor to have my eyes
2 checked to make sure there wasn't anything wrong
3 there.

4 Q Okay. And as far as any other further treatment,
5 did you receive any?

6 A No, ma'am.

7 Q Okay. Now, I want to talk about those text
8 messages.

9 MS. TESSITORE: Can you mark this for me?

10 (PLF. EXH. 11, Text messages, was
11 marked for identification.)

12 BY MS. TESSITORE:

13 Q After the defendant was arrested on the charges a
14 few days later, do you recall coming to the office and
15 meeting with me to discuss this case?

16 A I do.

17 Q At that time, do you recall discussing the text
18 messages?

19 A Yes, ma'am.

20 Q And did you have your phone with you when we met
21 that day?

22 A I did.

23 Q And this was back in -- probably in December,
24 about two months after this incident, correct?

25 A Yes, ma'am.

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1 Q And at my request, did you go see
2 Investigator Jim Perry with the sheriff's office?

3 A I did.

4 Q And for what purpose did you go over and see
5 Investigator Perry?

6 A He was actually able to retrieve all the text
7 messages that we had that particular day.

8 Q So you provided your cell phone to him?

9 A Yes, ma'am.

10 Q And he took your cell phone?

11 A (Witness nods head up and down.)

12 Q And were you able to view those text messages in
13 the format that he was able to provide?

14 A Yes, ma'am.

15 Q And have you had an opportunity to review those
16 prior to trial today?

17 A Yes, ma'am.

18 Q I'm going to show you State's Exhibit 11, and ask
19 you to identify it.

20 A That's the text messages that we exchanged
21 that Sunday.

22 Q Okay. Just looking at the date up here, what was
23 the first date on the text messages?

24 A That one was actually on 10/19.

25 Q So the day before the cookout?

1 A Uh-huh.

2 Q And then the last one that was sent was sent
3 when?

4 A On 10/21.

5 Q Okay. And are these text messages between you and
6 Marcus Keys?

7 A They are.

8 Q And is that how it appeared in your phone as far
9 as his name and that phone number?

10 A Yes, ma'am.

11 Q Are these fair and accurate copies of those text
12 messages as they were extracted from your phone?

13 A Yes, ma'am.

14 MS. TESSITORE: Okay. At this time, I'd
15 move to State's Exhibit 11 into evidence,
16 Your Honor.

17 THE COURT: Any objection?

18 MR. KEYS: I haven't seen them.

19 THE COURT: Were those provided in
20 discovery?

21 MS. TESSITORE: They were provided in
22 discovery.

.. 23 THE COURT: Just a second. Hold on.

24 Those were -- was the text, the screenshot and
25 this provided to the defendant during discovery?

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1 MS. TESSITORE: Yes, Your Honor. Months
2 ago.

3 THE COURT: All right. Okay. Will you
4 show this to him, please?

5 MR. KEYS: I only want to state this one
6 thing: She's shown it to her, but she's not shown
7 it to me or to them. Okay, that's fine, put them
8 on the screen.

9 THE COURT: Mr. Keys, stop. Mr. Keys,
10 stop. My understanding was, and she was probably
11 doing that because I must have misunderstood. My
12 understanding was that you didn't want to see
13 anything. So, that's okay.

14 MR. KEYS: I didn't want to see it.

15 THE COURT: That's what I understood you
16 to say a few minutes ago.

17 MR. KEYS: No, I never said that.

18 THE COURT: Okay. Mr. Keys, stop. Take
19 a look at that and tell me if you object to it.
20 Mr. Keys, take a look --

21 MR. KEYS: Listen --

22 THE COURT: Okay. Ladies and Gentlemen,
23 you all step to the jury deliberation room for
24 just one moment.

25 Hold on.

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1 MR. KEYS: You don't have to do that.

2 THE COURT: Hold on.

3 They have been going about an hour and
4 45 minutes and that's a little longer than I let
5 them go anyway.

6 Mr. Keys, you and I have been getting
7 along very well, and you have really been doing
8 fantastic. In fact, I think you had a fantastic
9 opening statement.

10 So, I understood when Miss Tessitore was
11 showing you the pictures that you didn't want to
12 see the exhibits, and you said to kind of move
13 things along. That's what I understood you said.

14 Now, if you want to see the exhibits, I
15 told you that's one of the rituals we go through
16 in showing the exhibits. So I need you to take
17 look at this exhibit and you tell me whether or
18 not you object to it. That's what I need for you
19 to do.

20 And remember we talked about -- we talked
21 about, I want you in here. I want you as part of
22 this -- your defense. I want to you to be here.
23 That right is not unlimited. So take a look at
24 that and let me know if you object to it. It's
25 sitting right there.

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1 MR. KEYS: Can I say something? Can I
2 talk?

3 THE COURT: You can, and I want to be --
4 I want you to understand, my contempt powers carry
5 up to six months without a trial, without
6 anything.

7 MR. KEYS: I respect you, and I'm not
8 trying to cause you any problems.

9 My thing is this: When I try to explain
10 myself, you cut me off. You didn't want to hear
11 it. I'm only stating -- if that's not good, then
12 you can tell me.

13 THE COURT: Okay, hold on one second.

14 MR. KEYS: You're not letting me finish.

15 THE COURT: Just like that. Just like
16 that. I need to respond to what you're saying
17 right there.

18 Number 1, I think I explained to you that
19 I'm in charge of this trial. Okay? That's how it's
20 going to go. If I need to cut Miss Tessitore off,
21 I would do it too.

22 But, Mr. Keys, here it is: I'm saving
23 you from saying things in front of the jury that
24 you cannot say. Okay? And I'm also saving you
25 from saying some things you probably should not

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1 say.

2 Now, I'm telling you and I'm directing
3 you that if you want to stay in here, other than
4 going back into the holding cell, to look at that
5 exhibit and tell me if you object to it. All
6 right? Enough.

7 Now --

8 MR. KEYS: Wait a minute. Can I say --

9 THE COURT: No, sir. We're done talking.
10 I want you look at the exhibit. We can talk after
11 you look at the exhibit. Mr. Keys, you're pushing
12 it, okay?

13 MR. KEYS: So I'm not allowed to talk in
14 the courtroom in my case?

15 THE COURT: You can talk in just a moment
16 after you do what I have instructed you to do, and
17 that is review that exhibit and tell me if you
18 object to it.

19 MR. KEYS: That was not my issue. No, I
20 don't object to it at all.

21 THE COURT: Okay, then very well. Very
22 well.

23 All right. Then we can bring the jury
24 back once they've had a break and we can start
25 going again.

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1 MR. KEYS: Can I finish what --

2 THE COURT: Okay, go ahead.

3 MR. KEYS: The only thing I wanted was,
4 she's sharing stuff with her. It's easier, okay?
5 I don't have glasses. The screen is bigger. We
6 can put that -- she's putting it on the screen.
7 I'm saying, show -- when she's showing with that,
8 instead of showing it to her, everybody is -- the
9 screen is big as daylight. It's like -- and it's
10 easier for me to see it. I didn't bring my
11 reading glasses. I apologize.

12 THE COURT: Okay. Mr. Keys, stop.

13 MR. KEYS: I just thinking -- I'm only
14 making the suggestion that she put it on the
15 board. I'm only trying to make a suggestion.

16 THE COURT: I understand, Mr. Keys. Okay.

17 MR. KEYS: I'm not trying to be
18 difficult.

19 THE COURT: I know. I know. /.

20 MR. KEYS: I'm trying to go as smooth as
21 possible.

22 THE COURT: And I appreciate it. Here's
23 what we're going to do. Let me explain to you
24 this much. She has to -- she's going through
25 these rituals we talked about. She's showing the

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1 witness the exhibit, and the witness has to
2 identify it before she's allowed to publish it to
3 a jury. Then she has offer it to the Court. I
4 want you to be able to see what is. She has to do
5 all before she can show it to the jury. That's
6 the rules of court.

7 MR. KEYS: Can I talk now?

8 THE COURT: Okay. You can respond to
9 that, but I'm just telling you that's the rules.

10 MR. KEYS: Okay. I'm going to say one
11 thing: If you're already considering what I -- if
12 you're already considering what I'm going to say
13 before I say it, then that means you already know
14 what I'm going to say before I say it and you're
15 cutting me off. And I don't think that's fair to
16 me, because you might think you know what I'm
17 about to say, but I think it's very polite, and
18 would be -- especially if you let me finish that
19 -- let me finish my thought. You can see where
20 I'm going and not where you think I'm --

21 THE COURT: You don't have an unlimited
22 right to talk for as long as you want to.

23 MR. KEYS: No, I'm not --

24 THE COURT: Don't talk over me. Don't
25 talk over me.

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1 MR. KEYS: I'm not.

2 THE COURT: You do not have an unlimited
3 right to talk as long as you want. Okay? You and
4 I ran into this the last time we were together,
5 and here's what I -- and here's what I'm going to
6 do. I'm going to try to help the situation, if I
7 can.

8 Sir, could I give you these?

9 You and I are in the same boat. Let's
10 see if these help you a little bit. Okay? These
11 are just regular generic reading glasses. There's
12 just the kind you get at the drug store. Okay?

13 THE COURT: We're ready to bring the jury
14 back in.

15 MR. KEYS: I understand. I'm not --
16 you're making this situation about me and you, and
17 it's not.

18 THE COURT: It's not about you and me.

19 MR. KEYS: And it's not.

20 THE COURT: This is your day in court and
21 I want you to be able to do -- I want you to be
22 able to present your evidence and cross-examine
23 witnesses, but we are hung up --

24 MR. KEYS: Listen.

25 THE COURT: No, sir. No, sir. That's

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1 not how it goes. But here's what we're going to
2 do. We're going to take a five-minute break and
3 we'll come back and bring the jury back in. We're
4 are moving. This is happening today. Okay?

5 We are in recess five minutes.

6 (A recess was taken from 11:22 a.m. to 11:29 a.m.)

7 THE BAILIFF: Please remain seated. Come
8 to order. Court is now in session.

9 THE COURT: All right. I think our jury
10 did need a break. They are all taking breaks back
11 there, but I think they're about to finish up.

12 MS. TESSITORE: Your Honor, if I could
13 get that exhibit back.

14 THE COURT: Oh, sure.

15 MS. TESSITORE: I'm not sure if he's
16 still looking.

17 MR. KEYS: Can you show me where that is
18 again? You said that exhibit was in here. Can I
19 see that in here. Do you know where that is?

20 THE DEPUTY: He wanted to see the shot.

21 THE COURT: Oh, the screenshot. Oh,
22 sure.

23 MR. KEYS: And also she said it was in
24 here, too, show me where it is in here because I
25 didn't see it when I looked at it.

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1 You said it's in here, too?

2 MS. TESSITORE: Yes, sir.

3 MR. KEYS: Can you show me?

4 MS. TESSITORE: Are you done with that?

5 MR. KEYS: Not yet.

6 MS. TESSITORE: Okay.

7 MR. KEYS: I haven't looked at it yet?

8 THE COURT: Take a look at that while I
9 find this.

10 Okay. And, Miss Tessitore, I know we've
11 taken a break right here to kind of -- but I want
12 to just urge you to kind of pick things up a
13 little bit. Speed things up a little bit, if you
14 could, please.

15 MS. TESSITORE: Yes, Your Honor.

16 MR. KEYS: Your Honor, when they come in,
17 may respond to that text -- to those texts?

18 THE COURT: You can respond when it's --
19 when -- I'll ask you, do you object? Okay?
20 Whether or not you object to that being entered.
21 And then you got to give a legal basis, if you do
22 object. Okay? A legal basis for it.

23 Now, if you -- if you just want to
24 challenge the text messages themselves, that's
25 what you do on cross-examination. I'm not trying

Testimony of Sheila Watkins

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1 to give you legal advice because I can't, but
2 that's when you challenge that, is on
3 cross-examination. Okay? Some judges just let
4 you say is, "I object" or "no objection." But in
5 any event we'll do it like that.

6 MR. KEYS: So, you're saying in order to
7 object I have to do what?

8 THE COURT: You have to have a legal
9 basis like hearsay, something like that. But I'm
10 not saying that's an objection to this. I'm just
11 saying you have to have a legal basis to object to
12 it.

13 All right. Will you all bring the jury
14 back in?

15 (Jury enters the courtroom at 11:37 a.m.)

16 Thank you, Ladies and Gentlemen. I'm sorry
17 about taking a break. I do think it was about time.
18 It was time for our morning break. Past due, to tell
19 you truth. That turned out to be my misunderstanding,
20 and so that need to take that break was completely my
21 fault.

22 Let's pick back up where we were,
23 Miss Tessitore.

24 MS. TESSITORE: Thank you, Your Honor.

25 Your Honor, at this time, the State would

Testimony of Sheila Watkins

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1 move State's Exhibit 11 into evidence at this
2 time.

3 THE COURT: Any objection to
4 State's Exhibit Number 11.

5 MR. KEYS: No. But I would like to
6 respond to that other text message, if I could.
7 I'll wait.

8 THE COURT: If you'll wait until
9 cross-examination. Just hold on to that, thank
10 you.

11 MR. KEYS: Okay.

12 BY MS. TESSITORE:

13 Q All right. Miss Watkins you indicated that the
14 left text message was received --

15 A On 10/21.

16 Q On 10/21. That's the date. And then
17 approximately what time, or what time does it
18 indicate?

19 A 7:08, I think that is.

20 Q P.m.?

21 A Uh-huh.

22 Q And was that the text sent by him?

23 A It was.

24 Q Why are there no more texts after
25 October 21st?

Testimony of Sheila Watkins

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1 A I blocked his number.

2 Q So that was it?

3 A Yes, ma'am.

4 Q Okay. So no more texting. Did you have any
5 contact with the defendant after this?

6 A No, ma'am.

7 Q By phone?

8 A No, ma'am.

9 Q By text?

10 A No, ma'am.

11 Q In person?

12 A No, ma'am.

13 Q And, Miss Watkins, are you -- I guess in an effort
14 to deal with a lot of what happened here and the
15 trauma, did you seek out any counseling?

16 A Yes, ma'am.

17 Q Are you still in counseling?

18 A Yes, ma'am.

19 Q Have you found that that has helped you?

20 A It helped some.

21 Q Looking back, would you have made that decision
22 not to report to the police immediately? Would you
23 have still made that decision the way you did?

24 A Yes, ma'am.

25 Q Okay. And can you explain again, why did you

Testimony of Sheila Watkins

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1 decide to report it to the police?

2 A Because of the spots on my eyes, and the
3 urgency that Jason put on it when he talked to
4 me.

5 Q And all of this trauma that was received in the
6 beating, this was from a man that you considered your
7 boyfriend?

8 A Yes, ma'am.

9 Q A man who professed that he loved you?

10 A Yes, ma'am.

11 Q Even in those text messages..

12 A Yes, ma'am.

13 Q Where he was telling you to get your a-s-s down
14 there.

15 A Right.

16 Q You need to come back. He was going to take care
17 of you.

18 A Yes, ma'am.

19 MS. TESSITORE: Okay, one moment.

20 Your Honor, that's all that the State has
21 as far as questions. Please answer any questions
22 that the defendant may have for you.

23 THE COURT: Mr. Keys, do you have any
24 questions for this witness?

25 MR. KEYS: Yes.

Testimony of Sheila Watkins

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1 THE COURT: Okay, go ahead. And just to
2 let you know, once, again, it has to be in the
3 form of a question.

4 MR. KEYS: Uh-huh.

5 THE COURT: Go ahead.

6 MR. KEYS: Can I first make a statement
7 to the jury?

8 THE COURT: No, sir.

9 MR. KEYS: Okay.

10 CROSS-EXAMINATION

11 BY MR. KEYS:

12 Q When we talked --

13 MR. KEYS: I'm addressing her.

14 THE COURT: Okay.

15 BY MR. KEYS:

16 Q On the night that that happened, who did you have
17 in the car with you?

18 A There was no one in the car. There was
19 someone getting into the car, but he was not in
20 the car.

21 Q He was not in the car. And who was this person
22 again?

23 A He was your nephew, cousin. I'm not sure
24 which he was, but he was Mary's son.

25 Q Okay. This -- so -- I got to learn how to speak

Testimony of Sheila Watkins

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1 because I can't speak.

2 MR. KEYS: Can I call myself to the
3 stand?

4 THE COURT: You're going to have an
5 opportunity, once the State has put up their case,
6 to do that, if that is your choice to do. But the
7 State gets to go first and then you.

8 MR. KEYS: Okay. That's what I'm saying.
9 When she come down, can I go up?

10 THE COURT: I don't know when they'll be
11 done. Okay?

12 MR. KEYS: Because she just said she's
13 done. Oh, she got to be done presented her whole
14 case.

15 THE COURT: Exactly, exactly.

16 MR. KEYS: All right.

17 THE COURT: It's kind of hard to sit
18 there and wait, but you'll just have to kind of
19 wait.

20 MR. KEYS: Can I call her to the stage,
21 too?

22 THE COURT: Who?

23 MR. KEYS: The prosecution.

24 THE COURT: No, sir.

25 We're not going to do this in front of the

Testimony of Sheila Watkins

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1 jury. We'll have time to talk about this.

2 MR. KEYS: I'm not going to ask you -- I
3 want to say one thing.

4 THE COURT: No.

5 MR. KEYS: It's for this. It's to this.

6 BY MR. KEYS:

7 Q This cookout was at my relative's house, so why --
8 if my cousin was in the car, why isn't he a witness?
9 Why isn't he here? There was 20 people at the
10 cookout. There were a lot of witnesses there. She
11 was there. The house was full of witnesses. The
12 guy's in the car, why isn't he here? Why isn't he
13 here? Do you think that he was the one that you say
14 that he seen me hit you?

15 A There people a lot of people that seen you
16 hit me.

17 Q Okay. So why aren't they here today? Where are
18 the witnesses at?

19 A I can't answer that question.

20 Q Did you tell Miss Tessitore about everybody that
21 saw me hit you?

22 A Yes, I did.

23 Q But none of those people are here on this list,
24 are they?

25 A Mr. Keys, you'll have to ask her that. I

Testimony of Sheila Watkins

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1 don't know.

2 Q Well, none of these people are here on this list.
3 None of the people here at the cookout -- none of the
4 people that was there at the cookout are here today.

5 A My question to you would be: If they were
6 there --

7 THE COURT: Ma'am, you can't ask him
8 questions. You can only answer his questions.

9 THE WITNESS: They were there. If you
10 wanted them as witnesses, why didn't you have them
11 here?

12 MR. KEYS: I don't have the burden of
13 proof. I don't to prove --

14 THE COURT: This is why you don't ask him
15 a question, because we don't -- you just ask her
16 questions. Okay, go ahead.

17 BY MR. KEYS:

18 Q So when I came to the car and asked you to get out
19 of the car, what was your response?

20 A "Why."

21 Q And why did I want you out of the car?

22 A I think your response was that you told me
23 that I couldn't take your f'ing car.

24 Q No. Why didn't I want you to take my car? You
25 had been driving it all night. Why didn't I want you

Testimony of Sheila Watkins

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1 to take my car?

2 A I don't know.

3 MR. KEYS: Can I make a statement?

4 THE COURT: No, no. I know it's killing
5 you, but no.

6 MR. KEYS: The reason -- let me put this
7 in a certain way.

8 THE COURT: Just ask a question.

9 MR. KEYS: I'm asking a question.

10 BY MR. KEYS:

11 Q So, I actually got -- it wasn't because you went
12 to the liquor store -- it wasn't because you were
13 intoxicated and shouldn't be behind the wheel of a
14 car, that you hadn't too much to drink that night,
15 that you weren't intoxicated?

16 A That is not what you said, no.

17 Q So you were not intoxicated that night?

18 A I was not.

19 Q So who were the two guys that you were that came
20 to court -- that came to my bonds court -- when I got
21 out of jail -- when I got out of jail and you were
22 there making the complaint against me in bonds
23 court --

24 MR. KEYS: She brought two witnesses
25 there.

Testimony of Sheila Watkins

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1 BY MR. KEYS:

2 Q Who were those two men that came as your
3 witnesses, and why are they not here today in court?

4 A I don't know what you're talking about.
5 There was no one with me, other than my sister and
6 the person who took me to the emergency room.

7 Q No. Two men came there and witnessed -- two black
8 men, two males --

9 A They were not with me.

10 Q But they were witnesses for you, because the judge
11 said so.

12 A No, she did not.

13 MS. TESSITORE: She's made it clear she
14 doesn't know who those men were.

15 THE COURT: All right. Mr. Keys, you
16 will have an opportunity later on, but let's move
17 on.

18 MR. KEYS: Okay.

19 BY MR. KEYS:

20 Q When it went to bonds court --

21 THE COURT: That's what I meant about
22 move on, if you're asking about these two men.
23 Are you asking something different?

24 MR. KEYS: Yes.

25 THE COURT: Go ahead.

Testimony of Sheila Watkins

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1 BY MR. KEYS:

2 Q When I went to bonds court and they spoke to you
3 about how many witnesses did you have, you stated that
4 those two men were there and they witnessed me hit
5 you. This is what you said in bonds court now.

6 A I did not.

7 Q Okay.

8 MR. KEYS: I'll move on to something
9 else.

10 THE COURT: Okay.

11 MR. KEYS: It's very hard for me to say
12 this because I am a very private person, but I'm
13 going to move forward. This is going to be real
14 difficult.

15 THE COURT: Just ask a question.

16 BY MR. KEYS:

17 Q Will you share some of the private things that you
18 talked to me about that you had been through with your
19 husband? What kind of relationship --

20 MS. TESSITORE: Objection, Your Honor.

21 THE COURT: And your objection is?

22 MS. TESSITORE: My objection is
23 relevance.

24 MR. KEYS: It's relevant.

25 MS. TESSITORE: Relevance, and also it

1 Testimony of Sheila Watkins
2 may be a matter we need to take out of the
3 presence of the jury.

4 THE COURT: All right. Ladies and
5 Gentlemen, once again, I'm going to ask you to
6 step to your jury deliberation room for just a
7 moment.

8 MR. KEYS: But --

9 THE COURT: Hold on.

10 (Jury exits the courtroom at 11:47 a.m.)

11 THE COURT: What is the matter of we need
12 to take up outside the presence of the jury,
13 Miss Tessitore.

14 MS. TESSITORE: Your Honor, I'm not sure
15 what Mr. Keys is about to elicit. And before the
16 bell has been rung, I would ask that there be some
17 proffer because it sounds like, Number 1, it's
18 irrelevant, it also may be some prior act that
19 involved the victim that's not related to this
20 that could certainly seem prejudicial to my --

21 THE COURT: Mr. Keys, tell me about it.

22 MR. KEYS: Your Honor, she's objecting to
23 something --

24 THE COURT: No, that's not what I'm
25 asking you.

26 MR. KEYS: I know.

Testimony of Sheila Watkins

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1 THE COURT: The question -- I want you to
2 answer the question I'm asking you. The question
3 I'm asking you is, what is the evidence that
4 you're -- or the testimony that you're trying to
5 elicit from that witness. Go ahead.

6 MR. KEYS: Okay. I'm trying to get her
7 character and the state of mind of where she is
8 and where's she's coming from, what she's been
9 through.

10 THE COURT: What is that?

11 MR. KEYS: This is going to lead up to
12 abuse.

13 THE COURT: What is that?

14 MR. KEYS: Physical abuse. Abuse.

15 THE COURT: You're saying her ex-husband
16 physically abused her.

17 MR. KEYS: Yes.

18 THE COURT: Okay. And what's that
19 relevance?

20 MR. KEYS: It's relevant to this case and
21 to her state of mind and her conditioning. Into
22 her conditioning and her state of mind as far as
23 somebody who's been abused.

24 THE COURT: I'm sorry. That's irrelevant
25 to this. And don't -- if you don't question my

Testimony of Sheila Watkins

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1 ruling. We talked about that. Okay? I'm going
2 to find that anything like that is, at least at
3 this point, irrelevant.

4 MS. TESSITORE: Your Honor, I would just
5 add that also, under Rule 404, character evidence
6 is absolutely inadmissible.

7 THE COURT: Right.

8 MS. TESSITORE: For the record.

9 THE COURT: And I don't know how that
10 would go to her character, but in any event --
11 yes, sir.

12 MR. KEYS: Can I just say, how is
13 character reference irrelevant, because character
14 is very important.

15 THE COURT: Character evidence is not
16 admissible under -- except under very certain
17 circumstances.

18 MR. KEYS: As to what circumstances would
19 it be allowable?

20 THE COURT: And I'm telling you I cannot
21 advise you.

22 MR. KEYS: I'm not asking for advice.
23 I'm just saying -- you asked me -- you say there's
24 only certain cases that it's allowable, and I'm
25 saying what cases --

Testimony of Sheila Watkins

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1 THE COURT: That's what a lawyer would
2 have helped you with.

3 MR. KEYS: -- are they allowable?

4 THE COURT: That's what a lawyer would
5 have helped you with.

6 THE COURT: All right. Let's go ahead
7 and bring the jury back in.

8 MR. KEYS: You just stricken me. That's
9 not fair.

10 I cannot --

11 THE COURT: Stop.

12 MR. KEYS: I want to ask you before they
13 come back in.

14 THE COURT: Okay.

15 MR. KEYS: No, I want to ask you a
16 question before they come back in because I don't
17 want you to be telling me that I cannot ask a
18 question -- nothing about her past?

19 THE COURT: Exactly, exactly. Unless --
20 anything about -- you're saying that her husband
21 abused her or she was in an abusive relationship,
22 no, you cannot go into that. I found that it's
23 irrelevant. All right.

24 (Jury enters the courtroom at 11:50 a.m.)

25 THE COURT: Thank you for your patience

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1 with us. That was one of those matters of law
2 that require that we talk about the facts a little
3 bit, so that's why we excused you.

4 Yes, sir, you can resume.

5 MR. KEYS: They won't let me talk about
6 her past.

7 THE COURT: All right. I've ruled that
8 that's irrelevant. So go ahead.

9 MR. KEYS: I've got to change my
10 direction.

11 THE COURT: Sure. We don't need to
12 discuss that in front of the jury. Go ahead.

13 BY MR. KEYS:

14 Q Have you -- have you ever been -- have you ever
15 used cocaine?

16 MS. TESSITORE: Objection, Your Honor.

17 THE COURT: And I'll ask you -- well, let
18 me just -- do you want to answer the question?

19 THE WITNESS: I said no.

20 THE COURT: All right. Go ahead.
21 Overruled.

22 MR. KEYS: She's not going to not let me
23 say --

24 THE COURT: Mr. Keys.

25 MR. KEYS: I'm sorry. It's like --

Testimony of Sheila Watkins

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1 THE COURT: It's tough. I know.

2 MR. KEYS: Can I say something? This is
3 my disadvantage, that I don't have that a
4 lawyer --

5 MS. TESSITORE: Objection, Your Honor.

6 THE COURT: Mr. Keys -- Mr. Keys, stop.
7 Okay?

8 MR. KEYS: Okay.

9 THE COURT: Now ask your question.

10 MR. KEYS: Sorry. I got you. I
11 apologize. I apologize.

12 THE COURT: It's okay. Go ahead. Do you
13 have any more questions for this witness?

14 MR. KEYS: Yes.

15 THE COURT: Go ahead.

16 BY MR. KEYS:

17 Q Before that night -- no. That night when you took
18 my car, I asked you not to take my car before you got
19 into it. Not -- right?

20 MR. KEYS: She took my keys --

21 BY MR. KEYS:

22 Q You took my keys out of my hand and went against
23 my will. You were gone about an hour. When you came
24 back -- when you pulled up, you was coming back from
25 the store, right? When you pulled up, where were you

Testimony of Sheila Watkins

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1 coming from?

2 A When you came around the house, I had not
3 been anywhere.

4 Q So you hadn't been to the store?

5 A I went to the store earlier in the day.

6 Q Right. The first time.

7 A By myself.

8 Q Right, the first time. So that was the second
9 time when you pulled up in the driveway, right?

10 A The car had not moved.

11 Q No. You said you been to the store once, right?

12 A Right.

13 Q Okay. The second time you were gone, you said you
14 moved it from where it was parked into the driveway,
15 right?

16 A That's where I parked it when I came back the
17 first time.

18 Q Okay. But you were -- but you were -- when I came
19 to the car, you said you was going back to the store,
20 right? Where were you going? Because you said the
21 guy was coming to the car to get in the car but he
22 hadn't gotten in the car yet, so that means you guys
23 were leaving, right?

24 A We were going to the store.

25 Q Going back to the store.

Testimony of Sheila Watkins

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1 A To the QT at the end of the road.

2 Q To get what?

3 A Paper plates.

4 Q Just paper plates?

5 A Yes.

6 Q Have you have you ever engaged in --

7 MS. TESSITORE: Your Honor, I'm going to
8 object at this point.

9 THE COURT: All right.

10 MS. TESSITORE: It may be a matter that
11 we need to take up outside --

12 THE COURT: Let's --

13 MR. KEYS: It's not.

14 THE COURT: Okay. What's your question?
15 Just very briefly, what is your question?

16 MR. KEYS: Well, I have a problem with
17 she's objecting without me stating a question.

18 THE COURT: She's trying to keep you from
19 getting -- she's trying to keep you from going
20 into an objectionable --

21 MR. KEYS: She has to know where I'm
22 going first.

23 THE COURT: Okay.

24 MR. KEYS: She's objecting.

25 THE COURT: Mr. Keys?

Testimony of Sheila Watkins

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1 MS. TESSITORE: If he could maybe lay a
2 foundation, Your Honor.

3 MR. KEYS: Something?

4 THE COURT: You can ask your question. Go
5 ahead.

6 MR. KEYS: I don't remember where I was
7 going now.

8 THE COURT: "Have you ever engaged in..."

9 MR. KEYS: Thank you.

10 BY MR. KEYS:

11 Q Have you ever engaged in multiple sex partners?

12 MS. TESSITORE: Your Honor?

13 THE COURT: Sustained.

14 MS. TESSITORE: Objection.

15 THE COURT: Objection, and that is
16 sustained and to be stricken.

17 MR. KEYS: Okay.

18 THE COURT: All right.

19 MR. KEYS: Okay.

20 BY MR. KEYS:

21 Q You stated you have been a therapist for 20
22 years?

23 A Yes.

24 Q When I met you, you told me you used to be a
25 bouncer, right?

1 A No.

2 Q You never been a bouncer at Godivas?

3 A No.

4 Q Have you ever been to Godivas?

5 A No.

6 Q You never been a bouncer at any bar or anywhere?

7 A When I was very young, I worked at Big
8 Daddy's which was a long time ago, and I worked
9 the door. I was not a bouncer.

10 Q So what did you do at the door?

11 A Take money and check people in.

12 Q So, can you tell me, every night -- I'm trying to
13 move forward.

14 You tell me the night that I asked you to
15 get out of my car --

16 MR. KEYS: No, I really don't have any
17 more for her because I know --

18 THE COURT: Okay, stop. You don't have
19 any more questions?

20 MR. KEYS: I don't any more questions.

21 THE COURT: Okay. Any other questions
22 for this witness.

23 MS. TESSITORE: No, Your Honor.

24 THE COURT: Ma'am, you can step down.

25 All right. Does the State have another

Testimony of Kimberly Vaughn

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1 witness?

2 MS. TESSITORE: Yes, Your Honor.

3 THE COURT: All right.

4 MS. TESSITORE: Your Honor, the State
5 calls Kimberly Vaughn.

6 THE CLERK: Please raise your right hand.
7 Place your left hand on the Bible. Do you swear
8 to tell the truth, the whole truth, and nothing
9 but the truth, so help you God.

10 THE WITNESS: I do.

11 THE CLERK: Please take a seat and state
12 your name.

13 THE WITNESS: My name is Kimberly Vaughn.

14 WHEREUPON:

15 KIMBERLY VAUGHN,
16 after having been sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. TESSITORE:

19 Q Miss Vaughn, are you related to the victim in this
20 case?

21 A I am.

22 Q How are you related?

23 A She's my sister.

24 Q And are you younger or older?

25 A I'm younger.

Testimony of Kimberly Vaughn

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1 Q Younger sister. What do you do for work?

2 A I work for -- as office manager at
3 Lamar Advertising.

4 Q And How long have you worked there?

5 A Nine and a half years.

6 Q Okay. And do you know the defendant in this
7 case?

8 A I do not.

9 Q Had you ever met him before today?

10 A No, ma'am.

11 Q And -- well, let me take you back to October 20th
12 so that we can just move along here. Did you talk
13 with her sister the night of this incident?

14 A I did.

15 Q Okay. Tell the jury how you were contacted by
16 your sister?

17 A She called me about 11:15, 11:20 and said I
18 need you, and I said, what's wrong, and she said,
19 he beat me.

20 Q How did she sound?

21 A Scared. She was terrified.

22 Q And did you get the sense that it had just
23 happened?

24 A I got the sense that it was something that
25 she said, I just got away.

Testimony of Kimberly Vaughn 129

1 Q Did she provide any other details at that time on
2 the phone?

3 A No.

4 Q What did you do in response to that phone call?

5 A I went straight to her house.

6 Q And how long of a drive was that for you?

7 A Normally, it was about 15 minutes. I was
8 there at, like, 8:00.

9 Q I can imagine. Describe how the victim appeared
10 to you when you arrived that night?

11 A She was shaking. She was bruised. She was
12 bleeding. She was scared. She was terrified.

13 Q And what did you do when you got there?

14 A I took a picture of her face, and I also
15 started to dial 911 because I told her she needed
16 to go to the doctor. She needed to report it.
17 There was no doubt in my mind that it needed to be
18 reported.

19 Q I'm showing you State's 1 and 4. If you could
20 just look at those. Are those the pictures you're
21 talking about?

22 A Yes. The one on the left.

23 Q State's Exhibit 1?

24 A Yes.

25 Q Had you ever seen your sister like that before?

1 A Never.

2 Q And you urged her to call the police?

3 A Yes, or at least go to the hospital.

4 Q And what was her response?

5 A No, not right now. I can't do it.

6 Q She just wasn't ready?

7 A Yes.

8 Q Did she give you details about what happened that
9 night?

10 A She did.

11 Q And you've been in the courtroom already here this
12 morning. Were there any other details that she
13 provided to you that you haven't heard already?

14 A Nothing, other than she said he kept saying,
15 you disrespected me.

16 Q Were you concerned about the injury to her head?

17 A Yes.

18 Q Did you stay with her that night?

19 A I stayed with her all night.

20 Q And what happened in the morning?

21 A In the morning, she told me she was going to
22 go on her train ride, and that I needed to go home
23 and get some rest.

24 Q Did she seem like she was facing the facts of what
25 had happened?

Testimony of Kimberly Vaughn

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1 A No.

2 Q Did you try to urge her at that time to change her
3 plans?

4 A I did. I said, just stay here. I'll go
5 home. I'll get some clothes. Get a shower, I'll
6 come back. I'll stay here with you. We'll do
7 something. And she said, nope, I'm going on my
8 train ride.

9 Q Were you there when she applied the make-up to try
10 to conceal the bruising?

11 A No.

12 Q Did you stay in contact with her during the trip
13 that she took?

14 A I did.

15 Q And she returned later that day?

16 A She did.

17 Q At some point, did you feel like she understood
18 during that day the seriousness of what had
19 happened?

20 A I'm not real sure she did. She kept
21 complaining with a headache. Every time I talked
22 to her she said, my head hurts. And I tried my
23 best to explain to her, I said, that's not a good
24 sign, really not. Not with the bruising you
25 have.

1 Q Okay. Now, Mr. Keys asked about the bond hearing
2 and that there were two men at that bond hearing. You
3 were actually present at that bond hearing with the
4 victim, weren't you?

5 A Yes, ma'am.

6 Q And do you recall whether there were any two men
7 that with you and your sister at that bond hearing?

8 A No, there weren't.

9 Q Do you know who the two men he's referring to
10 are?

11 A They're -- it was at the county jail, so it's
12 more than just his bond hearing. There were
13 several people there. And they were there because
14 one of the other guys had been a victim with
15 somebody else.

16 Q Okay. So an unrelated case?

17 A As far as I know.

18 Q All right. So you didn't bring any men with you,
19 didn't take any home?

20 A No.

21 Q All right. And just tell the jury what the
22 defendant's demeanor was at that time at that hearing
23 that he's brought up? During that hearing, what was
24 his demeanor?

25 A He was very agitated.

Testimony of Kimberly Vaughn

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1 MR. KEYS: I object.

2 THE COURT: All right. I'm going to
3 sustain that. I don't think it's relevant.

4 MS. TESSITORE: All right. Please answer
5 any questions that the defendant may have. Thank
6 you.

7 THE COURT: Yes, sir. Mr. Keys.

8 MR. KEYS: I have nothing to ask her.

9 THE COURT: Okay.

10 MR. KEYS: I have nothing to ask her
11 because the only time I know about her is when she
12 was present at the court.

13 THE COURT: Thank you. That's good. No
14 questions is plenty.

15 All right. Ma'am, you can step down.

16 THE WITNESS: Thank you.

17 THE COURT: Mr. McCollum.

18 MR. MCCOLLUM: Your Honor, the State
19 calls Investigator James Perry.

20 THE COURT: All right.

21 THE CLERK: Do you swear to tell the
22 truth, the whole truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Please state your name for

Testimony of James Perry

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1 the record when you are seated

2 THE WITNESS: James Phillip Perry.

3 WHEREUPON:

4 JAMES PERRY,

5 after having been sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MCCOLLUM:

8 Q Mr. Perry, where are you employed?

9 A The Greenville County Sheriff's Office.

10 Q And how long have you been with the sheriff's
11 office?

12 A Thirty-seven years. Well, 25 with
13 Greenville County and other agencies to total
14 37.

15 Q And what's your current role at the sheriff's
16 office?

17 A I work in the computer crimes investigation
18 unit. We do computer, cell phone, and forensics.
19 We're part of the ICAD, which is Internet Crimes
20 Against Children task force. We do on-line
21 predators-type case with the Attorney General's
22 Office.

23 Q And what kind of training and experience do you
24 need --

25 A I'm sorry?

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1 Q What kind of training and experience do you need
2 for this position?

3 A I started the unit in 2002, and since then
4 I've been to numerous computer forensic courses,
5 cell phone. I've been certified in Cellebrite,
6 which is the tool we used in this case.

7 Q And, in this case, did you have occasion to
8 extract text messages from the cell phone?

9 A I did.

10 Q And you said you use Cellebrite to extract text
11 messages?

12 A Yes.

13 Q Can you explain to the jury how that works?

14 A Basically, with the iPhone, we hook it up to
15 our computer, our forensic computer. There's a
16 program on our computer we use to do an image of
17 the phone so that we work off the image. Once we
18 get that image, then we go in and start doing the
19 analysis, retrieving the text messages, emails,
20 pictures, just about everything. Just like you
21 would a computer nowadays.

22 Q With cell phone extraction, does it affect what
23 comes off the phone?

24 A Does it affect what comes off?

25 Q Yes.

Testimony of James Perry

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1 A It doesn't change anything. It just -- it
2 just does an image of what's there.

3 Q So what's extracted from the cell phone is not
4 altered in any way?

5 A I'm sorry?

6 Q So any information extracted from the cell phone
7 is not altered? Is it altered?

8 A No, no. It doesn't change anything that's on
9 the phone.

10 MR. MCCOLLUM: May I approach,
11 Your Honor?

12 THE COURT: Sure.

13 BY MR. MCCOLLUM:

14 Q Investigator Perry, I'm going to show you what's
15 marked as State's Exhibit 11. Do you recognize this?

16 A I do.

17 Q And what is it?

18 A This is a printout of the report that I
19 generated from the victim's cell phone.

20 Q Is that a fair and accurate representation of the
21 report that you pulled from the cell phone that day?

22 A It is.

23 Q And has it been altered in any way?

24 A Has the information been altered, no.

25 Q Investigator Perry, who brought you the cell

Testimony of James Perry

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1 phone?

