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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALAN G. NIX,

APPELLANT

APPELLATE CASE NO. 2024-001926

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STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT 9
COUNTY OF CHARLESTON) DOCKET NO. 2023-GS-10-5002
) DOCKET NO. 2023-GS-10-5003

STATE OF SOUTH CAROLINA
Plaintiff,
versus
ALAN NIX
Defendant.

H E A R I N G
BEFORE THE HONORABLE HEATH P. TAYLOR

DATE: NOVEMBER 4, 6-7, 2024
TIME: 11:03 A.M.
LOCATION: South Carolina Circuit Court 9

TRANSCRIBED BY: Jackson Alexander

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24 (THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL

25 IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 COURT CLERK: Monday, November 4, 2024. Charleston
2 County General Sessions. Judge Taylor. Witness mic.
3 Plaintiff's mic. Defendant's mic. Judge's mic -- Judge's
4 mic. Jury -- jury.

5 THE COURT: The address in State versus Nix. Before we
6 begin jury selection, I believe that -- well, the State had
7 an issue, I believe.

8 MR. MCALLISTER: That's correct, Judge. The State
9 intends to call indictment numbers 2023-GS-10-5002 and 5003
10 to trial this week. In preparing for this trial, a -- an
11 evaluation was ordered by Judge Cothran on February or
12 January 7, 2021. That evaluation was complete in September
13 of 2022. A Blair hearing has not yet been conducted. The
14 evaluation found the Defendant competent. The State would
15 certainly consent and stipulate to the findings therein the
16 doctor's report, however that depends on Defense's position.
17 The doctor's here, and can testify. We're -- we're ready to
18 call witnesses if that's necessary, Judge.

19 THE COURT: All right. What's the Defense position?

20 MS. MANGAN: Thank you, your Honor, again, on behalf of
21 (inaudible) position to stipulate findings, the hearing is
22 necessary.

23 THE COURT: Okay.

24 MR. MCALLISTER: The State calls Dr. Mulay.

25 ABBY MULAY,

1 being duly sworn, testified as follows:

2 COURT CLERK: Please be seated. Please state your full
3 name, spelling your last name directly to the microphone.

4 THE WITNESS: Abby Mulay. M-U-L-A-Y.

5 DIRECT EXAMINATION

6 BY MR. MCALLISTER:

7 Q. Good morning, Doctor. How are you?

8 A. Good morning. How are you?

9 Q. Great. Thanks for being here on such short
10 notice.

11 A. No problem.

12 Q. Start out, what do you do for a living?

13 A. I'm a licensed clinical psychologist at the
14 Medical University of South Carolina.

15 Q. What kind of training and education is required to
16 enter that field?

17 A. I received my PhD in clinical psychology from Long
18 Island University, Brooklyn, and I completed a clinical
19 internship at the University of North Carolina. I also did a
20 fellowship in forensic psychology at MUSC.

21 Q. What are your duties as a clinical psychologist?

22 A. 80 percent of my effort at MUSC is conducting
23 forensic evaluations such as competency to stand trial,
24 criminal responsibility, and then 20 percent of my effort I
25 do psychotherapy.

1 Q. About how many patients have you seen since you
2 became licensed?

3 A. For forensic reports, probably close to a
4 thousand.

5 Q. And I -- I -- let me back up, I said, "Since you
6 became licensed," who licenses you?

7 A. South Carolina.

8 Q. And what does that entail?

9 A. I had to take the EPPP, which is our exam, and
10 then we had a state-level exam too that included an oral
11 component.

12 Q. Does that involve continuing education?

13 A. Yes, we were required to complete our continuing
14 ed every two years.

15 Q. And I'm sorry, what year did you get your PhD?

16 A. I got my PhD in 2018.

17 Q. So how long have you been licensed?

18 A. Since 2019.

19 Q. And have you ever been asked to testify in a
20 hearing like this before?

21 A. I have.

22 Q. About how many times?

23 A. I would estimate 10.

24 Q. And have you been qualified as an expert in the
25 past?

1 A. I have.

2 MR. MCALLISTER: State moves to qualify Dr. Mulay as an
3 expert in forensic pathology of forensic psychiatry.

4 THE COURT: Any objection from the Defense?

5 MS. MANGAN: No objection, Judge.

6 All right. I'll find that the testimony is necessary to
7 assist the Court in resolving certain factual questions. Mr.
8 -- expert is qualified in the area of clinical psychology,
9 and the testimony and methodology is allowable. Go ahead.

10 MR. MCALLISTER: Thank you, Judge.

11 BY MR. MCALLISTER:

12 Q. Did you receive an order to evaluate Mr. Nix?

13 A. Yes, we did.

14 Q. And when did you receive that order?

15 A. We received the order back in January, 2021, I
16 believe.

17 Q. And what information did you receive with that
18 order?

19 A. We received quite a bit of discovery, quite a bit
20 of letters that were written by Mr. Nix, quite a bit of
21 emails, jail records. We have pretty minimal mental health
22 records.

23 Q. Who was -- when did you conduct the exam?

24 A. We met on September 12, 2022.

25 Q. Why did it take so long between the order of the

1 evaluation and the schedule of the evaluation?

2 A. Mr. Nix was on bond, and didn't present for a
3 couple appointments that were scheduled. Then I believe he
4 was taken into custody, and he was transported to our office.

5 Q. How much time did you spend with the Defendant
6 when you conducted this evaluation?

7 A. Approximately one hour.

8 Q. Are you familiar with your legal standards for
9 what's required to be competent to stand trial?

10 A. Yes, I am.

11 Q. What was done to determine whether this Defendant
12 met those standards?

13 A. We did a background interview. We did a formal
14 mental status -- status examination. I did a review of
15 symptoms, meaning I asked about a broad array of symptoms,
16 and then we did a semi-structured interview of his competency
17 to stand trial, also record review.

18 Q. Was it your opinion that he understood the charges
19 against him?

20 A. It was.

21 Q. Could he confine the charges that were brought
22 against him?

23 A. Yes.

24 Q. Did he understand the possible penalties he could
25 -- that he could face?

1 A. He did.

2 Q. Did he understand the roles of the participants in
3 the courtroom?

4 A. He did.

5 Q. Did he understand the difference between guilty
6 pleas and not guilty pleas?

7 A. Yes.

8 Q. Can you appreciate the seriousness of the charges
9 for which he's facing?

10 A. Yes.

11 Q. Do you think he had an idea of how he should
12 control himself in a courtroom?

13 A. Yes.

14 Q. What about -- was he able -- do you think he was
15 able to assist his attorney in his own Defense?

16 A. That might be a challenge, but not due to a major
17 mental illness.

18 Q. Can you elaborate?

19 A. Mr. Nix has some personality traits that make it
20 difficult sometimes I -- I would think to work with him.

21 Q. Based on your evaluation, though, is there any
22 evidence that the Defendant has a mental illness that would
23 prevent him from understanding the proceedings against him?

24 A. No.

25 Q. Is there any evidence that would suggest he

1 would've a difficulty in assisting his attorneys absent his
2 personality?

3 A. No. If he chooses to do so, he certainly has that
4 capacity.

5 Q. Since you've evaluated the Defendant, have you
6 received any correspondence from him?

7 A. I have.

8 Q. Can you describe that correspondence?

9 A. Yes, we receive in my office intermittently, quite
10 lengthy letters from Mr. Nix that express his dissatisfaction
11 with the evaluation and with his legal case more broadly, and
12 his dissatisfaction with me, MUSC, the Department of Mental
13 Health, and kind of everyone involved in the evaluation.

14 Q. Did you generate a report after you had the
15 opportunity to evaluate the Defendant in September?

16 A. I did.

17 MR. MCALLISTER: Your Honor, permission to approach the
18 witness?

19 THE COURT: Yes.

20 BY MR. MCALLISTER:

21 Q. (Inaudible) marked State's Exhibit 33. Do you
22 recognize that document?

23 A. Yes.

24 Q. Can you describe it?

25 A. Yes. So this is a standard cover sheet that we

1 put with all of our evaluations, and then this is my
2 evaluation that I completed and submitted on September 20,
3 2022.

4 Q. And does that report contain the findings that you
5 described here in your testimony?

6 A. It does.

7 Q. Can you briefly tell me what the conclusion of
8 that report is?

9 A. Sure. It was our opinion that he's competent to
10 stand trial, and we diagnosed him with other specified
11 personality disorder, narcissistic traits.

12 Q. And you prepared that in preparation for this
13 trial?

14 A. Yes.

15 MR. MCALLISTER: State would move to introduce that
16 report.

17 THE COURT: Any objection from the Defense?

18 MS. MANGAN: Your Honor, I think statute ruling is
19 already admitted into evidence.

20 THE COURT: Okay. All right. It'll be State's 33.

21 (State's Exhibit 33 was admitted into evidence.)

22 BY MR. MCALLISTER:

23 Q. And following that evaluation -- following that
24 report, you've had the opportunity to read. Could you
25 estimate how many emails or letters you received for the

1 visit?

2 A. Gosh, off the top of my head, I believe I can
3 remember about three or four letters from him.

4 Q. Do each of those demonstrate his competency
5 through the proceedings?

6 A. Yes.

7 Q. Today. And you had an opportunity to speak with
8 him this morning?

9 A. I did.

10 Q. Did your opinion on this competency change?

11 A. It has not.

12 MR. MCALLISTER: Thank you, Judge. I have no further
13 questions.

14 THE COURT: Cross-examination.

15 MS. MANGAN: Thank you, your Honor.

16 CROSS-EXAMINATION

17 BY MS. MANGAN:

18 Q. Good morning.

19 A. Good morning.

20 Q. So it was Judge Cothran that initially ordered
21 this evaluation on January 7th?

22 A. Yes.

23 Q. And that was in part because Mr. Nix failed to
24 appear for hearing to clarify the status of his
25 recommendations?

1 A. Yes.

2 Q. So he filed the schedule?

3 A. Uh-huh.

4 Q. It was scheduled February 15, 2022?

5 A. Yes.

6 Q. Mr. Nix didn't show up?

7 A. He did not.

8 Q. So it was rescheduled for March 18, 2022?

9 A. Yes.

10 Q. Mr. Nix didn't show up?

11 A. Correct.

12 Q. And it was rescheduled for a third time?

13 A. Yes.

14 Q. September 12, 2022?

15 A. Yes.

16 Q. He came to that one?

17 A. He did.

18 Q. Because he was brought to the evaluation by

19 (inaudible) Deputies?

20 A. Yes.

21 Q. Because he'd been taken back to Kansas City?

22 A. Yes.

23 Q. And that's when you were able to conduct your

24 clinical interview with him?

25 A. Yes.

1 Q. For one hour?

2 A. Yes.

3 Q. And that was in 2022?

4 A. Yes.

5 Q. You issued your opinion in 2022?

6 A. Correct.

7 Q. You didn't see him at all in 2023?

8 A. I did not.

9 Q. You hadn't seen him in 2024 until this morning?

10 A. Correct.

11 Q. And that was for roughly 10 -- 15 minutes?

12 A. Probably not even, like, five.

13 Q. I want to start with when you saw him back in
14 2022.

15 A. Sure.

16 Q. Before you met with him, you had the opportunity
17 to review some records?

18 A. I did.

19 Q. The records included things that he had written?

20 A. Yes.

21 Q. Saying that he had filed himself with the court?

22 A. Yes.

23 Q. And you already testified you're aware he has
24 filed a lot on this?

25 A. Yes.

1 Q. In a lot of different reports?

2 A. Yes.

3 Q. And is it fair to say that the filings that you
4 reviewed is really only a sampling of what he described?

5 A. I'm sure.

6 Q. And again, those things, you reviewed them before
7 the evaluation in 2022?

8 A. Correct.

9 Q. Okay. I want to talk about some of the things
10 that you did review.

11 A. Okay.

12 Q. First is a probate petition dated February 18,
13 2021.

14 A. Yes.

15 Q. That's because someone tried to have him committed
16 to the probate court against county.

17 A. That is my understanding.

18 Q. And the records indicate he never showed up for
19 that assessment either.

20 A. Uh-huh. Yes. Sorry, I was just catching up.
21 Yeah.

22 Q. Okay. You referenced on the record as well, that
23 you had -- there weren't very many mental health records to
24 review for Mr. Nix?

25 A. Correct.

1 Q. But one of the things that you did have reviewed
2 were the records from Spartanburg Mental Health from 2016 to
3 2017.

4 A. Yes.

5 Q. Those records indicate that he was admitted July
6 14, 2016.

7 A. Yes.

8 Q. And he was not discharged until July 18, 2017?

9 A. Yes. But sometimes when people don't present,
10 they have a discharge date so I don't believe that he went
11 very often from -- because we got a very limited amount of
12 records from them, and that's really all that was listed in
13 there.