2 A The victim herself, Miss Watkins. She
3 brought it to me at the request of the Solicitor's
4 Office.

5 Q Did she consent for you to search the cell
6 phone?

7 A Correct.

8 MR. MCCOLLUM: Beg the Court's
9 indulgence.

10 THE COURT: Certainly.

11 MR. MCCOLLUM: Thank you, Investigator
12 Perry. Please answer any questions Mr. Keys has
13 for you.

14 THE COURT: Mr. Keys, any questions for
15 this witness?

16 MR. KEYS: Yes.

17 CROSS-EXAMINATION

18 BY MR. KEYS:

19 Q The messages you retrieved from the phone, can you
20 make for certain that they came -- that they were
21 sent from her -- that they were sent to her phone and
22 not coming from her phone, the text messages?

23 A The text message that came from the phone
24 number that's represented by your number?

25 Q Yes.

1 A Okay. I'm not sure what the question is.

2 Q Can you assert that those texts that you said came
3 from her phone -- that was on her phone came from my
4 phone?

5 A Yes, sir.

6 Q You sure all those texts came from my phone?

7 A Yes, sir.

8 THE COURT: Any other questions for this
9 witness?

10 MR. KEYS: Yes.

11 THE COURT: Okay.

12 MR. KEYS: Yes, yes, yes, yes. So he was
13 stating that --

14 BY MR. KEYS:

15 Q Without any doubt, all those texts -- I'm not --
16 let me see how I want to say this.

17 MR. KEYS: Because I haven't looked -- I
18 have all those texts on my phone.

19 THE COURT: Okay.

20 MR. KEYS: That was sent.

21 THE COURT: Go ahead.

22 MR. KEYS: I haven't been through them.

23 THE COURT: Just ask a question.

24 MR. KEYS: I haven't been through all of
25 them yet.

Testimony of James Perry

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1 BY MR. KEYS:

2 Q So there's no way without a doubt that those texts
3 were received from my phone?

4 A Correct. She had your phone number saved in
5 her phone and your name assigned to that phone
6 number and that phone number is related to your
7 phone.

8 Q And it has a date and time?

9 A Yes, sir.

10 Q Okay. What was the date and time?

11 A Well, the ones that were sent to me were --

12 THE COURT: I'm sorry. Just scratch
13 that.

14 THE COURT: Okay.

15 MR. KEYS: I'm good with him.

16 THE COURT: Okay.

17 MR. KEYS: I'm good with him.

18 THE COURT: Any other questions for this
19 witness?

20 MR. MCCOLLUM: No, Your Honor.

21 THE COURT: Okay. Sir, you can step
22 down. Thank you.

23 Yes, sir.

24 MR. MCCOLLUM: Your Honor, at this time,
25 I mentioned that this would the doctor who have on

Testimony of James Perry

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1 standby, so we need to give him some time. We
2 would ask the Court to take a break.

3 THE COURT: All right. And you said that
4 he would be here within the hour?

5 MR. MCCOLLUM: Yes, Your Honor.

6 THE COURT: All right. Ladies and
7 Gentlemen, here's what we're going to do. We're
8 going to take a lunch break now, and I'm going to
9 ask you to be back in your jury room at 1:15 and
10 we'll start back at 1:15. So a little over an
11 hour or lunch.

12 Please don't discuss the case with
13 anyone, but I hope you have a great lunch. Thank
14 you.

15 (Jury exits the courtroom at 12:11 p.m.)

16 THE COURT: All right. We're going to
17 take a lunch break.

18 Mr. Keys, when we get back from lunch,
19 sometime early in the afternoon we're going to
20 turn to your case. I do, just as a matter of law,
21 have to advise you that you have a right to remain
22 silent still. You don't have to testify in the
23 trial of your case. You don't have to put up any
24 evidence if you don't want to. It's certainly
25 your right to do so or not to do so. But I just

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1 want you to know that I'm going have a few
2 questions about that when we turn to your case.
3 All right?

4 I am not going to take you into custody
5 over the lunch hour. Now, once you're -- now,
6 here's the deal. Let me explain it to you. Once
7 you're -- once a jury is sworn in your case, your
8 bond is no longer. And so -- but I am going to
9 set a trial bond for you of \$20,000 PR bond.
10 We'll set it like that. So you're free to go at
11 lunch. The only thing I need to tell you is that
12 you must not have any contact with the victim or
13 the victim's sister in this case over the lunch
14 hour. That's the only thing I would say to you.

15 All right. Other than that, we'll be in
16 recess until 1:15. We'll start back at 1:15.

17 MS. TESSITORE: Thank you, Your Honor.

18 MR. KEYS: You said we have a 30-minute
19 break.

20 THE COURT: You have an hour.

21 MR. KEYS: An hour?

22 THE COURT: Yes, sir.

23 MS. TESSITORE: Your Honor?

24 THE COURT: I'm sorry?

25 MS. TESSITORE: I'm thinking that we

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1 might also need just an admonition as far as
2 speaking to any jurors.

3 THE COURT: Oh, well sure. You heard me
4 say that when we first started about not speaking
5 to jurors. He's fine with that.

6 MS. TESSITORE: Thank you, Your Honor.

7 (A break was taken.)

8 THE BAILIFF: All rise. The Honorable
9 Letitia Verdin presiding.

10 THE COURT: I thought I saw our jury was
11 coming back in. They were all down the hall.

12 Yes, sir.

13 MR. KEYS: When you get a chance --

14 THE BAILIFF: They're coming down right
15 now.

16 THE COURT: Yes, sir.

17 MR. KEYS: I know that I'm like -- I'm
18 trying to find the word for it. I know this is
19 new territory for me and I'm like a child. I
20 don't know what I'm doing here. Can I -- I have
21 something -- when they were talking about the text
22 messages --

23 THE COURT: Yes, sir.

24 MR. KEYS: -- the text messages that were
25 sent, when I went -- it was taking out of context

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1 means that I sent the wrong text and I can prove
2 it. They took their text out of context. Because
3 if they see the text, it clearly states who I was
4 talking about. It wasn't about her, in my text.
5 And those texts, they selected the texts. So I
6 can prove that. The thing is, it's on my phone.
7 So I don't know about, you know, you have to
8 present evidence in a certain way, that is
9 detrimental to my case. I don't understand. But
10 it was a mis-text that was sent to somebody, and
11 it states that it in there. And if I could prove
12 that, that would help. Because it's dated, time
13 and place and everything. And it has -- and it
14 has all this to show that it's not talking about
15 her when I said, "I will beat your ass," it shows
16 that I'm not talking about her.

17 THE COURT: Okay, okay. Well, we'll
18 figure it out when we get there. How about that?
19 We'll figure it out. It may be that we do a
20 screenshot and I'll have you --

21 MR. KEYS: Well, I just want to know from
22 you that this proves that they -- they're
23 selecting -- even her, she's selecting this
24 because my text -- her text that they showed when
25 I was talking to her, and then they took out the

Testimony of James Perry

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1 text that I sent wrong in there and it's placed
2 like this. And I can prove that without a doubt.
3 I'm just saying that you can put it on the screen
4 and you can see exactly what I met and who I was
5 talking to and who I was talking about, and it
6 wasn't about Sheila.

7 THE COURT: Here's what we're going to
8 do.

9 MR. KEYS: Okay.

10 THE COURT: Here's what we're going to
11 do.

12 MR. KEYS: I can submit that.

13 THE COURT: Just wait one second. We're
14 not going to submit right now. Okay?

15 MR. KEYS: Okay.

16 THE COURT: But, remember, I told you
17 you're going to have the opportunity to testify,
18 if you so choose.

19 MR. KEYS: I understand.

20 THE COURT: And when you're up there,
21 what we'll do is, when you get to those text
22 messages and you want to talk about them --
23 Miss Tessitore, would you mind if he used
24 this thing? I don't know what that's called.
25 Elmo?

Testimony of James Perry

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1 MS. TESSITORE: Presenter.

2 THE COURT: Presenter? Okay. If there
3 is something -- and if it's admissible, you know,
4 would it be okay if he presented it using that
5 presenter and we'll just have the deputy kind
6 of --

7 THE DEPUTY: I don't know that it will.
8 Will that even pick it up on his phone?

9 THE COURT: Oh, it might not. Will it
10 not?

11 MS. TESSITORE: I don't know, Your Honor.
12 The other matter is, I haven't seen what he's
13 talking about.

14 THE COURT: Sure.

15 MS. TESSITORE: And I would like to have
16 an opportunity --

17 THE COURT: Well, we'll have a break
18 before then.

19 MR. KEYS: But she's -- okay. But
20 listen, she has to have seen it because the text
21 messages don't -- the test messages don't change.

22 THE COURT: Okay.

23 MR. KEYS: What I sent to her --

24 THE COURT: Okay.

25 MR. KEYS: -- it will be the same. You

Testimony of James Perry

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1 know what I'm saying? But you can tell the
2 discrepancy in my text and hers.

3 THE COURT: I got you. We're going to
4 get to all that. And we're going to take a break
5 before you testify.

6 And it may be that what we need to do is
7 for you just -- just for you, Miss Tessitore, to
8 have a minute to talk about that. And then maybe,
9 if you all would be so kind, is there a close
10 copier anywhere around here or something --

11 MR. KEYS: Yes, if we could get a copy of
12 that. Yes.

13 THE COURT: We'll get a copy. We'll do
14 it like that.

15 MR. KEYS: That's good.

16 THE COURT: But not right now.

17 MR. KEYS: Okay.

18 THE COURT: We're going to bring the jury
19 in right now. All right. Let's go ahead and
20 bring the jury in.

21 (The jury entered the courtroom at 1:21 p.m.)

22 THE COURT: All right. Ladies and
23 Gentlemen, I hope you had a good lunch. We're
24 ready to proceed.

25 Mr. McCollum.

Testimony of Juan Olalde

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1 MR. MCCOLLUM: May it please the Court,
2 Your Honor?

3 THE COURT: Yes.

4 MR. MCCOLLUM: The State calls
5 Juan Olalde.

6 THE CLERK: Do you swear to tell the
7 truth, the whole truth, and nothing but the truth,
8 so help you God?

9 THE WITNESS: I do.

10 THE CLERK: Please take a seat and state
11 your name for the record.

12 THE WITNESS: My name is Juan Olalde.

13 THE COURT: Will you spell your name,
14 please?

15 THE WITNESS: First and last name?

16 THE COURT: Last name, please.

17 THE WITNESS: Last name, O-l-a-l-d-e.

18 THE COURT: Thank you.

19 WHEREUPON:

20 JUAN OLALDE,
21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. MCCOLLUM:

24 Q Deputy Olalde, are you employed with the
25 Greenville County Sheriff's Office?

Testimony of Juan Olalde

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1 A Yes, sir.

2 Q Did you become involved in an incident that
3 occurred on October 20, 2018?

4 A Yes, sir.

5 Q Were you the responding officer to the ER?

6 A Yes, sir.

7 Q What happened when you responded to the ER?

8 A I met with -- I met with Miss Watkins
9 there.

10 Q Did you observe Miss Watkins?

11 A Yes, I did.

12 Q Did you observe Miss Watkins's cell phone?

13 A I did.

14 Q Were you present when a screenshot and text
15 messages were taken?

16 A Yes, sir.

17 MR. MCCOLLUM: Your Honor, may I
18 approach?

19 THE COURT: Certainly.

20 BY MR. MCCOLLUM:

21 Q Deputy Olalde, I'm showing you what's been marked
22 as State' Exhibit 5. Do you recognize that?

23 A Yes, sir.

24 Q And what is it?

25 A It is the screenshot that was taken there at

Testimony of Juan Olalde

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1 the ER.

2 Q And is it a fair and accurate representation of
3 what was on the phone at the time?

4 A Yes, sir.

5 Q Deputy Olalde, I'm showing you what's been marked
6 at State's Exhibit 6, 7, 8, 9 and 10. Do you
7 recognize these photos?

8 A Yes, sir.

9 Q And what are they?

10 A These are the photographs that I took of
11 Miss Watkins at the ER.

12 Q And are they fair and accurate representations of
13 the photos that were taken that day?

14 A Yes, sir.

15 Q And, Deputy Olalde, while you were at ER, did you
16 have occasion to dispatch another deputy out to the
17 incident scene?

18 A Yes, sir.

19 Q Deputy Olalde, the incident location, is it
20 located in Greenville County?

21 A Yes, sir.

22 Q Thank you. Please answer any questions that
23 defense counsel -- or Mr. Keys has for you.

24 THE WITNESS: Yes, sir.

25 THE COURT: Mr. Keys, do you have any

1 Testimony of Ryan Watts 150
2 questions for this witness?

3 MR. KEYS: None at all.

4 THE COURT: Okay. Thank you, sir. If
5 you will, step down.

6 THE WITNESS: Thank you.

7 MR. MCCOLLUM: Your Honor, the State
8 would call Deputy Watts to the stand.

9 THE COURT: All right.

10 THE CLERK: Do you swear to tell the
11 truth, the whole truth, and nothing but the truth,
12 so help you God?

13 THE WITNESS: I swear.

14 THE CLERK: Please take a seat and state
15 your name for the record.

16 THE WITNESS: Ryan Watts.

17 WHEREUPON:

18 RYAN WATTS,
19 after having been sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. MCCOLLUM:

22 Q Deputy Watts, are you a deputy with the
23 Greenville County Sheriff's Office?

24 A I am.

25 Q On October 22, 2018, did you respond to

 ■ Echols Drive.

Testimony of Ryan Watts

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1 A I did.

2 Q What happened when you arrived there?

3 A I made contact with the homeowner.

4 Q Did she say anything about the incident in
5 question, without saying what she said to you?

6 A No.

7 Q Did she provide the names of any witnesses?

8 A She did not.

9 Q Thank you. Please answer any questions Mr. Keys
10 has for you?

11 THE COURT: Mr. Keys, any questions for
12 this witness?

13 MR. KEYS: No.

14 THE COURT: Okay. Sir, you can step
15 down.

16 MR. MCCOLLUM: Your Honor, the State
17 calls Dr. John Stanton.

18 THE COURT: Okay.

19 THE CLERK: Please raise your right hand.
20 Do you swear to tell the truth, the whole truth,
21 and nothing but the truth, so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Please take a seat and state
24 your name for the record.

25 THE WITNESS: John Stanton.

Testimony of John Stanton, M.D.

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1 WHEREUPON:

2 JOHN STANTON, M.D.,

3 after having been sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MCCOLLUM:

6 Q Dr. Stanton, where are you employed?

7 A Spartanburg Regional Health Systems.

8 Q How long have you been employed there?

9 A I'm going on five years.

10 Q What is your role?

11 A My role as the emergency medicine physician
12 is to manage, in the acute setting, all comers who
13 present to the emergency department regardless of
14 their illness.

15 Q Dr. Stanton, were you working on
16 October 22, 2018?

17 A I was.

18 Q And while you were working, did you come into
19 contact with Miss Sheila Watkins?

20 A I did.

21 Q Can you explain what happened when you came into
22 contact with Miss Watkins?

23 A After listening to what she described, you
24 know, immediately I was concerned for traumatic
25 injuries, so one of the first things we did was

Testimony of John Stanton, M.D.

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1 ordered the standard evaluation in the emergency
2 department in that setting, which would be images
3 and blood work. I know those images was a CT scan
4 of the head.

5 Q Dr. Stanton, I just want to take a step back.

6 MR. MCCOLLUM: May I approach the
7 witness, Your Honor?

8 THE COURT: Certainly.

9 BY MR. MCCOLLUM:

10 Q I'm showing you what's been marked as
11 State's Exhibit 6 through 10. Do you recognize those
12 photos, Dr. Stanton?

13 A That represents how she appeared when she
14 presented, yes.

15 Q So these are, in fact, a fair and accurate
16 representation of how she looked when she appeared at
17 the ER?

18 A That's correct.

19 Q Thank you. And, Dr. Stanton, after you ran the
20 battery of tests, what was your diagnosis?

21 A The main diagnosis of most concern was the
22 subdural hematoma on the CT scan.

23 Q And what is a subdural hematoma?

24 A At its most basic, it's bleeding around the
25 brain inside the cranium.

Testimony of John Stanton, M.D. 154

1 Q Dr. Stanton, is that injury likely to cause great
2 bodily injury or substantial risk of death?

3 A Yes. There's data out there that shows
4 anybody with an acute subdural hematoma, the risk
5 mortality is going to be anywhere from 50 to 90
6 percent.

7 Q And, Dr. Stanton, is this injury caused by
8 trauma?

9 A By definition, it only occurs in the
10 traumatic setting, yes.

11 Q And, Dr. Stanton, as a part of procedure, when
12 Miss Watkins came in, she was transferred; is that
13 correct?

14 A That's right.

15 Q And why was she transferred?

16 A So she was seen at Pelham Medical Center,
17 which lacks -- obviously, it's not designated
18 level one trauma center. So when anybody is
19 identified as having a clinically significant
20 traumatic injury, everything sort of stops and all
21 effort is made to, in a timely manner, transfer
22 the patient to a level one trauma center.

23 Q This is standard procedure for such an injury?

24 A Correct.

25 MR. MCCOLLUM: I beg the Court's

Testimony of John Stanton, M.D. 155
1 indulgence, Your Honor.

2 THE COURT: Certainly.

3 BY MR. MCCOLLUM:

4 Q Dr. Stanton, I think you previously stated she was
5 transferred to Spartanburg Regional and she was
6 transferred because of the level one trauma center.
7 Why is that significant for an injury such as this?

8 A So trauma is a multidisciplinary approach and
9 it's not about one physician, one nurse, one
10 subspecialty. There's a lot of data out there
11 that says, if you have other entities involved,
12 things that aren't at Pelham Medical Center,
13 physical therapy, occupational therapy,
14 specifically neurosurgeons in this setting, we
15 didn't have those. So to appropriately take care
16 of the patient that's why she was transferred.

17 Q Dr. Stanton, do you know how she was transported
18 to Spartanburg Regional?

19 A By ambulance.

20 Q Thank you. Please answer any questions Mr. Keys
21 has for you.

22 THE COURT: Mr. Keys, do you have any
23 questions for this witness?

24 MR. KEYS: No, ma'am.

25 THE COURT: All right. Thank you.

Testimony of John Stanton, M.D.
Doctor, thank you for being here.

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MR. MCCOLLUM: Your Honor, at this time
the State rests.

THE COURT: All right. Ladies and
Gentlemen, we have now come to a break in the
evidence and testimony in this case. I hate to do
this because you just walked in, but I got to take
up a legal matter with the parties in this case.
So I'm going to ask you to step to your jury
deliberation room for just a moment and we'll be
calling right you back in here quickly.

(Jury exits the courtroom at 1:33 p.m.)

THE COURT: In just a moment, Mr. Keys,
I'm going to give you an opportunity to get with
either Mr. McCollum or Miss Tessitore or both
about those text messages, and then, possibly, to
get a copy of those. We need to do that fairly
quickly.

MR. KEYS: Thank you.

THE COURT: But I need to take up some
questions for you right and I need to put you
under oath to do it.

MR. KEYS: Okay.

THE COURT: So will you raise your right
hand for me. Do you swear to tell the truth, the

Testimony of John Stanton, M.D. 157
1 whole truth, and nothing but the truth under
2 penalty of perjury?

3 MR. KEYS: On my life.

4 THE COURT: Okay, very good. Okay, you
5 can put your hand down.

6 So I talked to you earlier that you have
7 a right to remain silent, and I'm sure you've
8 heard that and you know that. Even though you
9 represented yourself in this matter, you still do
10 have a right to remain silent in this matter. In
11 fact, I would tell the jury that they cannot even
12 discuss the fact that you didn't testify. They
13 can't bring it up in the jury deliberation room.
14 They can't hold it against you in any way.

15 By the same token, you got a right to
16 tell your side of the story.

17 I have to ask you this: Are you under
18 the influence of any drugs or alcohol here today?

19 MR. KEYS: No, ma'am.

20 THE COURT: Okay. You'd be surprised how
21 many people say yes.

22 And has anybody forced you or threatened
23 you to make you make this decision here today?

24 MR. KEYS: No, ma'am.

25 THE COURT: And you feel like you

Testimony of John Stanton, M.D.
1 understand your rights fully?

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2 MR. KEYS: Yes.

3 THE COURT: Okay. And are there any
4 convictions that the State would seek to use for
5 impeachment purposes against the defendant?

6 MS. TESSITORE: No, Your Honor.

7 THE COURT: Okay, sounds like it. Okay,
8 then we don't even need to talk about that.

9 And what is your decision?

10 MR. KEYS: I'm sorry? Concerning?

11 THE COURT: Oh, about whether or not you
12 will testify in the trial of this case.

13 MR. KEYS: Yes.

14 THE COURT: Okay. I thought that's where
15 we were headed, but I got to ask you. It's just
16 one of those other right actuals we do.

17 Very well then. Then what we're going to
18 do is we're going to break about five minutes or
19 so here. Let you all take a look at these text
20 messages together. And then we'll figure out a
21 way to get you a copy, but the solicitor's office
22 is saying they'll be helpful in that.

23 MR. KEYS: Thank you.

24 THE COURT: And I appreciate you all
25 doing that. Let's be in recess for five

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1 minutes.

2 MS. TESSITORE: Thank you, Your Honor.

3 THE COURT: Thank you.

4 (A break was taken from 1:36 p.m. to 1:59 p.m.)

5 THE BAILIFF: Please come to order.

6 Court is in session.

7 THE COURT: All right. So what's going
8 to happen is, I'm going to -- now that we're
9 moving to your case, I'll turn to you, and then
10 you just can say something like, I'd like to take
11 the stand, or something like that.

12 MR. KEYS: Okay. I just want to show the
13 text messages real quick, put them on the screen.

14 THE COURT: Show me?

15 MR. KEYS: No, when the jury comes back
16 in.

17 THE COURT: Oh, okay. Once you start
18 testifying, we'll figure out a way to do it.
19 Don't worry about it.

20 MR. KEYS: I want to do that now where
21 I'm focusing and it helps me, and then can we
22 proceed? I'm not trying to run it. I'm just --
23 if I could just address this and focus on -- can I
24 do mine.

25 THE COURT: Okay. So you're say you want

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1 to do that first.

2 MR. KEYS: Yes, ma'am.

3 THE COURT: And so, let me ask you this,
4 just a practical matter, do you want to go ahead
5 and set them up there on the screen, and then when
6 you're ready to show them -- because you'll need
7 thank about it a little bit.

8 MR. KEYS: Yeah, as soon as they come
9 in.

10 THE COURT: Okay. Then we're not going
11 to show them -- legally, you got to talk about
12 them a little bit before we can show them.

13 MR. KEYS: I will.

14 THE COURT: Fair enough?

15 MR. KEYS: I will.

16 THE COURT: Okay. We can maybe move them
17 around a little bit.

18 MR. KEYS: I'm going to have to scroll
19 down through a couple of them.

20 THE COURT: Okay. That sounds good. So
21 you just go ahead and have a seat right back
22 there, and then we'll --

23 MR. KEYS: That phone is going to shut
24 off.

25 THE COURT: Okay.

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1 MR. KEYS: It's on a timer and I got to
2 go back in it.

3 THE COURT: Okay. All right. So you got
4 to go back in it.

5 MR. KEYS: Unless I keep my hand on it.
6 Maybe I should hold it, because I'm just thinking,
7 it's going to -- my phone is set on a lock.

8 THE COURT: Sure.

9 MR. KEYS: And if it's not used, it will
10 go dark.

11 THE COURT: So why don't you take it on
12 the stand with you. And then as quick as you
13 want, would you mind putting it --

14 MR. KEYS: I'm fine. I'm good.

15 THE COURT: Okay.

16 MS. TESSITORE: Your Honor, he is going to
17 take the stand, right?

18 THE COURT: Right. We need you to take
19 the stand first and then --

20 MR. KEYS: I will.

21 THE COURT: Okay. We're just, sort of,
22 figuring out the logistics.

23 MR. KEYS: Why do I -- I don't want to
24 take the stand because I'm coming back first.

25 THE COURT: No, no, no. You have come up

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1 here to be sworn.

2 MR. KEYS: Oh, yeah.

3 THE COURT: Before I can let you address
4 the jury, and then you'll need to tell the jury
5 what you're about to do.

6 MR. KEYS: I've already been sworn in
7 once. I've already been sworn in.

8 THE COURT: Just for me. You have to be
9 sworn in front of the jury.

10 MR. KEYS: Okay. Okay.

11 THE COURT: Okay. Because we want them
12 to know that you're under oath.

13 MR. KEYS: But before I start my
14 testimony, can I address this first?

15 THE COURT: Okay. Now, let me tell you
16 how it's going to go. I'm going to ask you --
17 you're going to come up here, you're going to
18 stop, we're going to put you under oath, and then
19 you sit down, say what your name, even though they
20 already know.

21 MR. KEYS: Okay, got you.

22 THE COURT: And then you say, I've got my
23 phone over there and I want to show something with
24 my phone.

25 MR. KEYS: Okay.

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1 THE COURT: And you, sort of, say what it
2 is.

3 MR. KEYS: Okay.

4 THE COURT: And then we'll let you step
5 down and take care of it. Fair enough?

6 MR. KEYS: Got you. Thank you.

7 THE COURT: Yeah, yeah. All right.

8 And is the State requesting anything like
9 a lesser included offense, or anything like that?

10 MS. TESSITORE: Your Honor, I think we
11 just need to discuss that briefly.

12 THE COURT: Sure.

13 MS. TESSITORE: It also could depend on
14 his testimony as well.

15 THE COURT: Sure. Understood.
16 Understood. We're just talking about my charge on
17 the law at the end. That's all.

18 (Jury enters the courtroom at 2:03 p.m.)

19 THE COURT: Ladies and Gentlemen, I'm so
20 sorry to have kept you waiting. We had something
21 we had to take care of logistically, so to speak,
22 and that's what the hold up was. I really do
23 apologize to you. It just could not be avoided.

24 All right. The State has rested.

25 And now, Mr. Keys.

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1 THE CLERK: Place your left hand on the
2 Bible and raise your right hand. Do you swear to
3 tell the truth, the whole truth, and nothing but
4 the truth, so help you God?

5 THE WITNESS: Yes, I do.

6 THE CLERK: When you take a seat, please
7 state your name.

8 THE WITNESS: My name is
9 Mark Anthony Keys.

10 THE COURT: It seems like you're being
11 loud. Everyone does the exact same thing you did.
12 You're not. We want every one of these people to
13 be able to hear you. There you go.

14 WHEREUPON:

15 MARK ANTHONY KEYS,
16 after being sworn, testified as follows?

17 DIRECT EXAMINATION

18 MR. KEYS: Okay. So, first of all, I'm
19 going to show you some something on my phone.

20 THE COURT: Sure. That's it. Go
21 ahead.

22 MR. KEYS: First, can I say something?

23 THE COURT: Okay.

24 MR. KEYS: As I spoke to you all in
25 beginning, I was being very honest, and I'm being

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1 very honest now. My goal is to show you those
2 texts were taken out of context. I did send that
3 to her. I sent that to her. It was not meant for
4 her. And when I was going through what I was
5 going through, I was on an emotional roller
6 coaster. I'm texting my ex who I'd been with for
7 almost 10 years, nine years. And before that, I
8 was in a relationship with my baby mother, who I
9 have a child by. I've been in a relationship with
10 her for 13 years. I always been in long
11 relationships. So let me just get to that point
12 and I can show you all.

13 I'm going to start -- there is some above
14 where it says, "Until I had to beat your ass."
15 And I know when you all heard that, that didn't
16 look good and it didn't sound good. But when I
17 use the term "beat your ass," I meant mentally.
18 It's not physical. But I beat -- when we play
19 cards -- when I bring Donna in here, she's one of
20 the witnesses in the case. She's the one that
21 I've been with for 11 years. She's the one that
22 this text was meant for.

23 So my -- and excuse my language. I was
24 upset. And verbally I can be abusive with my foul
25 language, but I'm not physically abusive.

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1 This is the thing. So we start here.

2 It's like -- it says, "Until I had to beat your
3 ass."

4 THE COURT: It's just not showing.

5 THE BAILIFF: Does dimming the lights
6 help?

7 THE COURT: You think shutting the lights
8 all the way?

9 MR. KEYS: It was showing up better
10 before.

11 THE COURT: It will just take a second.
12 Let's let it refocus.

13 MR. KEYS: We had it before.

14 THE COURT: There we go.

15 THE DEPUTY: It just had to auto focus.

16 MR. KEYS: Okay.

17 THE COURT: You'll have to auto focus
18 again.

19 MR. KEYS: That's going to be hard.

20 THE COURT: There it goes.

21 MR. KEYS: So -- and part of that message
22 gets confused because it's not saying the words
23 that I'm trying to say. And sometimes when you

24 text -- I voice text message. I'm sorry. I
25 never -- geez. I got to skip to the point where

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1 it shows you where it says that this is not meant
2 for you. Can we -- I'm just going to skip and let
3 you all see that that's part of the text that they
4 left out showing you. Come on.

5 THE DEPUTY: Open it up.

6 MR. KEYS: This is not going to work.

7 (Off the record.)

8 MR. KEYS: Now, see where it says, "Until
9 I beat your ass." Right? Now, after that, I
10 would call you an A-K. That was misconstrued. I
11 don't know what I trying to say, but it wasn't
12 that.

13 Okay. Scrolling down, a lot of stuff
14 that I'm staying. "It really hurts me. I don't
15 like being mean to you because I still love you,
16 but I'm not in love with you anymore because you
17 can't be happy with someone that can't make you
18 happy." So reading that. You didn't have a car,
19 no job, no money. I understood all that. I
20 understood all that -- all that stuff. All that
21 shitty stuff I said. Went through it with you
22 after you got a car -- after you got a car and a
23 job and you had a little money, you still acting
24 like the same way over. So that's -- okay. And a
25 lot more stuff talking about our situation. "I've

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1 been wanting to leave you but I knew you had no
2 where to go, and I didn't want to put you out like
3 that because you had no money, no job, no place to
4 go.

5 Okay. See it says, but you still sit --
6 no money. But you still sitting in my -- but you
7 still sit in my head every day being -- I meant,
8 You still sit in my house every day being
9 ungrateful, bitching about something, ain't --
10 something ain't -- somebody ain't doing enough for
11 you. Here it is. And after that it says, "I'm
12 sorry. I meant that for the other crazy bitch who
13 was here before you."

14 So that whole text -- what they did
15 was -- what they did was, they -- it's a lot of
16 texts in there where I'm talking to her, but
17 that's the part that I sent wrong. All of that
18 was sent -- was meant for Donna. That was not
19 meant for her.

20 And I'm going to see if you all can see
21 the time and the date when that happened, but that
22 was before this incident. So if it brings it up,
23 it says October the 22nd. I don't know the date,
24 but it's before. This happened before that
25 incident happened to her. Okay?

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1 So what they're doing -- and she just
2 told me she eliminated it. She took that out
3 where it says, "I'm sorry. I meant that for the
4 other crazy bitch." They took that out because
5 she said, I took that out because we know that you
6 weren't talking about her. But they left the part
7 in where it says, "I'll beat your ass." That's
8 the part where I was talking to her, but they left
9 that in like I was talking to her. You see what
10 I'm saying?

11 So all they want to do is they want to
12 convince you that I'm guilty of this. In any way
13 they can do it, they will. That's their job. She
14 wants to win. That's what she's here to do.

15 THE COURT: Mr. Keys?

16 MR. KEYS: I'm done.

17 THE COURT: No, no. Mr. Keys, I just
18 want to ask you, are you done with your phone?

19 MR. KEYS: Yes, yes.

20 THE COURT: If so, I think we'll all be
21 able to hear you better from the witness stand.

22 MR. KEYS: Okay, yes. Yes, yes.

23 THE COURT: That's all I was saying.

24 THE DEPUTY: I'm going to put your phone
25 on the desk.

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1 MR. KEYS: Okay.

2 So with that being said, I never -- I got
3 to tell you guys one more thing about me. This is
4 not the first time that I've been accused of
5 something like this.

6 Okay. I don't know if you guys, if
7 you've ever been with a person who's been overly
8 jealous or vindictive, because I've been in that
9 way in a couple of relationships that I know that
10 when somebody is a very jealous person, they can
11 be very angry and very vindictive and evil. Okay?

12 MS. TESSITORE: Objection, Your Honor.
13 At this point, if he can discuss this incident --
14 I just feel like --

15 THE COURT: You know, I can't allow you
16 to discuss another incident.

17 MR. KEYS: No, I'm not.

18 THE COURT: Just talk about this one.

19 MR. KEYS: I'm not discussing another
20 incident. I've been in this before. I'm just
21 talking in general about when a person is being
22 vindictive and jealous and the things that -- I
23 don't know if you've had someone -- if you've even
24 been a victim of anyone's rage against jealousy
25 of you.

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1 But I want to make this case -- that I
2 could bring that other case up because it's
3 relevant to this to me, what happened to me and
4 what's going on now.

5 THE COURT: If it's about somebody else,
6 then no. No. Okay? We're going to talk about
7 this incident.

8 MR. KEYS: Can I -- okay. Okay.

9 So this is the thing -- I'm going to say
10 it like this. When I was coming up -- I'm going
11 to tell you guys because I'm restricted from
12 saying a lot of stuff. But when I was growing up
13 as a kid, I used to see my uncle -- not -- I would
14 see my aunt come to the house buck naked,
15 bleeding, face and lip busted. I was probably
16 five or six years old. See, that's my mother's
17 sister, because her husband used to beat her all
18 the time. She would send my father -- she would
19 send my father down there to beat him up. And I
20 would follow my father down there and watch him
21 whoop my uncle and beat him, and he would not lift
22 his hand and he would not fight back.

23 But me and my cousin -- she's only has
24 got one child and that's my cousin. And one day
25 we were riding our bikes, and I never seen him do

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1 it, beat my aunt. But that particular day I was
2 down there, he did it in front of me and my cousin
3 and he whooped her. But I remember that my dad
4 always told me, he said, a man that would beat a
5 woman won't -- a man that hit a woman won't fight
6 a man. But he's not a real man. A man that would
7 raise his hand and beat a woman is not a real man,
8 and that he won't fight. And I knew that for
9 myself because I seen that. I seen him where he
10 would just lay in the corner and let my dad whip
11 him and he would not raise his hand to defend
12 himself. But against my aunt, he would beat her
13 like -- he would beat her like a dog. And I
14 despise any man that would raise his hand and beat
15 a woman.

16 I was in Detroit. I'm from here. I
17 lived here all my life until about 28 and I left.
18 I been out to California. I lived in California
19 for two years. I lived in New jersey. I've lived
20 in Detroit. I lived in Detroit. I've lived a lot
21 of places. But I've seen --

22 I was coming back -- me and a group of my
23 friends -- let me tell you another story just to
24 make a point about who I am. I'm coming -- we're
25 coming from a restaurant and I'm walking with a

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1 group of friends. We're downtown. I don't know
2 if you know about Detroit, but drugs are very bad
3 up there and you got a lot of people on meth.

4 So I'm walking from the restaurant and I
5 see this guy and he takes this woman's head and
6 grabs her by the neck and slams her head into the
7 wall.

8 THE COURT: Excuse me. My court reporter
9 is taking down what you say. So when you turn
10 around, she can't -- part of what she's doing is
11 reading your lips.

12 MR. KEYS: And nobody -- this, at the
13 time, when I started defending her, I didn't know
14 that this man was high on -- some kind of -- I'm
15 trying to think of the name of this drug.
16 Something that made him, like, he didn't feel
17 anything. You know, when I attacked him -- we
18 all -- because it was me, three women, and two
19 more guys, so we all was getting dinner and coming
20 back. Let's get this guy. You don't feel
21 anything. I mean, he's so wired up, he's just
22 coming at us back and forth.

23 But my point is like this, I made sure to
24 myself that I would never -- I would never be that
25 person. I would never want to be like that

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1 person.

2 And I've been -- I've been accused of
3 this situation before in Michigan. I know she
4 won't let me talk. And it's right before the OJ
5 case. But this woman was the same. She was very
6 jealous. I told her I was going to leave her
7 because I know how jealous she was.

8 But, I've been a victim of an abusive
9 person. I've been in a relationship where I've
10 been abused by this person. I know how it feels
11 because I didn't realize I was being abused until
12 I was deep in it. I'm like -- you know.

13 So, I'm on very aware and familiar with
14 abuse when it comes to women or men. Sometimes
15 men are abused. And I didn't realize myself, but
16 I was in an abusive relationship. Because I would
17 go and play basketball -- I want to tell you
18 something. When I was taking my trash out --

19 MS. TESSITORE: Your Honor, I'm going to
20 object at this point. I think we're getting far
21 afield from the actual incident.

22 MR. KEYS: Yeah, we are.

23 THE COURT: We are. Just stick to this
24 incident.

25 MR. KEYS: This -- on the night, let me

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1 go back to the incident of what happened.

2 Okay. So on the night that this
3 happened, everything -- when I went to my cousin's
4 cookout, I couldn't even drive. Okay? I was
5 hurting. When she said that I had an recent
6 accident, it wasn't -- the only accident I've been
7 in was October 3rd. I had just bought a BMW 535.
8 This was my first BMW. I never had a car like
9 that before. I was proud of myself. But I'm at
10 the red light and I get hit.

11 Anyway, I had a back brace on. I
12 couldn't move. My shoulder just -- I already had
13 a previous shoulder injury, so I had ripped -- a
14 rip here. I couldn't raise my arm. This arm. I
15 couldn't raise this one. Because when I got hit
16 in the car wreck at the red light, I'm behind --
17 there's a car at the red light on Augusta. So
18 she's at the red light in front of me. This is me
19 (indicating.)

20 So she's parked at the red light and I'm
21 behind her waiting for the light to change. This
22 truck, F-150 white truck barreling, and he's
23 squeaking, and I'm hearing the brakes like
24 (indicating). And I turn and look around and I
25 see it. I look in the mirror and he's in my lane.

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1 You know, when you hear the brakes squeaking, you
2 don't know where it's coming from, so I just
3 braced. He tears me up. So I'm injured after
4 that. I have a doctor's note. I have a doctor's
5 not to show you all.

6 I was unable to fight a child back -- you
7 know, like, if a three- or four- or five-year-old
8 came and attacked me, it's like I couldn't do
9 anything because I was in too much pain. I
10 couldn't raise my arm.

11 When I went to that cookout -- when I
12 went to that cookout, I only went there because I
13 had never seen my cousin. He was 21 years old.
14 It was his 21st birthday, and I never met my
15 cousin because I was gone for 20 years.

16 So when I come back, she said, well, come
17 over. He's having a birthday party. She wanted
18 to go. I couldn't drive. I couldn't turn my
19 neck. I couldn't none of that. So she drove us.
20 She drove us over there.

21 I'm sitting back there that the whole
22 time only talking, and I just noticed that she
23 had -- she had my car keys. So she drove there.

24 I never had my keys. So this was what -- I'm
25 going to try to cut this real short.

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1 THE COURT: Okay.

2 MR. KEYS: I passed out, went to sleep in
3 the chair in the back of the cookout. I wake up
4 and I said, where's Sheila? My cousin said, she
5 been gone for about an hour and a half. She been
6 in the car because -- so I wait. Thirty minutes
7 later, she comes back. I said, Sheila, where you
8 been? She said, I just went to the store to get
9 them something, that she was out of plates. So,
10 okay.

11 I got my -- I noticed that she had been
12 drinking. I mean, she was drunk. She's showing
13 herself at the cookout. I'm like -- she's showing
14 herself. She's not wearing any panties. I don't
15 know if you ever seen a person that changes like
16 Dr. Jekyll and Mr. Hyde. It was like -- when she
17 drinks, she has a tolerance level that I have
18 never seen before. It's like, I can drink and I
19 know people who can drink, but her tolerance --
20 her alcohol level is -- it's like she's -- it's up
21 there. She can consume and consume.

22 So I said she went and came back with two
23 big bottles of vodka. I said, everybody don't
24 need to drink no more. She said I had something
25 to drink that day. I did not. I was on

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1 medication. I had stiffness and pain. Why would
2 I drink? I'm in pain from my accident, so I'm on
3 nerve relaxers. I'm on all kinds of medication.
4 I'm not mixing that with alcohol.

5 So I come there. Everybody is drinking
6 but me. So I pass out. I don't eat anything
7 because I can't even eat. I'm just so sore. I
8 pass out. When she comes back, she's got two
9 bottles of liquor. I said, you don't need to
10 drink no more.

11 So she's asking -- when she pulled up,
12 there was two guys in my car who I never seen, who
13 I later find out to be -- that they're
14 neighborhood drug dealers. They're the same two
15 guys -- they're the same two guys that showed up
16 at my bond hearing. Okay?

17 So I asked my cousin, I said, who's at
18 the cookout? She said, I never seen them guys
19 before. I said, did you invite them guys to your
20 cookout? She said, no. I never seen those guys.
21 I don't know who invited them. So those guys were
22 -- wait. Those guys -- hold on. I'm jumping the
23 story a little bit. Those guys were around,
24 actually, before she took off the second time.

25 Because the first time I told her -- now

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1 she had my keys and I took them back from her.

2 Okay? So when she came back from the second time
3 with the plates -- so the first time, she came
4 back with plates. The second time, she was going
5 to get more liquor. And that's when she didn't go
6 and tried to stop her and get my keys.

7 So there was two guys there. Nobody knew
8 who -- nobody there knew who those two guys were
9 at the cookout.

10 When she leaves, those two guys end up in
11 the car with Sheila. Not my cousin. Two strange
12 guys I never seen before. So I said -- when I
13 came out, I wanted to get my keys back because
14 she's got two men in my car that I know nothing
15 about. I mean, I'm not a jealous person at all.
16 And I will not investigate you or follow you.
17 When something comes out, I will wait and find out
18 and deal with it then.

19 But when I said, Sheila, what are you
20 doing? And I looked at her and she's not
21 responding. She's going to me like this
22 (indicating). She's got her head turned in the
23 driver's seat and she won't look at me and she's
24 going like this (indicating). And I'm a very
25 observant person. I always know. I'm looking at

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1 your eyes. I'm looking at your face. I'm trying
2 to see what's going on in there. I'm trying to
3 read your emotions. She won't make eye contact,
4 and I could tell -- when I looked at her, her eyes
5 are dilated.

6 And she had told me that she had a
7 problem with cocaine. She had a problem with
8 cocaine. And whatever I do, don't let her be
9 around any cocaine. So I knew that was a problem,
10 but I thought she was over it. I knew she was a
11 big drinker. I thought was -- I thought that was
12 in her past.

13 So, I did some investigating on the
14 street to find out who those two guys were and
15 they're known drug dealers in that neighborhood
16 and she's familiar with them. So when I started
17 getting on the street and saying, okay, do you
18 know who those two guys was? One of those guys
19 ended up dying but they have bad reputation. They
20 been known for selling drugs in the neighborhood
21 and she's got them in my car. So I know that --
22 and she wouldn't even look at me.

23 This is different from being -- when you
24 know somebody is drunk or somebody is high on
25 drugs -- she had been drinking. So when she gets

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1 so high, now she wants -- I don't know where she
2 met them guys, so I think she probably met them
3 guys when she went off the first time to get the
4 plates by herself and she come back. Those guys
5 showed up at the cookout. So somehow, if she
6 didn't bring them back to the house, she invited
7 them back and she came there and nobody who they
8 was.

9 So when I found out who those guys were,
10 they are drug dealers and she had them in my car.
11 I said, Sheila, give me my keys to my car. She
12 said, no. She said, I'm going to the store. I'll
13 be right back. I said, where you going? She
14 said, I'm going to get some more liquor. We need
15 some more. I said, we don't need no more liquor.
16 You too drunk. You don't need to drink anymore.
17 I said, if you drive, there's a chance that you
18 could get pulled over, you could get in an
19 accident, or anything because you under -- she was
20 out of it. So when I look at her, her eyes are
21 dilated. And I said, Sheila, don't do this. And
22 I begged her, because I could see it. It was
23 almost like deja vu to me. It's like I knew that
24 this going somewhere bad. Because I'm not in the
25 physical shape to even restrain her. And I just

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1 kept myself in shape. I've been in good shape all
2 my life, except this accident. I don't eat meat.
3 I exercise. I don't -- I try to live right. But
4 what I'm saying is, I wasn't in no shape. I
5 couldn't pull her out of that car.

6 So this is what happened. I said,
7 Sheila, get out of the car. She said, no. I
8 said, this is my car, which -- it was a rental car
9 because I had just rented a car and I couldn't
10 even drive it because I couldn't turn my neck
11 anyway. So it's sitting in my yard every day
12 until she would come down there and then we get in
13 that car and we would drive around. But the thing
14 being that -- so she said, no, I'm not getting out
15 of the car.

16 Those two guys, when I talked to them, I
17 said, get out of my car. They got out the back
18 seat. One was in the front seat, one was in the
19 back. They got out. They left.

20 Now it's just me and her. Now it's just
21 me and her and she's still not wanting to get out
22 of the car. So I said -- she said, well, I'm
23 getting out of the car. I'm leaving.

24 So they're walking down the street. She
25 starts walking behind them, but she's got my keys

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1 in her pocket because of the kind of car it was.
2 Like, you know the remote start. You don't -- you
3 have to push the button. You don't need the key
4 in the ignition. So she jumps out of the car and
5 walks down the street. I looked at the guys, I
6 said, come back because she's still got my keys,
7 she's got my keys. Come back. Just give me my
8 keys. I said, don't do this. I'm begging you. I
9 said, I know what you're going to do. I said,
10 you're going to get high. I know you're going to
11 get high. No, I'm not. No, I'm not. I don't
12 know the guys. I said, why was those guys in my
13 car? She just went, I don't know. I said, what
14 do you mean you don't know? They in my car. She
15 could not answer the question. I said, well, who
16 are these -- why are they in my car? She would
17 not answer. She just -- and she won't look at me.
18 So the whole time I'm standing there, she's got
19 her head turned like this (indicating).

20 Finally, after a long time talking to
21 her, a long time talking to her she said, okay.
22 She said, okay. Let's go. She said, let's go
23 home. We get in the car.

24 Now, mind you, we was fussing because
25 they came out. They heard us. They heard us

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1 around there, so when they came out -- all my
2 cousins, everybody came out. They saw the
3 condition she was in. They saw how I was. Nobody
4 seen nobody hit nobody. That's why none of them
5 are here today because there was none of that
6 going on.

7 We argued and when I -- and I cursed and
8 I said, I can't believe you. I said, I can't
9 believe as much as you been through to get where
10 you at now, you're going to go back, you're going
11 to fall back, you're going to go down this hole.
12 And she just said -- and she was begging me to let
13 her go. And I said, Sheila, if you go -- and the
14 only thing I did when she went, I said, please get
15 in the car. Please get in car, and I begged her,
16 and she got in the car. She went back. I said,
17 if you don't want to stay with me -- I said, if
18 you don't want to stay with me when you back to my
19 house, you can leave. That's what I told her. I
20 said, just get me back home. Just get me back
21 home.

22 As soon as she got back home, I said --
23 she was so far gone. I said, Sheila, don't leave,
24 don't get in the your car because you're
25 intoxicated. It's not that I wanted her to stay

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1 there. I didn't want her to leave because I
2 figured if she got in that car, she would probably
3 die because she was that intoxicated, plus I know
4 she was trying to go get high. I was like, okay,
5 I begged her.

6 So I first got there -- that part is
7 true. I did tell her, I said, I want you to get
8 your stuff and get out because I was still mad
9 that she had those guys in my car, so I'm going
10 back and forth with my feelings about it. I'm
11 angry, but I see -- but I've seen this before, so
12 I'm trying to save my friend who I'm in love with
13 at this time, who I care about.

14 Because I'm like this, when I love
15 somebody, I love them with all my heart. Just
16 like, I'm your friend to the end until you show me
17 different and I'll stand behind you, even when I
18 know you won't. And I'm trying to help her. It's
19 not about me. It's trying to save my friend from
20 going down this wrong way, what you're doing. And
21 she was just like, just let me go. I'm like, no.

22 So -- and it wasn't forceful, because I
23 couldn't forcefully restrain her. She willingly
24 came back into my house.

25 So she had her stuff. I said, Sheila,

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1 come back inside. She had her bag. She came back
2 inside. If I was going to kidnap her, I would
3 have took her keys so she couldn't leave. She had
4 her keys in her car the whole time.

5 I didn't make her take off her clothes.
6 Why would I? I couldn't even have sex. I was too
7 much in pain. I couldn't perform sex. Why would
8 I want her naked, for what reason? I was in too
9 much pain. Sex was the last thing on my mind. I
10 don't need her naked. And for me to climb and get
11 on top of her shoulders so I could put my knees on
12 her shoulders, for what purpose? She said we
13 didn't have sex after that. We didn't do
14 anything. I just put my knees on top her chest
15 and try and restrain her, for what purpose?
16 Because she said I wouldn't leave.

17 So what she did, she waited until --
18 because I'll go back home because I'm upset and I
19 need some more pain pills. My pain level went and
20 shot back up real high, because I'm like -- my
21 adrenalin level is so high. It's like my pain is
22 kicking back in again because this stuff is going
23 on. So I take some more nerve pills and pain
24 pills and I pass out and I go to sleep. I wake up
25 thinking she's -- I look up and she's gone. And

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1 that's all that happened. She's gone.

2 Oh, this is another thing. When she got
3 to the cookout, she had already looked like she
4 had been -- she didn't look like nothing in those
5 pictures. Nothing in those pictures when she left
6 me. I do remember when she came back from the
7 store -- you know somebody when they wipe their
8 nose, and she had like a little red line like
9 this. I said, it looks like you been in a fight
10 with somebody. I said, what have you been doing?
11 Because when she left, she came back and her hair
12 was like -- her hair was all wild and looked like
13 she tried to fix it, but it just looked like she
14 been in an altercation with somebody.

15 So I'm looking at her, and I'm standing
16 outside the car and I said, Sheila, please get out
17 of the car. Just get out of the car. So she
18 looked at me real quick, and nod like this
19 (indicating). There ain't no way I'm going to let
20 her continue -- because she can't even have enough
21 attention to focus -- to look at me in my eyes and
22 focus on me. But this is -- anyway.

23 When she left -- oh, this is why. She
24 had this -- I was like, you got blood coming off
25 here. No bruises, no red, her face was kind of

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1 red a little bit. It wasn't really red, but she
2 just look like she was upset about something. I
3 then I looked and I seen like a little red line,
4 and she had wiped her nose. I said, what have you
5 been doing? What's been going on? And she said,
6 nothing. She won't tell me. I said, well, you
7 look like you been in a fight. You look like
8 you've been scuffling with somebody. She said,
9 no, I'm fine. I'm good. That's the only thing I
10 know. She left house -- if she was in that
11 condition, anything like that, I would have took
12 her to the hospital myself. I would have took
13 her.

14 But the next day, when she sent me those
15 pictures, I'm telling you, I cried because I was
16 like, oh my God, oh my God, oh my God. But I
17 didn't do that to her. And I'm like, oh my God,
18 we had an altercation, but it was not physical.
19 It was not physical.

20 And if I did that to her, I'm telling
21 you, I been here every day, they know, for a year.
22 They been trying to get me to do a plea deal, so
23 they know. She asks me --

24 MS. TESSITORE: Your Honor, I'm going to
25 object at this time. I think the plea

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1 negotiations are irrelevant.

2 THE COURT: That's not admissible. Okay.
3 You can't talk about that.

4 MR. KEYS: Twenty people at the cookout.
5 My cousins own the house. They was there.
6 Everybody -- I talked to my cousin. I said, did
7 the prosecutor interview you? She said, yes, they
8 talked to me. She said yes. Everybody there?
9 Yes. I said, nobody subpoenaed you all to come to
10 court? No. No? My cousin, when she said that,
11 no subpoena, because they know what happened.

12 And I brought her back to the cookout.
13 We had an altercation -- the reason why I left to
14 come back because the first time they actually
15 thought we were out there fighting. I said, no,
16 we're not fighting. She won't get out of the car.
17 She won't get out of the car. She won't get out
18 of the car.

19 Oh, this is another thing too. Before
20 she got out of the car, she tried -- she almost
21 tried to back up because she didn't want to get
22 out of the car. I didn't want to forget. Because
23 I'm trying to reach in and get the keys out of the
24 ignition so she can't leave. The key is not in
25 the ignition. They're in her pocket. I hit the

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1 button, the switch that turned off the car.

2 That's how I reached in there.

3 She grabbed me. She grabs me around my
4 neck. She grabs me. So I'm reaching in the car
5 to cut the car off and to try to grab the keys,
6 but the keys not in there because you don't
7 need the switch -- you don't need the keys, so I
8 cut the car off. She starts the car back up and
9 starts to back up.

10 The doors open and I'm between the door
11 like this, the door jam on the car, and she's
12 backing up. I say, stop, stop, stop. I'm yelling
13 at her to stop, stop, stop. She stops the car.

14 So anyway, like I said, we make a -- I
15 brought her back to the house because after
16 that -- after that incident, once I got her out of
17 the car, out of the driver's seat and we left, I
18 said take me back because I didn't know how --
19 this was the first time me being at my cousin's
20 house. And when I went over there, I'm in the
21 passenger seat and I'm not watching how I get over
22 there, because I'm just -- I'm in pain. I'm just
23 like -- and I don't really pay attention to how we
24 got there.

25 So when we leave the party, I said I will

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1 go back and let them know that you're okay --
2 you're okay, I'm okay. You know, we had an
3 incident at my cousin's house and I didn't want to
4 leave like that, because I was like embarrassed
5 that all this stuff was going on with her and
6 myself, and embarrassing my cousin at her place,
7 at her house when she's having a birthday party
8 for her son.

9 So I'm like -- we just got in the car and
10 left without staying goodbye or anything, so that
11 was my reason for wanting to come back and say,
12 hey, okay, you know, listen, I'm sorry this
13 happened. I'm sorry that, you know, this
14 occurred, and stuff like that. You know, there's
15 no -- you know, that we okay, she's okay, I'm
16 okay. We're just -- I'm going to get her home. I
17 have to get her home. She said, I understand.
18 Take care of your business. Get her home, because
19 she saw her. That she shouldn't have been behind
20 the wheel. She shouldn't have been driving
21 because she was tore up.

22 So, I mean, that's all -- and that's all
23 I know. That's what happened.

24 I'm just trying to let you know that --
25 and that's why I didn't take the lawyer because I

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1 been through this thing before and I had a public
2 defender before this -- this was before the OJ
3 case happened.

4 MS. TESSITORE: Your Honor, I'm going to
5 object at this time based on the time constraints
6 and relevance.

7 THE COURT: We're, kind of, going far
8 afield. We need to stick with this.

9 MR. KEYS: Okay. But I had no -- when
10 they brought all those cops up here and wasting
11 time with lawyers.

12 THE COURT: Go ahead. No, sir. Come on.
13 Go ahead. Finish up.

14 MR. KEYS: Finish up, okay.

15 So, basically, the only reason I'm here
16 today is to let you guys know that I'm being
17 totally honest. And if I felt that -- if I lost
18 my temper -- and I never did -- if I lost my --
19 they're trying to make it seem like I'm the kind
20 of guy that in that one moment, in that little
21 short instance that I lost my temper and I went
22 berserk, if that's the case, if I had that short
23 of a fuse and that short of the temper, this would
24 have would have risen up in my relationship of
25 13 years with my baby mother who's out there

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1 (indicating).

2 I have three girls also. I have three
3 girls. Two in college. Okay? I have another
4 one -- and all my wives have been Caucasian except
5 for one. I've been dating white women since I was
6 in the fifth grade. My first girlfriend wrote me
7 a letter to check this box here if you like me.

8 THE COURT: Mr. Keys? We really --

9 MR. KEYS: I'm very well familiar with it
10 -- that -- my brothers told me -- I'll make this
11 real short about I'm aware of this. I know I'm
12 digressing. You don't know where I'm going. But
13 I'm making this point to say this: I've been
14 aware of dating Caucasian women all my life, and
15 Donna can attest to that. Donna can attest to
16 that. I've been with Donna nine years, almost 10,
17 and she can tell you I never lifted a hand on her.
18 I never raised a hand on her.

19 When I get angry, I get a foul mouth. I
20 will curse. I admit to that. I know I get angry.
21 But when I'm angry, I'm verbally angry. When I'm
22 angry, I don't punch. I don't kick. I don't hit.
23 I don't do that. You know, I don't do that. So,
24 that's not my personality.

25 Now, I'm just trying to make sure -- when

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1 I call her up, she can attest who I am.

2 Oh, here's another thing. My baby
3 mother, prosecution called her -- which I haven't
4 seen my baby mother in probably 10 years. Okay?
5 We have a child together, but it's not because --
6 anyway.

7 So she's trying to call her and get her
8 to say something. They wanted to fly her down
9 here and she said, I have nothing bad to say about
10 him because he has never hit me. He has never did
11 anything to me. I was with her 13 years. So if
12 I'm that kind of person that loses -- in any
13 relationship, you guys know, every relationship is
14 going to have fights and go up and down in their
15 relationship how they are. But in all my
16 relationships, when I have 13 years with my baby
17 mother, and 10 with her, and another one with the
18 other two girls that's in college, I was with
19 their another five years and she had a brain
20 aneurism.

21 MS. TESSITORE: Your Honor. I'm going to
22 -- I'm sorry to interrupt --

23 THE COURT: Go ahead.

24 MS. TESSITORE: -- but I'm going to have
25 to object at this point. We're getting into

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1 prior --

2 THE COURT: Mr. Keys?

3 MR. KEYS: Okay, I'm done. I'm done.

4 I'm going to come down, but I'm going to wrap this
5 up. I'm wrapping it up now.

6 THE COURT: Okay. Here we go. Okay.

7 MR. KEYS: So I know that this -- when I
8 have -- this don't look good for me. If I was
9 sitting with you all, I'd probably say -- every
10 show I ever watched, the person on the other side
11 always look guilty. But trust me, I would do
12 anything except put my life on the line. It's
13 just not who I am. It's just not who I am.

14 I am my father's son. All right? And
15 the whole time at home, my father has never hit my
16 mom. And I grew up in a neighborhood where my
17 father was the only man that came home. I grew up
18 in a neighborhood where no other kids out there
19 had their father. All the kids in my neighborhood
20 looked up my father because he came home every
21 day. But I ain't -- you know, I respected father
22 for that. But I respected my father because I
23 used to see my mom -- my mom shot my father in the
24 back. My mom, she stabbed --

25 THE COURT: Mr. Keys, we're really going

1 far afield.

2 MR. KEYS: And I'm finishing. You said I
3 could finish.

4 THE COURT: I want you to stick to this
5 incident. Okay? You're kind of going off on a
6 tangent or two.

7 MR. KEYS: Okay. I do.

8 But I'm just trying to build something
9 with them that shows who I am, because the
10 prosecution is making me seem like a bad guy and
11 that's not who I am. That's why I took this case
12 myself because I know when you get an attorney
13 they want to protect you. And I know it's
14 probably 50 percent chance I'm missing what I'm
15 doing right now, but I was, like, who better to
16 say who I am and what I am better than me. And I
17 just want to convey that to you all, I am not
18 that. If I was anything like that, it would have
19 risen up in my past before now.

20 This is because -- and I had this three
21 other times. This woman, another woman, and three
22 times in my life that these women have accused me
23 of being violent. And this is the only one that
24 really tried to come here and trying to make that
25 stick. The other two know different. One other,

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1 she took me to court and I won. I won that case
2 with proof.

3 But that's it.

4 THE COURT: Hold on. Before you leave,
5 Mr. Keys, is the State going to have any questions
6 or anything?

7 MS. TESSITORE: Just very briefly,
8 Your Honor.

9 THE COURT: Okay.

10 MS. TESSITORE: If we need to take a
11 quick break --

12 THE COURT: No, no, no. I'm just -- just
13 go right ahead, whatever you feel like you need to
14 do.

15 MR. KEYS: I'm a lot of things, but I'm
16 not a woman beater.

17 THE COURT: Okay.

18 MR. KEYS: I'm done.

19 THE COURT: That's okay. Now, the
20 State -- just to let you what's going to happen --
21 the State gets to ask you some questions, if they
22 want to, very briefly.

23 Okay.

24 CROSS-EXAMINATION

25 BY MS. TESSITORE:

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1 Q Okay. Mr. Keys, I'm going to, as the judge said,
2 I am going to be brief. I would just ask you to pay
3 attention and we'll get through this.

4 My first question to you is: You brought
5 your cell phone over there and you projected it and
6 you wanted the jury to know about this text message
7 that the State did not include in the text messages
8 between you and the victim, Sheila Watkins, correct?

9 A Yes.

10 Q Okay. So you admit that all these text messages
11 were in that phone, correct?

12 A Uh-huh.

13 Q And, in fact, you were looking at the same text
14 messages that are here, that are in your phone,
15 correct?

16 A Uh-huh.

17 Q Okay. So that one text message that you were
18 concerned about, that you wanted to talk about and
19 have the jury see, that was not intended for
20 Sheila Watkins, the victim in this case, correct?

21 A It wasn't just one text message. It was all
22 the text messages that led up to that point.

23 Q Okay.

24 A See, they're in there together. The other
25 parts are hers, because I sent them to her.

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1 Q Okay.

2 A But that part that's starts it, that's the
3 mis-text.

4 Q Okay. So that text was referring to -- that was
5 supposed to be sent to Donna Hilgard.

6 A Uh-huh.

7 Q Okay. And Donna was your girlfriend right up
8 until the time that you met and started dating Sheila,
9 correct?

10 A She's the -- this is the only reason that
11 Sheila came into my life because we was having
12 problems. When --

13 Q Okay. We don't need to get into those problems.
14 Just very briefly --

15 A So we broke up. So we broke up.

16 Q Okay. So when you said at the end of that text
17 string, "I'm sorry. I meant that for the other crazy
18 'B' who was here before you" --

19 A Uh-huh.

20 Q -- you were talking about Donna, not Sheila.

21 A Uh-huh.

22 Q Okay. I'm glad we clarified that. Thank you.

23 All right. And then I just wanted to draw
24 your attention to, on the 22nd of October, when
25 Deputy McHail came to your door and knocked on the

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1 door to talk to you about what had happened at the
2 party -- do you remember that?

3 A A female.

4 Q Yes, that's right. She was a female officer.

5 A I remember her.

6 Q That's right. So you remember her talking to
7 you?

8 A Yes.

9 Q Okay. Do you have a pretty clear memory of that?

10 A I think so.

11 Q Okay. Do you remember telling her that the reason
12 that Sheila had these marks on her face was because
13 she said she had been jumped by three girls? Do you
14 remember telling the investigator that?

15 A Uh-huh.

16 Q All right. And those were the only details you
17 gave at that time, correct?

18 A No.

19 Q Okay. Well -- but you said that she related that
20 she had been jumped by three girls.

21 A Yes.

22 Q Is that correct?

23 A Yes.

24 Q Okay. All right.

25 Now, moving on, so you admit that this

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1 family cookout that you went to -- this was with
2 your family, correct?

3 A Uh-huh.

4 Q All right. And there was drinking going on?

5 A Uh-huh.

6 Q You brought your girlfriend, Sheila Watkins?

7 A Uh-huh.

8 Q It was your rental car.

9 THE COURT: Please said yes or no.

10 THE WITNESS: I'm sorry.

11 THE COURT: It's okay.

12 THE WITNESS: I'm sorry. Yes.

13 BY MS. TESSITORE:

14 Q It was your rental car?

15 A Yes.

16 Q And, as you said, you were embarrassed, correct?

17 A About what?

18 Q Well, you testified that you were embarrassed
19 about the way that Miss Watkins was behaving at the
20 party?

21 A Oh yes. Oh yes. Most definitely.

22 Q I mean, disrespected you in front your whole
23 family?

24 A And herself.

25 Q And herself. And was defiant when you told her

1 not to go?

2 A Yeah.

3 Q And you were trying to protect her?

4 A Yeah.

5 Q Okay. I mean, like you said --

6 A I mean yes.

7 THE COURT: It's okay.

8 THE WITNESS: I'm sorry. Yes.

9 BY MS. TESSITORE:

10 Q So you were trying to protect her. And even in
11 your experience you've seen a woman beaten at the
12 hands of a man.

13 A Uh-huh.

14 Q And you saw that woman being beaten like a dog,
15 right?

16 A Uh-huh.

17 Q So is that where you learned how to beat a woman?
18 I mean, you were exposed to a lot of that it sounds
19 like.

20 A How I learned to beat be a woman or be a
21 woman? I thought you said how to be a woman.

22 No, come on. Get out of here.

23 Q Okay.

24 A Is that how I learned how to beat a woman?

25 Q Yes.

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1 A I thought you'd have a better question than
2 that for me. Come on. Come on.

3 Q Okay. So you don't want to answer that
4 question?

5 A How am I -- ask me that question one more
6 time. State it.

7 Q Well, I just wanted to go -- I'll use your words.
8 This uncle of yours beat your aunt like a dog. He
9 whooped her, right?

10 A Uh-huh.

11 Q Okay. And you saw that?

12 A Uh-huh.

13 Q You saw the beating?

14 A Yes. I saw my aunt -- I only saw it once. I
15 used to see the result after it happened.

16 Q Okay. And you saw her get whooped.

17 A I only seen it one particular time. That one
18 particular time, yes, I did.

19 Q Okay. So my question for you was: Is that where
20 you learned how to beat a woman?

21 A But I've been telling you, just like I told
22 them since I walked in here, I'm my father's son.
23 I have never -- I don't believe in what happened.
24 I don't believe in it. I never laid my hand on a
25 woman. I do not believe in hitting a woman. It's

1 not in me.

2 Q Okay. So no whooping?

3 A No whooping.

4 Q No beating?

5 A Listen, my problem is, when I get mad, I will
6 whoop you verbally. Verbally with my, stupid B,
7 stupid this. That's why you see it up there in
8 the text. It's bitch, bitch, because my mouth is
9 foul. I got a foul mouth when I'm pissed off.
10 I'm a very -- you get very -- this, not this
11 (indicating).

12 Q Okay. And I think one of your texts even says
13 you're a lover, not a fighter, right?

14 A Yeah.

15 Q Okay. And you were just trying to take care of
16 Sheila Watkins that night, right? Is that your
17 testimony today?

18 A I don't want her to be found somewhere from a
19 DUI, overdose, or whatever happened to her because
20 she should not have been behind the wheel.

21 Q She was tore up?

22 A Yeah. And I drove back. Like I said, I
23 drove back from that cookout to the house.

24 Q Okay. I thought you testified that she drove back
25 because you couldn't drive.

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1 A I couldn't drive to get there. But after
2 what happened, I had no choice because I wasn't
3 going to let her drive. You see what I'm saying?

4 Q So you let her drive?

5 A No. I said I drove.

6 Q Oh, you drove. Okay.

7 A I drove from the cookout. She was in the
8 passenger seat. She already had testimony that I
9 was driving. She's trying to say I hit her the
10 whole time while I'm driving the car. But that
11 never happened.

12 Q And your testimony is that you were not drinking
13 at all?

14 A No, ma'am.

15 Q You were just taking pain pills?

16 A Yes.

17 Q Okay. And did the pain pills intensify your
18 emotions?

19 A No.

20 Q No?

21 A No. Because, actually, I didn't take them
22 before I went to the cookout because I wanted to
23 stay awake because they make you drowsy.

24 Q Okay.

25 A So that day I said I'm not going to take

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1 them. Because the last time we went to the
2 cookout, I took my pain medicine. And at the
3 cookout, I passed out. But passed out anyway
4 because I hadn't eaten for three or four days
5 after my accident.

6 Q So you --

7 A I couldn't eat.

8 Q So just to clarify, were you taking the pain pills
9 at the party, before the party, or that day?

10 A Not at the party. Because that day I didn't
11 take any of my pain -- she said, don't take them
12 because right before -- I had took some earlier
13 that morning. But by the time we went to the
14 cookout, I had quit taking them. I had quit
15 taking them because they make me drowsy.

16 Q Okay. So you weren't taking the pills and you
17 weren't drinking at the party. You were just there to
18 have fun.

19 A I didn't take them when I went to the party.
20 As soon as I came back home, I did.

21 Q Okay.

22 A So that day, I had took some -- I had took
23 some earlier in the morning when I got up, but I
24 didn't take no more that day or in the afternoon.
25 Then we went to the cookout probably 4:00 or

Testimony of Mark Keys

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1 5:00.

2 MS. TESSITORE: I think that's all I got
3 as far as questions. Thank you.

4 THE COURT: Thank you.

5 All right, Mr. Keys.

6 All right.

7 MR. KEYS: Can I say one more thing
8 though?

9 THE COURT: Sure, go ahead. Have a seat,
10 though, so we can hear you on the mic. Here we
11 go.

12 REDIRECT EXAMINATION

13 MR. KEYS: This -- we're here because she
14 -- she -- like I said before, she is a very
15 vindictive woman. I've met women like that before
16 because I had three incidents where I met very --

17 THE COURT: Stick to this one.

18 MR. KEYS: -- vindictive, evil woman that
19 like to bring you down, destroy you, have you
20 locked up for something you didn't do just because
21 they're mad at you. Okay?

22 I'm the first to admit, when I -- I'd do
23 anything to fix it. And I'm standing up behind it
24 and I'd tell you if I did that, we wouldn't be
25 here today. You guys wouldn't be here because I

Testimony of Mark Keys

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1 would have took a plea deal, or something.

2 Whatever I do to make amends for what I did. I
3 don't mind doing that because I fucked up. And
4 I've been a man long enough to accept that point.

5 But I refuse to take a plea deal for
6 something that I know in my heart that I didn't
7 do. I know in my heart that I'm innocent. That's
8 why I'm here like this. Anything like that. I
9 wouldn't be wasting my life fixing it. You know,
10 I'm 53 years old, I'm risking going to jail for 30
11 years, 20 years.

12 THE COURT: Hey, Mr. Keys?

13 MR. KEYS: Okay.

14 THE COURT: Okay.

15 MR. KEYS: I just want you all to know
16 that.

17 THE COURT: Thank you, sir.

18 Mr. Keys, are you going to call any other
19 witnesses?

20 MR. KEYS: Donna.

21 THE COURT: Okay. Ma'am, if you'll come
22 forward and be sworn, please.

23 THE CLERK: Do you swear to tell the
24 truth, the whole truth, and nothing but the truth,
25 so help you God?

Testimony of Donna Hilgar

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1 THE WITNESS: Yes, ma'am.

2 THE CLERK: When you take a seat, please
3 state your name.

4 THE WITNESS: Donna Hilgar.

5 THE COURT: All right. Mr. Keys.

6 WHEREUPON:

7 DONNA HILGAR,
8 after having been sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. KEYS:

11 Q So, Donna, you probably can tell these people a
12 lot about me as -- you know, not better than I can,
13 but as good you can, you know, because you've known me
14 for -- tell them how long you've known me.

15 THE WITNESS: May I just speak freely?

16 THE COURT: Well, you just answer his
17 questions.

18 THE WITNESS: Okay. I met Mark December
19 of 2010 where we worked. He worked third shift.
20 I worked first. I met him there.

21 We started being together in 2011. Mark
22 has never, ever, ever put his hands on me. He has
23 never threatened to hurt me. He has never
24 threatened to cause me bodily harm, whatsoever.

25 I have previously been in an abusive

Testimony of Donna Hilgar

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1 relationship with my ex-husband and with another
2 man that I dated several years after that, so I
3 know what being in an abusive relationship is
4 about. And had Mark been abusive to me, I would
5 not be there for him, even today, as I sit here
6 today.

7 He provided me a home when I could not
8 provide for myself. When I was sick, he would
9 take care of me. He provided food for me. He
10 provided clothes for me. It was for a while that
11 I did not have a job and didn't work, and he took
12 care of everything there. He helped me get a car
13 and I was able to find a job after that.

14 BY MR. KEYS:

15 Q Who bought the car?

16 A Mark did. He bought the car for me, and he
17 also paid for my insurance until I could get on my
18 feet financially.

19 Q Okay. And this was even in the midst of while we
20 was having --

21 MR. KEYS: She was having a very hard
22 year.

23 THE COURT: Ask a question.

24 BY MR. KEYS:

25 Q Okay. Can you tell them about the state of mind

Testimony of Donna Hilgar

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1 that you was out of work and going through and the
2 reason why -- me, the purchase of my land, the person
3 I was trying to buy land and why you was out of work
4 for so long -- and get to the point of how we broke
5 up.

6 THE COURT: Let just see where it goes go
7 ahead.

8 THE WITNESS: I was out of work for a
9 year. I am the type person I do not like to be
10 dependent on anybody. I like to make my own
11 money. You know, work every day. I am not a good
12 stay-a-home person.

13 So, with me being out of work for about a
14 year and no way to go anywhere, except walking --
15 there weren't very many stores around. I couldn't
16 walk to the store, you know, so I didn't have a
17 way to get out and do anything, so I'd get -- I
18 got cranky. I got evil. I was very short
19 tempered. Everything bothered me because I could
20 not get out and be among people. I was at home
21 all the time. I don't know if any of you are
22 stay-at-home moms, or stay-at-home people, but I
23 like to work.

24 Mark and I, we would argue. He was
25 working 12 hours a day to help provide for me, and

Testimony of Donna Hilgar

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1 I didn't -- I wasn't always as grateful as I
2 really should have been. I was so mad at myself
3 and I had so much disgust for myself because I
4 wasn't working, so I took it out on him. Okay?
5 Verbally. I mean, we both have verbal
6 altercations. Okay? So we weren't getting along.

7 And that's why I chose -- when I got my
8 own money and my car, I chose to move out because
9 we weren't getting along. It wasn't good for him.
10 It wasn't good for me. And that's the only reason
11 I moved out of the house.

12 BY MR. KEYS:

13 Q Okay, let me stop you right there.

14 A I'm sorry.

15 Q That's fine. Would you tell them -- would you
16 tell them -- other than that, would you tell them what
17 started our fights? Like, if you don't remember --

18 MR. KEYS: It was almost a year before
19 she moved out.

20 MS. TESSITORE: Objection, Your Honor.

21 MR. KEYS: I'm sorry. I got you.

22 THE COURT: Sustained.

23 MS. TESSITORE: Thank you.

24 BY MR. KEYS:

25 Q Would you tell them, you know, how it come up,

Testimony of Donna Hilgar

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1 like, to go to the bar?

2 A I was very jealous of Mark.

3 MS. TESSITORE: Objection, Your Honor.

4 This is really --

5 THE COURT: This is really not relevant
6 to this particular situation. Now, I understand
7 the breaking up period. I allowed that because
8 that was relevant to it. But your relationship
9 with this lady is not necessarily relevant to
10 this. Okay? Let's go on and ask some other
11 questions.

12 MR. KEYS: Well, I'm trying to get her to
13 talk about -- it, kind of, wasn't to my
14 character --

15 THE COURT: She already did.

16 BY MR. KEYS:

17 Q So, many times, like you said, we had many
18 arguments, right? Many times?

19 A Many times.

20 MS. TESSITORE: Your Honor, again, I'm
21 going to object.

22 THE COURT: What's your question here?
23 Just ask your question. Go ahead.

24 MR. KEYS: Okay.

25 BY MR. KEYS:

Testimony of Donna Hilgar

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1 Q Have you ever -- have I ever, ever did anything
2 violent to you physically?

3 A No.

4 Q Did I ask you to come here today and testify for
5 me?

6 A No. I got subpoenaed from the prosecutor.

7 Q So the reason why you're here today is because she
8 asked you? She subpoenaed you to come here, right?

9 A Yes.

10 Q How long have we -- how long have we got -- when
11 did we get back together?

12 A We started getting back together probably in
13 January, February. We were working on things.

14 Q You got to tell them around about the time that
15 this incident went on. Like, you know what I'm
16 saying?

17 MR. KEYS: I'm not trying to lead her.
18 I'm just trying to -- talking about --

19 THE COURT: In relation to this incident,
20 how soon did you and the defendant get back
21 together?

22 THE WITNESS: I really didn't get back
23 until he went to jail. He reached out to me, and
24 I helped him there, you know. And then when he
25 got out in December, we started working on things

Testimony of Donna Hilgar

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1 there.

2 THE COURT: Okay.

3 BY MR. KEYS:

4 Q One more thing. When did I tell you that my --
5 that was almost a year before you broke out of -- it
6 was almost a year before I was able to get up the
7 money and to help you get the car and you moved out
8 because you were there for a year, right? Will you
9 tell me some of the things that I told you about what
10 would bring our relationship to a head?

11 MS. TESSITORE: I'm going to object, Your
12 Honor, as far as this would be hearsay.

13 THE COURT: She's right about that.
14 She's right about that. I think we covered that
15 you got her a car and did some very nice things
16 for her, and she's talked about your character.
17 Is there anything else you want to ask her?

18 MR. KEYS: Okay. Yeah, you're right.

19 No.

20 THE COURT: Okay.

21 MR. KEYS: I think we're good.

22 THE COURT: Okay. All right. Anything
23 else for this witness at all?

24 MS. TESSITORE: Just very briefly,
25 Your Honor.

Testimony of Donna Hilgar
CROSS-EXAMINATION

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1

2

BY MS. TESSITORE:

3

Q Miss Hilgar, how did Mr. Keys get here today?

4

A I drove him.

5

Q Okay. You drove him here today?

6

A Yes.

7

Q And you said he provided you a house, a car, and helped you when you were down and out, right?

8

A Yes.

9

Q Okay. And do you remember when we spoke on the phone a couple weeks ago and you told me helping Mark was your main goal?

10

11

12

A No. I told you I would not say anything bad against him because I did not have anything bad to say against him, period.

13

14

15

Q Okay. You don't remember telling me that that was your main goal?

16

17

A That's not my main goal.

18

Q Okay. But helping Mark is important to you.

19

A Helping Mark is important to me because I know what kind of person he is, and I know what kind of character he has. And I know that

20

21

22

everything that I heard here is totally not what I know.

23

24

Q Okay. And you didn't know this victim?

25

Testimony of Donna Hilgar

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1 A No.

2 Q And had you ever seen the pictures of the victim's
3 face?

4 A Not until I came to court today.

5 Q So you didn't see what the defendant did to her?

6 A I saw that the pictures that someone did
7 something to her.

8 Q Okay. You weren't there.

9 A That's what I told you in the beginning.

10 Q Okay.

11 A I was not there, so I cannot contribute
12 anything at all to this because I wasn't at the
13 party. I wasn't even near the party. I was at my
14 own house. So I cannot contribute anything to
15 what is being said here. All I can tell you is
16 that Mark is a good guy.

17 Q Okay. And you respected him and cherished him, it
18 sounds like?

19 A I do.

20 MS. TESSITORE: Okay. All right. No
21 further questions. Thank you.

22 THE COURT: We're good?

23 MR. KEYS: I want to make sure because
24 this is new territory for me.

25 That's it. You know, if I could say

1 something --

2 THE COURT: Wait one second. Ma'am, you
3 can step down.

4 THE WITNESS: May I get some water first?

5 THE COURT: Please go right ahead.
6 Please do.

7 And, Mr. Keys, in just a moment -- in
8 just a few moments, just to let everybody know
9 what's going on -- if you need a break, you let me
10 know -- but the prosecutor is going to get up and
11 give a brief closing argument and be able to talk
12 directly to the jury, and then it's going to be
13 your turn to talk directly to the jury.