14 Q. The records indicated he did not present?

15 A. Yes.

16 Q. But they did diagnose him with major custody of
17 disorder.

18 A. Correct.

19 Q. And post-traumatic Stress Disorder?

20 A. Yes.

21 Q. You're aware that there's also some letters to
22 Scarlet Wilson?

23 A. Yes.

24 Q. Those are some of the things that you reviewed?

25 A. Yes.

1 Q. And then you mentioned he even wrote to y'all?

2 A. Yes.

3 Q. He actually wrote you on the day of evaluation
4 back in 2022.

5 A. Yes.

6 Q. You didn't get it to you (inaudible)?

7 A. Right.

8 Q. And in that letter he wanted to clarify he thought
9 that Mr. Mack did not represent him on the new indictment.

10 A. Yes.

11 Q. And so he wanted to make sure that y'all sent him
12 a copy of the report.

13 A. Yes. That's my recollection.

14 Q. Because in his mind he didn't have an attorney for
15 that charge?

16 A. Yes.

17 Q. I'm -- so you just have to answer yes for the
18 courtroom.

19 A. Absolutely.

20 Q. You're aware he's filed things since the
21 evaluation of 2022?

22 A. Yes.

23 Q. A lot?

24 A. Yes.

25 Q. You did not review those?

1 A. No.

2 Q. Other than what he sent to you, that's new?

3 A. Right.

4 Q. So prior to you meeting with him this morning, and
5 testifying that he's competent, were you aware that on March
6 of this year he filed a motion to sanction Mr. Mack?

7 A. I know that he has been displeased with Mr. Mack.
8 I know that broadly he's filed things to have Mr. Mack no
9 longer represent him.

10 Q. Are you aware that he's accused Mr. Mack of
11 knowingly filing this motion?

12 A. I don't know the ins and outs of his displeasure
13 with Mr. Mack at that detail.

14 Q. You mentioned on direct that you diagnosed Mr. Nix
15 with other specified personality disorder, narcissistic?

16 A. Correct.

17 Q. But there are other personality disorders?

18 A. Yes.

19 Q. Specifically, there's one called paranoid
20 personality disorder?

21 A. Yes.

22 Q. Which DSM says is a pervasive distrust and
23 suspiciousness of others such that their motives are person
24 is (inaudible).

25 A. Uh-huh.

1 Q. And in the DSM, there are a list of features for
2 paranoid personality disorder four or more of a required
3 diagnosis, right?

4 A. Yes.

5 Q. And some of those are as follows, that the person
6 suspects without sufficient basis of others exploiting
7 (inaudible) receiving?

8 A. Yes.

9 Q. If the person is preoccupied with unjustified
10 doubts about the loyalty of trustworthiness of friends or
11 associates.

12 A. Yes.

13 Q. If the person is reluctant to confide in others
14 because of unwarranted fear that the information would be
15 used maliciously against them.

16 A. Yes.

17 Q. If the person reads hidden demeaning, or
18 threatening meanings and benign remarks ordinance.

19 A. Yes.

20 Q. And in the section titled "Associated Features
21 Supporting Diagnosis" in the DSM-5 under paranoid personality
22 disorder, and also states that because of their quickness to
23 counteractive response to the threats that they perceive
24 around them, they may be the -- to -- and frequently become
25 involved in legal dispute.

1 A. Yes.

2 Q. You already mentioned you're of aware Mr. Nix's
3 filing?

4 A. Yes.

5 Q. Would it surprise you that in the prosecutor's own
6 pretrial brief, he brought it to the Judge's attention, Mr.
7 Nix's filings were nine inches (inaudible) stack together?

8 A. Not at all.

9 Q. That's the nine inches.

10 A. Sure.

11 Q. Your report also contains a portion where you
12 discussed diagnoses that you considered but did ultimately
13 use.

14 A. Yes.

15 Q. Right? Paranoid personality disorder is not
16 discussed in your report at all.

17 A. No.

18 Q. But if someone who was to have paranoid
19 personality disorder in the pervasive distrust, and
20 suspiciousness extended to that person's attorney, that could
21 affect the second point of competency, right?

22 A. No, because it's a personality disorder, and
23 people generally are not found not competent due to
24 personality dysfunction. Personality disorders are
25 characterized by volitional behaviors, whereas major mental

1 illness such as schizophrenia includes a detachment from
2 reality.

3 Q. You said, "Not generally," correct?

4 A. I -- I've never heard of somebody being not
5 competent due to a personality disorder, and I'm a
6 personality disorder specialist.

7 Q. You did consider another type of disorder?

8 A. Yes.

9 Q. Delusional disorder?

10 A. Yes.

11 Q. Which is actually listed in the DSM under
12 schizophrenics.

13 A. Yes.

14 Q. (Inaudible) correct?

15 A. Correct.

16 Q. And you wrote "Well, it's certainly possible Mr.
17 Nix has a delusional disorder, no related symptoms were
18 observed (inaudible) DSM evaluation."

19 A. Correct.

20 Q. And therefore you did not give him a diagnosis.

21 A. I did not.

22 Q. Again, you only met with him for an hour.

23 A. Sure, yeah.

24 Q. And about five minutes this morning?

25 A. Yes.

1 Q. And Mr. Nix was reluctant, he didn't want to be
2 reviewed for that long, wasn't he?

3 A. Yes.

4 Q. And according to DSM, delusional disorder is
5 defined as "The presence of one or more delusions with the
6 duration of one month or longer?"

7 A. Yes.

8 Q. But you stated in your report that Mr. Nix's
9 function is not marked (inaudible) care?

10 A. No.

11 Q. You said his behavior was not obviously bizarre or
12 wrong?

13 A. Correct.

14 Q. There are different types of delusional disorder?

15 A. There are.

16 Q. One of them is first persecutory type?

17 A. Sure.

18 Q. In which the central theme of the delusion
19 involves the person's belief that he or she's being conspired
20 against?

21 A. Uh-huh.

22 Q. Cheated, spied on, followed, poisoned, or drugged
23 maliciously, lied, harassed, or obstructed in the pursuit of
24 their long-term goals?

25 A. Uh-huh.

1 Q. And if someone fails to care for their family home
2 such that it turned into a problem, that could be (inaudible)
3 right?

4 A. That could be for a whole host of reasons.

5 Q. (Inaudible).

6 A. Yes. That's one way. But it could also represent
7 anxiety, pathology-like that can come from a bunch of
8 different buckets.

9 Q. If someone thought their attorney was conspiring
10 with the State, that could be pathology?

11 A. It could be, but it also could not be. It just
12 depends.

13 Q. Before you saw Mr. Nix in 2022, you reviewed the
14 discovery as part of the records?

15 A. Yes.

16 Q. Part of that included pictures of the inside of
17 Mr. Nix's house.

18 A. Yes.

19 Q. The condition of his --

20 A. Yes.

21 Q. You noted that it was a significantly unkept space
22 with what appeared to be a large amount of green patch.

23 A. Yes.

24 Q. You wrote that maybe he had a voiding disorder,
25 but you didn't diagnose --

1 A. No.

2 Q. But what you did not note is that this pictures of
3 inside his home showed (inaudible).

4 A. I'm not surprised. It was -- I haven't looked at
5 that picture in a while but I remember it being quite --
6 quite dirty.

7 MS. MANGAN: Of course (inaudible).

8 THE COURT: Yes, ma'am.

9 MS. MANGAN: No further questions, Judge.

10 THE COURT: Anything on re-direct?

11 MR. MCALLISTER: Just briefly, Judge.

12 RE-DIRECT EXAMINATION

13 BY MR. MCALLISTER:

14 Q. You didn't diagnose the Defendant with post-
15 Traumatic Stress Disorder, did you?

16 A. I did not.

17 Q. You did not have -- diagnose Defendant with
18 delusional disorder, did you?

19 A. I did not.

20 Q. Again, you -- based on your evaluation of the
21 Defendant, it is your belief that he understands the charge
22 against him?

23 A. Yes.

24 Q. He understands the possible probabilities that he
25 would face if he was convicted?

1 A. Yes.

2 Q. And if he chose to assist his attorneys, he's
3 certainly capable?

4 A. Yes.

5 Q. And you based that on what factors?

6 A. Meeting with him, reviewing documents, reviewing
7 records, semi-structured interview, competency to stand
8 trial, and all the collateral data that I had.

9 Q. And did you (inaudible) him?

10 A. Yes.

11 Q. And does he know who the fellow in the prob is?

12 A. Yes.

13 Q. Do you know who the fellow next to him is?

14 A. Yes.

15 Q. And so he certainly responded to you like he was
16 supposed to, right?

17 A. Correct.

18 MR. MCALLISTER: Thank you, Judge, I don't have any
19 more questions.

20 THE COURT: Anything on re-cross?

21 MS. MANGAN: No, Judge.

22 THE COURT: All right. Anybody needs to be heard?

23 MR. MCALLISTER: Judge, it's the State's position the
24 Defendant is competent. There's nothing on the record that
25 indicates he isn't. We would ask that you find consistent

1 with the doctor's findings.

2 MS. MANGAN: Your Honor, we are well aware that
3 (inaudible) burden falls on us to show that the Defendant
4 (inaudible) by the preponderance of evidence. I think the
5 testimony today has given light to some significant areas of
6 concern, including the fact that he doesn't really have a
7 record of mental wellness except for 2016, 2017, relatively
8 recent in his life that these problems may be something new
9 that he has repeated history of not showing up for court, and
10 mental health assessments to cooperate so that his feedback
11 can be done and his prolific filings.

12 As you've heard, they indicated significant distrust of
13 Counsel, and my concern, Judge, is that there is something
14 going on that interferes with his ability to assist even if
15 he chooses to do so. And your Honor, for that reason we're
16 asking the Court for a ruling.

17 THE COURT: All right. After considering the testimony
18 as well as the report of Dr. Mulay, I'm going to find that
19 Mr. Nix is confident to stand trial, and I will adopt the
20 findings of Dr. Mulay for purposes of that termination. All
21 right, what's next?

22 MR. MCALLISTER: Thank you, Judge. The -- the final
23 matter from the State is that the Defendant needs to be
24 arraigned on indictment number 2023-GS-10-5003. That's the
25 indictment charging on threatening the life of a public

1 official. This needs to occur because I can go through the
2 brief history, but on at least four occasions, the Defendant
3 failed to appear for his arraignment in addition to the
4 arraignment representation on that charge, and the resisting
5 service of process charge needs to be addressed. Certainly,
6 these all arise out of the same incident, so, you know, we
7 just need to get an arraignment accomplished. He's been
8 served with the indictment, he got served in custody. We
9 just need to do the formal component of it.

10 THE COURT: Okay.

11 MR. MCALLISTER: As the clerk's office, do y'all have a
12 copy of the indictment? Okay, you've got it.

13 THE COURT: Yep.

14 MR. MCALLISTER: And I'll be honest with you Judge,
15 I've never done an arraignment so procedurally I'll defer to
16 you but --

17 THE COURT: All right, well, I mean -- I guess an
18 arraignment is just to put him on notice of the charge. It
19 is not a new charge, it's just a subsequent indictment,
20 right?

21 MR. MCALLISTER: That's correct Judge.

22 THE COURT: Okay.

23 MR. MCALLISTER: And he's been served with it. He
24 hasn't been formally arraigned with it, so a bond hasn't been
25 set, and he hasn't --

1 THE COURT: All right. Mr. Nix, the State obtained a
2 subsequent indictment for something you had already been
3 charged with, threatening a public official. They alleged
4 that in Charleston County on January 21, 2021, Defendant,
5 you, knowingly and willfully did deliver or convey to a
6 public official by way of a letter writing print, (inaudible)
7 document, or electronic, or verbal communication, a threat to
8 take life of or inflict bodily harm upon such public
9 official, teacher, or principal, or his immediate family, and
10 such threat was directly related to his professional
11 responsibilities in violation of SC Code 16-3-1040. Do you
12 understand that charge?

13 MR. NIX: I understand that within the context of
14 what's written, I do not understand it in terms of the
15 details.

16 THE COURT: Okay. Well, what do you mean you don't
17 understand?

18 MR. NIX: Well, I mean it -- it doesn't really specify
19 the public official first of all.

20 THE COURT: Okay. All right, well, I think the
21 indictment is sufficient on its face. We're just here for
22 you to make sure you understand what you're charged with.

23 MR. NIX: Yes, sir.

24 THE COURT: All right, do you understand that?

25 MR. NIX: I do.

1 THE COURT: Okay. All right. What's next?

2 MR. MCALLISTER: From the State, there's nothing
3 further. I guess we have some pretrial motions that we can
4 address once the jury's picked, but the Defendant has a
5 motion to relieve his attorney.

6 THE COURT: Okay.

7 MR. MACK: That's correct, Judge. Ben Mack on behalf
8 of Alan Nix today, last week the Defendant filed a motion to
9 relieve me as Counsel, and I followed that up with a motion
10 echoing his request for relief. Judge, the -- the basis for
11 the motion is he wants me off the case, and we haven't really
12 discussed the Defense. He's been hyper-focused on a lot of
13 procedural issues leading up to this date, and I believe
14 these concerns stem from a distrust of me, the system,
15 Charleston County in general. I'll let him speak his
16 concerns expressed in the motion which was filed last week.

17 THE COURT: Okay. Mr. Nix, I'm happy to hear from you.

18 MR. NIX: First of all, your Honor, I do -- I do not
19 have a copy of the motion in front of me. I know technique
20 two one in case that ends in 503, and one ends in -- the case
21 ending in 475. So I -- speaking from -- I would prefer to
22 estimate from it did not allow me to bring anything from jail
23 today. I actually just got the glasses two seconds ago. So
24 can somebody provide the two motions?