14 MR. KEYS: So I get a closing statement?

15 THE COURT: Oh, yes, sir. Of course.
16 And she does get the last word. She gets to
17 reply. That's the way the law says. She gets a
18 brief reply, and that's what we're moving to now.

19 Is everybody doing okay or do you need to
20 take a break? Everybody okay?

21 Now, listen, at any point you need to
22 take a break, you just let me know. Okay?

23 Anything else?

24 MS. TESSITORE: Your Honor, I just need
25 to take a very brief break before we go into

Testimony of Donna Hilgar

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1 closings.

2 THE COURT: All right. I think that
3 might be a good idea. I'll let you step to your
4 jury deliberation room for just a moment, and then
5 we'll be straight back.

6 (Jury exits the courtroom at 3:08 p.m.)

7 THE COURT: Mr. Cofeild, would you ask
8 Miss Gaulden to step out for just a moment,
9 please. A juror, Gaulden. Miss Gaulden.

10 All right. Are we going to do anything with
11 lesser includeds or anything like that?

12 MS. TESSITORE: Yes, Your Honor. I think
13 assault and battery 1st degree is a lesser
14 included.

15 THE COURT: All right.

16 All right then. Let's take maybe a
17 five-minute break. Just everybody get your
18 thoughts together for five minutes. Fair enough?

19 All right then.

20 (A break was taken at 3:08 p.m.)

21 THE DEPUTY: All rise.

22 THE COURT: You all please be seated.
23 Please be seated.

24 Listen, before we bring the jury back in,
25 one of them needed to call -- another one needed

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1 to call and make some arrangements about their son
2 getting a ride to work, so that's what we're
3 waiting on right now.

4 But, Mr. Keys, just to, kind of, give you
5 an update and let you know what's going on, just a
6 minute ago, I asked the State if they wanted me to
7 charge any lessor included offenses. So -- and
8 the testimony in this case -- well, you were
9 originally charged with assault and battery of a
10 high and aggravated nature. A charge that's
11 included in that, for instance, if the jury were
12 to find you not guilty of assault and battery of
13 high and aggravated nature, there is a charge
14 assault and battery in the 1st degree. It carries
15 up to 10 years. And the difference is that it's a
16 accomplished by means that are likely to produce
17 death or great bodily injury, or that the act
18 occurred during the commission of a burglary,
19 robbery, kidnapping, or theft, which is different
20 from assault and battery of a high and aggravated
21 nature and that would be that great bodily injury
22 does result, not just that it could happen, but
23 that it does result, or that it's accomplished by

24 means that are likely to produce death or great
25 bodily injury. So you're charged with the more

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1 serious one.

2 They ask to also charge the jury on the
3 lesser included, and I think there is at least
4 some evidence upon which a jury could base a
5 verdict on that.

6 Is there anything you want to say?

7 MR. KEYS: Yes. I don't understand that
8 because, if I'm not guilty of one, how am I guilty
9 of the other one?

10 THE COURT: Okay. And that's a good
11 question. The difference being, they could
12 conclude not -- they could conclude that you
13 assaulted her and battered her, but that it did
14 not produce great bodily injury.

15 So the only difference in the two
16 being -- now, you're saying you're not the one who
17 did it.

18 MR. KEYS: Uh-huh.

19 THE COURT: So -- but they're saying, you
20 know, the jury might not believe that this
21 subdural hematoma is great bodily injury, so
22 they're asking for a lesser included.

23 MR. KEYS: That doesn't make any sense.

24 THE COURT: I got you.

25 MR. KEYS: I'm just here for -- if you

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1 charge me for lesser -- wait. First of all, that
2 doesn't make sense to me to find me guilty of a
3 lesser charge if you get me on the first one.
4 Because if you find me of not guilty of doing
5 this -- of doing this, how can I cause her any
6 injuries?

7 THE COURT: Uh-huh.

8 MR. KEYS: You know, I either did this or
9 I didn't do this.

10 THE COURT: Okay. And this is a legal
11 distinction between the two charges and it is a
12 legal thing. Again, not to keep bring it up, it's
13 something a lawyer probably could explain to you a
14 little bit better. But just to say, if the jury
15 found -- and I'm not saying they're going to --
16 but if they found you did this --

17 MR. KEYS: Uh-huh.

18 THE COURT: -- then they might find that
19 you didn't cause great bodily injury, but that you
20 used force that could have caused great bodily
21 injury. So does that make sense?

22 So, in other words, it would give you the
23 option of a lesser charge. Does that make any
24 sense?

25 MR. KEYS: Yeah, it's kind of hard.

Testimony of Donna Hilgar

1 THE COURT: I know. I know. And I'm
2 going to be honest with you, in my criminal
3 classes in school, in law school, it took me a
4 long time to kind of get the situation.

5 MR. KEYS: Because that's kind of like,
6 well, if we can't get you on this one, we'll get
7 you on the next one.

8 THE COURT: Well, not exactly the same
9 thing, but I can see how you would say that.

10 MR. KEYS: Judge, it's --

11 THE COURT: All right. Is our jury
12 ready?

13 THE BAILIFF: Yes, ma'am.

14 THE COURT: Does the State --

15 MR. KEYS: Because if they found me
16 guilty of it -- I understand not being guilty -- I
17 understand not being guilty of the higher charge,
18 but I shouldn't be guilty of a lesser charge if
19 I'm not being -- if I'm not found guilty of
20 hurting her. You see what I'm saying? I didn't
21 lay a hand on her.

22 THE COURT: I understand. And I
23 understand that's your defense.

24 MR. KEYS: Yeah.

25 THE COURT: I got you on that.

Testimony of Donna Hilgar

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1 MR. KEYS: Okay.

2 THE COURT: As I said --

3 MR. KEYS: I also want to ask you
4 something, I forgot this, but I do have a doctor's
5 note showing that I was out with my injuries at
6 that time, and how long I was out of work, and
7 that was during the time that I was over at the
8 cookout.

9 THE COURT: If the State doesn't have any
10 objection, I'm going to let him show the jury that
11 closing.

12 MR. KEYS: Stating that my injuries were
13 true, that I couldn't physically -- I could not
14 physically fight.

15 THE COURT: I understand. You went over
16 that, and you're going to have an opportunity --

17 MR. KEYS: I have doctor's note excusing
18 me out of my job that I -- out of my work that I
19 done for six years. I'd been on my job for six
20 years.

21 THE COURT: We're good.

22 MS. TESSITORE: Can I just look at it,

23 Your Honor?

24 THE COURT: Just let her take a look at
25 it first. Does the State think that you'd need to

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1 argue any longer than five to 10 minutes at the
2 closing argument?

3 MS. TESSITORE: I think 10 to 15,
4 Your Honor.

5 THE COURT: Let's take 10 minutes. Let's
6 put a limit at 10 minutes.

7 MS. TESSITORE: Both sides?

8 THE COURT: Yes, yes.

9 MS. TESSITORE: Okay.

10 THE COURT: And then we'll limit reply
11 to, like, three or four. Between three and five
12 minutes.

13 MR. KEYS: Your Honor, and could I show
14 these, my car wreck, the injuries and how severe
15 they were?

16 THE COURT: No, no, no. You testified.
17 You don't need to go into all that. Okay? You
18 testified about that, and you got the doctor's
19 note. We're good.

20 MR. KEYS: I just wanted to show them
21 that I wasn't trying to play her. I'm not trying
22 to say --

23 THE COURT: Do you have any objection to
24 him showing those photographs of his car?

25 MS. TESSITORE: I do. It's just going to

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1 confuse the jury.

2 THE COURT: Let's do this --

3 MS. TESSITORE: This, I have no
4 objection.

5 MR. KEYS: How is this going to confuse
6 the jury?

7 THE COURT: Hey, hey, hey. We're not
8 having an open discussion here.

9 MS. TESSITORE: You want to mark that as
10 a defense exhibit?

11 THE COURT: Yes, we'll mark it.

12 (DFT. EXH. 1, Letter from Doctor, was
13 marked and entered into evidence.)

14 MR. KEYS: This is only to show that I'm
15 not claiming any --

16 THE COURT: How about this, pick you're
17 best one and I'll let you show one.

18 MR. KEYS: One picture?

19 THE COURT: Okay. I'm not going to let
20 you introduce it into evidence, but I'll let you
21 show it during your closing statement. Your
22 closing statement is limited to 10 minutes.

23 MR. KEYS: Can I show it to you?

24 Because, listen, I got sandwiched, see? That's
25 why my injuries are so severe.

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1 MS. TESSITORE: Judge?

2 THE COURT: If I just let you show these
3 too to the jury, will you promise me that you will
4 stay on point, please?

5 MR. KEYS: I got you. I got off. I
6 understand.

7 THE COURT: And, Mr. Keys, I really do
8 want to tell you, I got to commend you. You have
9 really surprised me today. I think you've done a
10 good job. And you've really surprised me, but I'm
11 trying to keep you focused --

12 MR. KEYS: I know.

13 THE COURT: -- because I don't want the
14 jury --

15 MR. KEYS: I know. And I can see it in
16 their faces, it's like, come on with it. I got
17 off track a little bit. I'm just trying to --

18 THE COURT: I know. Your mind is going
19 faster than your mouth can.

20 MR. KEYS: Yeah.

21 THE COURT: And I understand that, but
22 they need to hear what you got to say, and we got
23 to get this done.

24 MR. KEYS: I understand.

25 THE COURT: So I'm going to give you all

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1 both 10 minutes. It's a pretty simple case.

2 MR. KEYS: Okay.

3 THE COURT: And then they'll get a short
4 reply. And then I'll read my charge on the law
5 and then they just sort it out. That's the way it
6 will go.

7 All right. Will you bring the jury back
8 in?

9 (Jury enters the courtroom at 3:27 p.m.)

10 THE COURT: You can show it to them.
11 It's okay. It's okay. You've worn me down.

12 MR. KEYS: I told you.

13 THE COURT: To our alternate, you
14 probably heard the news, you're one of 12 jurors
15 now. We had a situation where one of your jurors
16 got a message from home and she needed to leave.

17 All right. We are now ready to go to
18 closing arguments. I've talked it over with both
19 parties. And just so that you know, I don't know
20 if you all like me, but, if I know how long my
21 preacher is going to preach, it seems shorter. So
22 I'm going tell you that they said they'll argue 10
23 minutes. Mr. Keys is going to argue 10 minutes.

24 And then very briefly, just two to three, four
25 minutes that the State can reply.

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1 And then we're going to move to my charge
2 on the law. I anticipate it will take about
3 15 minutes, so I'm going to take longer.

4 Go ahead. Yes.

5 MS. TESSITORE: May it please the Court?

6 THE COURT: Yes.

7 MS. TESSITORE: Mr. Keys, Ladies and
8 Gentlemen of the Jury, I appreciate your patience
9 today. It's been an interesting day.

10 And, as you heard in the beginning, this
11 case is about two different crimes, which is
12 assault and battery of a high and aggravated
13 nature and kidnapping. And you heard and you will
14 hear more about the law. My co-counsel explained
15 the elements of the law, and that's what the judge
16 is going to give you again before you go to
17 deliberate so it's fresh in your mind. And I
18 think the main thing is, as the judge said, this
19 is not a complicated case.

20 The interesting thing about this case is
21 that this is not a stranger to stranger crime as
22 you heard a lot about today. This is an incident
23 that happened between two people who were friends
24 first, and then they were romantically involved
25 for a short time. And so, you know, there's a lot

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1 of, kind of, traditional ideas or expectations
2 that you might have of a victim. And in a
3 situation like this being beaten and kidnapped and
4 what should she have done, you know, what would
5 you do, things like that, I would ask you to just
6 remember that, as you heard the victim testify,
7 she had never been in this situation before.
8 She's never been beaten.

9 And so -- and this is, again, the
10 perpetrator, this defendant, is somebody that she
11 trusted, that she got along with, and when this
12 happened, it completely shocked her. But as soon
13 as it happened, it was over. And you're going to
14 see that in the text messages. She ended the
15 relationship. No ands, ifs, buts about it. She
16 saw Mr. Hyde, Dr. Jekyll and Mr. Hyde. That's
17 Mr. Hyde, right there. That's who she saw that
18 day.

19 MR. KEYS: Can I object?

20 THE COURT: Just -- you'll have your
21 opportunity to argue.

22 MR. KEYS: I know, but I'm objecting
23 because she's name calling. She's calling me
24 Dr. Jekyll and Mr. Hyde. I couldn't do that to
25 her.

Testimony of Donna Hilgar
THE COURT: Overruled. Overruled.

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1
2 Overrule. Okay? She's -- you're going to have
3 your opportunity.

4 Go ahead, Miss Tessitore.

5 MS. TESSITORE: So she ended the
6 relationship. And that right there gives her
7 instant credibility in this case.

8 Ladies and Gentlemen, kidnapping, as you
9 heard, is to unlawfully seize or to confine or to
10 carry away by any means whatsoever, to abduct or
11 to take by force or by violence, to take a person,
12 essentially, against their will.

13 Now, the State you're going to hear that
14 long list of possible ways that a person can be
15 kidnapped. And I think we all do have those
16 traditional notions that there's duct tape,
17 there's closets, there's, you know, certain things
18 that is make up a kidnapping. There must be a
19 child. I know you're smart enough to hear the law
20 and figure it out, but a lot of traditional
21 notions of kidnapping, it's very simple.

22 In this case, did the victim in this case
23 feel free to leave, did she feel free to leave
24 from the cookout when she was being beaten and
25 pulled out of the car and then put back in the

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1 car. And then later when she got to the house of
2 this defendant, did she feel free to leave. She
3 did have a possible escape route when she thought
4 she could leave, and then she was pulled back in.
5 Did she feel free to leave when he told her to
6 strip. Maybe that's why he told her to strip, so
7 that she wouldn't run out the door.

8 Clearly, there is no allegation that he
9 tried to force himself on her sexually or any way.
10 That's not involved here. The victim has never
11 alleged that. She just came to you today to tell
12 you the truth about what happened.

13 So, as far as the elements of kidnapping,
14 the question is: Was she free to leave at those
15 points in time -- any of those points in time?
16 You can believe that the kidnapping was only at
17 the cookout, or it was only at the house, or that
18 it was a continuous event. It's for you to
19 determine because you are the finders of facts.
20 But when you apply that law and ask yourself, did
21 she feel free to leave, and you look at those
22 pictures, and you read these text messages, these
23 text messages will answer that question. She did
24 not feel free to leave. And he didn't want her to
25 leave or to feel free to leave until she did one

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1 thing, until she finally said, I'm sorry for being
2 defiant and disrespectful and all the things that
3 he accused her of doing. And you will see all of
4 that in these text messages.

5 As far as assault and battery of a high
6 and aggravated nature, that's just an unlawful
7 injury. I think we can just look at the pictures
8 and see that we have an unlawful injury. She did
9 not ask for this. She did not consent to it and
10 say, beat me. This was an unlawful injury that
11 was done to her.

12 The question for you, Ladies and
13 Gentlemen, is whether -- under the statute, either
14 the State has to prove that there was great bodily
15 injury or that the actions that caused that injury
16 were likely to cause death or great bodily injury.
17 That's why we brought the doctor.

18 So the doctor that saw her first and made
19 the decision about the protocol and what should
20 apply, he reviewed what was having, what he saw,
21 the testing, and he made the determination that
22 she had a subdural hematoma, which is a brain
23 bleed in layman's terms. And that brain bleed, if
24 it had gone undetected and she went to sleep, she
25 might not have woken up. That's one of the

1 possibilities.

2 And so just the fact that this -- the way
3 that the blunt force trauma, the way he beat her
4 in the head and caused that brain bleed, causing
5 her to have, you know, some of the symptoms that
6 she described, and you can see the external
7 damage, you just can't see the internal, but that
8 is what the State contends meets the standard of
9 great bodily injury, or the likelihood of great
10 bodily. So you don't have to actually find that
11 she had great bodily injury, just the likelihood
12 of it. And that's what the doctor testified right
13 on point about. So we can answer that question
14 real easy.

15 Now, Ladies and Gentlemen, as you know,
16 you have the evidence that you will take back to
17 with you to the jury room, and this is the
18 photograph evidence, which you've already seen.
19 You can look at that again. You will have a copy
20 of the text that was taken at the hospital when
21 the initial responding officer took that. And
22 then the text messages that Investigator Perry
23 talked about which were taken straight from the
24 victim's phone.

25 The defendant admits these are text

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1 messages that he sent to her, to her number.

2 There's no question about that. He owned that.

3 And those text messages, Ladies and Gentlemen, are
4 going to answer so many questions.

5 I did not -- we did not read those to
6 you. We do not have them, you know, up on the
7 screen because we would have been here all
8 afternoon.

9 But what I want to do is just briefly
10 highlight for you that the admissions that he made
11 the day after -- and they went on all day from
12 1:30, I believe it was -- excuse me -- 10:30 in
13 the morning, the first text that she gets when she
14 wakes up, looking like that, is, "Answer the
15 phone. Happy Birthday, Baby. I love you." It
16 was her birthday the next day.

17 So his claim today that he meant for all
18 these messages to go to the other crazy lady that
19 he -- that's how he described her in his text --
20 makes no sense because this all corresponds to the
21 events as they unfolded on October 20th.

22 "Answer the phone. Do you still love me?
23 Answer the question. Get your ass back down here
24 so I can see you."

25 She says, "You will never see me again.

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1 Leave me alone." So she is very clear.

2 He says, "Come now or never come again."

3 Gives her an ultimatum.

4 "Oh, you don't have to worry," she says,

5 "It's never again."

6 And then you'll see that all the

7 highlighted texts that you will have back there to

8 read or all from this defendant, Marcus Keys,

9 sending them to her, begging her to come back.

10 "Don't play with me. Come on, Baby. Why are you

11 acting like you don't want to be with me? Bring

12 your ass back here, Baby. Tell me why you don't

13 want to talk to me."

14 She says, "We have nothing to talk

15 about."

16 He says, "If you want me to leave you

17 alone then all you got to do is talk to me. Why

18 are you afraid to do that?"

19 This is why she was afraid, Ladies and

20 Gentlemen.

21 "I know you miss me and you want to see me."

22 She says, "I told you, when you acted

23 that way before, if it happened again, I was done.

24 You took it further by putting her your hands on

25 me. I will not be with anyone who is abusive in

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1 any way." That's what Sheila Watkins told him in
2 this text.

3 And he said, "I wouldn't be abusive if
4 you wasn't taking my f-ing property against my
5 will. Learn something from that 'S'," blank,
6 blank, "and grow from it. So I put my hands on
7 you. I had a reason."

8 So the best thing about these text
9 messages, Ladies and Gentlemen --

10 MR. KEYS: I didn't say that.

11 MS. TESSITORE: -- is he is going to tell
12 you --

13 MR. KEYS: She said that to me.

14 MS. TESSITORE: He is going to tell you
15 the reasons why he whooped her, why we beat her.

16 MR. KEYS: I object. That's not true.

17 THE COURT: Overruled.

18 MS. TESSITORE: "Doing what the "F" you
19 want, when you want to do it, hardheaded, that's
20 your f'ing problem. That's the reason you got
21 your ass whooped."

22 Then he says -- even though he testified
23 here today that he was not drinking at that party
24 because he was taking pain pills, he says, "All
25 you had to do was respect what I said when I told

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1 you don't go." That corresponds with the
2 testimony. "Don't go." "And you still talking
3 like you don't f'ing understand that. I'm just
4 whipping your ass because I got drunk and got mad.
5 That's just been abusive when you got your ass
6 whooped for something you ain't do. You got your
7 ass whooped for something you did." It's pretty
8 clear.

9 She says, "I accept that and I learned.
10 I want you to leave me alone. We are done."

11 He later says, "We've both been drinking
12 and doing dumb "S" the other person." Again,
13 referring to alcohol.

14 She tells him -- excuse me. He says,
15 "Just how I was last night, you don't never have
16 to fear me as long as you respect me."

17 And she says, "I said I was sorry last
18 night, but it did no good. You still keep hitting
19 me repeatedly."

20 He says, "Now I'm done with that bullshit
21 because you wouldn't f'ing tell me the truth why
22 you did what you did." He says --

23 She says, "I told you last night I was
24 being defiant because I could. If that's not good
25 enough, I don't know what else to tell you."

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1 He says, "I'm still trying to figure out
2 who the "F" you thought you was last night and who
3 the "F" I was because you have both of us F'd up
4 last night. You were way of pocket last night for
5 willing to defy me and take my car against my will
6 when I said no, knowing that would just piss me
7 off. Dangerous games you like to play." These
8 are his words.

9 He says, "You only f'ing said that after
10 I had to beat it out of you, and that was at the
11 end of the f'ing night after I laid down." That
12 corresponds with when they got to the home and
13 when she said she was fine, she was sorry. She
14 knew that's what he wanted to hear. And then he
15 laid down, took his pain pills, and he was done.
16 And he says, "You finally said it."

17 Finally, "You still mad at me? You did
18 what you did trying to be defiant. You crossed
19 that line. Playing dangerous games. You put
20 yourself in a dangerous situation by taking
21 something that wasn't yours. And I told you
22 without a doubt, don't take my f'ing car to the
23 store. You put yourself in a dangerous
24 situation." He says, "You don't know how much I
25 love you, enough to beat in your f'ing ass for

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1 playing with my emotions. You should know never
2 play with my emotions because they will intensify
3 when we been drinking."

4 Finally, "You just know, take me serious
5 when I say something and I mean what I say and I'm
6 going to stand behind it."

7 MR. KEYS: Your Honor?

8 MS. TESSITORE: "If you play with my
9 mind, that's disrespect. It's the same hurt I
10 feel when you openly disrespect me in front of
11 everybody at that party." So there he explains
12 it. It wasn't just the disrespect. It was that
13 embarrassment that he talked about in front of his
14 family.

15 And, finally, "I'm about to check your
16 ass real quick. You talk to me all wrong. I
17 won't let you talk to me like that private. Damn
18 show I ain't going to let you get away with that
19 in public, and it was my family cookout. You was
20 asking for your ass whooping." "Don't let this
21 one time change. You been with me, you never been
22 scared. We were both drunk. I'm a danger to be
23 around. You think that I'm a danger to be around.
24 We were both drunk and took it too far." "I'm a
25 lover not a fighter" And he actually says, "This

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1 was heat of passion, drunken rage. I'm so sorry.
2 I do love you so much. It was the alcohol and my
3 feelings. They don't mix. Don't play with them.
4 That's the wrong combination." And then he says,
5 "You can't go to work anyway."

6 This is why she couldn't go back to work,
7 because her head was blown up like a football.

8 "You can't go back to work. We might as
9 well recover together. I'll take care of you like
10 I always do."

11 Ladies and Gentlemen, right there -- and
12 the last text is right here. You probably seen
13 that already. You've read that.

14 It comes down to credibility. And I ask
15 you this question: What would Sheila Watkins
16 possibly, possibly have to gain by coming in here
17 and bearing her soul and telling you how she was
18 beaten? She was ashamed about it. She was
19 embarrassed about it. She had never -- nothing
20 like this had ever happened to her before. What
21 possibly would she have to gain by making this up?

22 And the defendant wants to point to, oh,
23 she was doing cocaine, she was doing all these
24 other things. He's a victim. He wants you to
25 look at everything else. And all you need to do

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1 is look here at these text messages and see, he
2 explains every reason why he beat her like a dog.
3 She was defiant, she was disrespectful, and she
4 was playing dangerous games.

5 Thank you.

6 THE COURT: All right. Mr. Keys.

7 MR. KEYS: Now, what she said -- what she
8 said sounded very, very bad. I meant it, because
9 I just heard everything you guys said.

10 The day before that cookout, two days
11 ago, when my cousin -- I have female cousins.
12 This goes to the cookout. I said two days before
13 there was another gathering cookout.

14 MS. TESSITORE: Objection, Your Honor.
15 He is testifying, and we would ask that he be
16 limited to what already has been presented.

17 MR. KEYS: I'm not testifying.

18 THE COURT: You got to stick to what you
19 testified to here. You can't go beyond that.
20 Your closing argument is what you testified to.

21 MR. KEYS: That's what I'm doing.

22 THE COURT: No. You're going into an
23 incident that we've not heard about.

24 MR. KEYS: When?

25 THE COURT: It sounds like. You're

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1 saying a couple of days -- a cousin.

2 MR. KEYS: Yeah, because she was
3 referring -- she was referring to that -- she was
4 referring to the time when I first -- there were
5 two cookouts in that week. That's what I was
6 saying.

7 THE COURT: All right. All right. Let's
8 move on.

9 MR. KEYS: The cookout -- the first
10 cookout when I first got out of the hospital, I
11 didn't take anything. So at that first cookout --
12 this is my cousin. They're both sisters. My
13 first cousin -- my first female counsel, we go to
14 her cookout, which is her son's birthday. And
15 then both sons' birthday a couple days ago. So
16 we're going to this birthday party. His birthday
17 party, I don't take any of my pills. I'm
18 drinking. I didn't pass out from drinking.

19 So another girl is there. She puts me in
20 the car and takes me home like that.

21 MS. TESSITORE: Objection, Your Honor.

22 THE COURT: You're testifying to
23 something -- you're up here speaking to this jury
24 about something you didn't testify to. You're
25 limited to what was presented in court. Okay?

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1 MR. KEYS: Okay. But I'm trying to
2 address that she's confusing those texts -- she's
3 confusing these -- she's confusing these people
4 with what was in the text messages, but it didn't
5 occur like that. It didn't occur like that.

6 What occurred -- what occurred at the
7 first cookout when we went to it, I drank and I
8 drank socially. I am not an alcoholic. But being
9 that I'm injured and I didn't eat, and I didn't
10 eat before I went to it. I had a little bit to
11 drink. They can attest to that. I passed out. I
12 knew I did then.

13 Because she was -- she's very insecure
14 about herself and about being around other females
15 in a setting. And I didn't realize this until we
16 got like that. I hadn't seen it. I hadn't seen
17 it but one time at the park.

18 See, because when I worked --

19 MS. TESSITORE: Your Honor, I am going to
20 object and ask that he argue from the facts that
21 have been presented based on the actual incident
22 that happened in this case.

23 THE COURT: Mr. Keys, I don't want you
24 lose your closing argument privileges.

25 MR. KEYS: And I don't either.

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1 THE COURT: Stick to what you testified
2 to here today. You can't go into any other
3 incidents.

4 MR. KEYS: No, no. But listen, it's not
5 about what I testified to. What she said in her
6 closing argument --

7 THE COURT: Mr. Keys?

8 MR. KEYS: I understand. Let me say
9 this.

10 THE COURT: Mr. Keys?

11 MR. KEYS: Yes.

12 THE COURT: I'm going to say, you can say
13 there was another cookout and something else
14 happened and this is all a mistake, which is what
15 you were saying. That's it. It's time to move on
16 from that.

17 MR. KEYS: Right.

18 THE COURT: Now, move on. You can't
19 testify. You can't stand here and testify to new
20 material.

21 MR. KEYS: No, no. I wasn't doing that.
22 I was stating the facts in her closing arguments,
23 what she's trying to convince you all. And I'm
24 saying that that looks very bad, and I know. But
25 what I'm saying is, they're using that to screw

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1 you guys. My mouth is bad.

2 But even -- when we got into it -- when
3 we got into it at home, she was jealous about me
4 flirting -- she thought I was flirting, because
5 the only guy there was me. There was my cousin,
6 and there was three of her girlfriends there.

7 So the problem with that, there was
8 one -- she thought that those three girls there
9 was liking me. And I'm the only guy there.

10 So my cousin, he's 21. Both of them 20,
11 21, two days apart. A couple days apart, three,
12 four, maybe four apart. So that was the incident
13 that I got drunk and I passed out, because I only
14 had little bit and I hadn't ate and they gave
15 some -- I usually don't drink liquor. I'm a beer
16 drinker, but I took it and I passed out.

17 Before I know it, she -- I said, what
18 happened? Why did you leave? And why -- while
19 she's backing out of the driveway and she's
20 leaving, she's telling me, you looking at all --
21 you going to do this, you're going to do that with
22 them. No, I'm not. If they were saying from me,
23 it wasn't like that. I wasn't flirting with me.

24 So the argument that we had, she's
25 insecure about me flirting with my cousin. I

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1 wouldn't do that. I got you with me. I wouldn't
2 flirt in front of your face, but she felt like she
3 was -- that I was.

4 THE COURT: Mr. Keys. Move on.

5 MR. KEYS: Okay. So I said, I don't
6 remember what happened. Because I said -- this is
7 my point. I said, I remember that little bit. I
8 said I had been drinking, you had been drinking.

9 But the other stuff that she's saying
10 that she's making up, it's like it was not about
11 that. And whatever happened, that I say in those
12 texts, led up before this -- before this incident,
13 before this day. And they're trying to tell you
14 that this happened.

15 So the next day she called me. I don't
16 even realize -- when she's saying that -- and
17 after this happened, I wasn't realizing that I was
18 set up. See, because when I woke up the next day,
19 I felt bad about what I did. Because I'll tell
20 you, I was fouled mouthed and she knew -- we got a
21 lot of friends in common, because we got that bar
22 that she goes to.

23 MS. TESSITORE: Your Honor, I'm going
24 object at this point again for the same reasons.

25 MR. KEYS: For the same reasons?

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1 THE COURT: Stick to this incident.

2 Stick to your testimony. Okay? I really want to
3 let you finish. You got five minutes left.

4 MR. KEYS: Okay.

5 THE COURT: You spent half of it on this.

6 MR. KEYS: Okay. I'm trying -- I'm just
7 trying to address -- I'm just trying to address
8 some of the things that she said in the closing
9 statement. And I could hear that, and I know
10 that's weighing heavy on you guys. That sounds --
11 that sounds legitimate.

12 But when I woke up -- that's the only
13 thing -- I'm trying to combat that. I'm trying to
14 answer that because it's not true.

15 So when I woke up the next morning --
16 when I woke up the next morning, I felt bad about
17 all the violent things I said to her, calling her
18 -- and being nasty saying you're trash and you
19 this. Because I know I said -- I didn't feel like
20 I did enough as being a friend that when she's off
21 the wagon, when she's going down the wrong road,
22 that I should have been more considerate because I
23 seen her going down the wrong road and I seen her
24 making the wrong story.

25 But then, at the same time -- yeah, I was

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1 guilty of that. I was being -- I was being like
2 selfish about it. She was embarrassing me at the
3 party. She was embarrassing herself, and she was
4 doing a lot of things that I can't tell you that
5 she did at that party because they won't let me
6 tell you about her because it would damage her
7 character. But I'm telling you, I'm restricted
8 and you guys are restricted when you --

9 THE COURT: Mr. Keys?

10 MR. KEYS: I'll come down.

11 Okay. So you're only hearing how it's
12 presented, but it was not like that.

13 So the next morning I called -- the next
14 morning I called. I felt -- I felt like -- I felt
15 like shit. Because I said, I'm going to tell
16 everybody. I'm going to tell everybody what you
17 did. And I was -- I didn't say that in the text.
18 I was saying that on the way home.

19 When she was saying that I was slapping
20 her and beating her, it took everything to focus
21 because I couldn't use both hands. I could only
22 probably use -- this one hurt too, but I only
23 drove with this one hand. So they're telling you,
24 I'm driving with this arm that I can't move. I
25 got x-rays that I could show you that I have torn,

1 ripped muscles.

2 So they're telling you, while I'm driving
3 this car with this arm, that I'm doing this and
4 driving, beating her and smacking her and driving
5 home. There's no way. I would have wrecked and
6 crashed that car. When the pain got inflicted is
7 not at the house -- not at the cookout, but during
8 the drive home. During the drove home that I was
9 beating her. I never laid a hand on her at the
10 drive home.

11 What I did do, I was very foul. I was
12 cussing, like, you stupid bitch. You stupid. I
13 can't fucking believe this in front of my family,
14 in front of -- I was giving her the business. I
15 tell you, I was really giving her the business.
16 After all that, my pain had gone up and kicked in,
17 I started -- I woke up and, you know, it's like, I
18 can't fucking believe you doing this. I can't
19 fucking believe this. I can't believe you're
20 doing what you're this. I can't believe you're
21 doing this to yourself.

22 I was standing -- I'm mad that she
23 embarrassed me, but I was mostly mad that she was
24 letting herself go back down this road again. So
25 when I said, you embarrassed me, yeah, I meant

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1 that too. But I more meant it -- I more meant it
2 for the fact that you're allowing yourself to go
3 down this road again and you see what it's doing
4 to you, and you just want to do it.

5 And as far as the kidnapping part, when I
6 -- she got in that car. I didn't force her. I
7 couldn't physically force her. So when we came
8 back to the house, if she felt any danger while --
9 like she said, if I hit her going down that road
10 and driving, when we came back to the house -- and
11 she's at my cousin's -- there's still 20 people
12 there at the residence. That's a house full of
13 people.

14 We go back in the backyard, we sit there
15 probably about another ten minutes before we leave
16 and let everybody know, we cool. She's sitting
17 there and she even -- no.

18 Actually, she goes inside the house with
19 my cousin, Mary-Sue. My cousin, Mary-Sue. So I'm
20 sitting outside and she's in there probably five,
21 ten minutes with her. If she was that scared of
22 me, she could have easily had my cousin call the
23 police or stay there with her and say, don't let
24 me go back out. She actually went back inside the
25 house with my cousin. She stayed in there

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1 talking, and she said, you all can work everything
2 out. You all can work everything out, like that.

3 So when we get back in our car -- we get
4 back in my car and we go home, and I drive her to
5 my house.

6 So if it was kidnapping, she wouldn't
7 have -- I had drove out leaving the cookout,
8 beating her down the street, actually come back to
9 the cookout, she would have been -- she would have
10 been bloody, bloody nose. If I did what she said,
11 they said I balled my fist up and punched her in
12 her jaw and beat her -- I pull back in my cousin's
13 house, and show them that we weren't out there
14 fighting. Because when they came out at first,
15 they said, what's going on, what's going on? I
16 said, she won't get out of my car. They tried to
17 get her out of the car. They tried to get her out
18 of the car. She wouldn't get out of the car. I
19 said, you all go back. I got this. I said, you
20 all go back. I didn't want everybody to really
21 see it. I'm very proud. I didn't want everybody
22 to see her like that. I didn't want people to see
23 her like that. So I'm embarrassed all the way
24 around.

25 But -- so when I do get home, I'm like,

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1 Sheila, don't leave. You don't need to leave.

2 You're too intoxicated. And I think she's been --
3 she's been doing something, drugs. But like I
4 said, when she's --

5 I forgot to tell you, when she's talking
6 about when the police came by my house, I said two
7 girls -- what happened to her nose -- I forgot to
8 tell you all this. My mind is going a hundred
9 places. And she said, oh, I went to the QT and I
10 seen some girls and we got into an argument and
11 fist fight about it. I don't know if she said
12 fist fight, but she said, we got into an
13 altercation about something. I said, you all had
14 a fight? She said, no, I'm fine. Don't worry
15 about it. I left her alone because I'm trying to
16 get her out from under the wheel of the car.

17 Finally, she gets out of the car and lets
18 me in the seat and I go home.

19 But, like I said, if this punching and
20 all this altercation happened during that time,
21 when we pulled up to my cousin's house, they would
22 have seen that. And one thing about my cousin,
23 she loves me, but she would not -- she would not
24 -- she would not take my side. She would not take
25 my side if she know that I was beating her. She

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1 would tell me I'm wrong. I know my cousin. I
2 been raised with her. She would say, you wrong.
3 And she would have -- she would have the police
4 come out to her house.

5 And if she was to come out there, she
6 would take her, my cousin, to the hospital. She
7 would say, you're not going back in that car with
8 him. She would have kept her there because I know
9 my cousin. And I know that any person that got
10 beat like that, they wouldn't have got back in
11 that car with me.

12 THE COURT: Mr. Keys?

13 MR. KEYS: Okay, I'm done.

14 THE COURT: We just need to bring --

15 MR. KEYS: Wrap it up.

16 THE COURT: Wrap it up.

17 MR. KEYS: So if I'm this violent person,
18 I'm beating her down the road, bringing her back
19 to the house, why would she get back in the car
20 the second time, when we already left one time and
21 we come back, why would she get in the car with me
22 one more time if she feels like I just beat the
23 shit out of her. I just beat the shit out of her,
24 why would she get -- why would you back in the car
25 with me? That don't make sense. She got back in

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1 the car with me because she know that that didn't
2 happen.

3 And the thing was, the next morning, I
4 get up, I'm like -- I'm feeling so terrible about
5 being vulgar, about being -- and losing my temper.
6 I did. I lost my temper, but it wasn't in a
7 violent way. It was in like -- you know, I was
8 degrading her, not physical. I was talking down
9 to her. And I felt like shit. I was like, babe,
10 you know I love you. I don't mean -- I don't mean
11 to -- I don't mean to say all this shit. I don't
12 mean it all. I didn't mean to go off on you like
13 that. It's like when I said I didn't mean to hurt
14 you, I'm talking about your feelings.

15 Oh, and here's another thing when I said,
16 "I'll beat your ass." Donna can attest to that,
17 and I forgot to ask Donna that question. When I
18 sent that text, "I'll beat your ass," I don't mean
19 physically. Just like I said. I mean it -- I
20 mean it mentally. Mentally. So like when we
21 playing cards -- just like I said, when I whooped
22 your ass like that, I whooped your ass with my
23 mouth.

24 You know, like my mother, she said -- my
25 mother could never beat us because my mother had

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1 asthma. But my mother could physically whoop your
2 ass with her mouth. She couldn't do it with her
3 hand.

4 THE COURT: Mr. Keys?

5 MR. KEYS: I'm done.

6 THE COURT: You come to the end. I want
7 you to wrap it up now for real.

8 MR. KEYS: Okay. So this the thing
9 that -- I know it's hard for you all looking at me
10 and hearing all this and seeing -- seeing this
11 right here. There's no way. I'm not that -- I'm
12 not that -- people say, people are crazy who come
13 and represent theirself. You have to be a fool to
14 come and represent yourself. But in all my life,
15 this is not my first time being accused of this.
16 Actually, it's my -- she's the third, but none of
17 them are true. This is my third accuser who tried
18 to accuse me. Once in Detroit, twice down here.
19 Twice down here. I'm being honest with that and
20 you all can look that up in the information. I
21 went to court and beat that case.

22 THE COURT: Your last words.

23 MR. KEYS: This woman was saying the same
24 thing, that I beat her and I punched her. She had
25 a bruise on her. But they saw through it and they

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1 -- by the fact, they dismissed that case because
2 she had so many --

3 THE COURT: Mr. Keys?

4 MR. KEYS: I'm done. I'm done.

5 THE COURT: Okay.

6 MR. KEYS: But I want you all to know
7 that that's the truth. This is terrible. When
8 I -- when she sent me these texts the next day --
9 she sent me these texts and I promise you, I
10 cried, because I said, oh my God, Sheila, what
11 happened? And the only thing that I can tell you
12 how these things got inflicted on her is when she
13 left me, when she was left this house. And the
14 only thing I can think about, she was going to
15 that -- with those two guys, the two guys sitting
16 in my car. She went back. That's the only thing
17 I can tell you because I wasn't there. The only
18 thing I can tell you those things come from was
19 when she left me. She left me. When she left me,
20 she was nothing like this. I didn't put my hands
21 on her.