25 MR. MACK: Yeah, I can.

1 MR. NIX: Also, I have not seen or heard about Mr.
2 Mack's motion to be relieved.

3 THE COURT: I think it was just consistent with what
4 you had filed or not.

5 MR. NIX: Is it not a printed copy here?

6 MR. MACK: I don't have one.

7 MR. NIX: First of all, this is not a new issue. This
8 has been going on quite a while. I'll make sure that it's
9 not misconstrued being a last-minute effort to create an
10 issue. Aand I apologize, I'm not -- trying to negotiate a
11 laptop while I'm talking. One of the key issues at -- at --
12 at the moment is there's a Topcon Supreme Court order dated
13 24 -- 24 May, 2023, which lays out how general sessions
14 document occur going forward.

15 I believe it took effect sometime in July, 2023. One
16 thing that has not been stated yet today is that none of
17 these cases has ever been before an initial appearance. None
18 have been before a second appearance. There's outstanding
19 motions and all the -- at least in two of the cases I would
20 reference suggest at least one of motions had potential to
21 prevent a case from going to trial. They've never been --
22 I've never been to this courthouse since 2020, somebody in
23 Charleston County -- and make sure that how it occurred, but
24 created a situation where I was not allowed to come within a
25 block of this courthouse due to 12 or so victims listed in a

1 bond order from January, 2021.

2 None of which were named in any of the restaurants. So
3 I've never been in this courthouse since 2021. My
4 understanding of the general session this Court by Dr.
5 Mulay's order is that a second appearance is not optional as
6 a mandatory hearing.

7 THE COURT: Well, let me stop you there. You were
8 arrested prior to the issuance of that order. I don't know
9 what the procedure down here was for first and second
10 appearances prior to that order. We have solicitor's offices
11 all over the State that did it different so you wouldn't be
12 subject to the terms of that order because you were arrested,
13 prior to that you would've had potentially a first and second
14 appearance but certainly not under the mandatory requirements
15 of that order.

16 MR. NIX: So I appreciate that insight, but my
17 understanding that order said that it supersedes and replaces
18 all previous orders.

19 THE COURT: Yes, sir. But the cases before that didn't
20 -- all -- all the older cases didn't magically have to come
21 to second appearances after that. That's just -- I've --
22 I've -- I've been living with that order for I guess a year
23 and a half now, so I -- I understand.

24 MR. NIX: So -- so from anything from a procedural
25 perspective, you can literally get arrested and come to trial

1 with nothing in the middle. What --

2 THE COURT: Well, I think there's been some -- I know I
3 saw something, you had a plea offer had been extended to you,
4 but yeah there -- there's no requirement here that would
5 offer where we are as far as moving this case forward based
6 upon your date of arrest.

7 MR. NIX: So can someone state what the previous
8 procedure was in this county?

9 THE COURT: Well, actually I don't think that's really
10 relevant. We are here on motion to relieve your lawyer. Did
11 you file one? So I'm not really concerned about the
12 procedure and what happened before today.

13 MR. NIX: Okay.

14 THE COURT: To the extent -- I'm happy to hear you and
15 let you make a record to the extent it's relevant to the
16 issue of Counsel but I don't think it is at this point.

17 MR. NIX: Okay, so -- so basically the ruling is that
18 the general session document board does not have any impact
19 on a case older than July, 2023.

20 THE COURT: It does in certain instances, but again I'm
21 here to talk about your lawyer. And -- and if you want -- if
22 you have other issues with that order, we're going -- we're
23 going to take up pretrial motions later this afternoon, but
24 we got a bunch of jurors down there and they're probably
25 starting to get a little bit impatient with all of us.

1 MR. NIX: Okay.

2 THE COURT: So I want to address solely the issue of
3 moving forward whoever your Counsel's going to be.

4 MR. NIX: Well, I've reached out to five different
5 attorneys since I've been incarcerated and to -- to have them
6 replaced so far I've not only had one conflict and one
7 attorney, so I'm attempting to have him replace a private
8 Counsel as we speak or have been. I've been actively doing
9 that while I being incarcerated for the last month for 45
10 days. And once again, I apologize for not having this in
11 front of me, and I have not seen what he responded to by the
12 way.

13 I don't know -- I didn't know that was done until a few
14 moments ago. Well, one issue that came up on September 24th,
15 which is related, but -- when I asked Mr. Mack why he did not
16 -- or he or his boss did not raise an issue with the
17 scheduling of this without second appearance. He refused to
18 answer me without me first saying he was my attorney. Second
19 of all, there had been multiple attempts to "arraign" me,
20 which I think was stated a few months ago has been done four
21 times.

22 I don't think that's accurate first of all. Second of
23 all, as my understanding is an arraignment required you that
24 a sum of an arrest warrant to be served. Nothing ever
25 occurred in that regard. No -- no issues ever raised in that

1 regard. On this current bench warrant, to my knowledge, no
2 effort has been made to have it lifted. They were using it
3 to help bring me here. I wouldn't be curious to know by the
4 fourth -- fourth time to attempting to be arraigned.

5 I've been in their incarceration for 45 days. This is
6 my 46th day, your Honor. They had 46 days to hand me the
7 current indictments. They didn't do so until the 23rd of
8 September. So they could have easily gave me that a long
9 time ago. My understanding was as of yesterday, second law
10 court had not hit you in arrest of (inaudible) being an
11 arrest, and certainly I would've been more capable of coming
12 here and doing this had I not been under arrest.

13 The concept of showing up at a trial and being faced
14 with, as Mr. Mack had explained and I think Mr. -- I'm
15 assuming that's Mr. McAlister right there had planned for him
16 to be off the case. I had to make instantaneous choices
17 myself. That's not within the concept of justice. Where's
18 the second at?

19 MR. MACK: Sorry?

20 MR. NIX: Where's the second motion at?

21 MR. MACK: You talking about the one you filed in
22 September?

23 MR. NIX: No, I'm talking about the one that -- and
24 there was another case out there which ended in 2599. Excuse
25 me your Honor -- which did require at least an initial

1 appearance but the concept of two attorneys thinking you're
2 going to show up to trial, be given a letter or warning, and
3 go to -- immediately to trial. That is not in keeping of
4 procedure in my opinion and I do not know what this is. So
5 there's another case -- second case. I'm not allowed to
6 bring anything here from the jail today, so I apologize for
7 not being prepared.

8 MR. MACK: You talking about the direct indictment?

9 MR. NIX: The other case, so what is this one? So I
10 guess you click on that. I apologize, your Honor. I'm
11 trying to read the computer while I'm doing this.

12 THE COURT: Well, Mr. Nix, you filed the motion to
13 relieve your lawyer. I'm not sure --

14 MR. NIX: Well, what I'm trying to do is, it is in the
15 record but you're asking to speak to it, and I've been in
16 jail full time so I would assume most people ask me to refer
17 to when they --

18 THE COURT: Well, you don't know why you want to
19 relieve him?

20 MR. NIX: Well, essentially, your Honor, he filed a
21 motion to compel -- a motion to clarify Counsel over three
22 years ago in his (inaudible). That has never been heard and
23 the reason it's never been heard is because someone with the
24 clerk court's office closed that order -- or that motion
25 sometime in the summer or fall of 2023.

1 That's never been disclosed to me first of all. Second
2 of all, he's specifically avoided to explain that issue, or I
3 know that I found it by accident so that motion clarify --
4 Counsel has been out there for three years. My understanding
5 is that had to be resolved prior to any of this happening.

6 THE COURT: And that's what we're here to do today.
7 That's what I want to hear from you about.

8 MR. NIX: Motion to clarify Counsel from three years
9 ago?

10 THE COURT: You filed a -- it's the same thing. Either
11 you want the public defender to represent you or you don't.
12 It's a pretty simple question.

13 MR. NIX: Well, obviously I do not based on the
14 (inaudible). I'm asking if you want me to go through the --
15 the order or the motions themselves, the detail on the record
16 then that's something I'm trying to do.

17 THE COURT: Well, do you want me to -- do you want to
18 represent yourself?

19 MR. NIX: I have never said that. Matter of fact, the
20 motion from 475 specifically asked to have a different
21 attorney appointed until I retain one.

22 THE COURT: Okay. And you've mentioned you've talked
23 to several to retain but you not heard anything?

24 MR. NIX: I have contacted five, I spoke to the one
25 based on, I guess a conversation he had with Mr. McAllister.

1 His fee had tripled from 8,000 to 25,000, and so I'm looking
2 at trying to figure out how to make that happen, or else find
3 something more affordable.

4 THE COURT: Okay.

5 MR. NIX: But I'm sure you're not in a position to go
6 to trial this week and approach a Defendant with having been
7 the last 45 made in jail, and can't bring anything to court
8 at all, including my glasses.

9 THE COURT: Okay. All right. Anything else?

10 MR. NIX: I'll -- I'll leave the rest of it to
11 (inaudible) I wrote. Thank you.

12 THE COURT: Okay. Mr. Mack?

13 MR. MACK: Judge, I'm just here to help. If he wants
14 me I'll represent him. If he doesn't want me then I'll let
15 you make that call.

16 THE COURT: Okay.

17 MR. NIX: Your Honor, if you don't mind, I have one
18 thing.

19 THE COURT: Yes, sir.

20 MR. NIX: There was an appeal associated with this
21 bench warrant. I didn't find out until last Wednesday that
22 part of that appeal process was for me to respond to it with
23 a request to remove Mr. Mack and so I did -- once I found out
24 about it, I did send it back to the Court of Appeals and
25 asked them to have these two motions sent to them by Ms.

1 Armstrong to add to that appeal for the purposes of removing
2 Mr. Mack. So I can't speak to exactly where that seat at the
3 moment, but it may be well be a Court of Appeal.

4 THE COURT: Is there something pending in the Court of
5 Appeal?

6 MR. NIX: Excuse me?

7 THE COURT: I said, "Is there something pending in the
8 Court of Appeal?"

9 MR. MACK: Not that I'm aware of, Judge. He did file
10 an appeal of his bench warrant and they moved on that.

11 THE COURT: Okay.

12 MR. NIX: Well, what I'm trying to say is I did not
13 find out about him offer me the opportunity to raise the
14 motions or remove Mr. Mack until last Wednesday. He failed
15 to informed me of that for three weeks, and so I did send
16 that report back to the Court of Appeals last Wednesday
17 asking to take up that motion to the Court of Appeals. I did
18 -- I -- I did send a copy of that to Scarlet Wilson and
19 (inaudible) Julian.

20 THE COURT: All right. I'm going to deny the motion.
21 The Defendant is entitled to competent Counsel, and I believe
22 the Public Defender's office is competent Counsel in this
23 case. I don't hear of any means for Mr. Nix to hire a
24 private Counsel and this case is over three years old so
25 we'll be prepared for trial.

1 MR. MCALLISTER: Judge, I appreciate the ruling. Just
2 be clear on both indictments that we're proceeding on trial
3 on the public defender's office is appointed, correct?

4 THE COURT: Yes.

5 MR. MCALLISTER: Okay, thank you, Judge.

6 MR. NIX: And 2599 what's the status of that?

7 MR. MCALLISTER: There's a pending indictment that's
8 going to be prosed. This is part of today's record.

9 MR. NIX: Okay. May I ask how an attorney can become
10 -- get on a case prior to ever being arrested approved. So
11 that -- actually one of my issues with Mr. Mack on the 5003
12 case is he followed a frivolous motion to amend the bond
13 which has never been set, and that's raised in both of my
14 officer (inaudible) Counsel complaint against Mr. Mack as
15 well as the hearing, and it's like he literally filed a
16 motion in -- when did you file a motion?

17 MR. MACK: I don't recall.

18 MR. NIX: Well, before February this year adding 5003
19 case to the 475 case. So amend the bond on a 475 case and
20 looped it into 5003. He's never even filed a notice of -- a
21 notice of appearance case. So the only way he's an attorney
22 is based on a frivolous motion to amend a bond for a case
23 that doesn't have a bond. That's -- I -- I don't see how you
24 find a confidence, your Honor.

25 THE COURT: Okay. Thank you. All right, we need to

1 get to jury selection.

2 MR. MCALLISTER: Thank you, Judge.

3 MR. MACK: Thank you, Judge.

4 MR. MCALLISTER: And Judge, State calls Alan Nix.

5 THE COURT: All right, y'all ready to proceed Judge?

6 MR. MCALLISTER: Yes, Judge.

7 MR. MACK: Yes, Judge.

8 THE COURT: Make sure I have everything here. All
9 right ladies and gentlemen, we're about to select the panel
10 for the trial of the case of the State of South Carolina
11 versus Alan Gregory Nix. Mr. Nix is charged with resisting
12 arrest and threatening the life of a public official. Before
13 the jury is selected, there are several more questions that I
14 need to ask you. Madam Clerk, can we -- well, they're under
15 oath. You remain under oath from this morning.

16 First has any member of -- or is any member of the jury
17 related by blood or marriage to Mr. Nix or have any close
18 personal relationship? All right, I'm going to read you a
19 list of possible witnesses in this case. Chris Craven,
20 Jeffrey Booker, Stephanie Hood, Matthew Colburn, Herschel
21 McElroy, Abby Mulay, and Dale Wilson. Is any member of the
22 jury related by blood or marriage to any of those folks, or
23 have any close personal relationship with any of them?