22 THE COURT: Okay.

23 MR. KEYS: I'm done. That had to happen
24 from the time that she left my house. And I
25 called the next day, so I'm thinking -- when she

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1 told me -- when she told me what happened -- she
2 didn't send me the pictures at first, so she's
3 just telling me how she felt and I'm telling her
4 how I felt.

5 And then she send me the pictures, and I
6 was like, whoa, whoa, whoa, whoa, whoa, oh shit.
7 And she's like, you did this to me. No, I didn't
8 do this.

9 So the whole time from the time I called
10 her that morning and tried to talk to her --
11 you're going to hear a lot of stuff from me that I
12 said in that text, but she don't hear how she
13 actually talked to me. She said a lot of stuff to
14 me. I said, get your ass down here, and she
15 wouldn't talk to me, she wouldn't call me, and I
16 didn't want her calling me.

17 THE COURT: Mr. Keys? Mr. Keys?

18 MR. KEYS: I'm done.

19 THE COURT: It really is time. I gave
20 you a lot of extra time.

21 MR. KEYS: So I have one second? I want
22 to say one more thing. I'm close.

23 THE COURT: One sentence.

24 MR. KEYS: Okay. Please, please, please,
25 consider, because I know when you look at that

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1 picture somebody hurt her, and somebody -- I'm
2 here and I'm telling you with all my heart, I did
3 not do this to this woman. I did not do this to
4 this woman. As much as you all want to make
5 somebody responsible, and I do, too, but I promise
6 you, somebody is responsible for this. I'm not
7 saying she did this to herself or the guys she
8 went with -- and she was involved with very
9 dangerous activities and people and putting
10 herself in situations.

11 So when I say that in my text about you
12 got what you deserve because you wouldn't listen
13 to me, you went off with those two guys, you left,
14 so whatever happened to you --

15 THE COURT: Mr. Keys?

16 MR. KEYS: -- you deserve, because you
17 wouldn't listen.

18 THE COURT: Mr. Keys?

19 MR. KEYS: Okay, I'm done.

20 THE COURT: Okay, thank you.

21 Anything very briefly from the State?

22 Anything you want to say in reply?

23 MS. TESSITORE: I think his words, "she
24 wouldn't listen," and I will leave you with his
25 words, "You got what you was looking for, just not

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1 how much." She got a whole lot more beating than
2 she expected, yet he's still blaming her today.
3 He's still standing here in front of you and
4 saying, she's insecure, she's doing cocaine,
5 she's -- all these crazy stories that he has tried
6 to give you, and I ask you -- I urge you to go
7 back to those text messages because all his
8 confessions are right there for you.

9 Thank you.

10 THE COURT: All right.

11 Madame Foreperson, Ladies and Gentlemen
12 of the Jury, you have seen and heard the evidence
13 presented, as well as the arguments of counsel.
14 It now becomes my duty and obligation to instruct
15 you on the law applicable in this case. It will
16 then be your duty and obligation to begin your
17 deliberations through which process you will
18 decide the facts, apply the law as instructed by
19 the Court and determine whether or not the State
20 has met its burden of proof.

21 It is your exclusive duty to determine
22 the facts in this case. You do that based upon
23 your own common sense, examination, and evaluation
24 of the testimony, and other evidence received
25 during the trial of this case. You 12 jurors

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1 alone will decide what weight, value, and effect
2 that is to be given to any particular testimony or
3 other evidence received. Your ultimate goal is to
4 determine whether the State has met its burden of
5 proof in this case, and in doing so, you will have
6 fulfilled your obligation as jurors to determine
7 whether the State has met its burden of proof
8 beyond a reasonable doubt.

9 In this case, the State of South Carolina
10 through the circuit solicitor has charged the
11 defendant with the criminal offenses known as
12 assault and battery of a high and aggravated
13 nature and kidnapping. The allegations charging
14 the defendant with these crimes are set forth in
15 the indictments that had been previously explained
16 to you. The indictments are not evidence in this
17 case and may not be considered by you as evidence
18 against the defendant.

19 As to each of the charges set forth in
20 the indictments, the defendant has entered a plea
21 of not guilty. That plea of not guilty is,
22 therefore, placed upon the State, the burden of
23 proving the allegations that are set forth in the
24 indictments, the burden of proving each of the
25 essential elements of any crimes charged, and,

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1 therefore, the burden of proving the guilt of the
2 defendant to the satisfaction of you 12 jurors
3 beyond a reasonable doubt before a verdict of
4 guilty could be returned as to any indictment.

5 The burden is never upon a defendant to
6 prove that he is not guilty or to prove that he is
7 innocent because, in some cases, that might not be
8 possible. The burden is always upon the State
9 because they have made the allegations to prove
10 the defendant guilty beyond a reasonable doubt.

11 You are further instructed that it is a
12 vital, important, and cardinal rule of law that
13 every defendant in a criminal trial, no matter how
14 serious the offense might be for which he stands
15 charged, shall always be presumed innocent of that
16 charge, and that presumption of innocence shall be
17 with the defendant from the moment of his arrest
18 and throughout the course of the criminal process,
19 and even throughout the course of the actual
20 trial. The presumption of innocence shall be with
21 the defendant even as you go into the jury room to
22 begin your deliberations. And that presumption of
23 innocence shall be with him there and be with him

24 always unless you 12 jurors determine that he is
25 no longer entitled to that presumption of

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1 innocence. It is only if, unless, and until you
2 are satisfied of the defendant's guilt beyond a
3 reasonable doubt that he would no longer be
4 entitled to that presumption of innocence.

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

18 I have the additional duty to charge you
19 the law applicable to this case. As the presiding
20 judge, I'm the sole judge of the law of the case
21 and it's your duty to accept and apply the law as
22 I give it to you. If you already have an idea as
23 to what the law is or what the law ought to be and
24 it does not agree with what I tell you now the law
25 is, you must abandon that idea because you're

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1 sworn to accept the law and apply it exactly as I
2 state it to you.

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

20 The State has the burden of proving the
21 defendant guilty beyond a reasonable doubt. Some
22 of you might have served as jurors where you were
23 told it is only necessary to prove a fact that is
24 more likely true than not true such as by a
25 greater weight or preponderance of the evidence.

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1 In criminal cases, the State's proof must
2 be more powerful than that. It must be beyond a
3 reasonable doubt. Reasonable doubt is the kind of
4 doubt that would make a reasonable person hesitate
5 to act. There are very few things in this world
6 we know with absolute certainty, and in criminal
7 cases the law does not require proof that
8 overcomes every possible doubt. If based on your
9 consideration of the evidence, you are firmly
10 convinced the defendant is guilty of the crime
11 charged, you must find the defendant guilty. If,
12 on the other hand, you think there's a real
13 possibility that the defendant is not guilty, you
14 must give the defendant the benefit of the doubt
15 and find him not guilty.

16 There are two types of evidence which are
17 generally presented during a trial; direct
18 evidence and circumstantial evidence. Direct
19 evidence is the testimony of a person who claims
20 to have actual knowledge of a fact, such as an
21 eyewitness. It is evidence which immediately
22 establishes the main fact to be proved.
23 Circumstantial evidence is a proof of a chain of
24 facts and circumstances indicating the existence
25 of a fact. It is evidence which immediately

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1 establishes collateral facts from which the main
2 fact may be inferred. Circumstantial evidence is
3 based on inference and not on personal knowledge
4 or observation. The law makes absolutely no
5 distinction between the weight or value to be
6 given to either direct or circumstantial evidence,
7 nor is a greater degree of certainty required of
8 circumstantial evidence than of direct evidence.

9 You should weigh all the evidence in the
10 case. After weighing all the evidence, if you are
11 not convinced of the guilt of the defendant beyond
12 a reasonable doubt, you must find the defendant
13 not guilty.

14 Necessarily, you must determine the
15 credibility of the witnesses in this case.
16 Credibility simply means believability. It
17 becomes your duty as jurors to analyze and
18 evaluate the evidence and determine if the State
19 has met its burden of proof in this case. In
20 determining the believability of the witnesses who
21 have testified in this case, you can certainly
22 believe one witness over several witnesses, or
23 several witnesses over one witness. You may
24 believe a part of the testimony of a witness and
25 reject the remaining portion of the testimony of

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1 that same witness. You may reject or believe a
2 witness's testimony in its entirety. You may also
3 consider whether a witness has any interest, bias,
4 prejudice, or other motive in this case. You may
5 also consider the appearance and manner of a
6 witness while on the witness stand.

7 In order to establish criminal liability
8 the State must also prove criminal intent. The
9 State must prove criminal intent beyond a
10 reasonable doubt. Criminal intent is a matter
11 that must be determined by the jury from the facts
12 of the case. There is no way to prove criminal
13 intent to a mathematical certainty, so the law
14 says that criminal intent may be inferred from the
15 circumstances shown to have existed.

16 This is how you determine whether or not
17 the element requiring intent was present. It is
18 not necessary to establish intent by direct
19 evidence. Intent may be established by
20 circumstantial evidence or by taking into
21 consideration the acts of the parties and all the
22 facts and circumstances in the case.

23 Criminal intent is a mental state of
24 conscious wrongdoing. It's up to you to determine
25 what the defendant intended to do based on the

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1 circumstances shown to have existed in this case.

2 Voluntarily intoxication or use of drugs does not
3 constitute a defense to a crime.

4 A person commits the offense of assault
5 and battery of a high and aggravated nature if the
6 person unlawfully injures another person and great
7 bodily injury to another person results, or the
8 act is accomplished by means likely to produce
9 death or great bodily injury.

10 Great bodily injury means bodily injury
11 which causes a substantial risk of death or which
12 causes serious permanent disfigurement or
13 protracted loss or impairment of the function of a
14 bodily member or organ.

15 If you find that the defendant is not
16 guilty of the charge of assault and battery of a
17 high and aggravated nature, you may consider
18 whether the defendant is guilty of the lessor
19 charge of assault and battery 1st degree. A
20 person commits the offense of assault and battery
21 in the 1st degree if the person unlawfully offers
22 or intends to injure another person with the
23 present ability to do so and the act is

24 accomplished by means likely to produce death or
25 great bodily injury or the act occurred during the

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1 commission of a robbery, burglary, kidnapping, or
2 theft. Great bodily injury means bodily injury
3 which causes a substantial risk of death or which
4 causes serious permanent disfigurement or
5 protracted loss or impairment of the function of a
6 bodily member or organ.

7 The defendant is also charged with
8 kidnapping. The State must prove beyond a
9 reasonable doubt that the defendant knowingly and
10 unlawfully seized, confined, inveigled, decoyed,
11 kidnapped, abducted, or carried away another
12 person without authority of law.

13 To do a thing unlawfully is to do it
14 willfully against the law.

15 Knowingly means with knowledge,
16 consciously, not accidentally.

17 Ceased means to take hold of suddenly or
18 forcibly.

19 Confine means to limit, restrict, or
20 enclose within bounds, imprison, shut, or keep in.

21 Inveigle means to lure, entice, or lead
22 astray by false representations, promises, or
23 other deceitful means.

24 Decoy means to lure by or as if by decoy.
25 A decoy is something to entice a person into a

1 trap.

2 Kidnap is to remove a person against his
3 will by unlawful force or fraud.

4 Abduct means to carry off secretly or by
5 force for an illegal purpose.

6 Carry away means to remove.

7 The State does not have to prove that the
8 defendant did all of these things. Instead, if
9 you find beyond a reasonable doubt that the
10 defendant did any of these things, you may find
11 the defendant guilty of kidnapping.

12 Something done without authority of law
13 is something which the law does not sanction,
14 permit, allow, condone, or provide justification
15 for. The kidnapping does not have to be for any
16 personal or monetary gain or for an illegal
17 purpose, but may be for whatever reason
18 whatsoever.

19 Ladies and Gentlemen, your verdicts must
20 be unanimous ones. Madame Foreperson, when the
21 jury agrees on the verdict, you'll write the
22 verdict on the verdict form and sign your name as
23 foreperson and then activate the light outside of
24 your jury deliberation room to signal the bailiff
25 that you've reached a verdict. At that time, we

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will receive you back into the courtroom.

2 I ask that you now return to your jury
3 room, but do not begin deliberations quite yet. I
4 need to take up a matter or two with the parties
5 in this case. It will be your signal to begin
6 your deliberations once you receive the exhibits
7 in this case and the verdict form.

8 Thank you so much for your service.

9 MR. KEYS: Your Honor, I forgot to put my
10 doctor's note in and the pictures. We didn't show
11 them the documents.

12 THE COURT: All right. If you all would
13 please wait just one moment. He has a doctor's
14 note that says that he was under a doctor's care
15 during the time of this incident. That's it.

16 MR. KEYS: I'm just going to show them.
17 She said I could show you all that. That shows
18 you that I'm not lying.

19 MS. TESSITORE: Your Honor, can you just
20 add those to the exhibits and look at those before
21 they go back?

22 THE COURT: They can just go back,
23 Mr. Keys. Have a seat.

24 MR. KEYS: I just want them to look at
25 the date.

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1 THE COURT: Mr. Keys?

2 MR. KEYS: Okay.

3 THE COURT: Seat.

4 Okay. Just put them there with the exhibits,
5 and we'll mark those with the next one.

6 Thank you all so much.

7 JUROR: Can I ask a question before we leave?

8 THE COURT: If you got a question, if
9 you'll just write it on a sheet of paper and give
10 it to the bailiff. Thank you.

11 (Jury exits the courtroom at 4:20 p.m.)

12 THE COURT: All right. Mr. Keys, what do
13 you want to say?

14 MR. KEYS: I'm sorry, Your Honor. But
15 listen, in those closing arguments, she read that
16 thing off that paper that she didn't show them and
17 she didn't show me.

18 THE COURT: They're part of the exhibit
19 that was entered into evidence.

20 MR. KEYS: Yeah. But she didn't show it
21 us.

22 THE COURT: All right.

23 MR. KEYS: She's only reading. And I
24 don't know.

25 THE COURT: Your objection is noted for

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2 the record and it's overruled. Okay.

3 Now, you all need to get together the
4 exhibits in this case. It's time for the jury to
5 get this case.

6 MS. TESSITORE: Judge, without
7 explanation, I mean, I just don't -- this is just
8 going to confuse them.

9 THE COURT: It doesn't matter. Just send
10 it on back.

11 MS. TESSITORE: All right. All of them
12 or one?

13 THE COURT: Just two. You pick two,
14 Mr. Keys.

15 MS. TESSITORE: All right. Pick two,
16 Mr. Keys. Here you go.

17 (DFT. EXH. 2, Picture, was marked and
18 entered into evidence.)

19 (DFT. EXH. 3, Picture, was marked and
20 entered into evidence.)

21 THE COURT: Thank you. We will be in
22 recess pending a verdict. He's coming right back
23 in with the verdict form, which means everybody
24 kind of hang close, but you don't have to stay in
25 the courtroom. Thank you.

 (Jury begins deliberations.)

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1 THE BAILIFF: Come to order.

2 THE COURT: They asked for a written
3 description of the difference between aggravated
4 1st vs. 1st degree assault, which is in my jury
5 charge. I don't want to send them part and not
6 the whole. So I can -- I was just going to send
7 my jury back to them because I read it just as
8 I've -- just as I say it.

9 All right. We will not mark this yet,
10 but if you all will send that back to them and
11 then we'll Mark the note as Court's Exhibit?

12 THE COURT REPORTER: 4.

13 THE COURT: 4. All right. We're in
14 recess pending a verdict.

15 (COURT EXH. 4, Note from jury, was marked
16 and entered into evidence.)

17 (Verdict reached at 4:58 p.m.)

18 THE COURT: It's my understanding the
19 jury has a verdict. It's my speech that I give in
20 every case like this. The jury has reached a
21 verdict. One side is not going to like it. It's
22 either going to be this side or that side is not
23 going to like it. It matters not to me which side
24 it is. But if there any outburst in the court,
25 you see that we have a pretty strong deputy

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1 presence in the courtroom. I'm not going to allow
2 any outbursts. This jury didn't ask to be part of
3 any of this. They got forced to be here. So any
4 outburst whatsoever is going to be dealt with
5 immediately.

6 I might not, if it were my loved one, or
7 a case I was involved in, I might not be able to
8 sit here and not show any emotion. So if you
9 don't think you can do it, then feel free to
10 excuse yourself now. Okay?

11 All right. Then we'll bring the jury in.

12 (Jury enters the courtroom at 5:34 p.m.)

13 THE COURT: Madame Foreperson, it's my
14 understanding the jury has reached a verdict; is
15 that correct?

16 FOREPERSON: It is, Your Honor.

17 THE COURT: Do you mind handing the
18 verdict form to the bailiff? Thank you so much.

19 And the verdict form appears to be in
20 order. If you'll publish it, please, Madame
21 Clerk.

22 THE CLERK: Your Honor, this is case
23 number 2019-GS-23-01286A and 2018-GS-23-09868 in
24 the matter of the State South Carolina vs.
25 Mark Anthony Keys. As to the charge of attempted

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1 murder, we, the jury, unanimously find the
2 defendant guilty of assault and battery of a high
3 and aggravated nature. As to the charge of
4 kidnapping, we, the jury, unanimously find the
5 defendant not guilty. Signed foreperson, Andra
6 Martin, date, October 16th, 2019.

7 If this is your verdict, so say you all.
8 Please signify by raising your right hand?

9 JURY PANEL: (All raise right hand.)

10 THE COURT: Thank you. And I'm sure
11 everybody knows, that was a scribner's error by me
12 in the verdict form. But in the body of it, it
13 was correct, and that was completely my fault.

14 Ladies and Gentlemen, thank you so much
15 for your service in this case. Thank you so much
16 for your patience with us. I'm not going to hold
17 you up in any way, but just as you're getting your
18 things, I'm going to come back there and say
19 goodbye to you. This does conclude your jury
20 service for this week, so thank you very much.

21 MR. KEYS: Thank you.

22 THE COURT: All right. We'll move to
23 sentencing in just a moment, but I'm going to let
24 the jury go. I'll be right back.

25 MS. TESSITORE: Yes, Your Honor.

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(Off the record.)

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THE COURT: All right. I spoke with the jury just briefly, and, you know, they understood -- could I have that verdict form -- they certainly understood that -- you know, your representing yourself and wanting to do that. And you know, they -- I was very impressed that they really took their responsibility very seriously. And I --

All right. So now we move to sentencing. Would you all like to do that now?

MS. TESSITORE: Yes, Your Honor.

THE COURT: All right. Mr. Keys, we'll just stay right where we are. How about that?

Anything else from the State?

MS. TESSITORE: Your Honor, the only thing I would add at this point -- I mean, I think the pictures speak for themselves and all the text messages and everything about the way that this all this was perceived and the justifications that he gave.

I would add that, regarding his initial arraignment, that bond hearing that was discussed during the trial, he did receive a contempt conviction sentence for that, for basically

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1 continuing to stare at the victim during the
2 proceedings. And I believe it was -- I can't
3 remember which judge it was. I think it was
4 Judge Simmons. She held him in contempt and he
5 was sentenced to 60 days and then he was released.
6 So he really didn't do any jail time on these
7 charges, but on that contempt. And he was out on
8 bond this whole time.

9 Your Honor, I think you've got all the
10 information, and we would simply ask that you
11 deliver a considerable sentence based on
12 everything that has been presented before you
13 today.

14 THE COURT: All right. And is there
15 anything that you think the victim would like to
16 say?

17 MS. TESSITORE: No, Your Honor.

18 THE COURT: Mr. Keys, is there anything
19 you would like to say about sentencing?

20 MR. KEYS: Yes. That what she said is
21 not true. When I went to bonds court, I already
22 felt set up because she already knew my name. And
23 she was only particularly looking at me. I went
24 in there with five other people in that jury --
25 and, you know, so I'm listening. Like I told you,

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1 you know, when you start talking to me, I'm
2 listening. But when I listen, I don't do it with
3 my eyes. I put my head down and I concentrate
4 like this. So she said, Mr. Keys, I need you to
5 pay attention. I said, I'm listening. It's just
6 how I do it. I don't have to look at you to see.
7 She said, I need you to make eye contact. I said,
8 okay, but that's just how I listen.

9 So when she got me up there to speak --
10 oh, she said -- she said, don't look at the
11 witness. This is the stuff I don't agree with
12 because I'm going into bonds court to see how much
13 my bond is to get out. She don't need to have me
14 in there with the witness while she's making her
15 statement. And, you know, so it's a set up.

16 But what happened was -- so she said, if
17 you look -- and this is where she got me for
18 reckless eyeballing. I didn't stare at her. I
19 couldn't even see her that good. The only time I
20 could see the people is actually when they came in
21 the door when they stood up. So that's how I knew
22 who it was, her and her sister, and the two black
23 guys that came in with her. They were the only
24 ones that came in together. That's how I knew it
25 was the two blacks guys and her and her sister.

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1 THE COURT: They told you repeatedly that
2 she wasn't with -- that they weren't with her.

3 MR. KEYS: But that's what she -- a lot
4 of things they're saying is not true. She's
5 saying that. But what I'm telling you, that's
6 what happened.

7 So when she came in -- so when she came,
8 I couldn't see them when they sat down. So when
9 they came in, I could see them sitting down. And
10 we all were sitting on the bench.

11 So she called her to testify and started
12 talking. When she said something about --
13 something that I didn't agree with, and I -- she
14 said, don't roll -- don't look at the witness.
15 She didn't see me -- what I did was, I went
16 (indicating). You know, in response to -- not
17 grinning. I didn't look at her, but my eyes did
18 like (indicating). I was rolling my eyes, but not
19 to look at her.

20 So when she's talking -- when the judge
21 said, Mr. Keys, that's the second time you did
22 that. And I said, I don't know when the first
23 was. She said, that's the second time you looked
24 at the witness. I said, I never looked -- I never
25 looked at the witness. She said, when she was

Testimony of Donna Hilgar

1 making those statements. In my mind, I was
2 agreeing with them. So I was sitting down --

3 THE COURT: Let me stop you here,
4 Mr. Keys. Let me stop you here on this and just
5 say this. I'm going -- even though I know,
6 probably, the solicitor is going to object to
7 this, I'm going to give you credit for those
8 60 days that you served on that contempt charge.

9 MR. KEYS: Yes. And --

10 THE COURT: I'm going to give you that
11 credit. Don't worry about that. I really want to
12 hear about sentencing for this.

13 MR. KEYS: Okay. And also, so I never
14 stared. It was just, she got me for moving my
15 eyes in that way. And I said, Your Honor, I never
16 saw her when I did. I apologize for not moving.
17 She said, look at me. I said, I was doing it the
18 whole time, because the judge was right here and
19 they was off to the side. So, I apologize,
20 adamant. I said, I wasn't trying to look at her,
21 and I didn't see her when I did it. It was just,
22 when she was making those untrue statements, for
23 me, in my head, I did like (indicating). So she
24 said, Mr. Keys, you've done that twice. She said,
25 I told you, if you look at the witness -- I said,

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1 Your Honor, I didn't see her. She said, unh-uh, I
2 told you.

3 THE COURT: Okay.

4 MR. KEYS: So she held me in contempt of
5 court for 60 days.

6 Now, my bond was paid actually before I
7 went to court. I paid \$1,000 to get out. And
8 then they took me to bonds court.

9 THE COURT: Okay.

10 MR. KEYS: So my bond was paid to get out
11 before I went to bonds court. They still got my
12 bond. They kept me in jail for 60 days, not
13 getting out because --

14 THE COURT: She held you in contempt.

15 MR. KEYS: Yes, ma'am.

16 THE COURT: Which was in her discretion
17 to do. I --

18 MR. KEYS: But see, I don't --

19 THE COURT: This is what --

20 MR. KEYS: She -- I'm sorry.

21 THE COURT: -- we kind of talked about
22 this whole time.

23 MR. KEYS: I'm sorry.

24 THE COURT: It's okay. This is kind of
25 what we talked about this whole time. I want to

Testimony of Donna Hilgar

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1 talk to you about -- I want you to say something
2 about the sentence.

3 MR. KEYS: Okay.

4 THE COURT: This sentence. Not the
5 contempt. I'm going to give credit for every day
6 you spent in jail for that, but I need for you to
7 say something about this particular charge.

8 MR. KEYS: Okay.

9 THE COURT: I mean, you're facing up to
10 20 years in prison.

11 MR. KEYS: Yes, ma'am. Yes, ma'am. I
12 know how serious it is. Like I said, I might not
13 have said everything today in the right way, but,
14 listen, I spoke from my heart. I spoke the truth
15 today. So that's why I came here with no fear,
16 because I said God knows the truth. God knows
17 what I did. And if I go to jail for something,
18 it's for a bigger plan that he must have for me.
19 I don't know.

20 But I'm telling you, I didn't come up and
21 tell you guys no lie. I told you the truth. And
22 I know it, because I could see it in them guys'
23 faces. And when I start -- I know I lost the
24 first two guys. They just -- when they saw them
25 pictures and heard that testimony, I say, I know

Testimony of Donna Hilgar

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1 how it looks, but it didn't -- even in the
2 texting, it wasn't like way. They way pulled
3 those texts out and they put them together, and it
4 wasn't in context the way they were sent.

5 THE COURT: Mr. Keys?

6 MR. KEYS: Okay, I'm sorry. I know
7 that's -- but you want me to speak --

8 THE COURT: Let me just say this to you,
9 Mr. Keys, about the text messages, we had an
10 investigator who came and said he pulled those
11 text messages off her phone just as they were --

12 MR. KEYS: No, no.

13 THE COURT: -- and he didn't change it
14 any.

15 MR. KEYS: No. Listen, when you put --
16 if you put it up there -- I showed you my texts.
17 Her texts -- and she even said it -- she even said
18 it to me -- listen, they took my -- she even
19 attested to it, because she stated right here
20 aloud -- I said at the end of that text -- at the
21 end of that text it says, I sent that to the wrong
22 person.

23 So I was going back and forth with her
24 and her talking to her because she was talking to
25 me from work. She was texting me and I was

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1 texting her because we was --

2 THE COURT: Okay.

3 MR. KEYS: She was trying to get back
4 together with me. I was, like, no, because we
5 tried that. We tried for a whole year. And, at
6 that time, I was like, no. I was like I didn't
7 want to get back together with her then because it
8 was like I got a whole year with you.

9 But the thing that the text said, do
10 you -- they can get the text from her. They took,
11 "I'll beat your ass," and she can attest to it
12 today, I use that word all the time as slang talk.
13 Like, I'll whoop your ass. I'll beat your ass.
14 I'm talking about in a mental -- not in a physical
15 way whatsoever.

16 But I know when they seen that, it was
17 like -- but they knew. Because even she knows it
18 in her own heart that that text was sent, not
19 after that fight, before the fight.

20 THE COURT: Okay.

21 MR. KEYS: That text was sent -- that
22 text was sent before the fight. It was sent to
23 her. Because if you look at the text, it was sent
24 on October 22nd. That's what I'm trying to
25 convey.

Testimony of Donna Hilgar

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1 THE COURT: Mr. Keys, the jury found you
2 guilty.

3 MR. KEYS: Yeah, I know.

4 THE COURT: Let's --

5 MR. KEYS: That's what I said. I know.
6 They didn't believe me, but I'm telling you --

7 THE COURT: Let's talk about why I
8 shouldn't give you 20 years.

9 MR. KEYS: Okay. Because, ma'am, I'm
10 telling you -- listen. Oh my God. Like I said,
11 she tried -- she went -- she called up to
12 Michigan -- she called my baby mother. But we
13 have a mutual friend, and so she's calling me
14 telling me that she's trying to find some
15 witnesses. Somebody to talk about my history. I
16 said, I don't have past history of beating women,
17 of hitting women at all. I had three women make
18 charges against me because this is what these
19 women are very particular women, different from
20 all the ones I ever had.

21 They -- the first one was a very
22 vindictive woman. Evil, very -- I'm telling you,
23 want to destroy you. They just want to destroy
24 you. And that's what this is. She just want to
25 destroy me because I told everybody that -- I'm

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1 going to tell everybody, and that's what I was
2 saying on the home. And she was trying to say I
3 was beating her and there's no way I could do that
4 driving.

5 And I couldn't even drive with this arm.
6 When I drove home, it was this arm, and I talking
7 her the whole time. I said, I'm go let everybody
8 know who you really are. You got to understand
9 that.

10 The next day, when I got on the phone and
11 started talking to her and I felt good, and I
12 apologized for the way I talked to her. I said, I
13 sorry. I said, I really do love you, because I
14 was still -- you know, I thought she was an
15 awesome person. I really -- and I still think
16 that today to a certain degree she is.

17 But it's like, once you -- once you cross
18 that line, all she want is revenge. And that's
19 all this is about. She wants me to pay for
20 something, because I told her, I said, when we get
21 back -- when we get back to work -- when I go back
22 to work, I'm -- because we used to -- I went to
23 the bar. We've been going to this bar five, six
24 years. We know the owner. We know the bar maid.
25 We know all the patrons coming there. We have the

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1 same mutual friends, so -- and she knew.

2 But, see, I have never seen that side of
3 her before, and she didn't want that to come out.
4 She didn't want nobody to know, and she tried to
5 keep that hid, and that's the only thing.

6 I come here not to try to protect myself.
7 I just only say -- because I've done this before.
8 And all I had was the truth on me. I didn't have
9 the money to hire a nice lawyer. I didn't have
10 the money -- this happened in Detroit, and this
11 same woman tried to convict me. And people said,
12 you're crazy. Now you telling them. That's going
13 to make you look bad when you say other women
14 charged you. And I say, I know how it looks too,
15 but I hope that they can see the truth -- that I
16 could convey the truth to them. That's the only
17 thing I try to stand on today. Look, I'm being
18 totally honest. I said, God is with me. God is
19 with me.

20 THE COURT: Okay.

21 MR. KEYS: You know.

22 THE COURT: All right.

23 MR. KEYS: But I'm not that violent

24 person that they believe I am, and that they made
25 me out to believe -- out to be. Because like I

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1 said, she was willing to fly my baby's mother down
2 here that I haven't seen in ten years and she
3 asked her -- over the course of this year, she
4 would call her, I don't know, countless of times
5 trying to get her -- and she said, I have nothing
6 bad to say. That's 13 years. I never hit her.
7 Not once.

8 And the same thing with her. Not once.
9 This just came out in one moment. It kills me
10 that I seen that happen to her. Now, whoever did
11 that to her should pay far that.

12 But, Your Honor, I did not do that to
13 her. I know it looks bad. I can see how that --
14 I know it looks terrible. I didn't do that.

15 But, Your Honor, all I can do is stand on
16 what I know, and I say, I did not inflict that
17 wound on her. I didn't do that. I will take that
18 to my grave.

19 THE COURT: Okay.

20 MR. KEYS: That's the only thing I can
21 say.

22 THE COURT: Okay. So I think -- what I'm
23 taking from what you're telling is that you don't
24 have a violent past --

25 MR. KEYS: I never had a violent past.

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1 THE COURT: -- and that you maintain --
2 and that you maintain your innocence about this.

3 And I take into consideration a number of
4 things, but in this case, I have to say --

5 MR. KEYS: I have to -- I'm sorry.

6 THE COURT: It's okay. No, I'm about to
7 impose sentence, so if there's something else you
8 want to say, it's time.

9 MR. KEYS: I had a whole year to consider
10 this. Okay? I could have done a lot of things.
11 I could have probably hired a lawyer. I got money
12 to hire a lawyer. I just felt like, if I did
13 this, I could be put -- because I didn't want to
14 feel like I was getting a suited lawyer to come in
15 and protect me from something I didn't do.

16 THE COURT: Okay.

17 MR. KEYS: And they're going to look at
18 it like that, you know.

19 THE COURT: But just so we're clear, you
20 know we would have appointed you a lawyer.

21 MR. KEYS: I didn't need a appointment.

22 THE COURT: We went through that a number
23 of times.

24 MR. KEYS: I could have afforded my
25 lawyer.

Testimony of Donna Hilgar

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1 THE COURT: So you're saying you had
2 money to pay a lawyer.

3 MR. KEYS: Yes, ma'am.

4 THE COURT: All right. But I have to
5 take into account the fact that the jury found you
6 guilty.

7 MR. KEYS: Yes, I know. That's
8 unfortunate. I know.

9 THE COURT: I think there was substantial
10 evidence presented upon which they based a
11 verdict.

12 MR. KEYS: Well, they only based it off
13 of those texts that she put. Because, like I
14 said, that text -- at the end --

15 THE COURT: Mr. Keys?

16 MR. KEYS: I want to say this one thing
17 before you impose sentence. Please.

18 THE COURT: Okay.

19 MR. KEYS: If I -- you might not
20 remember, I've been looking closely, but that's --
21 at the end of that text, right before that "I'll
22 beat your ass" and there was something else after
23 that, and it was like I sent that wrong. That's
24 not for you. That's for the other -- Okay. She
25 left that out. Because she said, oh, I know you

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1 didn't mean that for her. So she know I didn't
2 mean that to her, but she didn't add that text on.
3 It's like, I didn't mean that for you.

4 THE COURT: I got that.

5 MR. KEYS: She left that off. She
6 literally picked that out and left it off. But
7 she left the part "I'll beat your ass" in there.
8 All of that was sent to her. That was not sent to
9 her.

10 THE COURT: All right. We got that. We
11 covered that ground.

12 MR. KEYS: But that's the only evidence
13 they had. I'm going to say this. I'm sorry for
14 you, though.

15 But, listen, I had 20 witnesses there.
16 My cousin, my nephews, and they all -- they all --
17 they all said, you need us. I said, I don't
18 think -- because I didn't even think she would
19 actually take it this far and go this far because
20 she knew it's not true.

21 THE COURT: Okay.

22 MR. KEYS: So I said -- because she's the
23 one -- the car -- the police went over to their
24 house first because that's where the incident was.
25 That night when the police come, they sent the

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1 police over to her because she called me the next
2 day -- she called me at home and said the police
3 been over there and I told them that when you all
4 had the altercation it was on the side of the
5 house and she didn't see it. She said, but we
6 know that she wasn't beat up, she wasn't hurt, she
7 wasn't in any danger.

8 Because, like I said, she came back to
9 the house -- she came back to the house after we
10 left. We were gone about five or ten minutes and
11 we came back there, and we stayed there for about
12 10 or 15 minutes.

13 THE COURT: Okay, Mr. Keys.

14 MR. KEYS: Okay. I just want you to
15 know. If she was injured in that time, she would
16 not have got back in the car with me.

17 THE COURT: I understand.

18 All right. Mr. Keys, here's what we're
19 going to do. But I do have to take into
20 account --

21 MR. KEYS: I just got that to the jury.
22 They didn't believe that. I saw when she did
23 that. I just seen it.

24 THE COURT: Okay.

25 MR. KEYS: But I tried to convince

1 them.

2 THE COURT: The injuries to the victim in
3 this case were substantial.

4 MR. KEYS: Yes, they were.

5 THE COURT: And, clearly, the subdural
6 hematome is a most serious nature. And we had a
7 doctor testify that that certainly could have
8 resulted -- and the victim in this case was very
9 lucky that it did not result in death, and I'm
10 glad that it certainly did not.

11 Mr. Keys, taking everything into
12 consideration -- and I do want to say one thing,
13 you acted better than the last time you and I met
14 throughout this trial. And I felt like -- and I
15 felt like you did represent yourself well. You
16 made some good points. I will say to you again,
17 it was with a heavy heart that I knew you were
18 going forward without a lawyer on this case
19 because a lawyer can be very, very helpful. And I
20 don't think you benefited yourself in the end by
21 going without at lawyer, but that was your
22 decision and your right.

23 The sentence of the Court is 12 years,
24 credit for 61 days.

25 I wish you the best of luck, ma'am.

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Good luck to you, sir.

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(The trial concluded at 6:03 p.m.)

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Testimony of Donna Hilgar
CERTIFICATE OF REPORTER

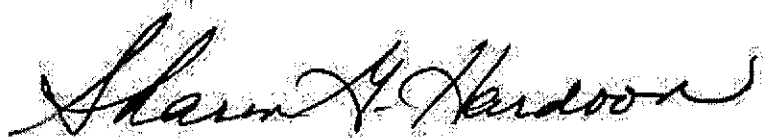
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I, SHARON G. HARDOON, Official Circuit Court Reporter for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the ***hearing of the captioned case, relative to appeal, in the **** Family Court for *** County, South Carolina.

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

December 30, 2020



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, II

FORM 5

STATE OF SOUTH CAROLINA

County of Greenville

IN THE COURT OF COMMON PLEAS

Mark Anthony Keys #38174

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2020-CP-23

FILED-CLERK OF COURT
PAUL B. WICKENS
GREENVILLE

2020 SEP 11 PM 1:34

APPLICATION

POST-CONVICTION RELIEF

ENTERED COMPUTER

INSTRUCTIONS TO READ CAREFULLY

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

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

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

1. Place of detention South Carolina Department of Corrections (SCDC) Room 4A-0251-B 1610 Highway 9 West Spartanburg SC 29512
2. Name and location of Court which imposed sentence Greenville County Courthouse 305 E. North Street, Suite 305 Greenville SC 29601-2185
3. Name(s) of co-defendant(s) (if any) No Co-defendants
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2019-GS-23-001286A

- (b) _____
 (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) October 19th 2019
 (b) _____
 (c) _____
6. Check whether a finding of guilty was made:
 (a) after a plea of guilty _____
 (b) after a plea of not guilty ☒ No Attorney or Nothing
 (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered Ayes@ to (7), list:
 (a) the name of each Court to which you appealed:
 i. No Attorney or Nothing
 ii. _____
 iii. _____
 (b) the result in each such Court to which you appealed:
 i. _____
 ii. _____
 iii. _____
 (c) the date of each such result:
 i. _____
 ii. _____
 iii. _____
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. _____
 ii. _____
 iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
 (a) No ~~Attorney~~ No Attorney or Nothing

- (b) _____
 (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 (a) Please See: Page 11 and 12, Paragraph E-20 to E-21
 (b) (a) Paragraph (b) and (c) (Same)
 (c) Same Thing
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) Please See: Page 11 and 12, Paragraph E-20 to E-21
 (b) (a) Paragraph (b) and (c) (Same)
 (c) Same Thing
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? No!
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No!
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No!
 (d) any other petitions, motions or applications in this or any other Court? No!
13. If you answered Ayes to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. None
 ii. _____
 iii. _____
 iv. _____
 (b) the name and location of the Court in which each was filed:
 i. _____
 ii. _____
 iii. _____

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

None

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

None

ii.

None

iii.

None

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) Page 11 and 12 Paragraph E-20 to E-21
 - (b) Same thing
 - (c) Same thing
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? NO!
 - (b) your trial, if any? NO!
 - (c) your sentencing? NO!
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO!
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO!
18. If you answered Ayes@ to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. NONE...
 - ii.
 - iii.
 - (b) the proceedings at which each such attorney represented you:
 - i.
 - ii.
 - iii.

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

Please SEE: Page 23 Paragraph I-57-I60 ^{Conclusion}
I would like to have the chance to amend my post-
conviction Application and issues.

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

No!