24 MR. MCALLISTER: May I approach?

25 THE COURT: Yes, sir.

1 THE COURT: Okay. All right, I got a few more
2 witnesses to read off to you folks also, Bobby Green, Chad
3 Barton, David Brown, Fletcher Ferguson, Judy Hicock(ph),
4 Justin Hembry, Steven Sumter, or Paul McManigill. Same
5 applies, anyone related by blood or marriage to any of those
6 folks or have any close personal relationship with them? All
7 right, Counsel of the State you want to introduce yourself?

8 MR. MCALLISTER: I'm Andrew McAllister, assistant
9 solicitor of the Ninth Solicitor's Office.

10 MS. BREWER: I'm standing with Mr. McAllister. My
11 name's Cassity Brewer, assistant solicitor as well. We work
12 for Scarlet Wilson's office and work under (inaudible).

13 THE COURT: Counsel of the Defendant.

14 MR. MACK: Thank you, Judge. Afternoon, I'm Ben Mack
15 from the Charles County Public Defender's Office joined by my
16 co-Counsel and this is Alan Nix who's going to exercise his
17 right to remain silent. Just if you all could wait.

18 THE COURT: All right, thank you. Is any member of the
19 jury panel ever been represented by any of the lawyers in
20 this case or have any -- or related by blood, or marriage or
21 have any close personal relationship? Does any member have
22 any knowledge, personal knowledge of the case, or formed, or
23 expressed any opinion about any issue or matter that may be
24 involved in the case? Is any member of the jury panel aware
25 of any bias or prejudice toward either the State or the

1 Defendant in this case?

2 Is there any member of the jury panel that was a member
3 of the grand jury that issued the indictment in this case?

4 Is there any member of the jury panel who is a member of or
5 contributor to any group which has as its primary concern the
6 promotion of law enforcement or victim's rights, that could
7 be an organization such as Mothers against Drunk Driver --
8 Driving the South Carolina Law Enforcement Officers
9 Association or something of that nature. Is any member --
10 I'll come back to that.

11 Is any member of the jury panel, or your immediate
12 family, or personal friend employed by the Charleston County
13 Solicitor's Office, or another county solicitor's office in
14 South Carolina. Are you or any members of your immediate
15 family or personal friends employed by the Charleston County
16 Sheriff's Office, the South County Law Enforcement Division,
17 or another law enforcement agency? Yes, sir. What's the
18 juror number?

19 JUROR 196: Juror 196.

20 THE COURT: Yes, sir.

21 JUROR 196: My father-in-law has served as Deputy Chief
22 for (inaudible) Police Department and is currently working
23 for the US Marshals at the court across the street.

24 THE COURT: Okay, and do you think that would prevent
25 you from being fair and impartial in this case?

1 JUROR 196: No.

2 THE COURT: Very good, thank you. Are you or any
3 member of your immediate family or personal friends part of
4 the Churchill Park Homeowners Association or residence of
5 Churchill Park Subdivision in Mount Pleasant? Do you or any
6 member of your immediate family or personal friend work for
7 Charleston County at Public Service Building located at 4045
8 Bridge View Drive, North Charleston, South Carolina or 100
9 meeting Street Charleston, South Carolina? Is any member of
10 the jury who served on a jury either for a civil or criminal
11 matter? Yes, sir.

12 JUROR 46: Juror 46 here, I've never been served here
13 but I served on a murder file in Philadelphia.

14 THE COURT: In Philadelphia? Okay. Do you think that
15 would prevent you from being fair and impartial in this case?

16 JUROR 46: No.

17 THE COURT: Very good, thank you. Yes, ma'am.

18 JUROR 114: I served on a criminal file about six years
19 ago, Charleston County.

20 THE COURT: Okay. What's your juror number?

21 JUROR 114: 114.

22 THE COURT: 114. Do you believe that would prevent you
23 from being fair and impartial in this case?

24 JUROR 114: No, sir.

25 THE COURT: Very good, thank you. Has any member of

1 the jury panel seen or heard any publicity whether it be
2 through news publications, social media, emails, or blogs
3 about this case? Does any member of the jury panel know of
4 any reason whatsoever why he or she should not serve as a
5 juror or in this case with particular emphasis being placed
6 on your ability to be fair and impartial to both the State
7 and the Defendant? Anything else from the State?

8 MR. MCALLISTER: Nothing from the State, Judge.

9 THE COURT: Anything else from the Defense?

10 MR. MACK: Yes Judge. We ask that you ask question
11 five on the Defense lawyer.

12 THE COURT: I already did.

13 MR. MACK: Oh I'm sorry Judge.

14 THE COURT: I did that in my --

15 MR. MACK: And Judge, we ask that you ask 8, 9, and 10
16 from the Defense lawyer.

17 THE COURT: I'll decline on eight. I've already done
18 nine, I've already done 10.

19 MR. MACK: Thank you, Judge.

20 THE COURT: All right -- all right Madam Clerk. Do you
21 agree with that?

22 MR. MACK: Yes, Judge.

23 THE COURT: Five and five. Ladies and gentlemen, this
24 trial is scheduled to start a little bit later in the week so
25 if you or one of the folks that had had some conflicts later

1 in the week, just let us know when your call -- hit your
2 call.

3 COURT CLERK: Ladies and gentlemen of the jury, if I
4 call your jury member, please grab all your belongings, come
5 in front of the podium. Juror Number 16. What say you for
6 the State?

7 MR. MACK: Please present.

8 THE COURT: What say you for the Defendant?

9 MR. MCALLISTER: I please strike the juror Judge

10 COURT CLERK: Sir, if you could excuse the child, be
11 patient to have (inaudible). Juror Number 100. What say you
12 for the State?

13 MR. MCALLISTER: Do you see this verdict?

14 COURT CLERK: What say you for the Defendant?

15 MR. MACK: Please seat Mr. Greg -- Mr. Greg.

16 COURT CLERK: (Inaudible). Juror Number 95. What say
17 you for the State?

18 MR. MCALLISTER: Dismiss this juror.

19 COURT CLERK: What say you for the Defendant.

20 MR. MACK: Please seat Mr. Green.

21 COURT CLERK: Sir, you have been selected (inaudible).
22 Juror Number 195. What say you for the State?

23 MR. MCALLISTER: Please present to this juror.

24 COURT CLERK: What say you for the Defendant?

25 MR. MACK: Please strike the juror.

1 COURT CLERK: Ma'am you may (inaudible). Juror Number
2 268. What say you for the State?

3 MR. MCALLISTER: Please present this juror.

4 COURT CLERK: What say you for the Defendant.

5 MR. MACK: Please seat Mr. Burplan(ph).

6 COURT CLERK: Sir you (inaudible). Juror Number 279.
7 What say you for the State?

8 MR. MCALLISTER: Please present this juror.

9 COURT CLERK: What say you for the Defendant?

10 MR. MACK: Please seat Mr. West.

11 COURT CLERK: Juror Number 274. What say you for the
12 State?

13 MR. MCALLISTER: Please present this juror.

14 COURT CLERK: What say you for the Defendant?

15 MR. MACK: Please seat Mr. Weatherby.

16 COURT CLERK: Sir (inaudible). Juror Number 124 --
17 Juror Number 124. What say you for the State?

18 MR. MCALLISTER: Please strike this juror.

19 COURT CLERK: Sir, you been excused (inaudible). Juror
20 Number 250 -- Juror Number 250. What say you for the State?

21 MR. MCALLISTER: Please present this juror.

22 COURT CLERK: What say you for the Defendant?

23 MR. MACK: Please strike the juror, Judge.

24 COURT CLERK: Ma'am (inaudible). Defense has three out
25 of five strikes. Juror Number 130. What say you for the

1 State?

2 MR. MCALLISTER: Please present the juror.

3 COURT CLERK: What say you for the Defendant?

4 MR. MACK: Judge if I may, Mr. Johnson is unavailable
5 on Thursday if I remember correctly. Is it a doctor's
6 appointment?

7 THE COURT: That's correct. We'll strike him from this
8 one. It'll be my strike for calls from -- from this trial.

9 COURT CLERK: Thank you sir. You have a seat, thank
10 you.

11 MR. MACK: Thank you, Judge.

12 COURT CLERK: Juror Number 41. What say you for the
13 State?

14 MR. MCALLISTER: Please present the juror.

15 COURT CLERK: What say you for the Defendant?

16 MR. MACK: Please seat Mr. Chamberlain.

17 COURT CLERK: (Inaudible) you have a seat. Juror
18 Number 227. What say you for the State?

19 MR. MCALLISTER: Please present the juror.

20 COURT CLERK: What say you for the Defendant?

21 MR. MACK: Please seat. Ms. (inaudible).

22 COURT CLERK: (Inaudible). Juror Number 53. What say
23 you for the State?

24 MR. MCALLISTER: Please present this juror.

25 COURT CLERK: What say you for the Defendant?

1 MR. MACK: Please seat Ms. Graff.

2 COURT CLERK: Ms. (inaudible) have a seat. Juror
3 Number 43. What say you for the State?

4 MR. MCALLISTER: Please present the juror.

5 COURT CLERK: What say you for the Defendant?

6 MR. MACK: Please seat Mr. (inaudible).

7 COURT CLERK: (Inaudible) have seat approval. Juror
8 Number 91. What say you for the State?

9 MR. MCALLISTER: Please excuse this Juror.

10 COURT CLERK: Sir, you are excused, you have
11 (inaudible). Juror Number 204. What say you for the State?

12 MR. MCALLISTER: Please strike the juror.

13 COURT CLERK: So you can excuse (inaudible). You have
14 the seat next to (inaudible). Juror Number 246. What say
15 you for the State?

16 MR. MCALLISTER: Please present this juror.

17 COURT CLERK: What say you for the Defendant?

18 MR. MACK: Please seat Ms. (inaudible).

19 COURT CLERK: Just let you have a seat Ms. (inaudible).
20 Juror Number 170. What say you for the State?

21 MR. MCALLISTER: Please excuse this juror.

22 COURT CLERK: (Inaudible). Juror Number 269. What say
23 you for the State?

24 MR. MCALLISTER: (Inaudible).

25 THE COURT: Yes. All right. Juror Number 269 will be

1 struck for calls so that'll be one of mine. Thank you ma'am.

2 COURT CLERK: Juror Number 84. What say you for the
3 State?

4 MR. MCALLISTER: Please seat this Juror.

5 COURT CLERK: What say you for the Defendant?

6 MR. MACK: Okay, please seat Mr. Jen too.

7 COURT CLERK: Sir you can have seat. Juror Number 26.
8 What say you for the State?

9 MR. MCALLISTER: Please present this juror.

10 COURT CLERK: What say you for the Defendant?

11 MR. MACK: Please seat Ms. Brown

12 COURT CLERK: Ma'am you've been selected, you can have
13 your seat (inaudible). Now strike it for the first
14 alternate. Juror Number 223. What say you for the State?

15 MR. MCALLISTER: Please excuse this juror.

16 COURT CLERK: Ma'am you have been excused. Juror
17 Number 193.

18 MS. BREWER: Could the clerk please repeat the number?

19 COURT CLERK: 193.

20 MS. BREWER: Thank you.

21 COURT CLERK: Any challenges by the State?

22 MR. MCALLISTER: Please present this juror.

23 COURT CLERK: What say you for the Defendant?

24 MR. MACK: Please strike the juror.

25 COURT CLERK: Ma'am you've been excused, (inaudible)

1 your seat. State has exhausted all strikes. Defendant has
2 one strike left. Juror Number 46. Any challenges by the
3 State?

4 MR. MCALLISTER: No.

5 COURT CLERK: What say you for the Defendant?

6 MR. MACK: Please strike the juror.

7 COURT CLERK: Sir you have been excused? Juror Number
8 192. Any challenges by the State?

9 MR. MCALLISTER: None from the State.

10 COURT CLERK: Any challenges by the Defendant?

11 MR. MACK: None from the Defense.

12 COURT CLERK: Ma'am you have been (inaudible). Now
13 strike for the second alternate. Juror Number 190. What say
14 you for the State?

15 MR. MCALLISTER: Please present this juror.

16 COURT CLERK: What say you for the Defendant?

17 MR. MACK: A challenge from the Defense, Judge. The
18 Juror 196 announced that his father-in-law was deputy chief
19 in the Charles County Sheriff's office.

20 THE COURT: Yeah and he said he could be fair and
21 impartial.

22 MR. MACK: Thank you.

23 THE COURT: I'm not going to strike him for call.

24 MR. MACK: Thank you, Judge.

25 THE COURT: All right. Are you striking him?

1 MR. MACK: We've exhausted our strikes for alternate.

2 THE COURT: No, we're on the second alternate right
3 now.

4 MR. MACK: Oh, okay.

5 THE COURT: We still have strikes.

6 MR. MACK: Okay then we strike him, Judge, I'm sorry.

7 THE COURT: Very good, no problem.

8 COURT CLERK: Sir you have been excused (inaudible)
9 behalf. Juror Number 6. What say you for the State?

10 MR. MCALLISTER: Please strike the juror.

11 COURT CLERK: Sir you have been excused. State has
12 exhausted all strikes. Defendant have one strike. Juror
13 Number 45. Any challenges by the State?