Revised 3/2003

STATE OF SOUTH CAROLINA

County of Greenville

VERIFICATION

I, Mark Anthony Keys # 981749, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Mark Keys

SWORN to and subscribed before me this 8th
 day of September, 2020

S. Sauter (L.S.)
 Notary Public

My Commission Expires: 2/17/24

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Mark Anthony Keys # 381749, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Mark Keys
Applicant

SWORN or affirmed to and subscribed before me this
8th day of September, 2020
[Signature]
Notary Public

My Commission Expires: 2/17/24

JURISDICTION

A-1 The above named defendant, Mark Anthony Keys, do hereby move upon this Honorable Court by way of South Carolina Codes of Law, Sections 17-27-10 through 17-27-200, in bringing this Post Conviction Relief Application;

A-2 The defendant futher brings this Post Conviction Relief Application under Artical V. Section 5, Rule 65(f)(2) and or South Carolina Code of Law, Section 17-17-20, challenging the validity of the conviction and sentence pursuant to the United States and South Carolina Constitution;

A-3 The defendant also brings this cause of action under violations of State and Federal trial rights. Artical 5-17 of the South Carolina Constitution, and Artical 5-21 of the United States Constitution;

A-4 The defendant further brings this Post Conviction Relief Application under violations of defendant's Fourth, Fifth, Sixth, and Fourteenth Amendment Rights to the United States and South Carolina Constitution;

A-5 The Defendant argues that pursuant to all the above that has been stated and will be stated in this Instant Post Conviction Relief Application attached brief, due to all the inflamatory error's of this instant trial, Defendant respectfully request a Rule 52(b) review of the Federal Rules of Criminal Procedures, of the PLAIN ERROR DOCTRINE. Defendant then, and here and on out claims ACTUAL, FACTUAL, AND LEGALLY INNOCENCE. SEE STATE VS.OLANO, 507 U.S. 725-732-36,113 S.Ct. 1777-78,123. 1. Ed.2d 508,1993 [WE REVIEW THE ISSUES FOR PLAIN ERROR UNDER FEDERAL RULES OF CRIMINAL PROCEDURES, RULE 52(b), THAT SIMPLY MEANS : (1) THERE MUST BE AN ERROR, (2) THAT THE ERROR MUST BE PLAIN I.e., CLEAR AND OBVIOUS, AND (3) THAT THE ERROR MUST EFFECTS SUBSTANTIAL RIGHTS, WHERE REVIEW IS GRANTED TO PREVENT A MISCARREGE OF JUSTICE;

PROCEDURAL HISTORY

B-6 On October 23,2018, Defendant. Mark Anthony Keys, was served with Warrant Number.: 2018GS2330209810, arrested and taking to jail;

B-7 That during the February term of General session, defendant was indicted on March 11,2019, for ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE, [1] violation of South Carolina Code of Law, Section. 16-03-0600, under warrant/indictment number.: 2019-GS-23-001286A;

B-8 That on October 16,2019, seven months later, defendant was taking to trial, and after a plea of NOT GUILTY, defendant was found guilty of ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED NATURE , in violation of South Carolina Code of Law, Section. 16-03-0600(B)(1) , CDR Code.: 3411;

B-9 The defendant was then sentenced to twelve (12) years of incarceration, and provided credits for time served pursuant to South Carolina Code of Law, Section. 24-13-40. Time provided was the time defendant spent in jail, which was from October 23,2018 until December, 2018;

B-10 This instant Post Conviction Relief Application now continues :

9.

MAK2019GS23001286A

[1] EMPHASIS ADDED : PURSUANT TO PARAGRAPH B-7, APPLICANT MARK ANTHONY KEYS WAS FIRST CHARGE WITH ASSAULT AND BATTERY IN THE FIRST DEGREE , (WARRANT NUMBER.: 2018A2330209803). HOWEVER, ON MARCH 11,2019, THE STATE PROSECUTION BUPPED THE CHARGES UP TO ASSAULT AND BATTERY OF HIGH AND AGGRAVATED NATURE (2019GS2301286A). WE THE APPLIANTS DEFENSE LEAVES THIS CLAIM OPEN FOR FURTHER LITIGATION CONCERNING THE COURTS SUBJECT MATTER JURISDICTION TO TRY THE MATTER ON

ASSAULT AND BATTERY AND HIGH AND AGGRAVATED NATURE.

10.

Violated defendant's rights to due process and sixth amendments of rights

1) never served with an indictment

2)

STATEMENTS OF FACTS

C-11 Pursuant to this Honorable Courts Records, Defendant, Mark Anthony Keys was clearly unable to retain an attorney for this case due to the following reasons :

(A) Defendant was incarcerated for this instant conviction from October 23, 2018 until December, 2018 and

(B) Defendant is indigent.

X C-12 Also pursuant to the records of this Honorable Court Defendant not once by the trial judge or prosecution for the state provide the defendant with a FARETTA WARNING, verbally and/or in writing;

C-13 That the Court never ever once appointed the Defendant an attorney or at least a Public Defender;

C-14 That the Defendant went through every critical stage of this case without an attorney or Public Defender to protect Defendants Fundamental Constitutional Rights;

X C-15 That the Defendant never recived a Rule 5 Brady Motion Discovery because defendant had no idea of a Rule 5 Brady Motion Discovery. Defendant at this present moment do not know what a rule five Brady Motion is. WE SUBMIT THAT ABSENT A DISCOVERY MOTION PRIOR TO GOING TO TRIAL, TO HAVE THE DEFENDANT ALERT OF THE DANGERS, BY ITSELF, SHOWS ANY COURT HOW IMPORTANT IT IS FOR ONE TO BE APPOINTED COUNSEL];[3]

C-16 That the pursuant to the Court records itself, shows that Defendant Self Representation was a uneven and unfair match. Defendant was no more than Young Black Male Peace Maker in a Court of Violent White Racist Supremacy.

Defendant was not aware of informed or knowledgeable about court trial proceeding which left him unable and unqualified to represent himself in a court trial.

X EMPHASIS ADDED [3] - THAT WITHOUT A RULE 5 SCRP/ BRADY MOTION, APPLICANT CLEARLY WAS NOT COMPETENT TO STAND TRIAL AND/OR DEFEND HIMSELF AT TRIAL.

Only half way through the trial the defendant was informed that he was being tried for attempted murder!

BRIFE ARUGMENT

D-17 Defendants argues and this Honorable Court Records support that it was a MAJOR PREJUDICIAL ERROR for Defendant to proceed to trial without a counsel;

D-18 The records futher support that its plain in clear that the Defendant was without attorney from October 23,2018 until October 16,2019; Furthermore, it would take a counsel more time than six months to prepare for criminal trial;[4]

D-19 Lastly, the absent of an attorney for Defendant from October 23,2018 until October 16,2019, clearly shows by the conviction along that this such ERROR effected not only Substantial rights of the Defendant, but also the Constitutional Rights of the Defendant;[5]

12.

MAK2019GS23001286A

EMPHASIS ADDED [4]: APPLICANT MARK ANTHONY KEYS WAS ARRESTED AND JAILED ON OCTOBER 23,2018 UNTIL DECEMBER,2018, WHEN HE FINALLY MADE BOND. HOWEVER, TEN (10) MONTH LATER HE WAS TAKING TO TRIAL AND CONVICTED WITHOUT AN ATTORNEY

EMPHASIS ADDED [5] : IN POWELL VS. ALABAMA, 287 U.S. 45 (1932), THE SUPREME COURT RULED THAT " IN A CAPITAL CASE WHERE THE DEFENDANT IS UNABLE TO EMPLOY COUNSEL, AND IS INCAPABLE ADEQUATELY OF MAKING HIS OWN DEFENSE BECAUSE OF IGNORANCE, FEEBLE MINDEDNESS, ILLITERACY, OR THE LIKE, IT IS THE DUTY OF THE COURT, WHETHER REQUESTED OR NOT , TO ASSIGN COUNSEL FOR DEFENDANT. PLEASE SEE COMPARE JOHNSON VS. ZRBERT, 304 U.S. 458 (1938), WHERE THE SUPREME COURT RULED THAT IN ALL FEDERAL AND STATE CASES, COUNSEL WOUL HAVE TO BE APPOINTED FOR DEFENDANT WHO WERE TOO POOR TO HIRE THEIR OWN ATTORNEY.

PCR CLAIMS FOR REVIEW

E-20 Whether Defendant was deprived of a Sixth and Fourteenth Amendment Right to the United States and South Carolina Constitution when :

- (1) Trial Bench allowed Defendant to proceed to trial without an Attorney and or Court Appointed Attorney by the State;
- (2) Trial Bench allowed Defendant to proceed to trial without providing a stand by counsel and or advisory to at least protect Defendant's Constitutional Rights;
- (3) Trial Bench denied to instruct the Defendant on the dangers of Self Representation; *based on court*
- (4) Trial Bench failed to ^{fully} question the Defendant on Self Representation, and come to a conclusion as to whether the Defendant was even competent to stand trial;
- (5) Trial Bench denied the Defendant a State Appointed Attorney;
- (6) Trial Bench denied a continuence , so that Defendant could hire an Attorney;

E-21 Whether the Defendant was deprived of his Fourth, Fifth, Sixth and Fourteenth Amendment Right to the United States and South Carolina Constitution when:

- X (1) Prosecution never provided the Defendant with a FARETTA WARNING;
- X (2) Prosecution never provided a Rule 5 Brady Motion Discover so that Defendant could have been prepared for trial;
- X (3) Prosecution denied to submit and or turn over evidence that would have shown the Defendant's innocents;
- (4) Prosecution submitted untrue documents/statement into evidence knowingly;
- (5) Prosecution Burden Shifting Comments which prejudiced the jury pool, denying the Defendant a fair trial;
- (6) Prosecutorial Misconduct (At all Levels). *statements of facts*
- (7) ~~the failed to~~ *failed to get* an impartial jury
- (8) One black women and 11 white ~~jurors~~ juror
- (9) During and ~~not~~ before trial informed me ~~that~~ that they by the judge words were trying me for ~~an~~ attempt murder

MAK2019GS23001286A

14.

EMPHASIS ADDED [2] : WE THE DEFENSE PERSERVE THE RIGHT TO LATER RAISE SUBJECT
MATTER OF JURISDICTION CONCERNING THE INSTANT CASE. PLEASE SEE : PARAGRAPH B-7 AND
EMPHASIS ADDED [1] CONCERNING SAID MATTER.

WITNESSES

Juan J. Olalde, Jr. *JMO*

Greenville County Sheriffs Office

10/23/2018

ARREST WARRANT NUMBER
2018A2330209810

ACTION OF GRAND JURY
TRUE BILL

[Signature]
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date: *C*

DOCKET NO. 2018-GS-23-
JRT

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February *W9*
TERM 2018

THE STATE

vs.

MARK ANTHONY KEYS

0095

Indictment for

KIDNAPPING

VIOLATION §16-03-0910

009868

FILED

DEC 21 2018

Clerk of Court
Greenville County

WITNESSES

Juan J. Olalde, Jr.

Greenville County Sheriffs Office

10/23/2018

ARREST WARRANT NUMBER
2018A2330209803**ACTION OF GRAND JURY***Foreperson of Grand Jury***VERDICT***Foreperson of Petit Jury*
*Date:***DOCKET NO. 2018-GS-23-**
JRT

009869

The State of South Carolina**County of Greenville****COURT OF GENERAL SESSIONS****TERM 2018****THE STATE**

vs.

MARK ANTHONY KEYS**Indictment for**

3412

ASSAULT AND BATTERY 1ST DEGREE**VIOLATION §16-03-0600****FILED****DEC 21 2018**Clerk of Court
Greenville County

WITNESSES

Juan J Ojalde Jr

JJB

Greenville County Sheriffs Office

10/23/2018

DIRECT PRESENTMENT

B/M DOB [REDACTED] 1966 SSN: [REDACTED]

ACTION OF GRAND JURY

TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-23-

JRT

001284

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February TERM 2019

THE STATE

vs.

MARK ANTHONY KEYS

Indictment for

3412

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-03-0600

A Certified Copy
 Paul B. Wilkerson
 Clerk of Court C.P. & G.S.
 Greenville County, SC
 Dated: 3-11-2019

ARREST WARRANT 5053
2018A2330209803 10-25-18
STATE OF SOUTH CAROLINA
County of ☒ Greenville
Municipality of ☐

THE STATE 18-188319
against

Mark Anthony Keys

Address: Willimon Dr.
Piedmont, SC 29673-

Phone: SSN:
Sex: M Race: B Height: 5 11 Weight: 190
DL State: SC DL #:
DOB: 1966 Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: Juan J Olalde, Jr - S00315

Offense: Assault / Assault & Battery 1st degree

Offense Code: 3412
Code/Ordinance Sec: 16-03-0600(C)(1)

This warrant is CERTIFIED FOR SERVICE in the
☐ County ☐ Municipality of
The accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant M. Keys
on 10-23-18

 10/23/18 T.P.T.R.
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Greenville General Sessions
305 E. North Street
Greenville County Courthouse
Greenville, SC 29601-2120

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA
☒ County ☐ Municipality
Greenville

Personally appeared before me the affiant Juan J Olalde, Jr
being duly sworn deposes and says that defendant Mark Anthony Keys
did within this county and state on or about 10/20/2018 violate the criminal laws of the
State of South Carolina (or ordinance of ☒ County ☐ Municipality of Greenville)
in the following particulars:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st degree

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

The Affiant, a Deputy with the Greenville County Sheriff's Office, obtained a written statement from the victim stating the defendant
struck the victim with a closed fist several times which caused bruising to the eye, mouth, neck, and arms. The affiant observed these
injuries on the victim. The victim suffered bleeding inbetween her skull and brain from this as well. This offense occurred in
Greenville County South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA
☒ County ☐ Municipality
Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-
Affiant's Telephone

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on or about 10/20/2018 defendant Mark Anthony Keys
did violate the criminal laws of the State of South Carolina (or ordinance of
☒ County ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Assault / Assault & Battery 1st degree

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable
Sworn to and subscribed before me
on 10/22/2018

 (L.S.)
Judge's Address Law Enforcement Center
Greenville, SC 29601-
Judge's Telephone
Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

Judge's Address Law Enforcement Center
Greenville, SC 29601-

Judge's Telephone

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
Attorney General
1-2009
518

338

OCT 22 '18 14:59

 1536 / B32

ARREST WARRANT

5053

WBSL
5092018A2330209810 10-25-18

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

THE STATE

18-188319

against

Mark Anthony Keys

Address: Willimon Dr.

Piedmont, SC 29673-

Phone:

SSN:

Sex: M Race: B Height: 5'11" Weight: 190

DL State: SC DL #: [REDACTED]

DOB: 1966 Agency ORI #: SC0230000

Prosecuting Agency: Greenville County Sheriff's Office

Prosecuting Officer: Juan J Olalde, Jr - S00315

Offense: Kidnapping / Kidnapping

Offense Code: 0095

Code/Ordinance Sec: 16-03-0910

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

M. Keys
10-23-18

Signature of Court Clerk or Law Enforcement Officer

RETURN WARRANT TO:

Greenville General Sessions
305 E. North Street
Greenville County Courthouse
Greenville, SC 29601-2120

Edmonds

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Personally appeared before me the affiant Juan J Olalde, Jr who being duly sworn deposes and says that defendant Mark Anthony Keys did within this county and state on or about 10/20/2018 violate the criminal laws of the State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of Greenville) in the following particulars:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

The Affiant, a Deputy with the Greenville County Sheriff's Office, did obtain a written statement from the victim stating that the defendant did wilfully confine her and would not allow her to leave by pulling her hair and telling her she could not leave. The defendant then escorted the victim away from her means of transportation and into his house. This offense did occur in Greenville County, South Carolina.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Greenville

Affiant's Address 4 McGee Street
Greenville, SC 29601-

Affiant's Telephone

ARREST WARRANT

OCT 22 '18 PM 6:21

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/20/2018 defendant Mark Anthony Keys

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Greenville) as set forth below:

DESCRIPTION OF OFFENSE: Kidnapping / Kidnapping

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 10/22/2018

Signature of Judge
Seldon T. Peden

Judge Code: 7306

(L.S.)

Judge's Address Post Office Box 506
Marietta, SC 29661-0506

Judge's Telephone (864)-83-6-36 x 71

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

F-28 The Sixth Amendment to the U.S. Constitution affords criminal defendants seven discrete personal liberties: (1) the right to a Speedy Trial; (2) the right to a public trial; (3) the right to an impartial jury; (4) the right to be informed of pending charges; (5) the right to confront and to cross-examine adverse ...

F-29 The 6th Amendment contains five principles that affect the rights of a defendant in a criminal prosecution: the right to a speedy and public trial, the right to be tried by an impartial jury, the right to be informed of the charges, the right to confront and call witnesses, and the right to an attorney.

F-30 In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be ...

F-31 The Fifth Amendment right to counsel, first recognized in *Miranda v. Arizona*, refers to the right to have an attorney present during a custodial interrogation; the Sixth Amendment right to counsel refers the right to effective assistance of counsel during critical stages of criminal prosecutions. Feb 4, 2019

F-32 Right to counsel means a defendant has a right to have the assistance of counsel (i.e., lawyers) and, if the defendant cannot afford a lawyer, requires that the government appoint one or pay the defendant's legal expenses. The right to counsel is generally regarded as a constituent of the right to a fair trial.

F-33 Why The Right to Counsel is Important. The criminal justice system holds the power to take the freedom away from those accused of crimes. ... The right to an attorney protects people from an unfair trial. The success of a person's trial largely depends on the ability of their attorney to provide an adequate defense. Jun 13, 2018

F-34 The Sixth Amendment to the U.S. Constitution holds, in part, "In all criminal prosecutions, the accused shall enjoy the right ... to have the Assistance of Counsel for his defence." This clause grants to all defendants the right to an attorney from the moment they are taken into police custody.

CITATIONS OF LEGAL AUTHORITIES

G-35 In *Powell v. Alabama*, 287 U.S. 45 (1932), the Supreme Court ruled that "in a capital case, where the defendant is unable to employ counsel, and is incapable adequately of making his own defense because of ignorance, feeble mindedness, illiteracy, or the like, it is the duty of the court, whether requested or not, to assign counsel for him." In *Johnson v. Zerbst*, 304 U.S. 458 (1938), the Supreme Court ruled that in all federal cases, counsel would have to be appointed for defendants who were too poor to hire their own.

G-36 In 1961, the Court extended the rule that applied in federal courts to state courts. It held in *Hamilton v. Alabama*, 368 U.S. 52 (1961), that counsel had to be provided at no expense to defendants in capital cases when they so requested, even if there was no "ignorance, feeble mindedness, illiteracy, or the like." *Gideon v. Wainwright*, 372 U.S. 335 (1963), ruled that counsel must be provided to indigent defendants in all felony cases, overruling *Betts v. Brady*, 316 U.S. 455 (1942), in which the Court ruled that state courts had to appoint counsel only when the defendant demonstrated "special circumstances" requiring the assistance of counsel. Under *Argersinger v. Hamlin*, 407 U.S. 25 (1972), counsel must be appointed in any case resulting in a sentence of actual imprisonment. Regarding sentences not immediately leading to imprisonment, the Court in *Scott v. Illinois*, 440 U.S. 367 (1979), ruled that counsel did not need to be appointed, but in *Alabama v. Shelton*, 535 U.S. 654 (2002), the Court held that a suspended sentence that may result in incarceration can not be imposed if the defendant did not have counsel at trial.

G-37 As stated in *Brewer v. Williams*, 430 U.S. 387 (1977), the right to counsel "[means] at least that a person is entitled to the help of a lawyer at or after the time that judicial proceedings have been initiated against him, whether by formal charge, preliminary hearing, indictment, information, or arraignment." [23] *Brewer* goes on to conclude that once adversary proceedings have begun against a defendant, he has a right to legal assistance when the government interrogates him [24] and that when a defendant is arrested, "arraigned on [an arrest] warrant before a judge", and "committed by the court to confinement", "[t]here can be no doubt that judicial proceedings ha[ve] been initiated."

G-38 In *Faretta v. California*, 422 U.S. 806 (1975), the Supreme Court recognized a defendant's right to pro se representation. However, under *Godinez v. Moran*, 509 U.S. 389 (1993), a court that believes the defendant is less than fully competent to represent himself can require that

defendant to be assisted by counsel. In *Martinez v. Court of Appeal of California*, 528 U.S. 152 (2000), the Supreme Court ruled the right to pro se representation did not apply to appellate courts. In *Indiana v. Edwards*, 554 U.S. 164 (2008), the Court ruled that a criminal defendant could be simultaneously competent to stand trial, but not competent to represent himself.

G-39 In *Bounds v. Smith*, 430 U.S. 817 (1977), the Supreme Court held that the constitutional right of "meaningful access to the courts" can be satisfied by counsel or access to legal materials. *Bounds* has been interpreted by several United States courts of appeals to mean a pro se defendant does not have a constitutional right to access a prison law library to research his defense when access to the courts has been provided through appointed counsel.[25]

CITATIONS OF LEGAL AUTHORITIES

H-40 In *Faretta v. California*, the Supreme Court of the United States held that criminal defendants have a constitutional right to refuse counsel and represent themselves in state criminal proceedings.

Reading from a carefully-drafted list will minimize the possibility of an erroneous statement of a right, which might cause a mistrial or reversal.⁵)

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Indeed, a printed form used throughout the jurisdiction would probably best serve this purpose.⁵² And the form could simply be handed to the defendant

H-41 52 An excellent example of the contents of such a form can be found in *State v. Christensen*, 698 P.2d 1069 (Wash. Ct. App. 1985). The trial judge in that case used a pre-printed colloquy for pro se defendants that read as follows: An accused has a constitutional right to represent himself if he chooses to do so. A defendant's waiver of counsel must, however, be knowing and voluntary. This means that you must make clear on the record that the defendant is fully aware of the hazards that he faces and the disadvantages of self-representation. When a defendant states that he wishes to represent himself, you should therefore ask questions similar to the following: 1. Have you ever studied law? 2. Have you ever represented yourself or any other defendant in a criminal action? 3. You realize, do you not, that you are charged with these crimes: (Here state the crimes with which the defendant is charged.) 4. You realize, do you not, that if you are found guilty of the crime charged in Count 1 the Court could sentence you to as much as years in prison and fine you as much as \$? (Then ask him a similar question with respect to each other crime with which he may be charged in the indictment or information.) 5. You realize, do you not, that if you are found guilty of more than one of those crimes this Court can order that the sentences be served consecutively, that is one after another? 6. You realize, do you not, that if you represent yourself, you are on your own? I cannot tell you how you should try your case or even advise you as to how to try your case. (Admonish on the complexity of jury selection also.) 7. Are you familiar with the ... Rules of Evidence? 8. You realize, do you not, that the ... Rules of Evidence govern what evidence may or may not be introduced at trial and, in representing yourself, you must abide by those rules? 9. Are you familiar with the ... Rules of Criminal Procedure? 10. You realize, do you not, that those rules govern the way in which a criminal action is tried in [superior] court? 11. You realize, do you not, that if you decide to take the witness stand, you must present your

testimony by asking questions of yourself? You cannot just take the stand and tell your story. You must proceed question by question through your testimony. 12. Ask the defendant why he does not want an attorney. 13. Ask defendant if any threats or promises have been made to induce him to waive his right to counsel. 14. (Then say to the defendant something to this effect.) I must advise you that in my opinion you would be far better defended by a trained lawyer than you can be by yourself. I think it is unwise of you to try to represent

. The same courtesy should be extended to the pro se defendant.

H-42 Reading the list furthers the interest in providing a fair trial. Judge Reinhardt believes that this right cannot be reconciled with *Faretta*, and therefore *Faretta* should be overruled. "Where the right to self-representation conflicts with the paramount Fifth Amendment right to a fair and reliable trial, I believe that the former, and not the latter, must yield."⁵⁴ Perhaps he is right.....

H-43 You are not familiar with the law. You are not familiar with court procedure. You are not familiar with the rules of evidence. I would strongly urge you not to try to represent yourself. (This could be expanded and repeated.) 15. Now, in light of the penalty that you might suffer if you are found guilty and in light of all of the difficulties of representing yourself, is it still your desire to represent yourself and to give up your right to be represented by a lawyer? 16. Is your decision entirely voluntary on your part? 17. If the answers to the two preceding questions are in the affirmative, you should then say something to the following effect: "I find that the defendant has knowingly and voluntarily waived his right to counsel. I will therefore permit him to represent himself." 18. If you have approved defendant's election to represent himself, you should consider the appointment of standby counsel with whom the defendant may confer before and during trial. *Id.* at 1073 n.2. 53 The judge might also, if she chooses, read the list to the defendant during the colloquy for obtaining the defendant's waiver of his right to counsel. (An example of such a colloquy appears in *Johnson v. State*, 507 A.2d 1134, 1141-44 (1986).) The judge might then say, "You will be expected to protect these rights as well as you can on your own. I will give you no further help during trial. Are you sure you want to proceed to trial without counsel?" The reading of the list and this warning might help the defendant realize the enormity of his decision. This is suggested by *Faretta*, where the Court stated that before the trial court may find a valid waiver of the right to counsel, the defendant "should be made aware of the dangers and disadvantages of self-representation." *Faretta v. California*, 422 U.S. 806, 835 (1975). But the defendant's inability to understand the rights in the List might not be a proper ground to find the waiver invalid. "[H]is technical legal knowledge, as such, was not relevant to an assessment of his knowing exercise of the right to defend himself." *Id.* at 836. 54 United

States v. Farhad, 190 F.3d 1097, 1102 (9th Cir. 1999).

least in some cases, but reading the above list of trial rights to the defendant could be a significant step towards such reconciliation.

H-44 And finally, reading the List to the defendant furthers his *Faretta*-based right of self-representation. There is a rough analog to this proposal: the *Miranda*⁵⁵ warning. The Fifth Amendment provides that no person "shall be compelled in any criminal case to be a witness against himself,"⁵⁶ but does not say that the police must advise a suspect of a right not to speak to the police. Nevertheless, the Supreme Court held in *Miranda* that such a "prophylactic" requirement is implicit in the Constitutional language, in order to make its intent effective in the real world.⁵⁷ The same might be said here.⁵⁸ Implicit in the Constitutional rights to a fair trial and self-representation is a requirement that the judge take minimal steps to ensure that the defendant is aware of the basic rights he may exercise in his effort to represent himself at trial.

H-45 But hasn't the pro se defendant, by waiving his right to counsel, impliedly acknowledged that he already knows enough about trial procedure to represent himself? There is a plethora of real world experience to the contrary, of course. Also, note that while the *Miranda* warning includes the right to counsel before and during interrogation to assist the suspect in deciding whether to exercise his substantive right to remain silent, even if the suspect waives this right, *Miranda* bars interrogation unless the police also advise the suspect of the substantive right itself, the right to remain silent.⁵⁹ Likewise, the defendant who has waived his right to a lawyer at trial to help him exercise substantive rights should also be advised of substantive trial rights. Note also that while *Miranda* requires the police to give the suspect what seems to be strategic advice - "anything you say can and will be used against you,"⁶⁰ - my proposal does not.

H-46 Reading the list might take only a minute or two longer than the *Miranda* warning, which isn't much. It does not require the judge to compromise her impartiality. It protects not just one right (the right to remain silent), but several. And it protects rights that are not preliminary to the right to fair trial (the right to remain silent during interrogation), but central to the trial itself.

H-47 ⁵⁵ *Miranda v. Arizona*, 384 U.S. 436 (1966). ⁵⁶ U.S. CONST. amend. V. ⁵⁷ *Miranda*, 384 U.S. at 468-69. ⁵⁸ Indeed, in *People v. Barnum*, the court said that the former rule requiring trial judges to advise defendants of their right not to testify "merely is a judge-made, prophylactic rule of procedure." 64 P.3d 788, 793 (Cal. 2003). ⁵⁹ *Miranda*, 384 U.S. at 468. ⁶⁰ *Id.* at 469.

2003-04] ADVISING THE PRO SE DEFENDANT 347

H-48 Reading the list might encourage some defendants to exercise rights they might have overlooked, and this exercise might inconvenience (and annoy) trial judges and prosecutors. But the possibility that a defendant might assert rights that the law bestows on him cannot be a legitimate objection. Note that assertion of these rights is unlikely to lead to the release of a guilty defendant, while Miranda warnings might have just this effect. If we require the one, we should require the other.

H-49 There is, however, one situation where my proposal would seem superfluous: where the defendant has accepted "advisory" (sometimes called "standby") counsel⁶¹ who would be expected to advise the defendant of his trial rights. In *Faretta*, the Court said: "a State may—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's self-representation is necessary."⁶²

H-50 However, *Faretta* did not require states to appoint advisory counsel, and whether to do so is in the trial judge's discretion, according to numerous courts.⁶³ If the defendant willingly accepts advisory counsel, and if we assume

H-51 ⁶¹ While the two terms ("standby" and "advisory") are often used interchangeably, the court in *People v. Kurbegovic*, 138 Cal. App. 3d 731, 757-58 (Cal. Ct. App. 1982) distinguished between them as follows: "[T]he term 'standby' counsel generally relates to an attorney's being present to step in and represent an individual no longer able to represent himself 'Advisory' counsel, however, generally refers to an attorney who assists a litigant representing himself in a variety of ways " Also see *People v. Doane*, 246 Cal. Rptr. 366, 370, n.2 (Cal. Ct. App. 1988), as well as the concurring opinion in *Chaleff v. Superior Court*, 138 Cal. Rptr. 735, 742 nn.6-7 (Cal. Ct. App. 1977) where Justice Hanson construed "advisory counsel" to mean an attorney who is present in the courtroom at the defendant's side, does not speak for him, and does not participate in the conduct of the trial but only gives him legal advice and construed "standby counsel" to mean an attorney who is present in the courtroom and follows the evidence and proceedings but does not give legal advice to the defendant. He "stands by" in the event it is necessary for the trial court to revoke defendant's *in propria persona* status or even remove the defendant from the courtroom because of disruptive tactics so the case may proceed in an orderly manner to verdict. *Id.* ⁶² *Faretta v. California*, 422 U.S. 806, 834 n.46 (1975). ⁶³ See, e.g., *Downey v. People*, 25 P.3d 1200, 1203 (Colo. 2001) ("Although a pro se defendant has no constitutional right to advisory counsel, a trial court may, nonetheless, permit a defendant the assistance of some type of advisory counsel."); *People v. Bloom*, 774 P.2d 698, 712 (Cal. 1989): [N]one of the 'hybrid' forms of representation, whether labeled 'co-counsel,' 'advisory counsel,' or 'standby counsel,' is in any sense constitutionally guaranteed [A] self-represented defendant who wishes to obtain the assistance of an attorney in an advisory or other limited

capacity, but without surrendering effective control over

H-52 that advisory counsel must meet some minimal level of competency, then we might expect advisory counsel to advise defendant of the rights described above, and also offer strategic advice. In this event, it would seem less important that the judge give defendant the advice suggested above.

H-53 If, however, the judge appoints advisory counsel "over objection by the accused" (as Faretta appears to permit 64), then we cannot expect the defendant to accept any advice from advisory counsel - or even listen to her. In this event, the judge should give the advice I suggest above.

V. CONCLUSION

H-54 Faretta has not been warmly received - neither the judiciary nor the academic community seems enamored by it.⁶⁵ Nevertheless, it is the law. If the Supreme Court made a mistake, we should not take it out on the pro se defendant by making it unnecessarily difficult for him to exercise his rights at trial. Reading him a list of rights would give him at least minimal protections, with only a minimal burden on the system.

H-55 Concerns that the right to self-representation might conflict with the right to fair trial (at least in particular cases) are real. The need to choose one over the other might be obviated by a modest requirement that the trial court simply read and hand a List of Rights to the pro se defendant.

H-56 presentation of the defense case, may do so only with the court's permission and upon a proper showing. See also *Tate v. Wood*, 963 F.2d 20,26 (2d Cir. 1992); *Locks v. Sumner*, 703 F.2d 403, 407-08 (9th Cir. 1983); *United States v. Gigax*, 605 F.2d 507, 516-17 (10th Cir. 1979). 64 422 U.S. at 834 n.46 ("Of course, a State may—even over objection by the accused—appoint a 'standby counsel' to aid the accused if and when the accused requests help, and to be available to represent the accused in the event that termination of the defendant's selfrepresentation is necessary.) However, advisory counsel may not interfere with defendant's right to control the presentation of the defense. See *McKaskle v. Wiggins*, 465 U.S. 168 (1984). 65 See, e.g., *United States v. Farhad*, 190 F.3d 1097, 1102 (9th Cir. 1999) (Reinhardt, J. concurring); *People v. Dent*, 65 P.3d 1286 (Cal. 2003) (Chin, J., concurring) ("There is much to be said for modifying Faretta, at least in capital cases, to give the trial court discretion to deny a request for self-representation when no good ground exists for the request and the defendant is not capable of

effective self-representation."); see also John F. Decker, The Sixth Amendment Right to Shoot Oneself in the Foot: An Assessment of the Guarantee of Self-Representation Twenty Years After Farettà, 6 SETON HALL CONST. L.J. 483 (1996); Tracy L. Meares, What's Wrong With Gideon, 70 U. Cm. L. Rev. 215 (2003).

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~~24~~
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Applicant retains the right to amend
PCR application and stated issues.

CONCLUSION

I-57 Wherefore having stated all the above, Applicant Mark Anthony Keys respectfully request this Honorable Court pursuant to Rule 71.1(d) and 71.1(g), SCRCP, for the appointment of PCR counsel;

I-58 To leave this PCR Application open for further arguments, facts, and laws after receiving a Rule 5 Brady Motion and or evidence, documents etc, from the prosecutions office and or this Honorable Court;

I-59 That this instant Conviction be Vacated and Sentence Lifted ~~and Granted a New Trial.~~

I-60 That this case be viewed under the PLAIN ERROR DOCTRINE of the Federal Rules of criminal procedures.

RESPECTFULLY SUBMITTED

mark keys

MARK ANTHONY KEYS, PRO-SE APPLICANT

SCDC NUMBER.:

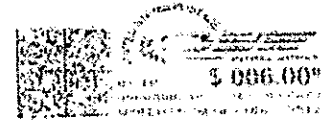
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MARK A. KEYS ID# 381749
4A-1938 Evansville IL
616 Hwy 9 West
Bennettsville SC 29512

CERTIFIED MAIL



7020 0640 0000 0556 8128



2020-CP-23-04199

Greenville County Court
Paul Wickenstine
Clerk of Courts
305 EAST North Street
Suite 202
Greenville, SC 29601

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Mark Anthony Keys, #381749,	)	Case No.: 2020-CP-23-04199
	)	
Applicant,	)	
	)	
v.	)	RETURN, MOTION FOR A MORE
	)	DEFINITE STATEMENT, AND
State of South Carolina,	)	PARTIAL MOTION FOR SUMMARY
	)	DISMISSAL
Respondent.	)	

The State of South Carolina ("Respondent"), making its return to the application for post-conviction relief filed by Mark Anthony Keys ("Applicant") on September 11, 2020, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. During its February of 2019 term, the Greenville County Grand Jury indicted Applicant for kidnapping (2018-GS-23-9868) and assault and battery of a high and aggravated nature (2019-GS-23-1286A). Applicant was a pro se defendant, and Assistant Solicitor Jennifer A. R. Tessitore of the Thirteenth Circuit Solicitor's Office prosecuted the case. On October 14, 2019, Applicant appeared before the Honorable G. Thomas Cooper, Jr., for a hearing regarding his status as a pro se defendant. At that hearing, at Assistant Solicitor Tessitore's request, Judge Cooper advised Applicant of the dangers of representing himself and his right to court-appointed counsel, pursuant to Faretta v. California, 422 U.S. 806 (1975). Applicant affirmed that he understood Judge Cooper's advisement. Hearing Tran. 11-13. Judge Cooper also denied Applicant's motion to dismiss, which was based upon Applicant's argument that the delay in his case's being called for trial violated his right to a fair and speedy trial.

On October 16, 2019, Applicant proceeded to a jury trial with the Honorable Letitia H.

Verdin presiding. At the conclusion of trial, the jury found Applicant guilty of assault and battery of a high and aggravated nature and not guilty of kidnapping. After the trial, the State dismissed the remaining charge for first-degree assault and battery (2018-GS-23-09869). Judge Verdin sentenced Applicant to imprisonment for twelve years with credit for time served and for the time served after Applicant was held in contempt of court.

Applicant did not appeal his conviction or sentence.

II. Current Application

In his application for post-conviction relief, filed on September 11, 2020, Applicant argues he is entitled to relief based upon multiple claims, which Respondent interprets as follows: (1) the State did not serve Applicant with an indictment and he was informed halfway through his trial that he was being tried for attempted murder; (2) Applicant's right to counsel was violated because an attorney was not appointed to represent him; (3) Applicant's right to counsel was violated because standby counsel was not appointed; (4) Judge Verdin erred by denying Applicant's motion for a continuance; (5) the State did not comply with Applicant's motion for discovery pursuant to Rule 5, SCRCrimP, and Brady v. Maryland, 373 U.S. 83 (1963); (6) the State committed prosecutorial misconduct by knowingly introducing documents and/or statements into evidence that Deputy Solicitor knew to contain untruths; (7) the State made comments that shifted the burden to Applicant and "prejudiced the jury pool"; (8) the jury at Applicant's trial was not impartial; and (9) Applicant's rights were violated because there was only one black person on the jury. Applicant prays the Court would grant post-conviction relief and vacate his sentence.

Attached to this return and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding Applicant's conviction and sentence; the records of the Greenville County Clerk of Court regarding the charge for which Applicant was found not guilty; the records of the Greenville County Clerk of Court regarding the charge dismissed by the

State; the transcript of the October 14, 2019, pre-trial hearing on Applicant's status as a pro se defendant; the transcript of Applicant's trial; and Applicant's records from the South Carolina Department of Corrections. Respondent reserves the right to amend this return upon receipt of any relevant materials.

III. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant's claims. Applicant claims that the Deputy Solicitor did not comply with the discovery requirements of Rule 5, SCRCrimP, and Brady v. Maryland, 373 U.S. 83 (1963), but fails to explain what the Deputy Solicitor withheld and how that withholding affected the case. Applicant claims that the Deputy Solicitor committed prosecutorial misconduct by knowingly introducing documents and/or statements into evidence that he knew to contain untruths, but fails to explain what those untruths were. Applicant claims that the Deputy Solicitor made comments that shifted the burden to Applicant and "prejudiced the jury pool," but fails to identify those comments, explain how the comments shifted the burden, and explain how the comments tainted the jury. Applicant claims that the jury was not impartial, but fails to provide any explanation as to the nature of the partiality. Applicant claims that Judge Verdin erred in denying his motion for a continuance, but Respondent does not have enough information to respond to the claim. Respondent does not know when the motion was made, upon what ground it was made, when Judge Verdin ruled upon the motion, or upon what basis Judge Verdin ruled. The Uniform Post-Conviction Procedure Act requires that Applicant must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In an application for post-conviction relief, it is incumbent upon an applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of

South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974). Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an amended application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

IV. Motion to Dismiss Some Claims

Applicant claims that he is entitled to relief because the State did not serve him with the indictment until halfway through his trial, which allegedly deprived him of notice that he was being tried for attempted murder. This claim should be dismissed summarily. Pursuant to S.C. Code Ann. § 17-27-70(c), this Court may summarily dispose of an application if there is no genuine issue of material fact in the “pleadings, depositions and admissions and agreements of fact” and the movant is entitled to judgment as a matter of law. The summary dismissal of an application for post-conviction relief without a hearing is appropriate only when it is apparent on the fact of the application that a hearing is not needed for the development of a factual record and the applicant is not entitled to relief. Mose v. State, 420 S.C. 500, 505, 803 S.E.2d 718, 720 (2017) (citing Leamon v. State, 363 S.C. 432, 611 S.E.2d 494 (2005)). The Court, in considering the motion for summary dismissal without the holding of an evidentiary hearing, must assume the facts presented by Applicant as true and view them in the light most favorable to Applicant. Robertson v. State,

418 S.C. 505, 519, 795 S.E.2d 29, 36 (2016) (citing McCoy v. State, 401 S.C. 363, 737 S.E.2d 623 (2013)). A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994).