14 MR. MCALLISTER: Nothing from the State Judge.

15 COURT CLERK: What say you for the Defendant?

16 MR. MACK: Please strike the juror.

17 COURT CLERK: Sir, you have been excused, (inaudible).
18 The Defendant has used all strikes. Juror Number 184. Any
19 challenges by the State?

20 MR. MCALLISTER: None from the State.

21 COURT CLERK: Any challenge by the Defendant?

22 MR. MACK: No challenges from the Defense.

23 COURT CLERK: You have been selected and you have been
24 (inaudible). Judge you have the jury.

25 THE COURT: All right ladies and gentlemen, you all

1 have been selected to serve as jurors in the trial of this
2 case. Right now we're anticipating -- if everything goes
3 according to plan -- beginning this trial Wednesday
4 afternoon. But what we'll do, madam Clerk, how will you
5 designate them on the call end? Jury two.

6 COURT CLERK: We'll -- we'll have a we'll have two
7 parts to the line that tell you what --

8 THE COURT: Okay so call in, I guess tomorrow to find
9 out when you are to report, and we will see you then. But I
10 think -- yes, sir.

11 JUROR 274: That's after 6:00 p.m., tomorrow?

12 THE COURT: After six Madam Clerk?

13 COURT CLERK: Yes.

14 THE COURT: Yes. After 6:00. But right now the plan
15 -- the tentative plan is Wednesday afternoon so you all are
16 excused. You can follow the bailiff, he'll show you where
17 you're going to be recording, and all that good stuff, and we
18 will hopefully see you Wednesday.

19 (Jury exits.)

20 THE COURT: And I know the remainder of you are hungry
21 and ready for lunch as am I, but we're trying to get this
22 done so we don't have to send you out, and then you have to
23 find another parking spot and all that good stuff. So let's
24 just all power through it. If I start getting grumpy Carol,
25 I don't (inaudible) but we'll make it. Okay. All right

1 ladies, gentlemen, we're going to release you back down to
2 the jury assembly room very briefly, and we'll draw another
3 panel similar -- similar to what we did here. You may or may
4 not be one of the lucky 42 or 46, whatever it is, but please
5 be patient with us, and get you back over here as quickly as
6 we can get you out of here.

7 (Jury panel exits.)

8 THE COURT: And were there any exceptions to jury
9 selection from the parties?

10 MR. MCALLISTER: None of the State Judge.

11 MR. MACK: No objection from the Defense, Judge.

12 THE COURT: Very good, thank you all. We will stay in
13 touch, and be ready to go as soon as we can.

14 MR. MACK: Thank you so much.

15 (Off the record.)

16 THE COURT: On State versus Nix for any pretrial
17 matters we need to address before we commence trial hopefully
18 Wednesday afternoon?

19 MR. MCALLISTER: Judge, so the State essentially has
20 two pretrial motions to two matters that it wants to address.
21 Both of them were briefed in the brief that we submitted to
22 the Court. We -- the issue of the foreclosure was vigorously
23 litigated. We don't think that that needs to be brought up
24 at all in this trial. We think it has the tendency to
25 confuse the jury. We think it has nothing to do with these

1 charges. So we'd ask that anytime the Defense gets into that
2 component of the case, we just have instruction to -- to get
3 back on track.

4 So -- so we know -- we anticipate it will come up. We
5 think it's important to keep this trial on track so we can
6 focus on the matter at hand. We think it can be a quick
7 trial when we do that. And in that same regard, as I
8 mentioned, it was a vigorously litigated foreclosure case
9 that included a lot of pro se filings. The Defendant has a
10 gatekeeper order in several counties throughout the State.
11 We would ask that the clerk's office not accept the pro se
12 filing from the Defendant in this case. So those are the two
13 motions from the State, Judge. And that's all I ask.

14 THE COURT: Okay. All right. Mr. Mack?

15 MR. MACK: Thank you, Judge. We have no issue with the
16 matter of foreclosure not being mentioned as fact in this
17 trial. But if my client does testify, and I would ask the
18 court allow him to testify to the fact that he thought that
19 the foreclosure order issued in this case and brought out by
20 the State was void and bogus at the time of the incident.

21 THE COURT: Okay. All right, here's what I'm going to
22 do with -- with the foreclosure issue. I -- I could see how
23 it could have some relevance in the event the Defendant chose
24 to testify. So I'm not going to prohibit it outright.
25 Certainly if we were to go down that rabbit hole so to speak,

1 I will entertain appropriate objections to relevance.
2 Because I don't -- I -- I think that could go to his state of
3 mind. But again, we're not -- we're not here to litigate
4 that.

5 But if it comes up in the course of his testimony and
6 the he testifies, I think I'll give him a little bit of
7 leeway. But again, we're not -- we're not talking about all
8 the lawyers were wrong, and the judge was wrong, and here's
9 why they were wrong. I mean, if that was part of his state
10 of mind, I get it. We can go there. But again, I would
11 agree with the State that this is not the form to re-litigate
12 that. Does that make sense?

13 MR. MCALLISTER: Yes, Judge. Thank you.

14 MR. MACK: Yes, Judge, thank you.

15 THE COURT: All right. And on the pro se filing issue,
16 I mean, if -- if he feels like he needs to file something, I
17 -- I can deal with it, but we're starting Wednesday
18 hopefully, and seems like all the filings done anyway. All
19 right, anything else what y'all got? You got some motions?

20 MR. MACK: Nothing from the Defense at this point,
21 Judge.

22 THE COURT: Okay. All right. Well, we'll let y'all
23 know as soon as we settle on a time to start.

24 MR. MCALLISTER: I guess -- I did say there's nothing,
25 that was a mistake. I should address -- we do have an issue

1 with the indictment. The indictment fails to identify a -- I
2 know it's been a source of contention from everyone -- it
3 fails to identify the public officials for which is the
4 victim of the case. We just want to make sure that that's
5 not an issue, and it's not going to be something that we have
6 to litigate here going forward.

7 THE COURT: Mr. Mack?

8 MR. MACK: I guess I'll go ahead and file a motion to
9 Mr. (inaudible). We would like to state to amend the
10 indictment to name the victim in this case. The motion comes
11 under State versus Smalls citation 3604SC3432005. That of
12 course requires the State -- or the indictment to state
13 sufficiency and certainty in particularity to know what
14 judgement to pronounce. Sorry, requires the State --
15 indictment to state, not the State to state, the indictment
16 to state and sufficiency and certainty and particularity what
17 Judgement to pronounce and the Defendant to know what he's
18 called to answer and must surprise the Defendant of the
19 elements of the offence under that second element. Defendant
20 to know what he's called to answer without him knowing the
21 name of the specific victim.

22 In this case, he doesn't know what he's being called to
23 answer. My concern, Judge, that State is going to present in
24 the case-in-chief that the entire Charleston County Sheriff's
25 Office is the victim in this case. And we don't think that's

1 appropriate, and believe that the indictment should state
2 that the victim in this case is Officer Chris Craven who is
3 going to be their main witness and in case-in-chief.

4 THE COURT: Mr. McAllister?

5 MR. MCALLISTER: Judge indicted for one offence,
6 preparing life of both officials for the benefit of the
7 Defendant, we could have been denied for 30 counts of
8 training life, and public official for each officer who
9 responded to this house over the course of the several days
10 that he was barricaded in the home. If Defense does not
11 object, we can name Sergeant Chris Craven as the victim, and
12 go forward and not have to worry about the indictment issue.
13 And so we're happy to do that.

14 THE COURT: Well, it sounded like that's what he was
15 asking for the State to (inaudible). So it sounds like he
16 consented to an amendment.

17 MR. MCALLISTER: If we're all in agreement that we can
18 consent to the indictment reading Chris Craven as the victim
19 -- Sergeant Chris Craven with the Charleston County Sheriff's
20 Department, then we can proceed.

21 THE COURT: Great, thank you.

22 MR. MCALLISTER: (Inaudible) Judge. Thank you.

23 THE COURT: All right, thank you all. (inaudible).

24 MR. MCALLISTER: But he is the main victim in the case.
25 The threats were communicated to Chris Craven. The threats

1 include specificity to everyone involved. So I think the
2 evidence that's going to be introduced can't be limited to
3 just the threats to them. We are not going to present new
4 indictments for each deputy, but I guess we don't want to be
5 limited in presenting evidence of the threats, if that makes
6 sense.

7 THE COURT: Okay. Mr. Mack?

8 MR. MACK: I feel I need to address that Judge when
9 they present the evidence, I think I know what they're
10 getting at, but the emails that were allegedly sent by my
11 client were eventually received by Chris Craven, and they
12 don't want to approve that I guess.

13 THE COURT: Counsel, you were saying?

14 MR. MCALLISTER: What I'm getting at is we don't want
15 to have to -- they were sent to a variety of people, and we
16 don't want to have to -- right, we don't have to -- I guess,
17 we don't want to have to censor them because we've limited to
18 one victim, because we chose not to indict the victim, I
19 guess, if that makes sense.

20 MR. MACK: So that doesn't make sense to me.

21 THE COURT: So -- so do you not want to amend the
22 indictment or you do want amend the indictment?

23 MR. MCALLISTER: I think if any of this indictment
24 include Sergeant Chris Craven is sufficient, and I don't
25 think that we're going to have any issue with using the email

1 regardless. So it -- I'm -- I'm comfortable with amending
2 the indictment to include Sergeant. I don't think that's
3 going to mess up my case. I think we'll try in case the
4 exact same way, whether it includes his name or not.

5 THE COURT: Well, yeah, maybe said that -- that --
6 which -- what I think is what Mr. Mack is asking. Did -- it
7 was -- willfully -- did willfully deliver or convey to a
8 public official, Chris Craven, --

9 MR. MCALLISTER: Right.

10 THE COURT: And that I obviously haven't heard the
11 testimony. I have not lived with this file like y'all have.
12 I just heard about it this morning or last week, I guess.
13 But I don't -- I don't know that that limits you as to who
14 the State contends or intends to prove was actually correct.

15 MR. MCALLISTER: I agree. So I -- I think -- yeah, I
16 think if we both consent to having Sergeant Chris Craven as
17 the main victim in that indictment, I don't think it causes
18 any issues. I will consent to it as long as we --

19 THE COURT: Okay. That's it, Mr. Mack?

20 MR. MACK: Yes, Judge. Thank you.

21 THE COURT: All right, anything else? Okay, I said
22 we'll let you know when we're going to get started. Right
23 now I am aiming for Wednesday afternoon, but you know how
24 things go.

25 MR. MCALLISTER: Thank you, Judge.

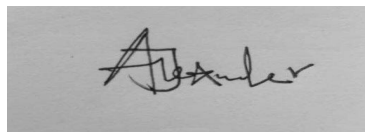
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CERTIFICATE OF TRANSCRIBER

I, JACKSON ALEXANDER, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on November 4, 2024.

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

December 2, 2024

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Alexander' written in a cursive, stylized script.

JACKSON ALEXANDER

Transcriber

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 6, 2024.

2 THE COURT: Are we moving forward on there? A number
3 on the roster? We just wanted to make sure we were --

4 MR. MCALLISTER: 2023-GS-10-5002 and 5003, and there's
5 a 2021 one that I will file a status change form on this
6 afternoon.

7 THE COURT: Okay. All right. Is everybody ready?

8 MR. MCALLISTER: Yes. The State's ready to proceed,
9 Judge.

10 MR. MACK: Defendant's ready.

11 MS. BREWER: Judge, I just have a brief class matter.
12 I've got a (inaudible) at home, and I pumped before we came
13 so I should be good for the rest of the day so that we don't
14 stay (inaudible) we're outside, but tomorrow morning and
15 afternoon only 15 minutes.

16 THE COURT: Okay, well, yeah, I -- I take breaks fairly
17 often. I try an hour -- I mean an hour and a half to take a
18 break. Just let me know when if we need to -- if we need to
19 take a little extended break, and we can do that. We'll
20 accommodate.

21 MR. MACK: Judge, can we clarify for the record that
22 the amended indictment is in your hand and can be used for
23 this trial, naming Chris Craven as the victim?

24 THE COURT: It does not have --

25 MR. MCALLISTER: We consented on Monday to add Chris

1 Craven as the victim.

2 THE COURT: Right.

3 MR. MCALLISTER: I can write it in.

4 THE COURT: That's fine.

5 MR. MCALLISTER: Thank you, Judge. Judge, I'm going to
6 use victim's full name Christopher Craven as long as there's
7 no objection.

8 THE COURT: Okay. It's all right. Who's first?
9 What's first?

10 BAILIFF: Jeffrey Booker.

11 THE COURT: All right, y'all ready for the jury?

12 MR. MCALLISTER: Yes, Judge.

13 BAILIFF: And they're all available there, your Honor.

14 THE COURT: Very good. Thank you, sir. Madam Clerk,
15 will you please swear the jury?

16 (Jury sworn.)

17 COURT CLERK: If you have accepted this oath, please be
18 seated. If you have not accepted this oath, please remain
19 standing. Let the record reflect all jurors have been
20 seated.

21 THE COURT: Thank you Madam Clerk. Ladies and
22 gentlemen, we are about to begin the case of the State of
23 South Carolina versus Alan Gregory Nix. Thank you again for
24 accepting the important responsibility for jury service and
25 for your contribution to our justice system. Without folks

1 like you being willing to show up, we simply can't get our
2 jobs done and our justice system cannot function. The
3 instructions I'm going to give you right now are an
4 introduction to the trial.