First, the Court should dismiss this claim because Applicant has waived it by not raising it before now. “[I]f an indictment is challenged as insufficient or defective, the defendant must raise that issue before the jury is sworn and not afterwards.” State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005) (citing S.C. Code Ann. § 17-19-90 (2003)). Applicant did not raise any issue regarding the sufficiency or defectiveness of the indictment before the jury was sworn. Therefore, he has waived the issue and this Court should dismiss it on that basis alone.

Second, the Court should dismiss the claim because Applicant was neither indicted nor tried for attempted murder. As previously noted in this return, Applicant was indicted for kidnapping (2018-GS-23-9868) and assault and battery of a high and aggravated nature (2019-GS-23-1286A), and was charged with but not indicted for first-degree assault and battery (2018-GS-23-09869). During jury selection, Judge Verdin informed the jury pool that Applicant was being tried for assault and battery of a high and aggravated nature and kidnapping. Tran. 23-24. When the jury was sworn, its members affirmed that they would render verdicts for the indictments for assault and battery of a high and aggravated nature and kidnapping. Tran. 31-32. In her preliminary instructions to the jury after it was sworn, Judge Verdin instructed that Applicant had been indicted for kidnapping and assault and battery of a high and aggravated nature. Tran. 32-33. During her charge to the jury before deliberation, Judge Verdin instructed the jury that Applicant had been charged with assault and battery of a high and aggravated nature and kidnapping. Tran. 261. When the clerk of court read the jury’s verdict, the clerk read as follows:

Your Honor, this is case number 2019-GS-23-01286A and 2018-GS-23-09868 in the matter of the State South Carolina vs. Mark Anthony Keys. As to the charge of

attempted murder, we, the jury, unanimously find [Applicant] guilty of assault and battery of a high and aggravated nature. As to the charge of kidnapping, we, the jury, unanimously find [Applicant] not guilty.

Tran. 275-76. Immediately after that, Judge Verdin noted for the record that, as “everybody knows,” the verdict form contained a scrivener’s error in the header for assault and battery of a high and aggravated nature because the header incorrectly named the crime as attempted murder, but the body of the text on the verdict form correctly listed the crime as that of assault and battery of a high and aggravated nature. Tran. 276. Other than this single reference on the verdict form, there was no other reference to attempted murder at Applicant’s trial. As a conclusive, factual matter, proven from the record, Applicant was not tried or indicted for attempted murder. This claim should be dismissed because it does not present a true dispute such that should survive a motion to dismiss.

Applicant claims that his Sixth Amendment right to counsel was violated because an attorney was not appointed to represent him at trial. This Court should dismiss this claim summarily because Applicant waived his right to counsel. The Sixth Amendment guarantees an accused the right to a lawyer’s assistance. State v. Dial, 429 S.C. 128, 133, 838 S.E.2d 501, 504 (2020) (citations omitted). A defendant can waive his right to counsel, but his waiver must be knowing and intelligent. Id. (citation omitted). In order for a waiver to be knowing and intelligent, the defendant must be “(1) advised of his right to counsel; and (2) adequately warned of the dangers of self-representation.” Id. (citation omitted). At the hearing on October 14, 2019, Judge Cooper issued Faretta warnings to Applicant about the dangers of self-representation and Applicant’s right to counsel. Specifically, Judge Cooper informed Applicant of the following:

First off, if you decide to proceed by yourself, and you obviously have made that decision, but, nevertheless, let me advise you that representing yourself can be dangerous. And you have a right to assistance of an attorney at all stages of the proceedings. And if you cannot afford an attorney, the State would appoint an attorney to represent you.

Criminal defense is a highly specialized and technical area of the law. There may be certain factual, legal or other defenses to the charge that you are facing. And if you choose to proceed without the services of a licensed attorney, you may not be aware of these defenses.

There may be issues related to the conduct of the trial or a guilty plea, which you said you're not going to do, that could arise in the future that you may not be aware of. And it would be your attorney's responsibility to make you aware of these issues and how to properly address them before the court and if necessary preserve the issues for an appeal.

There may be collateral consequences of a conviction or a plea that you're not aware of including, but not limited, you could face increased penalties for subsequent offenses, suspension of your driver's license, the right – the restriction of the right to possess a firearm or ammunition and if you were an immigrant, your immigration status.

If you exercise your right to proceed without the services of an attorney, you are responsible for complying with all the applicable rules of court including the rules of evidence, procedural rules and proper behavior before the judge and/or jury. You understand that you have – if you waive screening for court appointed attorney that you're responsible for hiring a private attorney if you want one?

Hearing Tran. 11-13. Applicant affirmed that he understood Judge Cooper's advisement. Hearing Tran. 12. Applicant signed an acknowledgement indicating that Judge Cooper had issued the Faretta warnings and that he understood the advisement. Hearing Tran. 12-13, 15. Applicant informed Judge Cooper that he was aware that he was charged with assault and battery and kidnapping. Hearing Tran. 5. Applicant affirmed to Judge Cooper that he understood the potential sentencing range for each of the offenses. Hearing Tran. 5, 17. Applicant informed Judge Cooper that he did not want a lawyer to represent him and that he wanted to represent himself. Hearing Tran. 6, 8-9, 17, 20. Applicant told Judge Cooper multiple times that he was ready to move forward with trial. Hearing Tran. 7-9, 15, 17, 21. Applicant felt that he could represent himself and tell his own story better than a lawyer could. Hearing Tran. 9.

At the start of Applicant's trial on October 16, 2019, Assistant Solicitor Tessitore asked to put some things on the record about Applicant's desire to proceed with trial as a pro se defendant. Trial Tran. 6. Judge Verdin said that she had looked into the matter and felt that there was no need

to discuss it any further because Applicant had “been very clear [that] he wants to represent himself.” Trial Tran. 6-7. Applicant agreed simply by saying, “Yes, ma’am.” Trial Tran. 7. Judge Verdin informed Applicant that, because he was representing himself, he would be “held to the same standard as a lawyer” Trial Tran. 8. Judge Cooper adequately warned Applicant of his right to counsel and the dangers of self-representation. The record establishes that Applicant was aware of the right and the dangers, but felt he could represent himself better than a lawyer. Applicant’s allegations now that he was not aware of the right to counsel or the dangers associated with representing himself are flatly contradicted by the record. In fact, Applicant expressed exasperation that he was repeatedly being informed of the right to counsel by the State and the courts. There is no issue of fact because the claim is demonstrably and unequivocally false, and should be dismissed outright.

Applicant claims that his Sixth Amendment rights were violated because the courts did not appoint standby counsel for him. A defendant does not have a constitutional right to the assistance of standby counsel. United States v. Bova, 350 F.3d 224 (1st Cir. 2003) (noting that the defendant did not have the right both to “represent himself and to enjoy the benefit of standby appointed counsel”); United States v. Lawrence, 161 F.3d 250 (4th Cir. 1998) (“[t]he Sixth Amendment does not require a court to grant advisory counsel to a criminal defendant who chooses to exercise his right to self-representation by proceeding pro se”); United States v. Mikolajczyk, 137 F.3d 237 (5th Cir. 1998) (holding that, as the defendant “had no right to standby counsel, it seems unlikely that standby counsel’s failure to assist could be a violation of his Sixth Amendment rights”). As a matter of law, Applicant’s claim fails, and should be dismissed summarily.

Applicant claims that his constitutional rights were violated because there was only one black person on the jury. After the jury was selected at Applicant’s trial, Judge Verdin asked if either party had an objection to the selection of the jury. Trial Tran. 30. Applicant shook his head

from side to side, which Judge Verdin noted for the record was an answer in the negative. Trial Tran. 30-31. Applicant represented himself at trial and participated in jury selection. He indicating that he had no objections to jury selection at the time, which should bar him from raising the issue now. See State v. Johnson, 363 S.C. 53, 58, 609 S.E.2d 520, 523 (2005) (citing State v. Johnson, 324 S.C. 38, 476 S.E.2d 681 (1996)) (instructing that, for a party to preserve an issue for appellate review, the party must make a contemporaneous objection for the trial court to rule upon); Id. (citing State v. Prioleau, 345 S.C. 404, 548 S.E.2d 213 (2001)) (requiring that the party's objection be addressed to the trial court with sufficient specificity that the party brings the court's attention to the "exact error."); Id. at 58-59, 609 S.E.2d at 523 (citing State v. Pauling, 322 S.C. 95, 470 S.E.2d 106 (1996)) (providing that, if the party fails to object properly, he is barred procedurally from raising the issue on appeal). This Court should dismiss the claim summarily because, even if Applicant's factual allegation is true, Applicant cannot raise the claim properly in an application for post-conviction relief.

V. Denial of All Other Claims

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent pursuant to Love v. State, 428 S.C. 231, 238-39, 834 S.E.2d 196, 199-200 (2019), or, alternatively, Respondent will move for a continuance in the matter. See Love, at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue

the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to S.C. Code Ann. § 17-27-150(a) (2008), an applicant in a non-capital post-conviction relief action may invoke discovery under the South Carolina Rules of Civil Procedure only if granted leave to do so by a court upon a showing of good cause. If Applicant attempts to invoke discovery powers without first obtaining leave to do so by a court upon a showing of good cause, Respondent will oppose those attempts.

VII. Conclusion

WHEREFORE, Respondent requests that the Court dismiss summarily those claims specifically identified for summary dismissal in this return, require Applicant to file an amended application in response to the motion for a more definite statement included herein, and, if necessary, convene an evidentiary hearing on any claim with merit that Applicant raises in the amendment.

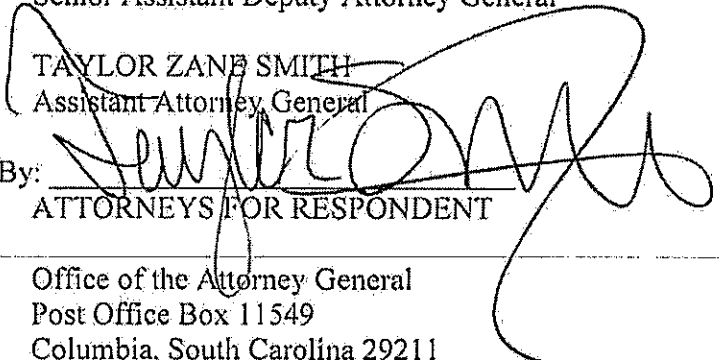
Respectfully submitted,

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By: 
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April 13, 2021

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Mark Anthony Keys, #381749,

Case No. 2020-CP-23-04199

Applicant,

Y.

CERTIFICATE OF SERVICE BY MAILING

State of South Carolina,

Respondent.

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return and Motion for a More Definite Statement and Partial Motion for Summary Dismissal** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Sarah M. Henry, Esquire
406 Pettigru Street
Greenville, SC 29601

DATED this the 13th day of April, 2021

Wannan Zindham

Hannah Bradham
Legal Assistant for Respondent

1 STATE OF SOUTH CAROLINA)
2) COURT OF COMMON PLEAS
3 COUNTY OF GREENVILLE)
4)
5)
6)
7)
8)

MARK ANTHONY KEYS,
PETITIONER,

vs.

STATE OF SOUTH CAROLINA,
RESPONDENT.

TRANSCRIPT OF RECORD

October 10, 2024
Greenville, South Carolina

B E F O R E:

THE HONORABLE PATRICK C. FANT, III, JUDGE

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

SUSANNAH CONYERS ROSS, ESQ.
Attorney for the Petitioner

MELODY JANE BROWN, ESQ.
Attorney for the Respondent

CHERYL A. SMITH
Circuit Court Reporter

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>

(Respondent's Exhibits)

1	7/13/19 Letter from Jennifer Tessitore to Mark Keys		37
2	Discovery Affidavit		41

P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 10:00 AM.)

MS. BROWN: The State calls Case Number 2020-CP-23-4199, Mark Anthony Keys versus State of South Carolina. By way of introduction, Your Honor, Mr. Keys is present, represented by counsel, Ms. Susannah Ross. Mr. Keys was tried by a jury back in October 2019. He's charged with assault and battery of a high and aggravated nature and kidnapping. He was convicted of the assault charge, he was acquitted of the kidnapping charge.

The assault charge stemmed from him severely beating his girlfriend resulting in significant trauma. He represented himself at trial, Your Honor. The Honorable Letitia Verdin sentenced applicant to 12 years imprisonment. He did not appeal, but he filed this action on September 11, 2020.

And, of course, you have the packet before you with the original application, return and motion for a more definite statement, partial motion for summary dismissal, the trial transcript from Judge Verdin's proceeding, and a pretrial transcript from Judge Cooper's proceeding, along

1 with miscellaneous clerk records including the
2 indictment and sentencing sheet.

3 There is an outstanding motion for
4 summary dismissal of certain claims, Your Honor,
5 but at this point, the State is ready to proceed.

6 THE COURT: Okay. Ms. Ross?

7 MS. ROSS: Thank you, Your Honor. May
8 it please the Court. Mr. Keys would like to stand
9 on his original application. I bring special
10 attention to his argument that he was denied
11 assistance of counsel and the jury that heard his
12 case was not impartial. And I would call him to
13 the stand to further discuss those allegations.

14 THE COURT: And, Counsel, just so --
15 because they had moved -- the State had moved for a
16 more definite statement, and, so, essentially, you,
17 I guess, are -- this would be an amended petition
18 -- I mean, or just more of a clarification?

19 MS. ROSS: Yes, Your Honor. And we'd
20 also stand on *Love v. State* and move to conform the
21 pleadings to the testimony.

22 THE COURT: Okay. Denied assistance of
23 counsel and then basically unfair jury pool; is
24 that...

25 MS. ROSS: Yes. And I think he can

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 flesh out some more allegations from the scene.

2 THE COURT: Okay. And, I guess I'll
3 hear from the State after he's put up as far as any
4 motions that are remaining.

5 MS. BROWN: Yes, sir.

6 THE COURT: Okay. All right.

7 Ms. Ross?

8 MS. ROSS: All right. We call Mark
9 Anthony Keys to testify.

10 THE CLERK: Mr. Keys, please place your
11 left hand on the Bible and raise your right hand.

12 MR. KEYS: I don't --

13 THE CLERK: Okay. Will you just raise
14 your right hand?

15 MARK ANTHONY KEYS,
16 being first duly sworn, was examined and testified
17 as follows:

18 THE CLERK: Thank you. You may be
19 seated. Please state your full name for the
20 record.

21 MR. KEYS: Mark Anthony Keys.

22 DIRECT EXAMINATION

23 BY MS. ROSS:

24 Q. Good morning, Mr. Keys?

25 A. Good morning.

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 Q. All right. Now, I always ask this
2 first in PCR hearings and it's in my initial letter
3 that I send out, but you understand if you win a
4 PCR, the remedy is to be sent back and start all
5 over again, but you do get credit for the time
6 you've done?

7 A. Yes, I do.

8 Q. Okay. And you still want to proceed?

9 A. Yes.

10 Q. All Right. Now, you've alleged that
11 you had -- you were denied assistance of counsel.
12 Can you explain the circumstances of that?

13 A. Yes. I was on my job for six years and
14 right before -- on my way home from work I was in a
15 bad car accident. And shortly after that, I got
16 hit with these charges from my ex-girlfriend. She
17 make these allegations against me. So I told them
18 that I didn't have the money because I -- I been
19 out of work for a year, I was trying to hold on to
20 my place where I owned, keep my -- pay my bills and
21 keep my place where I was living. I didn't have
22 the money to -- at the time I was trying to get my
23 unemployment started and I didn't have the money to
24 hire an attorney.

25 When I got there to court -- well, she

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 brought me to court twelve times during that year
2 and asked me did I want to plead guilty to the
3 charges. And I said I could never plead guilty to
4 something that I didn't do. The thirteenth time
5 that she showed up in court, she said, you have a
6 court date.

7 And when I came to court, she said, Mr.
8 Keys, this trial is going out today with you or
9 without you. And I said, I am not ready because I
10 don't have anybody to represent me. She say, you
11 seem like an intelligent person, what grade did you
12 finish school? I said, I graduated high school and
13 I had some college, two years of college. She
14 said, well, you talk very intelligent, you seem to
15 understand right and wrong, you can understand
16 these procedures. She said, do you understand what
17 I'm saying? I said, yes. I said, but I am not a
18 lawyer.

19 And she said, well, you can -- you
20 don't have to have a lawyer, you can proceed
21 without a lawyer. And I said, yeah, I could. But
22 she said, Mr. Keys, this trial is going down with
23 you -- I mean, this trial is going to happen with
24 you or without you. And I told her, I said, I am
25 not a lawyer, but I can speak for myself and I can

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 tell what happened.

2 So she said, well, she read those --
3 she read some rights. Do you understand this and
4 this? And once I agreed to that, she started the
5 case without knowing that -- I'm starting this
6 trial, so I find myself in the midst of having this
7 trial without any assistance or lawyer. And as
8 soon as she was trying to tell me that these are
9 courtroom procedures, if you need any help I will
10 be -- before it got started, she said, I will be
11 here to assist you on anything you need help with.
12 I will tell you what you can and cannot do.

13 Q. All right.

14 A. So I said, okay. But once I got into
15 it, I realized that I am not equipped to defend
16 myself. Because as soon as I started talking, she
17 said, well, you can't say this to the jury, you
18 can't say that to the jury, you cannot speak this
19 way and that way. And I said, well, I don't know
20 how to speak to say and to do these things. So I
21 knew then I was at a disadvantage for representing
22 myself, things that I could say to the jury, things
23 that I couldn't say, and so I'm not equipped to
24 represent myself.

25 Q. All right. Were you given Faretta

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 | warnings? Do you know what those are?

2 | A. She did that at the beginning. As soon
3 | as she said that this trial is going to happen,
4 | Mr. Keys, with or without you, she went skimly over
5 | the Faretta rights and said do I understand them?
6 | And once I said I understand that part, she said,
7 | well, we can start the trial.

8 | Q. All right. And once you were in the
9 | trial, you realized that you just did not -- that
10 | you really did need a lawyer?

11 | A. Yeah, and I said that. She said,
12 | you're doing fine, Mr. Keys. It's almost like she
13 | was holding my hand to get me through it. Like,
14 | you're doing good. You're doing real good. You're
15 | doing fine. And then at a certain point she was
16 | like, well, you was doing okay until now. And then
17 | she turned on me. She said, well, I don't know,
18 | this is -- and I was like, I found myself like I
19 | was in a kangaroo court.

20 | Q. Had you had any legal training at all?

21 | A. No, ma'am.

22 | Q. You alleged the jury was impartial.

23 | Why did you allege that?

24 | A. Well, they said that they pick people
25 | -- peers from -- there were not people from my

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 neighborhood. They had all -- they had a all white
2 jury except for one black lady. And she had -- she
3 had picked these juror prior herself. She had
4 handpicked them prior herself. So I know nothing
5 about --

6 Q. What makes you say that?

7 A. Well, because she told me that. She
8 said she handpicked them the day before we came --
9 they came there to select them. She said, they
10 already been preselected. So I had no idea of the
11 background of these people, what their beliefs
12 were, what they stood for or anything. I don't
13 know if these -- you know what I'm saying? So I
14 had no -- I had no selection in the jury pool. I
15 just had the -- to pick that do I want this one or
16 do I want that one and I knew nothing about them to
17 say, yes or no.

18 Q. All right. Now, if you started all
19 over again, how do you think an attorney, how would
20 the outcome be different if you had a lawyer?

21 A. The outcome would have been totally
22 different because I would have had somebody to
23 stand there and not let them basically kangaroo
24 court me that get away with stuff that -- they
25 accuse me of a lot of stuff and I had no -- I was

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 not equipped to defend myself against. So they
2 made me look like a monster in the courtroom and
3 all I could say, well, I didn't do that and I
4 didn't do this. And then when I would say
5 something to try to defend myself, well, you can't
6 say that. You can't say you didn't do this.

7 So everything that I tried to say to
8 offset with everything -- defend myself against it,
9 you can't do that. You can't say that. And I'm
10 like, well, I'm not a lawyer, I don't know how to
11 say it any other way or put it that way or put it
12 this way. And so a lot of stuff that if I had
13 someone to represent me, it just would have went a
14 whole lot better because I am not a lawyer.

15 Q. Now, are there any other allegations?
16 You talked like it looked like there was a direct
17 presentment of assault and battery high and
18 aggravated, you said something about attempted
19 murder in the middle of the trial --

20 A. Yes.

21 Q. -- what was that?

22 A. So my original charge was attempted
23 murder. When I came to the courtroom -- when I was
24 there, she said, you're here for attempted murder.
25 And they brought a doctor and say, well, she could

MARK KEYS - DIRECT EXAMINATION BY MS. ROSS

1 of/would of fell -- she would have fell and hit her
2 head, she could have died. They had a doctor come
3 and say, she could have got a blood clot back
4 there. And I'm saying, if I could have walked
5 across the street without looking, I could have got
6 hit by a car. I mean, a lot of things that they
7 were putting in and I'm like, I don't -- I don't
8 know how to fight against that.

9 Q. Okay.

10 A. So --

11 Q. Are there any other allegations that
12 you would like to make or any other statements that
13 you were denied a fair trial?

14 A. All -- I mean, from beginning to the
15 end, my rights were not protected in that
16 courtroom. They know that I was uneducated about
17 courtroom procedures and not well equipped to
18 defend myself. And there's no way that I could
19 come out of there with a fair trial without
20 somebody that knew -- that knew how to operate with
21 inside of a courtroom setting and I had no idea
22 about that. And they knew that and they took
23 advantage of me saying, yes, I understand this and,
24 yes, I understand that. And, well, we can proceed.

25 Q. Right. Okay. I don't think I have any

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 further questions. Please answer any questions the
2 assistant attorney general has for you, okay.

3 THE COURT: Counsel?

4 MS. BROWN: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BROWN:

7 Q. Good morning, sir.

8 A. Good morning.

9 MS. BROWN: With the Court's
10 permission, I'd like to approach the witness?

11 THE COURT: Yes, ma'am.

12 Q. Mr. Keys, I'm going to hand you a
13 document that is marked Court's Exhibit 1 and
14 Court's Exhibit 2. These are documents that were
15 introduced at your trial. On page 13 of the
16 transcript, we see that that was introduced and I
17 want to ask about that, sir.

18 Can you hold onto that one? There are
19 two pages.

20 A. My glasses are on the table over there.

21 THE COURT: Ms. Ross, can you bring him
22 his glasses? I think he said they were over there.

23 MS. BROWN: And, Your Honor, I do have
24 a copy for the Court.

25 THE COURT: Yes, ma'am, thank you.

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 A. What part do you want me to -- you
2 wanted me to read the whole thing?

3 Q. I'll ask you a question, kind of lead
4 you through that, and we'll go over a couple
5 questions, okay.

6 Mr. Keys, on that first page that's
7 marked Court's Exhibit 1, what is the title of
8 that? What's the title? What does that say?

9 A. Faretta warnings.

10 Q. Faretta warnings. Okay. And there's a
11 paragraph under that. And you agree with me it
12 says that you must be informed you have the right
13 to an attorney. If you cannot afford an attorney,
14 and meet certain income guidelines established by
15 the Court, an attorney will be appointed to
16 represent you if you so choose?

17 A. Yeah, but I never was handed this. She
18 had a paper and she read what she -- she skimmed
19 through it. She says -- this is what she said to
20 me, she had a paper sitting -- where he was sitting
21 like on paper and she said that -- she read a
22 couple of things on me and I said I understand
23 that. I understand that. But I told her, I said,
24 I understand what you're saying, but I also said, I
25 don't -- I am not a lawyer. I cannot defend

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 myself.

2 Q. Mr. Keys, let's look at it just a
3 little bit there. There is a signature block at
4 the bottom for the signature of the judge.

5 A. Yeah. And she got me --

6 Q. Can you tell me who that is?

7 A. That's me. She got me to sign that on
8 the basis of this is how this happened, got my
9 signature. He said, you don't have to agree with
10 none of this, just sign it so that -- saying that
11 you understand the rules. And that's how I got
12 tricked into signing this. Because I was signing
13 on the pretense that I understood what the Faretta
14 warnings represented, what they meant. And she
15 said, you don't have to agree with this. You just
16 have to -- you're signing this to say that you
17 understand it.

18 Q. Mr. Keys, do you agree with me that
19 where your signature appears at the bottom left,
20 there is a date and it says, October 14th?

21 A. Yes.

22 Q. Right?

23 A. Yes.

24 Q. And that is a couple of days before
25 your trial began; is that correct?

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 A. That's when they sent me back to talk
2 to a male judge. This is the guy -- this is the
3 guy that had me sent -- and I'm sorry, it wasn't
4 the female judge that I had the trial with, it was
5 another -- it was a male judge. And this is what
6 he said to me, he said, you don't have to agree
7 with none of this, just sign the paper so that we
8 will know that you understand what these warnings
9 are.

10 Because when I went there and I told
11 her that, I wouldn't sign in her courtroom. She
12 tried to get me to sign it when I said that -- the
13 last time that I went to talk before them, she
14 tried to get me -- and I said, I'm not signing
15 that. So he sent me back and said, well, maybe
16 he'll do better with a male judge. This male judge
17 had me go before him. He said, Mr. Keys, this is
18 not a trial. You're not acknowledging anything
19 except that you're signing this. And once I signed
20 it and got back to the house and started talking to
21 people about it, they was telling me that, oh, this
22 is what this is so they're going to try and do that
23 to you.

24 Q. Do you remember going before Judge
25 Cooper and --

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 A. Yes. Yes.

2 Q. Have you read the transcript from that
3 hearing?

4 A. I remember -- I'm telling you what he
5 said to me. And this is what he said to me. He
6 said, you're not --

7 Q. Yes, sir. But my question is, were you
8 aware that there is a transcript where a court
9 reporter put down everything Judge Cooper said and
10 everything you said?

11 A. I'm sure. Yeah. And that should be in
12 there.

13 Q. Have you had an opportunity to review
14 that official transcript?

15 A. No, I have not. Do you have that
16 transcript because I would like it?

17 Q. I believe that your counsel has that.

18 A. Because if that -- that should be in
19 there what I just quoted. He said, that should be
20 there. Because if that was recorded then that
21 should be in there.

22 Q. Now, Mr. Keys, on page 6 here, there is
23 a question starting on line 4: Do you want an
24 attorney? And your answer starts at line 5 -- 5 to
25 6. Would you please read your answer into the

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 record? And this is where you're asked: Do you
2 want an attorney?

3 A. Line 6?

4 Q. It starts with 5, Mr. Keys.

5 A. No, Your Honor, I am representing
6 myself in this matter. And that was for in this
7 matter that I was there for today. When I said
8 what I said, I was saying that I'm representing
9 myself. Because they asked me did I want somebody
10 -- every time I came, they asked me that question.
11 They said, do you want anybody? And I said, no,
12 because I can -- you know, I'm not guilty.

13 They kept trying to get me to admit to
14 the charges -- to plead guilty to the charges
15 twelve times during that year and I would never do
16 that. So when he said, do you want a lawyer? Do
17 you understand? And I said, no. Because it
18 basically would just get me up there every time I
19 would say that, they was asking me a couple
20 questions, do you want to plead to these charges?
21 Based that's what it summed up to and I said, no, I
22 don't. So that's what he was asking me.

23 Q. Mr. Keys, if I may, this same
24 transcript. Starting page 7 of the transcript at
25 line 21. You say, I don't want to waste the

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 Court's anymore time by having her come up here and
2 me and see you guys because it's been a year. Does
3 that sound familiar?

4 A. Yes.

5 Q. And I've been trying to get this matter
6 taken care of?

7 A. That's right.

8 Q. And then they're always is prolonging
9 it -- prolonging it. And she's, like, every time I
10 come, it's to see if I want an attorney. And I
11 made it very clear from the first time that I
12 showed up in court right after they let me out of
13 jail, okay, because when I got out and came up
14 here, I said, I'm ready to proceed. Every time.
15 You were always asked, weren't you?

16 A. No, that was before. That was when --
17 that was talking about coming to get -- to come to
18 trial to speak. I mean, when I show up --

19 Q. Do you dispute, Mr. Keys, that that
20 transcript reflects that?

21 A. No, they're taking this out of order.
22 Because when I'm talking about coming to court to
23 get this matter settled to get it dismissed, not to
24 be going to court. What I'm saying -- when I said
25 this right here to get this settled and get it out

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 of the way so that I can quit coming to court and
2 get back to my life because I had been up there
3 twelve times and --

4 Q. Now, Mr. Keys, were you ever advised
5 that you would have to be screened to see if you
6 qualify for a court-appointed attorney?

7 A. Say that again.

8 Q. Were you ever advised that you would
9 have to be screened to see if you qualify for a
10 court-appointed attorney?

11 A. I don't think so.

12 Q. Okay. Do you agree with me that on
13 Court's No. 1 at that last bullet point, it says
14 you understand that if you waive screening for a
15 court-appointed attorney, you're responsible for
16 hiring a private attorney if you want one?

17 A. I was never waived any screening. I
18 was never talked to about a screening. Every time
19 I went up there, like I just told you and the
20 Court, it was to try to get me to plead to these
21 charges and I said, I'm not pleading to these
22 charges. I'm here to let these people know that I
23 am not -- I've been up here twelve times and I'm
24 ready to get onto -- with this and I'm ready to get
25 on with this. I made it clear that I showed up in

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 the courtroom every time that they asked me to come
2 because I wanted to let these people know that I am
3 not guilty of these charges that they're accusing
4 me of. My girlfriend was angry at me that I was
5 trying to get back with my ex.

6 Q. Now, Mr. Keys, I think we're a little
7 off topic. Let's get back to Court's Exhibit 1.
8 We determined and I think you agreed with me that's
9 October 14, 2019. That second page is a document
10 also labeled Faretta warnings. It is Court's
11 Exhibit 2.

12 A. Where are you at here?

13 Q. Let me help you with it. Does that
14 look familiar to you?

15 A. I didn't get to see this. She read --
16 she read this paper to me. If I did, I don't
17 remember seeing it. But what are you asking me
18 about the back sheet? What do you want to know?

19 Q. Well, two things. Let's start with two
20 things. Who's the judge? Is that Judge Verdin
21 that you were before?

22 A. Where are we at?

23 Q. It says, signature of the judge. Was
24 that Judge Verdin?

25 A. I do not know.

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 Q. What's the date of that document? You
2 agree with me that says, April 12, 2019?

3 A. Uh-huh.

4 Q. Okay. April 12th --

5 A. Uh-huh.

6 Q. That's quite a good time before you
7 went to trial, wasn't it?

8 A. Yes.

9 Q. Okay. And it says in that last
10 paragraph, does it not, at this time, I do not wish
11 to be screened for a court-appointed attorney and I
12 wish to proceed with my trial at this time;
13 correct?

14 A. Where does it say that at?

15 Q. Last paragraph.

16 A. This. Okay. My signature right there.
17 Is that my signature here?

18 Q. No. I'm asking you about the judge.

19 A. I understand that, but it says, sign --
20 signature defendant. Is my signature there? It's
21 not there, is it?

22 Q. Appeared in court before judge,
23 4/12/19?

24 A. I got you. Just let me say something.
25 My signature is not on this paper that means I did

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 not read this paper. I did not sign this paper.
2 This is a add-on. So if this was the case, why
3 isn't my signature here? Just answer me that.

4 Q. Could you not refuse to sign, sir?

5 A. Why would I refuse to sign when --

6 Q. Did you not refuse to answer my
7 question?

8 A. I could refuse to sign -- hold on. I
9 could refuse to sign here, but I sign here. Why
10 would I sign here and not sign here?

11 Q. I believe you just said that you would
12 refuse to answer my question?

13 A. No, I'm not refusing to answer your
14 question. I just answered all your questions.
15 What I'm asking you is, why would I sign the
16 top sheet --

17 Q. Sir, you cannot ask me questions when
18 you're on cross-examination.

19 A. I'm just stating a fact that why would
20 I sign the top sheet and not sign the bottom. I
21 had no problem signing this because he said this is
22 to let me know -- let the Court know that you
23 understand your Faretta rights, not that I was
24 ready for trial. That's how they got me to sign
25 this --

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 THE COURT: Mr. Keys, answer the
2 questions and then your attorney can ask you
3 questions, okay.

4 MR. KEYS: I did, sir. What -- I was
5 just making a statement because she said -- she was
6 trying to say that I understood this. I signed
7 this.

8 THE COURT: And I've got that document
9 up here. But what I'm telling you is that you need
10 to answer what she asks --

11 MR. KEYS: I have.

12 THE COURT: Okay. And you can't ask
13 her questions, okay.

14 MR. KEYS: Okay.

15 THE COURT: And then your attorney can
16 come up and clarify with you, okay?

17 MR. KEYS: I got you. I was just
18 making a statement fact. Because she was accusing
19 me -- well, she was making that -- she was accusing
20 me the fact that, like, I understood this part and
21 I never seen that. This was never read to me.
22 Like I said, when she read it to me, she skimmed
23 over it and she said, do you agree with that -- I
24 meant him. So when I signed this sheet, it's very
25 particular to me that this one is signed and this

MARK KEYS - CROSS-EXAMINATION BY MS. BROWN

1 one is not signed. Why would I sign the front top
2 of this paper and not the backside? It makes -- I
3 have no dispute with none of it.

4 Q. Overall, that's Court Exhibit 1 and
5 Court Exhibit 2 and that was admitted at your trial
6 and you didn't object; did you?

7 A. Right. I didn't sign that.

8 Q. All right. Let's move on to jury
9 selection.

10 A. So there's no proof that I understood
11 -- I was read that.

12 Q. You agree that that's part of the
13 record, sir; is that right? Yes or no, please?

14 A. I don't know.

15 Q. That's Court's Exhibit 1, Court Exhibit
16 2 --

17 A. If it's part of the record, I guess it
18 is. But what I'm telling you --

19 Q. Thank you, sir.

20 A. -- is that I never signed that.

21 Q. Let's move on to jury selection. And
22 you were participating in your trial and you did

23 see jurors presented for selection and you had the
24 opportunity to say, yes or no; correct, whether to
25 seat the juror?

MARK KEYS - REDIRECT EXAMINATION BY MS. ROSS

1 A. No. I didn't get to ask those juries
2 any questions. I didn't get to talk to them or
3 anything. So when they brought the jury selection
4 up --

5 Q. Let me go over the question again,
6 please, sir.

7 A. Yes.

8 Q. When you got a juror presented to you,
9 you could say, yes, seat the juror or, no, don't
10 seat the juror; correct?

11 A. That's what she told me.

12 Q. And you participated in that process?

13 A. She told me I had to.

14 MS. BROWN: No further questions, Your
15 Honor. Thank you very much.

16 THE COURT: Okay.

17 MS. ROSS: Just briefly on redirect.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 BY MS. ROSS:

21 Q. As far as the jury, in picking the
22 jurors, you didn't -- did you go down in the big
23 jury selection room and listen to the jurors when
24 they talked about their backgrounds?

25 A. No, ma'am.

MARK KEYS - REDIRECT EXAMINATION BY MS. ROSS

1 Q. Did you submit any questions for the
2 judge to ask the juror?

3 A. No, ma'am.

4 Q. And that's because you didn't want a
5 lawyer and you didn't know to do that; right?

6 A. Yeah. And they didn't offer that to
7 me.

8 Q. Right. And then just -- your point on
9 this Faretta warnings thing is that the one you
10 signed, there's no I do or don't circled; right?

11 A. Right.

12 Q. And then the one that you didn't sign
13 is the one that they circled, did not want an
14 attorney?

15 A. Yes.

16 MS. ROSS: Okay. I've got no further
17 questions.

18 THE COURT: Anything else in recross?

19 MS. BROWN: Nothing from the State,
20 Your Honor.

21 THE COURT: All right. You can step
22 down, sir.

23 MR. KEYS: I apologize to the Court if
24 I was been a little argumentative. I'm sorry --

25 THE COURT: Do not apologize. I just

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 wanted to make sure you understood your attorney
2 could ask you follow-up questions on that, okay?

3 MR. KEYS: Thank you, sir.

4 THE COURT: You may step down, sir.

5 Anything else, Ms. Ross?

6 MS. ROSS: No, Your Honor.

7 THE COURT: So you rest?

8 MS. ROSS: I do, Your Honor.

9 THE COURT: Anything from the State?

10 MS. BROWN: Yes, Your Honor. The State
11 would call Ms. Jennifer Tessitore, please.

12 JENNIFER TESSITORE,
13 being first duly sworn, was examined and testified
14 as follows:

15 THE CLERK: Thank you. You may be
16 seated. Please state your full name for the
17 record.

18 MS. TESSITORE: My name is Jennifer
19 Tessitore.

20 DIRECT EXAMINATION

21 BY MS. BROWN:

22 Q. Good morning.

23 A. Good morning.

24 Q. When you were up here prosecuting, were
25 you assigned to Mr. Keys' case?

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 A. Yes, I was.

2 Q. Okay. And when you were assigned the
3 matter for prosecution just in general, in
4 practice, did you keep records or notes of
5 important steps during the prosecution?

6 A. Yes, I tried to do that.

7 Q. And have you recently reviewed those
8 steps?

9 A. Yes, I have.

10 Q. Okay. And can you remember the very
11 first entry in your notes by any chance or do you
12 have your notes with you?

13 A. I left them on the seat over there. If
14 I could get that folder, that would be great.

15 MS. BROWN: May we hand that to the
16 witness, Your Honor?

17 THE COURT: Sure.

18 Q. And if you would share with us what the
19 very first entry in your notes would reflect, first
20 step in the process.

21 A. Well, I just recall that he was
22 arrested on October 23, 2018, I believe it was.

23 And at that time, he was arraigned. I believe he
24 also received a contempt sentence by the judge at
25 that time for conduct that occurred during that

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 hearing, but I was not present.

2 Q. Okay. So your involvement started in
3 October 2018?

4 A. Shortly after the, you know, the
5 processing and the building of the file, yes.

6 Q. Okay. So you were present at most
7 hearings if not all hearings during this time
8 period?

9 A. Correct.

10 Q. Okay. And during the course of the
11 prosecution, was Mr. Keys consistent or
12 inconsistent with his desire to represent himself?

13 A. He was adamantly consistent that he did
14 not want an attorney.

15 Q. Okay. Was he ever represented at any
16 point in these proceedings?

17 A. No, he was not.

18 Q. Okay. In or around April of 2019, can
19 you briefly describe the arraignment and what, if
20 anything, was mentioned about counsel?

21 A. Back on April 12th of 2019, we brought
22 him in to be arraigned on the direct presentment
23 for assault and battery of a high and aggravated
24 nature. Initially it had been charged by the
25 sheriff's office as an assault and battery first

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 degree as well as the original kidnapping.

2 But upon review of the case and after
3 conferring with the doctor and discussing the
4 medical testimony that could be presented, it was
5 clear that it should have been charged as assault
6 and battery high and aggravated. So essentially
7 what we did is we brought him in that day. He
8 appeared before Judge Verdin. And at that time, he
9 was given a copy of the indictment itself.

10 He was -- the issue of bond was
11 addressed at that time. And the judge --
12 basically, we asked the Court continue him on the
13 original bond. We weren't asking for the bond to
14 be, you know, adjusted accordingly, you know, to
15 the increase in the charge. But, basically, that
16 he, you know, consented to service of the
17 indictment and the judge signed that. He was given
18 a copy of that. I have an affidavit of service
19 where the investigator for the solicitor's office
20 had served him with that.

21 And at that time, it was my
22 recollection that the judge addressed the issue of
23 representation and that's why there's a Faretta
24 warning form dated April 12th of 2019. She did
25 review those warnings with him. He did not -- he

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 would not agree to sign that, but she did explain
2 his rights, explained to him the importance of
3 having a lawyer and he at that time, despite also a
4 prior hearing in February of 2019 for an attorney
5 order, he continued to say he was not going to get
6 an attorney, he didn't need an attorney.