5 These remarks are not of charge on the law in the case,
6 I'll instruct you on the law applicable at the end of the
7 trial before you consider your verdict. And this is merely
8 an explanation of the procedure we'll follow during trial to
9 help you better understand what's happening. We're not going
10 to take any notes in this trial. I don't anticipate it
11 lasting very long, so no notes in this one. Mr. Nix is
12 charged by warrants and subsequent indictments with the
13 crimes of resisting service of process and threatening a
14 public official.

15 I will explain the elements of those crimes to you
16 later on. The warrants and indictments are simply the
17 charges by which the case is brought into this court and not
18 in any sense evidence of any of the allegations contained in
19 those documents. The Defendant has pled not guilty to the
20 indictments. Therefore, the State of South Carolina has the
21 burden of proving Mr. Nix's guilt of each of these crimes
22 beyond a reasonable doubt. And it's your duty, ladies, and
23 gentlemen, to decide whether the State has met that burden.

24 Your purpose as jurors is to find and determine the
25 facts, you're sole judges of the facts. If at any time I

1 make any comment regarding the facts, please disregard it.
2 You determine the facts from the testimony you hear, and
3 other evidence that's introduced here in court. It's up to
4 you to determine the inferences -- influences which you feel
5 may be drawn from the evidence. It's especially important
6 that you perform your duty, determine the facts diligently
7 and conscientiously because ordinarily there's no way to
8 correct an erroneous determination of the facts by a jury.

9 If I make an error on the law, there are folks in
10 Columbia that can correct me. But what you do in your jury
11 room is your business and it -- it can't -- it can't really
12 be challenged. So it's important that you do your best, and
13 pay attention, and do your best to try to get it right. On
14 the other hand, with equal emphasis, the same rules that make
15 you the judges of the facts make me the judge of the law.
16 The law has given by the court is the only law you may
17 consider. You must accept it, and follow it even though you
18 may disagree with it.

19 I can't tell you what the facts are, and you can't
20 disagree with me about what the law is or should be. Your
21 job is to take the law as I give it to you and apply it to
22 the facts as you find them from the testimony of the
23 witnesses and any other evidence that's introduced. After
24 doing that, you'll render your verdict under the oath you
25 just took as jurors.

1 Until I direct you to begin your deliberations in the
2 case, you must not discuss the case with anyone including
3 each other, any of your friends, family members, or anyone
4 involved in the case. You must decide the case based solely
5 on the evidence presented in this courtroom. That means
6 during the trial you must not conduct any independent
7 research or anything of that nature. I don't want you
8 googling it, looking on social media, anything like that.

9 After the case is submitted to you, you will only
10 discuss it amongst yourselves in the jury room, the attorneys
11 and the parties in the case have been advised that they are
12 not to talk to you at all. So if you see anyone involved in
13 the case and they don't even say hello, they're not being
14 unfriendly, they're just following my instructions as we
15 perceive it's important to keep an open mind, and don't
16 decide any issue in the case until all the evidence has been
17 presented, parties have made the closing arguments, and I
18 have instructed you on the law.

19 If you become aware of any other juror's violation of
20 these instructions, you must inform me immediately. As I
21 said earlier, it is your responsibility to determine the
22 guilt or innocence of the Defendant, and your verdict must be
23 based solely on the evidence as is presented to you in this
24 courtroom. In a moment, the solicitor will make what's
25 called an opening statement in which he or she, not sure

1 which one, will explain to you the issues in the case or at
2 least what they perceive the issues are and what the evidence
3 will show. Counsel for the Defendant may also make an
4 opening statement, although not required to do so. What the
5 attorneys tell you during these opening statements is not
6 evidence. It's only their contention as to what the issues
7 are and what the evidence may show. The evidence will be
8 presented to you by the testimony of sworn witnesses from
9 this witness stand in any exhibits that may be introduced
10 throughout the course of the trial from time to time, and I
11 know y'all have already been waiting a little bit and I
12 appreciate that, but we had another trial going and about the
13 time I was about to start this one, it ended so I had to deal
14 with that.

15 So again, I appreciate your patience, but what I'm
16 telling you here now, you'll hear from time to time, one of
17 the lawyers may say, "Judge, I think we have a matter of law
18 we need to take up." I'll excuse you back to your jury room
19 because that's a legal issue that I have to address. I
20 promise you, we're out here working, we're not trying to
21 waste your time having you sit back there waiting on us. So
22 when you hear something like that, just understand that I'm
23 probably going to excuse you from the courtroom.

24 So nothing I do or say will influence your decision.
25 In determining what the facts are in a case, you must decide

1 whether or not the testimony of the witness is believable.
2 It'll be my responsibility to rule as a matter of law as to
3 whether the testimony is admissible. But once the testimony
4 is admitted, it is solely for you to determine the
5 believability of the witness.

6 In deciding whether to believe a witness, you have the
7 right to consider the interest of a witness, the bias of a
8 witness, the prejudice of a witness, the opportunity for the
9 witness to have observed what he or she says they saw, and
10 the things about which they may testify. You also have the
11 right to judge the way the witness acts on the witness stand.
12 You have a right to consider anything that is in the record
13 that will help you evaluate the testimony of the witnesses.

14 That means you must pay close attention to the
15 witnesses, observe them, listen to them, and pay close
16 attention to the lawyers as well as the Court. Please don't
17 let your thoughts wander, and give strict attention to the
18 testimony so that the end of the case, after all the
19 arguments of Counsel, and my charge on the law, you'll be in
20 a position to determine what the applicable facts are, and
21 apply the law to those facts and render a verdict. All
22 right, I need to appoint a foreperson, and ma'am, what's your
23 juror number?

24 JUROR 246: Me?

25 THE COURT: Yeah.

1 JUROR 246: 246.

2 THE COURT: 246. You selected the magic chair, so you
3 will be our foreperson. It'll be your added duty to preside
4 in the jury room, be the spokesperson here in court if you
5 have any questions or anything like that for me, and then you
6 will write the verdict. Not going to get paid any more, but
7 I'll give you further instructions on at the conclusion of
8 the case. Anything from the State before we start?

9 MR. MCALLISTER: No, Judge.

10 THE COURT: Anything from the Defense?

11 MR. MACK: Nothing from the Defense, Judge.

12 THE COURT: Very good. Mr. McAllister.

13 MR. MCALLISTER: Thank you, Judge. Welcome back.
14 Thanks for being here. Say the government can only make you
15 do three things, pay taxes, serve on the military, and serve
16 on a jury. So hopefully that makes this a little less
17 offensive. Go into a little bit about while we're here.
18 It's not against the law if you irritate your neighbors.
19 First Amendment gives you the right to say almost any
20 obnoxious thing that comes to your mind. The thing here,
21 he's not on trial (inaudible) protection, but he is on trial
22 for trying to take the law in his own hands.

23 He did break the law when he intentionally intimidated
24 officers, and when he tried to threaten violence. Judge
25 (inaudible) the Defendant out of his home on January 22,

1 2021. The sheriff's office here was responsible for ensuring
2 that happens. The Defendant had other plans. Evidence will
3 show on January 11th, deputies posted notice of Judge
4 Carpenter's order on Defendant's door. Evidence will show he
5 was fully aware of that notice for he knew he was supposed to
6 be here. He wasn't leaving on the 21st, one day there was a
7 lock on the (inaudible).

8 He delivered a package in the Charleston County Public
9 Service. That's a building in Charleston where a lot of us
10 work, it included a handwritten note on -- I'll read it to
11 you "Appears that a shoo-tout and standoff between Charleston
12 County Sheriff's office and homeowner intentionally and
13 premeditatedly set up by corrupt judge." Obviously that note
14 put deputies on high alert. They were aware the Defendant
15 had taken no steps to move out, now they knew he intended
16 violence. (Inaudible) some emails they sent throughout the
17 day for that note.

18 After that note, including one he sent the next day
19 that outlined his rules of engagement, it further confirmed
20 what (inaudible) already knew. Then plans to fight. Emails
21 persistent. He wasn't leaving. He was prepared. This
22 entire ordeal ended on January 25, 2021, when SWAT officers
23 entered the house. We hear from the deputies they'll --
24 they'll give you testimony. They'll describe what they found
25 when they entered. You'll see photos of the house, its

1 condition. Defense's plan will be pretty clear. I'll tell
2 you that we're all grateful that this ended without tragedy,
3 but that's high Defense.

4 Defendant threatened violence. He tried to intimidate
5 officers. His behavior disrupted and undermined everyone's
6 ability to perform their duties, and that's why he's on
7 trial. He threatened the life of public officials and
8 resisting the execution process. Ms. Brewer and I here we
9 represent the State. It's our job to prove these allegations
10 beyond reasonable doubt. If we don't do that, he's not
11 guilty. You cannot find him guilty unless you are firmly
12 convinced that he did what we say he did.

13 Judge Taylor is going to instruct you on the law of
14 conclusion of this trial, and he's the ultimate authority on
15 the (inaudible) I do want to leave you with something so you
16 know what to look for during the trial. I'll tell you, it's
17 a quick trial. I was hoping to be done maybe in testimony by
18 the end of the day, but hopefully by motion tomorrow. But
19 anyway, I'm going to leave this PowerPoint. The elements of
20 threatening life of public official. That's one of the
21 charges knowingly delivered to a public official.

22 Any communication that threatens to take the life and
23 inflict great bodily harm on that public official, and that
24 threat is directly related to his duties as a public
25 official. Deputy Craven here. He's that public official who

1 received those emails, which you will read. His duties were
2 to ensure the Defendant left his home. We will very clearly
3 read what the Defendant intended to those emails. It will be
4 very clear with regard to resisting an execution process,
5 knowingly resisting law enforcement officer with whom the
6 Defendant knows is a law enforcement officer while he's
7 trying to execute process.

8 Judge Scarborough ordered the Defendant out of his
9 home. The Defendant refused to leave, actively resisted
10 officers who were trying to impose -- enforce that order.
11 It's a simple case. Those are the elements you're looking
12 for. I told you it was my job to prove the evidence. It's
13 short trial. So in a court trial, support me, support the
14 deputies who just want to get home with their families, who
15 just want to do their jobs.

16 Support the Defendant whose actions are the only reason
17 we're here today. You get to decide who to believe, you get
18 to decide what to believe, but you don't have to leave your
19 common sense (inaudible). It's not supposed to be hard. You
20 confide after you hear from everybody, after you see all the
21 testimony, hear all the evidence you render the verdict.
22 Thank you.

23 MR. MACK: Judge, thank you. Execution requires action
24 and threats require fear of harm. Say it again. Execution
25 requires action and threats require fear of harm. On January

1 11, 2021, Charleston County Sheriff's Office Deputy Jeffrey
2 Booker posted an eviction order on Alan Nix's front door.
3 That eviction order said that "Alan had to leave the premises
4 in 10 days." That front door was located at [REDACTED] Densmore
5 Circle in Mount Pleasant quaint house located quaint
6 cul-de-sac, the quaint subdivision in Mount Pleasant just
7 north of Highway 41.

8 In other words, Alan had 10 days to pack up his stuff
9 and walk away from his family home. Alan accepted service of
10 that order by removing it from his front door, and
11 acknowledging receipt of it to Charleston County Sheriff's
12 Office -- Officer Sergeant Christopher Grey seated right
13 there. That's correct. The issue before you today is not
14 whether Alan resisted service or process. Do not let the
15 State confuse you. Their little PowerPoint was somewhat
16 confusing. They use the word "resist" service and an
17 execution of an eviction.

18 The issue before you today is whether Alan resisted the
19 execution of an eviction, an eviction that never happened.
20 An attempted execution of an eviction that never took place
21 before the lockout date January 22, 2021. The State is
22 asking you to convict Alan on a factual possibility saying he
23 resisted the attempted execution of an eviction order even
24 though the sheriff's office never attempted to evict him. No
25 action was taken by Chris Grey to remove Alan from his home.

1 Thereby Alan cannot be convicted of resisting the
2 removal. Trespassing maybe, not resisting. Admittedly,
3 Allen did not comply with the eviction order. Why? Simple,
4 he thought it was bogus based on an unlawful decision by
5 Master-in-Equity, Michael Scarborough, for failure to pay HOA
6 fees for the judge lacked jurisdiction. In response, Alan
7 sent multiple emails -- Charleston County officials letting
8 them know about his concerns, desperate for help, and
9 desperate to save his family home.

10 One email him a little too far but not far enough to
11 merit the conviction or threatening the life of a public
12 official. He says he's going to fire on anyone and everyone
13 who breaches the perimeter of his home where he thinks he has
14 a lawful record to be. The statement is made two days after
15 the January 22, 2021 lockdown date. Before they were supposed
16 to kick his door down, and no attempt had been made to
17 execute the eviction order. It's also qualified by the
18 statements, "won't shoot," "you are invited in by me" and "at
19 this point it's safe to assume no one is coming."

20 That email in conjunction with the note left by Alan at
21 the public service building about potential shoot-out of the
22 reasons you're here, the email and a note described by a
23 desperate male nowhere near his alleged victim Chris Craven.
24 State likely argued that no effort was made to execute the
25 eviction order because Alan was threatening Sergeant Chris

1 Craven. But think about the context of those threats. In
2 particular Alan's ability to act on them and how much he
3 meant them. Think about how, if at all, the alleged threats
4 affected our alleged victim.

5 He does not consider them to be threats against
6 (inaudible) despite what the State says. He is your victim,
7 and I know he doesn't fit them as threats because he told me.
8 That's correct, the State has to prove beyond a reasonable
9 doubt that Sergeant Chris Craven was threatened by Alan's
10 email, and no, they cannot do it. Not when Chris Craven
11 testified otherwise at the preliminary hearing, he sat and
12 witnessed chair just like that, raised his hands to the
13 heavens, swore and told the truth, the whole truth, and
14 nothing but the truth.

15 And when asked by me how Alan resisted service of
16 process, he said, "Only because he did not move out," not
17 because of his threats, not because the executed eviction and
18 he resisted. In other words, Alan cannot resist the
19 attempted execution of an eviction order by the Charleston
20 County Sheriff's Office. If the Charleston County Sheriff's
21 Office did not attempt to execute that eviction, and the
22 State cannot claim that they were prevented -- Sheriff's
23 Office was prevented from executing that eviction if they
24 were not threatened by him. For those simple reasons, you
25 will find Alan not guilty, resisting arrest and threatening

1 public official because execution requires action and threats
2 require the harm.

3 THE COURT: State ready to call your first witness.

4 MR. MCALLISTER: Yes. The State calls Jeffrey Booker.

5 JEFFREY BOOKER,

6 being duly sworn, testified as follows:

7 COURT CLERK: Please be seated. Please state your full
8 name, spelling your last name directly -- the microphone.

9 THE WITNESS: Jeffrey Booker. Last name B-O-O-K-E-R.

10 DIRECT EXAMINATION

11 BY MR. MCALLISTER:

12 Q. Good afternoon, Mr. Booker.

13 A. Good afternoon.

14 Q. Appreciate your patience. What do you do for a
15 living?

16 A. Currently I'm retired.

17 Q. Where are you retired from?

18 A. Charleston County Sheriff's Office.

19 Q. What was your most recent title with the Sheriff's
20 Department?

21 A. I was a master deputy in the civil process unit.

22 Q. How long were you with the Sheriff's Department?

23 A. About 15 years.

24 Q. What were your roles as a master deputy with the
25 civil process unit?

1 A. I was assigned to the civil process unit.
2 Normally we did a civil process. We serve just about any
3 legal document that comes through the clerk office,
4 evictions, foreclosures.

5 Q. In January of '21, was that your role?

6 A. Yes.

7 Q. How would you receive assignments?

8 A. Basically whatever area you are assigned to,
9 that's how normally you get your paperwork, and the secretary
10 in the office usually issues out your paperwork every week.

11 MR. MCALLISTER: Your Honor, permission to approach the
12 witness?

13 THE COURT: Yes, sir.

14 BY MR. MCALLISTER:

15 Q. Show the witness what's been marked as State's
16 Exhibit 9. Do you recognize that document?

17 A. Yes, sir.

18 Q. What is it?

19 A. This is the eviction serves -- that came through
20 the Clerk's office. It's basically eviction notice. A
21 foreclosure notice.

22 Q. For where?

23 A. Excuse me.

24 Q. For where did that eviction notice pertain?

25 A. As far as the address, [REDACTED] Densmoore Circle,

1 Mount Pleasant, South Carolina 29466.

2 Q. And where is that?

3 A. Mount Pleasant.

4 Q. Mount Pleasant? And does it say who's the
5 customer or who's the --

6 A. Party to serve is Alan Nix.

7 Q. (Inaudible) more specifically, so tell me what
8 that is.

9 A. This is basically a notice letting Mr. Nix --
10 advising him that the eviction will be executed on January 22
11 at 12:00 p.m., at which time if he's not vacated the premises
12 he will be forcibly removed from the residence.

13 Q. What -- what date was that again?

14 A. January 22, 2021.

15 Q. What do you typically do with that notice?

16 A. We typically try to serve it to Mr. Nix or any
17 party. If they're not there, we normally tape it to the door
18 so it's visible.

19 Q. How do you -- what's your preferred method of
20 service?

21 A. A hand-to-hand exchange.

22 Q. And why is that your preferred method?

23 A. Because you -- I mean -- it's guaranteed that the
24 person knows that he's on notice to be served for the
25 eviction.

1 Q. Were you able to accomplish that in this instance?

2 A. No, sir.

3 Q. How did you -- how did you post notice in this
4 instance?

5 A. I taped it through the front door.

6 Q. I'm showing you what's marked as State's exhibit
7 11. Do you recognize this document? Do you recognize this
8 image?

9 A. Yes.

10 Q. What is that image?

11 A. This is the eviction notice that I taped to the
12 door -- to the front door.

13 MR. MCALLISTER: The State moves introduced State's
14 Exhibit 11.

15 THE COURT: Any objection?

16 MR. MACK: No objection judge.

17 THE COURT: All right. It'll be admitted as State's
18 11.

19 MR. MCALLISTER: So it will be published as State's
20 Exhibit 11?

21 THE COURT: Certainly.

22 (State's Exhibit 11 was admitted into evidence.)

23 BY MR. MCALLISTER:

24 Q. And what's on that? What is that image?

25 A. That's the eviction notice.

1 Q. And State's Exhibit 10. What's in your hand?

2 A. The eviction notice.

3 Q. Is that the same thing that's on the door in that
4 picture?

5 A. Yes, sir.

6 Q. And is that in the same condition -- is that the
7 same letter that you posted on January 11th?

8 A. Yes, sir.

9 Q. And is that indicated in State's Exhibit 9 in your
10 -- in your note?

11 A. Yes, sir.

12 Q. In your packet that you returned?

13 A. Yes, sir.

14 MR. MCALLISTER: The State moves to introduce Exhibits
15 9 and 10 into evidence.

16 THE COURT: Any objection?

17 MR. MACK: No objection.

18 THE COURT: All right. They'll be admitted as State's
19 9 and 10 without objection.

20 (State's Exhibit 9 and 10 were admitted into evidence.)

21 BY MR. MCALLISTER:

22 Q. After posting notice to the Defendants door on
23 January 11th, did you have an opportunity to return to the
24 residence?

25 A. Yes. On the day of the eviction.

1 Q. What day was that?

2 A. I don't think it was actually the 22nd because of
3 some issues that was going on with the Defendant, so I think
4 we actually didn't execute the eviction until a couple days
5 later.

6 Q. Do you write incident reports? Did you do
7 lockouts?

8 A. Yes.

9 Q. Did you write an incident report in this incident?

10 A. Yes.

11 Q. Will reviewing your incident report help refresh
12 your memory?

13 A. Yes

14 MR. MCALLISTER: Judge, I'd like to let this witness
15 refresh his memory of the incident report.

16 THE COURT: Any objection?

17 MR. MACK: No objection.

18 THE WITNESS: We didn't actually return to the
19 residence until January 26th.

20 BY MR. MCALLISTER:

21 Q. And do you know why you didn't do the lockout on
22 January 22nd as planned?

23 A. The Defendant was making -- Defendant was making
24 threats, and we didn't feel as though it was tactically safe
25 to evict him on the actual date, and I believe he had some

1 outstanding warrants.

2 Q. You had an opportunity to view the house when you
3 went in on the 26th?

4 A. Yes, sir.

5 Q. I am showing you what's marked State's Exhibit 12
6 to 23. Do you recognize those images?

7 A. Yes, sir.

8 Q. So those images show the house in the condition
9 that it was when you entered it?

10 A. Yes, sir.

11 Q. Can you describe the house in the condition as it
12 was when you entered it?

13 A. From the front of the residence, the lawn was
14 overgrown.

15 MR. MACK: Objection, Judge. Relevance, forward to.

16 THE COURT: Overruled. I think he's just laying the
17 foundation. Go ahead.

18 BY MR. MCALLISTER:

19 Q. Can you describe the condition of the house?

20 A. Like I said, the front lawn was overgrown with
21 grass. When you entered through the front door -- I mean,
22 immediately as you crossed the threshold inside -- inside of
23 the house was in total disarray, trash, dog faeces. I
24 believe there was a hole in the floor. I mean -- it was just
25 -- it was a total -- wouldn't even believe somebody was

1 actually living there.

2 MR. MCALLISTER: Your Honor, permission to publish
3 these photos -- these images.

4 THE COURT: Have they been admitted?

5 MR. MCALLISTER: I move to admit these images.

6 THE COURT: Any objection?

7 MR. MACK: No, Judge. Can I get the numbers again?

8 THE COURT: 12 through 23.

9 MR. MCALLISTER: 12 through 23.

10 THE COURT: All right, the photos labelled -- marked as
11 State's Exhibit 12 through 23 will be admitted without
12 objection.

13 (State's Exhibit 12-23 were admitted into evidence.)

14 BY MR. MCALLISTER:

15 Q. Go through some of these, okay? What's this a
16 photo of?

17 A. The front of the residence.

18 Q. What county?

19 A. Driveway. Charleston County.

20 Q. Address is what?

21 A. [REDACTED] Densmore Circle, Mount Pleasant.

22 Q. What's this a photo of?

23 A. Front door.

24 Q. What am I looking at in this photo?

25 A. That's the upstairs, which -- it appeared to us

1 that he had moved the bedroom dresser on top of the stairway.
2 It was actually positioning like a barrack, like a -- like a
3 fighting tactical position.

4 Q. Where's this view from?

5 A. The top of the stairs -- top of the stairs where
6 the dresser was positioned at. He had a full view of any
7 vehicle coming on that street to his house.

8 Q. What is this a photo of?

9 A. That's a gas -- gas -- gas container. It was full
10 of gas, it had a box of matches next to it.

11 Q. What is this a photo of?

12 A. I believe that's the kitchen.

13 Q. (Inaudible) that photo of it was -- I want to ask
14 you a couple of questions about the kitchen. Did you have an
15 opportunity to return to the residence with any of the family
16 members?

17 A. Yes. Mr. Nix's son.

18 Q. Did anything remarkable happen when the son was
19 present?

20 A. Yeah, the son located the .45 caliber handgun
21 under the kitchen sink.

22 Q. I am showing you what's marked as State's Exhibit
23 2. Can you recognize that item?

24 A. Yes, sir.

25 Q. How do you recognize that item?

1 A. This is the .45 caliber handgun that his son
2 recovered, and I took into custody, and in my incident report
3 I described it and wrote down the serial number.

4 Q. And does the serial number on that match the
5 serial number in your incident report, can you verify?

6 A. Serial number was RK[REDACTED], model number P1245.

7 Q. Will you look at that, and then verify that it's
8 the same?

9 A. Yes, it's the same.

10 Q. And that image -- image number 23 of the kitchen,
11 is that the kitchen where that firearm's located?

12 A. Yes, sir.

13 Q. And what -- can you describe the condition of that
14 kitchen?

15 A. Like I said, the entire house was in total
16 disarray. I mean, every room had something on the floor.
17 There was a trash and junk on every cabinet, every table.

18 Q. So would you say finding it might be difficult?

19 A. Oh yes. Initially, when we first did the eviction
20 it was several -- several members of the unit, and we went
21 through that entire house looking for anything, any weapons,
22 and you couldn't find it -- you wouldn't be able to find it.

23 Q. Other than -- other than -- so you look for
24 weapons. You found that -- the son found the pistol, found
25 any other weapons?

1 A. Yes.

2 Q. What else did you find?

3 A. I found a shotgun upstairs in the -- behind the
4 door on the hallway bathroom.

5 Q. Is that near a (inaudible)?

6 A. And that was near that --

7 Q. In relation to this and in relation to --

8 A. Yes, it was -- it was near the -- where he had
9 that dresser, and he had it positioned in a tactical fighting
10 stance where it would've been easily accessible.

11 MR. MCALLISTER: State would move to introduce State's
12 Exhibit 2 in evidence?

13 MR. MACK: No objection, Judge.

14 THE COURT: All right. It'll be admitted as State's 2
15 without objection.

16 (State's Exhibit 2 was admitted into evidence.)

17 MR. MCALLISTER: State has no further questions for the
18 witness.

19 THE COURT: Cross-examination.

20 MR. MACK: Thank you, Judge.

21 CROSS-EXAMINATION

22 BY MR. MACK:

23 Q. Officer Booker, you look familiar. You used to
24 work in the courthouse?

25 A. Yes, sir.

1 Q. That's what I thought. That was after you
2 retired?

3 A. Huh?

4 Q. That was after you retired?

5 A. No, I was -- I was assigned down here at the
6 courthouse.

7 Q. Got it. All right. You mentioned some
8 outstanding warrants pending against Alan Nix during your
9 testimony.

10 A. Yes, sir -- yes, sir.

11 Q. Sorry, I didn't mean to talk over you there. And
12 those warrants were for resisting service of process.

13 A. I don't actually know exactly what the warrants
14 were for. I know he had some outstanding warrants. It could
15 have been for what you stated.

16 Q. Okay. So you -- if I showed you --

17 A. I wasn't involved with the issuance of the
18 warrants or the service of the warrants. I wasn't even a
19 witness of the warrants, so I actually had nothing to do with
20 the warrants.