7 MS. BROWN: Your Honor, may I approach
8 the witness?

9 THE COURT: Yes, ma'am.

10 Q. I'm showing you what was marked as
11 Court's Exhibit 2. Do you remember offering that
12 Court's Exhibit 2 at the trial?

13 A. Yes, I do.

14 Q. And is that consistent with what you
15 were explaining about the April 12, 2019 hearing?

16 A. That is correct. Yes.

17 Q. So that is the paperwork from that
18 hearing?

19 A. Yes, ma'am.

20 Q. Where he was present?

21 A. Yes.

22 Q. And where he refused to sign?

23 A. Yes.

24 Q. Just briefly, can you give us some
25 context, and this will be for the next few

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 questions on discovery, but is it correct to say
2 that this was going to be a short trial based on
3 the facts?

4 A. What do you mean by "short trial"?

5 Q. It would be a day or so?

6 A. Oh, yes.

7 Q. You wouldn't expect it to go a week?

8 A. No.

9 Q. This wasn't complex?

10 A. Oh, no, it was not complex.

11 Q. Not a lot of experts to come in, a lot
12 of testimony be received?

13 A. Correct.

14 Q. Okay. A limited number of witnesses?

15 A. Correct.

16 Q. Okay. And then you briefly summarize
17 the crime?

18 A. Yes.

19 Q. Just -- if you would just walk us
20 through from Mr. Keys being with his girlfriend at
21 a cookout, what happened -- what was the crime
22 itself?

23 A. Let's see, my recollection was that
24 they had been at a cookout. There had been a
25 dispute. And, honestly, I haven't gotten back to

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 go over the facts, so this is just what I recall.
2 There was a dispute. She had gotten in the car
3 with a cousin or a family member of Mr. Keys. Most
4 of the people at the cookout were his family or
5 friends. And when she came back, he became very
6 irate. He was verbally abusive. He told her that,
7 you know, they were going to leave.

8 They were on -- they went back to her
9 home. And he was not living with her at that home,
10 but they went into the home and he proceeded at
11 some point during that time he was beating her
12 severely. Most of her injuries were to her head.
13 She had a large hematoma. He restricted --

14 MS. ROSS: Judge, I object to this
15 testimony. The transcript can speak for itself.

16 THE COURT: Anything in response?

17 MS. BROWN: This is a summary just to
18 lay a little foundation so we can talk about
19 discovery which is an allegation Mr. Keys has made.

20 THE COURT: Okay. I will allow it.
21 Your objection is noted.

22 MS. ROSS: Thank you, Your Honor.

23 A. So essentially, yeah, they were in the
24 home. He restricted her from leaving which is why
25 they charged kidnapping and we went forward on the

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 kidnapping. After the injuries, he left and there
2 were multiple text messages from his phone to her
3 phone basically explaining why he beat her so
4 badly.

5 Q. So that was a very narrow timeframe and
6 narrow event?

7 A. Yes.

8 Q. A lot of things happened with injuries
9 however?

10 A. Yes.

11 Q. So you were going to have to establish
12 the extent of the injuries for your case, correct?

13 A. Correct. Yes.

14 Q. And did you establish that through
15 medical testimony, pictures, or a combination?

16 A. Yes. Both the testimony of the doctor
17 as well as the photographs.

18 Q. Okay. And as I understand your
19 testimony a little bit earlier, you never had
20 opposing counsel in this case at all? Counsel
21 never appeared for Mr. Keys?

22 A. No.

23 Q. So you never had to share anything.
24 Everything you shared would have been directly with
25 Mr. Keys; is that correct?

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 A. That's correct.

2 Q. Okay. I'd like to show you a document
3 dated July 3, 2019 and ask if you recognize that?

4 A. (Reviews document) Yes, I do.

5 Q. Okay. And that appears to be a letter
6 dated July 3, 2019; right?

7 A. That is correct.

8 Q. And can you tell us in general terms
9 what that letter is for?

10 A. So this letter is generated and it
11 specifies in detail the -- all of the discoverable
12 material that we were providing and that we felt
13 that we needed to provide pursuant to Rule 5 as
14 well as, you know, any Brady evidence which there
15 wasn't any. And so it basically, you know,
16 itemizes 1 through 21 including the medical
17 records, the, you know, everything that we provided
18 to him.

19 Q. And who signed that letter?

20 A. I signed that letter.

21 Q. Does that appear to be a true and
22 accurate copy of the letter that you would have
23 sent out?

24 A. Yes, it does.

25 MS. BROWN: Your Honor, we would move

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 this letter into evidence as State's 1.

2 THE COURT: Any objection?

3 MS. ROSS: No objection.

4 THE COURT: Okay. It will be moved in
5 as State's 1.

6 MS. BROWN: Your Honor, may we
7 restructure it to Respondent's 1 to be consistent
8 with the exhibit numbers?

9 THE COURT: Respondent.

10 (WHEREUPON, Respondent's Exhibit No. 1
11 was marked and entered.)

12 THE COURT: Now the original documents,
13 the two Faretta warnings, they're just part of the
14 transcript; right?

15 MS. BROWN: Yes, sir.

16 THE COURT: And you're referencing
17 where they were -- or the Court Exhibits from the
18 prior trial?

19 MS. BROWN: Yes, sir.

20 THE COURT: Okay. Just to make sure
21 that's clear on the record.

22 MS. BROWN: Thank you, sir.

23 THE COURT: It probably already was.

24 MS. ROSS: Judge, Mr. Keys would like
25 to object to the introduction of this cover letter,

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 there's no evidence that he received it in
2 discovery.

3 THE COURT: Okay. Your objection is
4 noted on the record.

5 MS. ROSS: Thank you.

6 THE COURT: And I will overrule it.

7 Ms. Ross, is there anything else you need to add?

8 MS. ROSS: Beg the Court's indulgence.

9 THE COURT: Nothing else?

10 MS. ROSS: Nothing else.

11 THE COURT: Please proceed.

12 MS. BROWN: Thank you, Your Honor.

13 BY MS. BROWN:

14 Q. Now, in this letter dated July 3, 2019,
15 how is it addressed? Who is that letter going to?

16 A. That letter is going to Mark Anthony
17 Keys, pro se.

18 Q. Okay. And just -- you don't have to go
19 over everything that's listed, I think you told us
20 it's 21 items that are listed within the letter?

21 A. Yes.

22 Q. But some of that says -- some of it has
23 a notation reflecting text message one page,
24 reports, supplemental reports, forensic photos,
25 bail proceeding forms, that sort of thing, these

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 are all things that you produced copies of and gave
2 to Mr. Keys through this letter; is that right?

3 A. Yes, it was all attached to the letter
4 and it was actually hand-delivered on July 24th of
5 2019. And he acknowledged receipt. Signed that he
6 acknowledged receipt of those items.

7 Q. And when you say, "acknowledged
8 receipt," did you have a certain process that you
9 follow to ensure that a pro se individual or an
10 attorney, for that matter, would receive the
11 documents that you were sending?

12 A. Yes. So my investigator or an
13 investigator in the office would prepare a
14 discovery affidavit, would personally deliver those
15 items to the recipient, in this case Mark Keys, and
16 they would have that individual, Mr. Keys, certify
17 that he received all of those items as outlined and
18 attached and he signed and dated the acknowledgment
19 on July 24th.

20 MS. BROWN: If I may approach the
21 witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 Q. If I may show you this copy. It seems
24 to be what you were referencing, but is that a true
25 and accurate copy of the original that you have in

JENNIFER TESSITORE - DIRECT EXAMINATION BY MS. BROWN

1 your file?

2 A. Yes, it is.

3 Q. And that is the acknowledgment of
4 receipt that you would normally have in your file
5 to ensure that that discovery was delivered;
6 correct?

7 A. Yes.

8 Q. Okay. And it is -- it looks like
9 Gregory Williams is the person who is an
10 investigator for the attorney and that would be
11 your --

12 A. For the solicitor's office.

13 Q. -- investigator as you described?

14 A. Yes.

15 Q. And then who signs at the bottom?

16 A. Mr. Keys signed that.

17 Q. And he did on what date?

18 A. On July 24th of 2019.

19 MS. BROWN: Your Honor, we would move
20 this document in as Respondent's 2, please.

21 THE COURT: Any objection?

22 MS. ROSS: Judge, my only objection
23 would be just Mr. Keys is pointing out that the
24 signature does not look similar to the signature on
25 the --

JENNIFER TESSITORE - CROSS-EXAMINATION BY MS. ROSS

1 THE COURT: I would anticipate that
2 you're going to call him in reply.

3 MS. ROSS: Thank you.

4 THE COURT: I will overrule your
5 objection.

6 MS. BROWN: Thank you, Your Honor.

7 (WHEREUPON, Respondent's Exhibit No. 2
8 was marked and entered.)

9 Q. Ma'am, I wonder, do you have any
10 indication in your file or notes that you've taken
11 throughout the prosecution process that Mr. Keys
12 demanded a document or an item or anything that you
13 specifically failed to disclose for any reason?

14 A. No.

15 Q. Okay. Do you have any indication in
16 your file or notes that there were any complaints
17 from Mr. Keys about the discovery process?

18 A. Not about the discovery process, no.
19 Not that I recall.

20 MS. BROWN: Thank you, ma'am. No
21 further questions, Your Honor.

22 THE COURT: All right. Any cross?

23 CROSS-EXAMINATION

24 BY MS. ROSS:

25 Q So, isn't it possible that Mr. Keys didn't

JENNIFER TESSITORE - CROSS-EXAMINATION BY MS. ROSS

1 understand this Faretta hearings that you were
2 talking about having an attorney assist him at his
3 trial versus at the actual hearing?

4 MS. BROWN: Objection. Calls for
5 speculation, Your Honor.

6 THE COURT: I'm going to allow it.

7 A. I'm sorry, can you repeat the question?

8 Q. Isn't it possible that Mr. Keys did not
9 understand when he was being read Faretta rights
10 that they were talking about his right to
11 assistance at the actual trial versus at the
12 hearing date that he was standing before the judge?

13 A. Well, my recollection was -- I mean, I
14 can tell you from the number of times that I was in
15 communication with Mr. Keys when he would come to
16 court, he came to court on February 5th of 2019,
17 March 11th, March 28th, April 12th, June 10th, and
18 during each time, he was adamant that he did not
19 want an attorney, that he was not going to accept
20 any plea offer which I did make a plea offer in the
21 case that would have capped out his exposure at ten
22 years, but he rejected that.

23 He told Judge Cooper, I believe it was,
24 in October -- on October 14th that he had the money
25 to represent himself, that he had the money to hire

JENNIFER TESSITORE - CROSS-EXAMINATION BY MS. ROSS

1 a lawyer, he's got money to hire the best attorney,
2 those were his words and from the transcript. He
3 continued to say that, you know, he wasn't going to
4 take a plea deal. In fact, he said, I'm ready to
5 proceed. If you're going to take me to trial, take
6 me to trial.

7 So based on those words that are in the
8 transcript which helped refresh my recollection, I
9 mean, he understood that we were going to go to
10 trial and I would say that to him. And that's why
11 I brought him in so many times was because I knew
12 it was a very serious set of charges and I
13 consistently said, you know, I think you probably
14 should talk to an attorney. And you can see in the
15 transcript, I mean, he was adamant that he had the
16 money to get an attorney, that he had attorneys in
17 the past, but that he was the best one to handle
18 this case.

19 Q. All right. Now, as far as discovery,
20 is it possible that he did not receive discovery?

21 MS. ROSS: Objection, Your Honor. I do
22 have to say again, speculation.

23 THE COURT: Okay. Your objection is
24 noted for the record. I'm going to allow it.

25 A. I know that Greg Williams was working

JENNIFER TESSITORE - CROSS-EXAMINATION BY MS. ROSS

1 in our office as lead investigator, he was
2 reputable, he was consistent. He told me that he,
3 you know, signed this document in front of him and
4 received that discovery. I believe Mr. Williams
5 that he in fact received that. And then when we
6 were preparing and going to trial, he never claimed
7 that he was never given the discovery.

8 MS. ROSS: All right. No further
9 questions.

10 THE COURT: Any redirect?

11 MS. BROWN: None, Your Honor. Thank
12 you.

13 THE COURT: Okay. You may step down.
14 Thank you.

15 MS. BROWN: And may the witness be
16 excused from the subpoena?

17 THE COURT: Any problem with her being
18 excused?

19 MS. ROSS: None.

20 THE COURT: All right. You may be
21 excused. Take care. Good to see you.

22 Any additional witnesses from the
23 State?

24 MS. BROWN: No, Your Honor, the State
25 would rest.

MARK KEYS - REPLY TESTIMONY BY MS. ROSS

1 THE COURT: Or Respondent? Any reply?

2 MS. ROSS: Mr. Keys would like to
3 present some reply testimony.

4 THE COURT: Please, bring him up. Sir,
5 you're still under oath, okay. You're going to
6 come up here to the stand again, all right. Did
7 you hear what I said? You're still under oath.

8 MR. KEYS: I understand. Your Honor, I
9 just want to make something clear about the times
10 when she made the statement about --

11 THE COURT: And, sir, you can't get up
12 here and just testify. You need to listen to
13 questions from counsel, okay. And at the end, if
14 there are things that you wish for your attorney to
15 let me know, then you can convey those to her and
16 then she can convey them to me, okay. You'll have
17 an opportunity to do that.

18 MR. KEYS: Thank you.

19 MS. ROSS: Thank you, Judge.

20 REPLY TESTIMONY

21 BY MS. ROSS:

22 Q. Now, Mr. Keys, you heard that you were
23 talking to me some during the testimony of Ms.
24 Tessitore, what was your issue about that as far as
25 being giving Faretta warnings?

MARK KEYS - REPLY TESTIMONY BY MS. ROSS

1 A. When my statement -- when I said that
2 if I had the money -- if I had the money, I
3 wouldn't proceed with the lawyer. What they were
4 really trying to do was make me plead guilty to
5 those charges. And I said if I had the money I
6 wouldn't do it. And if I had the money, I'm ready
7 to proceed with these allegations so I could face
8 them.

9 So I'm thinking -- I'm saying that
10 because I'm ready to say, face these allegations,
11 like, have -- what they call it, a pretrial to
12 answer some questions, not a trial to say, did you
13 do that? So when I said what I was saying, I was
14 saying, I don't need a lawyer to say I didn't do
15 this. Because I told them I don't have the money
16 to hire a lawyer.

17 Q. All right. And also during that
18 hearing --

19 A. So they're taking it out of context.
20 I'm sorry.

21 Q. Okay. During that hearing, you were
22 distracted with talking to the judge about how your
23 speedy trial rights have been denied; isn't that
24 true as well?

25 A. Yes. My trial probably, I think,

MARK KEYS - REPLY TESTIMONY BY MS. ROSS

1 lasted --

2 Q. Okay. Go ahead.

3 A. -- less than 45 minutes. The jury came
4 back in probably less than ten minutes with the
5 decision. I have no -- I think I'm going to get
6 back up there and be able to say something again to
7 the jury or have a second phase of it and she
8 concluded my whole trial in less than an hour.
9 That's how fast she rushed me and that court
10 proceeding. She rushed it through. It was over in
11 less than, I think, 45 minutes and then they came
12 back. They retire and came back with a decision
13 probably ten minutes. The whole thing probably
14 took an hour to give me -- to take my life of
15 twelve years.

16 Q. Okay. And did you receive discovery?

17 A. I can't say if I did. I just don't
18 remember signing that -- that paper because it
19 doesn't look like my signature.

20 MS. ROSS: All right. Well, I have no
21 further questions.

22 THE COURT: Okay. Anything in cross?

23 MS. BROWN: Nothing further, Your
24 Honor. Thank you.

25 THE COURT: All right. You may step

1 down, sir.

2 MR. KEYS: Thank you, Your Honor.

3 THE COURT: Yes, sir. Anything else in
4 reply?

5 MS. ROSS: No, Your Honor, we rest.

6 THE COURT: All right. I'll let you
7 have an opportunity to speak with him and then I
8 will hear closing.

9 MS. ROSS: We rest at this time.

10 THE COURT: Okay. Would you like to, I
11 guess, close on behalf of the petitioner?

12 MS. ROSS: Yes, Your Honor. I would
13 let the record speak for itself and the testimony
14 in what you've heard today. And only add that, you
15 know, the right to counsel is sacred in the
16 Constitution the right to a fair trial and Mr. Keys
17 states that he was denied that right.

18 His transcript as I've reviewed was
19 almost telling the jury to convict him. He talked
20 about prior incidents. This really reflected lack
21 of legal knowledge or understanding and it
22 certainly affected the outcome of his case.

23 THE COURT: And, Mr. Keys, you need to
24 talk to your attorney and tell her if there's
25 anything else that you'd like for the Court to

1 hear.

2 And, Mr. Keys, you've had an
3 opportunity to tell your client what you wish to
4 convey to me? Yes or no?

5 MR. KEYS: Yes.

6 THE COURT: Okay.

7 MS. ROSS: We'd also like to present
8 that, you know, part of a fair trial is an
9 impartial jury. Mr. Keys did not get to go down
10 and listen to the jury roll call which is an
11 important part of making a determination and his
12 lack of legal knowledge prevented him from knowing
13 to make a *Batson* motion when the racial makeup of
14 the jury was not fair and impartial.

15 THE COURT: Okay. Anything else?

16 MS. ROSS: Nothing further.

17 THE COURT: And from the State? And I
18 meant to ask this earlier, but I assume since they
19 were able to move forward and they clarified things
20 that your motion for a more definite statement
21 would be withdrawn?

22 MS. BROWN: I would withdraw that, Your
23 Honor.

24 THE COURT: Again, I just wanted make
25 sure for the record that that was clear. And then,

1 do you have anything in closing or any type of
2 motions for the Court?

3 MS. BROWN: Yes, sir. We have of
4 course, non-issues that have been presented. We
5 would like to renew our motion for summary
6 dismissal under 17-27-70(c) for several of those
7 issues. In particular, one, which is the service
8 of the indictment; two, counsel appointed; and,
9 three, no standby counsel appointed; and, nine, the
10 rights violated with only one African-American
11 juror on the jury.

12 Your Honor, all of these are completely
13 without merit especially in light of the waiver
14 which is Court's Exhibit 1 and 2. We need not go
15 any further than that. And we see waivers over a
16 substantial period of time and also advice on the
17 form itself and in the transcripts that we have
18 part of the record that he was continually advised
19 particularly about screening which was something
20 that he had mentioned today.

21 But bottom line is that these are right
22 for summary dismissal and should be dismissed on
23 that basis. And I would point out too on the
24 objection to only having one African-American
25 juror. First of all, he did participate in the

1 selection of the jury. That is in the transcript.
2 The jurors were presented and he had strikes just
3 like the State had strikes. There was no objection
4 and there can't be a complaint now, there would be
5 no cognizable claim. And, of course, because he
6 represented himself, no ineffective assistance, so
7 that one should be gone as well. So 1, 2, 3 and 9,
8 we request be summarily dismissed.

9 Now the remaining claims 4, 5, 6, 7 and
10 8, we would suggest, Your Honor, and submit to you
11 based on the record and on the evidence that you've
12 heard today, that the applicant has presented
13 insufficient evidence to carry his burden of proof.
14 We ask this Court to consider particularly
15 credibility where we have so much of a substantial,
16 very pointed record on these issues that rebut any
17 idea of error.

18 Again, there is insufficient evidence
19 presented by this applicant to carry his burden of
20 proof and we ask for relief to be denied in total.
21 Thank you, Your Honor.

22 THE COURT: Thank you. Anything else?

23 MS. ROSS: No, Your Honor.

24 THE COURT: Okay. All right. I'm
25 going to take this under advisement. I want to

1 spend some time with the records, okay. Thank you.

2 (WHEREUPON, the proceedings concluded
3 at 10:58 AM.)

4 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, KATHERINE A. SPIRES, Registered Professional Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 10th of October, 2024.

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

(This transcript was transcribed from the audio and notes taken by Cheryl Smith)

April 3, 2025

s/Katherine A Spires

Katherine A. Spires

Registered Professional Reporter

State of South Carolina
Solicitor, Thirteenth Judicial Circuit



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July 3, 2019

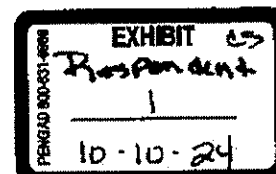
Mark Anthony Keys, Pro Se
Willimon Drive
Piedmont, SC 29673

RE: STATE OF SOUTH CAROLINA vs. MARK ANTHONY KEYS
Assault And Battery In The First Degree
Kidnapping
Assault And Battery Of A High And Aggravated Nature
Warrant # (s) 2018A2330209803, 2018A2330209810, & Ind. 2018-GS-23-1286A

Dear Mr. Keys:

Enclosed please find copies of the following discoverable material, pursuant to Rule 5, South Carolina Rules of Criminal Procedure:

1. Indictment 2018-GS-23-9869, 2018-GS-23-9868 and 2018-GS-23-1286A;
2. Warrant # 2018A2330209803 and 2018A2330209810;
3. Greenville County Sheriff's Office (GCSO) Incident and Supp. Report, Case No. 01-18-188319, by Deputies J. Olalde and A. Fowler, dated 10/22/18 and 10/23/18, 4 pages;
4. Statement from Sheila Watkins, dated 10/22/18, 1 page;
5. Text Messages, 1 page;
6. GCSO Supplemental Report by Officer T. Price, dated 10/24/18, 2 pages;
7. GCSO Supplemental Report by Officer K. Sandefur, dated 10/23/18, 2 pages;
8. GCSO Supplemental Report by Officer J. Perry, dated 12/18/18, 2 pages;
9. GCSO Consent by Sheila Watkins to Search Cell Phone Device, dated 12/17/18, 1 page;
10. GCSO B-E Report (Item JPP-1) by Impounding Officer J. Perry, dated 12/17/18, 1 page;
11. GCSO Supplemental Report by Officer D. Picone, dated 5/6/19, 2 pages;



Mark Anthony Keys, Pro Se
July 3, 2019
Page 2

12. GCSO Supplemental Report by Officer D. Picone, dated 5/10/19, 1 page;
13. T-Mobile Letter of Response to Request for Records, dated 5/9/19, with Search Warrant by Officer D. Picone, dated 4/30/19, and Requested Records, 11 pages;
14. Greenville Forensics Photos, 11 pages;
15. Social Media Postings/Photos, 2 pages;
16. Text Messages between Mark Anthony Keys and Shelia Watkins, dated 10/21/18, 14 pages;
17. Bail Proceeding Forms, 3 pages;
18. Spartanburg Regional Healthcare System Medical Records of Shelia Watkins, 67 pages;
19. Spartanburg Regional Healthcare System Medical Records of Shelia Watkins, 70 pages;
20. Summary of Dr. Rosalind Smith, 5 pages;
21. NCIC Criminal History.

Pursuant to Rule 609(b) of the South Carolina Rules of Evidence, this shall serve as advance written notice of the State's intention to use all of Defendant's criminal convictions in excess of ten (10) years from the date of trial for impeachment. Those convictions are listed on Defendant's NCIC report. This will be the only notification in this regard.

Please note that the State may introduce digital evidence relevant to this case, which is available for viewing and downloading at www.greenvillecounty.org/solicitor using the attorney log-in link. Instructions for downloading and viewing video(s) can also be found at the log-in screen. If you have problems with downloading evidence, please email ediscoverysupport@greenvillecounty.org for assistance. Supplemental discovery may be made available to you online in the future. You will be notified in that event.

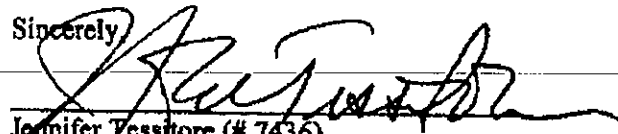
Please contact our office regarding a mutually convenient time for you to view evidence, pursuant to discovery rules, which may be contained in the Property and Evidence Room at the Law Enforcement Center in Greenville County or with another agency.

Please make every effort to protect the disclosure of any personal identifying information released to you through the discovery process. Such personal identifying information would include, but not limited to, names, addresses, dates of birth, social security numbers, driver's license numbers, bank account numbers, credit card numbers and telephone numbers for any witness, victim or defendant.

Also, please find enclosed the State's Request for Reciprocal Discovery and the State's Request for Notice of Alibi and/or Insanity Defense, pursuant to Rule 5, South Carolina Rules of Criminal Procedure.

If you have any questions regarding this defendant's case(s), please do not hesitate to call me. I look forward to working with you.

Sincerely,



Jennifer Tessitore (# 7436)
Thirteenth Circuit Solicitor's Office
305 E. North Street, Suite 325
Greenville, SC 29601-2185
(864) 467-8647

STATE v. MARK ANTHONY KEYS
 ASST SOL: JENNIFER TESSITORE
 DEFENSE ATTORNEY: PRO SE

Assault And Battery In The First Degree
 Kidnapping
 Assault And Battery Of A High And Aggravated Nature
 Warrant # (s) 2018A2330209803, 2018A2330209810, & Ind. 2018-
 GS-23-1286A

DISCOVERY AFFIDAVIT

I, Gregory Williams, LEGAL INVESTIGATOR, HEREBY
 CERTIFY THAT I HAVE ON THIS DATE PERSONALLY DELIVERED BY HAND
 THE STATE'S DISCOVERY FOR THE ABOVE REFERENCED MATTER TO THE
 DEFENDANT.

[Signature]
 INVESTIGATOR for ATTORNEY

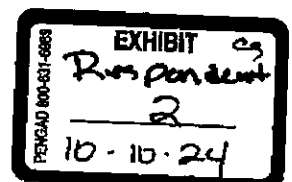
7/24/2019
 DATE

ACKNOWLEDGEMENT OF RECEIPT

I, MARK KEYS, HEREBY CERTIFY THAT I HAVE ON
 THIS DATE RECEIVED THE STATE'S DISCOVERY FOR THE ABOVE
 REFERENCED MATTER.

[Signature]
 DEFENDANT

7/24/2019
 DATE



STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
 Mark Anthony Keys, #381749,	)	
	)	Case No.: 2020-CP-23-04199
	)	
Applicant,	)	
v.	)	ORDER OF DISMISSAL
	)	(With Prejudice)
State of South Carolina,	)	
	)	
	)	
Respondent.	)	
_____	)	

24 DEC 5 PM 3:43
Bryce Barren COC SUL SC

This matter comes before the Court by way of an application for post-conviction relief filed September 11, 2020. The State filed a return and moved for a more definite statement and partial summary dismissal on April 15, 2021. An evidentiary hearing was convened on Thursday, October 10, 2024, at the Greenville County Courthouse. Applicant was present with his appointed counsel, Susannah C. Ross, Esq.¹ Melody J. Brown, Senior Assistant Deputy Attorney General, was present on behalf of Respondent. At the start of the hearing, the Court clarified with the parties if Applicant's amended allegations satisfied Respondent's motion for a more definite statement to which Respondent agreed. This Court received testimony from Applicant and the solicitor who prosecuted his case, Jennifer Tessitore, Esq. At the conclusion of the hearing, this Court took the matter under advisement.

After consideration of the testimony given at the hearing and after reviewing and considering the record, arguments presented by counsel, and the controlling case law, this Court

¹ Applicant was previously appointed Sarah Henry for his attorney. By motion filed January 3, 2024, Ms. Henry moved be relieved from appointment, which was granted on January 17, 2024. Ms. Ross was subsequently appointed on January 22, 2024.

advised the parties by email October 28, 2024, that it would find that Applicant failed to carry his burden of proof and was not entitled to any relief. At that same time, the court also requested that counsel for the State prepared a proposed order.² This Court now DENIES relief for the specific reasons set out in this order.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a twelve-year sentence for assault and battery of a high and aggravated nature. The charges stemmed from the alleged restraint and severe beating inflicted upon his former girlfriend.

During its February of 2019 term, the Greenville County Grand Jury indicted Applicant for kidnapping (2018-GS-23-9868) and assault and battery of a high and aggravated nature (2019-GS-23-1286A). On October 14, 2019, Applicant appeared before the Honorable G. Thomas Cooper, Jr., for a hearing regarding his desire to represent himself in these matters. Assistant Solicitor Jennifer Tessitore of the Thirteenth Circuit Solicitor's Office was the assigned prosecutor. At the hearing, Ms. Tessitore asked the judge to review the *Faretta*³ warnings with Applicant to ensure his understanding of the dangers of self-representation and that he was making a voluntary and knowing waiver of his right to counsel. Judge Cooper advised Applicant of the dangers of representing himself and his right to court-appointed counsel. (Oct. 14, 2019 Pre-trial Trans. 4-12). Applicant affirmed that he understood Judge Cooper's advisement. (Oct. 14, 2019 Pre-trial

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

³ *Faretta v. California*, 422 U.S. 806 (1975).

Trans. 13). At the conclusion of that same hearing, Judge Cooper also denied Applicant's motion to dismiss, which was based upon Applicant's argument that the delay in his case's being called for trial violated his right to a fair and speedy trial, noting on the record that his trial was scheduled to be held in two days. (Oct. 14, 2019 Pre-trial Trans. 22).

On October 16, 2019, Applicant proceeded to a jury trial with the Honorable Letitia H. Verdin presiding. At the conclusion of trial, the jury found Applicant guilty of assault and battery of a high and aggravated nature and not guilty of kidnapping. (Tr. 276). Judge Verdin sentenced Applicant to twelve years imprisonment with credit for time served. (Tr. 294).

Applicant did not appeal his conviction or sentence.

ALLEGATIONS

In his initial application for post-conviction relief, Applicant alleged he is being held in custody unlawfully due to the following allegations paraphrased by Respondent as follows: _____

1. Was never served with an indictment;
2. Was not aware or informed of the dangers of self-representation;
3. Halfway through the trial discovered he was being tried for attempted murder;
4. Prosecution failed to disclose discovery;
5. Jury was not fairly composed.

(2020 PCR Application and attachments).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

Dismissal of Claims One, Three and Five

Initially, this Court dismisses the claims that Applicant was not served with the indictment and the claims challenging the composition of the jury. These matters could clearly have been raised at trial and were not. They may not be raised here. S.C. Code Ann. § 17-27-20 (B) limits the jurisdiction of the PCR court as follows: "This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction." S.C. Code Ann. § 17-27-20(B). Because a PCR action is not a substitute for those proceedings, a PCR applicant cannot assert any issues in his PCR action that could have been raised at trial and on direct appeal. This prohibition has long been recognized. *Simmons v. State*, 264 S.C. 417, 423, 215 S.E.2d 883, 885 (1975) ("Errors in a petitioner's trial which could have been reviewed on appeal may not be asserted for the first time, or reasserted, in post-conviction proceedings."); *see also Drayton v. Evatt*, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993) ("The Simmons rule gives effect to the Legislature's clear intent that the post-conviction relief procedure is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal."). As Claims One and Five were available and could have been raised at trial, they are barred from review in this action.

This Court will also dismiss Ground Three for failure to provide a factual basis upon which relief could be granted. Applicant asserts that he was "tried for attempted murder," but the record

clearly shows he was not. The jury was advised that the charges were “assault and battery of a high and aggravated nature and kidnapping.” (Tr. 261). Further, the jury was instructed on the elements of assault and battery of a high and aggravated nature (with the potential lesser offense of assault and battery first degree) and kidnapping. (Tr. 268-270). While there was a scrivener’s error (as noted at trial) on the verdict form, there was no question about the charges actually considered. (See Tr. 275-276). Claim Three is wholly without merit and is dismissed.

*Claim Two: Allegation of Fareta Warning Error and
Involuntary Waiver of Right to Counsel*

Applicant contends that he was not warned of the dangers of self-representation and asserted in this PCR testimony that he did not want to represent himself. This Court finds his testimony not in the least credible considering the contemporaneous record showing his repeated insistence on self-representation and the adequate warnings given by Judge Cooper, and those earlier given by Judge Verdin.

A criminal defendant has the constitutional right to represent himself under both the federal and state constitutions.” *State v. Barnes*, 407 S.C. 27, 35, 753 S.E.2d 545, 550 (2014); see U.S. Const. amend. VI; S.C. Const. art. I, § 14. A “defendant may waive his right to counsel, but he must do so knowingly and intelligently.” *Osbey v. State*, 425 S.C. 615, 619, 825 S.E.2d 48, 50 (2019) (citing *Faretta v. California*, 422 U.S. 806, 835 (1975)). “ To establish a valid waiver of counsel, *Faretta* requires the accused be: (1) advised of his right to counsel; and (2) adequately warned of the dangers of self-representation.” *Prince v. State*, 301 S.C. 422, 423–24, 392 S.E.2d 462, 463 (1990). Alternatively, if the colloquy is missing or insufficient, a reviewing “[c]ourt will look to the record to determine whether petitioner had sufficient background or was apprised of his rights by some other source.” *Id.* [T]he record [must] establish [the defendant] knows what he is doing and his choice is made with eyes open.” *Faretta*, 422 U.S. at 835 (internal quotation

marks omitted). However, “[t]he ultimate test of whether a defendant has made a knowing and intelligent waiver of the right to counsel is not the trial judge’s advice, but the defendant’s understanding.” *State v. Brewer*, 328 S.C. 117, 119, 492 S.E.2d 97, 98 (1997) (citing *Graves v. State*, 309 S.C. 307, 422 S.E.2d 125 (1992)).

Here, in addition to the transcript of the October 14, 2019, pre-trial hearing with Judge Cooper which sets out a specific warning was given, (Oct. 14, 2019 Pre-trial Trans. 11-12), this Court has reviewed the contemporaneous waiver document that Applicant signed which also lists specific warnings. That signed “Faretta Warnings” form became Court’s Exhibit 1 at the trial. (Tr. 6-7 and 13). Further, Applicant had previously been given warnings when he appeared before Judge Verdin at a separate pre-trial proceeding. While the “Faretta Warnings” form was not signed by Applicant, Judge Verdin noted his appearance at the hearing and that he had indicated he did not wish to be screened for a court-appointed attorney. That form was also admitted and made a part of the record at trial as Court’s Exhibit 2. (Tr. 13).

When confronted with Court’s Exhibit 2 at the PCR hearing, Applicant clearly did not wish to acknowledge that he had been present. This Court finds his assertion not credible. First, the form notes he “appeared in court,” (Court Exhibit 2); second, Applicant did not object to the introduction of the document at trial, (Tr. 13), and third, the prosecutor for the charges, Ms. Tessitore, credibly testified at the PCR hearing that she had noted the appearance in her records. This Court is firmly convinced that Applicant was present, was advised of his right to counsel and generally as to the dangers of self-representation both by Judge Verdin and then subsequently also warned by Judge Cooper. Moreover, the transcript shows that Applicant assert to Judge Verdin immediately before trial that he signed the warnings sheet from Judge Cooper’s hearing and was “very aware” of same. (Tr. 7). Consistent with the assertion, Applicant did not request counsel or

express any reservation regarding his choice to represent himself. (See Tr. 7). This alone supports a knowing and intelligent waiver. Yet there is even more in the record to support the knowing and intelligent waiver of the right to counsel.

Before Judge Cooper, Applicant asserted, "I'm representing myself in this ... matter." (Tr. 6). And far from expressing a failure to advise of the right to counsel, Applicant criticized the number of times the counsel decision was discussed. (Tr. 7-8). The record shows that Applicant's resolve was unquestionably firm and consistent. Further, he advised Judge Cooper that he was "representing [himself] because [he] had attorneys in the past," and they favored plea bargaining which he did not wish to do. (Tr. 9-10). Judge Cooper, as the "Faretta Warnings" form suggests, advised of the right to counsel, the specialized knowledge required at trial, the danger of missing defense without counsel's aid, that there could be collateral consequences if that may affect his life as well as the conviction itself, and that he would be obligated to follow the rules of court. (Tr. 11-12).

In sum, the record fully and fairly supports that Applicant was thoroughly warned about the dangers of self-representation and his right to counsel. Further, the record also supports that Applicant understood his right to counsel along with the warnings on the dangers of self-representation not only by his answers, but also by the fact that he had been previously represented by counsel in other proceedings. Applicant has failed to show any hint of an involuntary or unknowingly made waiver of his right to counsel. Consequently, this Court denies relief.

Claim Four: Allegation the State Failed to Disclose Discovery

Applicant contends that he was not provided discovery prior to his trial. This Court finds his testimony not credible. First, the trial record shows that the prosecutor for the charges, Ms. Tessitore, stated on the record during the October 14, 2019, hearing with Judge Cooper, "We

provided discovery to [Applicant] on July 24th of 2019, although he's filed no motions." (Oct. 14, 2019 Pre-trial Trans. 13). Further, at the PCR hearing, Ms. Tessitore identified a copy of the "discovery affidavit" signed by her investigator – a form she used in her normal course of practice to ensure discovery is delivered. (Respondent's Exhibit 2). That form shows a signature that appears to be Mr. Keys. Notably, the form is dated July 24, 2019, which is consistent with the assertion in the pre-trial transcript. Moreover, Ms. Tessitore also identified a copy of her July 3, 2019, letter which specifically listed out 21 items of discovery, with descriptions and numbers of pages, that were released in discovery. (Respondent's Exhibit 1). Applicant has failed to carry his burden of proof to demonstrate any withholding of discovery. As the prosecutor stated on the record at the pre-trial hearing before Judge Cooper, even though he failed to file proper requests, discovery was still provided to him. (See Tr. 13). Applicant is due no relief.

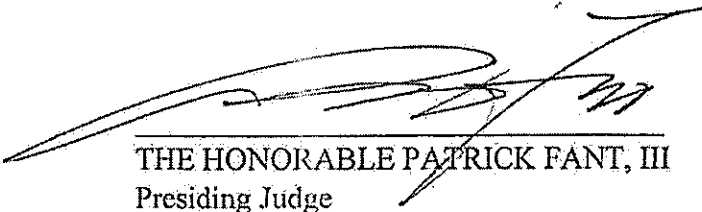
CONCLUSION

For the above stated reasons, this Court finds that Claims One, Three, and Five are dismissed for the reasons cited above. On Claims Two and Four, this Court finds and concludes that Applicant failed to carry his burden of proof. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

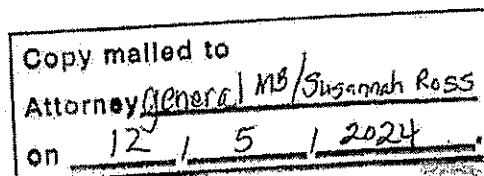
IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 31 day of December, 2024.


THE HONORABLE PATRICK FANT, III
Presiding Judge

Grecumb, South Carolina.



WITNESSES

Juan J Olalde Jr

JRS

Greenville County Sheriffs Office

10/23/2018

DIRECT PRESENTMENT

B/M DOB [REDACTED] 1966 SSN: [REDACTED]

ACTION OF GRAND JURY**TRUE BILL**

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2019-GS-23-
JRT

001286A

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

February TERM 2019

THE STATE

vs.

MARK ANTHONY KEYS

Indictment for

3412

ASSAULT AND BATTERY OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-03-0600

ENTERED
ACCT JCL

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ASSAULT AND BATTERY OF A HIGH AND AGGRAVATED
NATURE

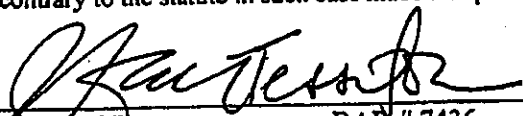
FEB 19 2013

At a Court of General Sessions, convened on
County present upon their oath:

the Grand Jurors of Greenville

That MARK ANTHONY KEYS did in Greenville County, on or about the 20th day of October 2018, unlawfully injure Sheila Watkins whereby the victim suffered great bodily injury or the act was accomplished by means likely to produce death or great bodily injury. This is in violation of §16-03-0600 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR BAR # 7436