21 Q. Okay, but you just knew they were outstanding?

22 A. Yeah, I just knew they was outstanding warrants.

23 Q. What about trespassing, do you recall if that was
24 a warrant outstanding for Nix?

25 A. I don't know. I don't recall.

1 Q. Okay. You testified that you posted the risk of
2 resistance on Alan Nix's door on January 11, 2021, correct?

3 A. Yes, sir.

4 Q. And that's essentially an eviction order?

5 A. Yes, sir.

6 Q. Right?

7 A. Yes, sir.

8 Q. Same evidence. Now that what you posted, you got
9 it, I'll take exhibit -- yes. Okay. And that (inaudible) of
10 assistance had a cover letter on it, right? That State's
11 Exhibit 10. Is that a cover letter?

12 A. Yes, sir.

13 Q. And that cover letter you testified earlier says,
14 "This order will be executed on January 22, 2021 at 12:00
15 p.m.," right?

16 A. Yes, sir.

17 Q. That time if you did not vacate the premises and
18 remove your personal property, forceful entry will be made?

19 A. Yes, sir.

20 Q. Second, it also states that criminal charges will
21 be brought, right? If you don't comply.

22 A. Failure to comply with this order can result in
23 criminal charges.

24 Q. Right?

25 A. Yes, sir.

1 Q. Okay, but you mentioned a couple warrants that
2 were outstanding. So criminal charges had already been
3 brought before it all executed before January 22, 2021,
4 right?

5 A. Yeah, I don't believe it had anything to do with
6 the actual eviction. I think it was -- I think it was
7 because of conduct that Mr. Nix was involved in with other
8 people was what the warrant was for.

9 Q. So you don't think that the existing service of
10 process warrant was issued against Alan Nix before January
11 22, 2021?

12 A. I don't know, sir.

13 Q. In that -- (inaudible) assistance or what you
14 posted on Alan Nix's door? There also is a order by Judge
15 Scarborough, right?

16 A. That's what it says. Yes.

17 Q. There is --

18 A. Yeah. Yes, sir.

19 Q. And that also says in it "is further ordered, not
20 less than 10 days subsequent to set posting of service,
21 sheriff shall be authorized to enter the after said and
22 described premises by force if necessary," right?

23 A. Yes.

24 Q. Then we got a -- I guess this is like the internal
25 document?

1 A. Yes.

2 Q. That the Sheriff's office creates?

3 A. Yes.

4 Q. And it's got your signature on it right there,
5 right?

6 A. Yes -- yes.

7 Q. And that says that -- this document says that
8 "Service was done on January 11, 2021," right?

9 A. Yes.

10 Q. And that Alan was evicted on January 26, 2021,
11 right?

12 A. Yes.

13 Q. And then finally we got a letter from the
14 Charleston County Sheriff's Office to the Morris Law Firm
15 that's included in that document. I'm not familiar with this
16 one. I -- your signature is on, right? It's down at the
17 bottom.

18 A. Yes.

19 Q. So this is a letter that you sent to the Morris
20 Law Firm to -- I guess they -- do you know their involvement
21 the case?

22 A. I believe this is the return service that I'm
23 required to sign.

24 Q. So you're notifying your -- Morris Law firm that
25 he was served?

1 A. Yes.

2 Q. Right. And in that letter you say not eviction,
3 but service was completed on the 26th of January.

4 A. Yes.

5 Q. Right?

6 A. Yes.

7 Q. All right. Let's talk about those guns that you
8 mentioned earlier. So you also testified despite what you
9 said, just a moment ago during direct, that eviction took
10 place on January 26, 2021, right?

11 A. Yes.

12 Q. And that the ammo located in [REDACTED] (inaudible) was
13 in a tactical fighting position?

14 A. Yes -- yes.

15 Q. And you claim that you found a shotgun in Alan
16 Nix's house, right?

17 A. Yes.

18 Q. Did you take a picture of it?

19 A. I believe a crime scene unit actually took a
20 picture of it.

21 Q. Okay. Were you wearing --

22 A. Actually -- actually we took custody of the
23 weapon. We didn't want actually to leave it in the
24 residence, and that's when we decided to exit the residence,
25 and obtained a search warrant.

1 Q. So you found the shotgun after the search warrant?

2 A. No, before -- before the search warrant.

3 Q. Okay. So didn't take a picture of it. Were you
4 wearing a body cam that day?

5 A. I don't remember.

6 Q. Okay. And you believe that crime scene
7 investigation took a picture of the shotgun in the location
8 where you found it?

9 A. I believe we -- I believe we actually took custody
10 of the weapon, and secure safekeeping until crime scene
11 arrive.

12 Q. Okay, so crime scene didn't take a picture of it?

13 A. I don't know, sir. You have to ask them.

14 Q. Who was the crime scene investigator on scene?

15 A. I think it was Deputy Mc -- McElroy.

16 Q. Okay, so I'd have to ask him if he took the photo?

17 A. Yeah.

18 Q. Okay. What about the gun that Alan Nix's son
19 found in the kitchen? Did you take a picture of that?

20 A. No.

21 Q. Do you know if crime scene took a picture of it?

22 A. No, I don't think -- I don't think crime scene was
23 actually on scene that day when Mr. Nix's son was there. I
24 took custody of the handgun, and I transported to FSU.

25 Q. Okay. And refresh my memory -- shotgun and the

1 .45 were found on different dates, right?

2 A. Yes.

3 Q. Were you wearing a body cam when you took
4 possession of the .45?

5 A. I don't know. I don't think so. If I did -- if
6 it was activated, it would've been all -- video would've been
7 in the evidence.

8 Q. Okay. You testified that this house was a mess,
9 right?

10 A. Yes.

11 Q. Do you think that it would be beneficial for us to
12 see what sort of mess it was by way of your body cam?

13 A. Yeah. I'm -- I'm -- I'm thinking that -- I don't
14 know if somebody that was with me actually had a body camera
15 on, so --

16 Q. That wasn't my question, what I'm trying to get at
17 -- I mean, it would be helpful if you had your body cam and
18 we had to see you step over all of the stuff to get to a
19 handgun underneath the sink, right?

20 A. Yeah, I guess you can say that.

21 Q. And it'd be beneficial if you were wearing a body
22 cam for us to see you walk up the stairs to where all this
23 stuff was positioned in a tactical position, and actually
24 determine where the shotgun is located, right?

25 A. Yes.

1 Q. Because it was actually behind a door, right?

2 A. Yes.

3 Q. It wasn't next to, according to your incident
4 report, that chair, correct?

5 A. Yes.

6 MR. MACK: Okay. No further questions, Judge.

7 THE COURT: Anything on re-direct?

8 MR. MCALLISTER: No, Judge.

9 THE COURT: All right, call your next witness.

10 MR. MCALLISTER: State calls Master Deputy Matt
11 Colburn.

12 SWEARING IN COLBURN

13 COURT CLERK: Please be seated. Please state your full
14 name. Spell me your last name directly in the microphone.

15 THE WITNESS: Herschel McElroy. M-C-E-L-R-O-Y.

16 MR. MCALLISTER: I called -- called Colburn. I said
17 Master Deputy Colburn.

18 MR. MACK: No objection, Judge.

19 MR. MCALLISTER: Hey, I meant to say Master Deputy
20 Colburn.

21 THE COURT: That's what I wrote down.

22 MR. MCALLISTER: You wrote down Colburn or you wrote --

23 THE COURT: I wrote down Colburn and checked him off
24 the list.

25 MR. MCALLISTER: All right.

1 MR. MACK: I wrote Matt Colburn.

2 MR. MCALLISTER: We'll do him later. I don't make
3 sense right now. Sorry. I know you want -- I'm sorry.

4 MATTHEW COLBURN,

5 being duly sworn, testified as follows:

6 COURT CLERK: Please be seated. Please state your full
7 name, spelling your last name directly in the microphone.

8 THE WITNESS: Matthew Colburn, C-O-L-B-U-R-N.

9 DIRECT EXAMINATION

10 BY MR. MCALLISTER:

11 Q. Deputy Colburn, what do you do for a living?

12 A. I'm a Deputy with the Charles County Sheriff's
13 Office. I work in the civil process unit.

14 Q. What's your title?

15 A. Master Deputy.

16 Q. How long have you been with the Sheriff's
17 Department?

18 A. Nineteen years sir.

19 Q. What are -- what is your current title again?

20 A. Master Deputy.

21 Q. And what are your duties for the civil process
22 unit?

23 A. I serve court documents through family court,
24 civil court, general sessions, DSS, paperwork, things of that
25 nature to include common plea court as well.

1 Q. In January of 2021, what were your duties?

2 A. I was working in the civil process unit.

3 Q. Did you have an opportunity to work in this case?

4 A. I was advised by my sergeant at the time who is
5 now Lieutenant Craven to respond to the public service
6 building at 4045 Bridge View Drive to pick up some paperwork
7 that was left at the county attorney's office.

8 Q. What did -- what -- what did you retrieve?

9 A. I retrieved a packet of paperwork from the front
10 desk.

11 Q. Can you describe what it is that you retrieved?

12 A. I don't remember the exact looks of it now, but I
13 know there was a -- a packet with several paperwork in it.
14 There was a handwritten note, I don't know if it was on -- I
15 don't recall if it was on the outside of the envelope, or a
16 piece of paper inside that described a news headline.

17 Q. If I showed it to you, would you recognize it?

18 A. Yes, sir.

19 Q. (Inaudible) what's marked as State's Exhibit 3,
20 please look at that.

21 A. This appears to be the envelope that I retrieved
22 from the county attorney's office.

23 Q. Can you open it?

24 A. Sure.

25 Q. And do you recall what day you went to the public

1 service building?

2 A. I don't recall the day of the week, but I believe
3 it was January 21, 2021.

4 Q. Do you write incident reports when you respond to
5 -- when you were assigned to duty, do you write incident
6 reports?

7 A. Occasionally, yes, sir.

8 Q. If I showed you your incident report for that day,
9 would that help you refresh your memory?

10 A. Sure.

11 MR. MCALLISTER: Permission to approach?

12 THE COURT: Yes, sir.

13 BY MR. MCALLISTER:

14 Q. (Inaudible) that post, a long time ago, right?

15 A. Several years, yes, sir. Okay.

16 Q. (Inaudible) you read it? All right, what day was
17 it?

18 A. There's not a date listed on the actual incident
19 report here.

20 Q. But about what date was it?

21 A. I believe it was around January 21, 2021.

22 Q. And can you describe the handwritten note there?

23 A. Sure.

24 Q. Can you, I guess, describe, and read it?

25 A. The handwritten portion says "Joe, here's the

1 headline" and in quotes it says "Shoo-tout and standoff
2 between Charleston County Sheriff's Office and Homeowner
3 Intentionally and Premeditatedly set up by Corrupt Judge
4 Michael Scarborough."

5 Q. And what is the public service building?

6 A. It is a county -- county-owned -- county -- county
7 building where they have courts, and other things dealing
8 with Charleston County.

9 Q. And who works there?

10 A. There's a number of people but I know the -- the
11 county attorney's office is one of the places that is there.

12 MR. MCALLISTER: And State moves to introduce Exhibit
13 3?

14 THE COURT: Any objection?

15 MR. MACK: No objection, Judge.

16 THE COURT: It'll be admitted as State's Exhibit 3
17 without objection.

18 (State's Exhibit 3 was admitted into evidence.)

19 MR. MCALLISTER: State moves you publish Exhibit 3.

20 THE COURT: Sure.

21 BY MR. MCALLISTER:

22 Q. Did you have any idea what that would have
23 pertained to?

24 A. I don't recall if I had any dealings with it other
25 than maybe talking in the office of a foreclosure that was to

1 be carried out.

2 Q. Did you have the opportunity to respond to
3 Densmore Circle at all?

4 A. If my memory serves me correct, I believe I went
5 out there to serve Mr. Nix some other court documents, but I
6 don't recall when that was at.

7 Q. You don't recall ever going to Densmore Circle
8 other than you served for documents?

9 A. I went there for the execution of the foreclosure
10 eviction on the 26th of January.

11 Q. Can you describe what you found when you went to
12 that location?

13 A. So upon my arrival, there were several other units
14 there. After the residence was cleared by drone, we entered
15 the residence to execute the foreclosure. Upon immediately
16 entering the residence, there is a staircase leading up from
17 the foyer. There was what appeared to be a makeshift
18 blockade at the top of the stairs. I observed some gas cans
19 as well up there. And then in the process of securing the
20 residence for any dangerous items, I located a shotgun behind
21 the bathroom door upstairs.

22 Q. Showing you what's marked as State's Exhibit 20.
23 What is that?

24 A. That is a gas can.

25 Q. Is that a gas can? Is that the area you just

1 described?

2 A. Correct.

3 Q. In relation to that, where did you find the
4 shotgun? You can draw on the screen or --

5 A. If my memory serves me correct, it would be down
6 this hallway this way.

7 Q. Showing you what's State's Exhibit 19. Can you
8 describe that?

9 A. That is what appears to be a -- a blockade,
10 something to take cover behind.

11 Q. And -- and that's the condition of the home when
12 you found it?

13 A. Correct.

14 Q. And behind you would've been where you found the
15 shotgun?

16 A. Yes, sir.

17 Q. Down -- down the hall and around the corner?

18 A. Correct.

19 Q. And can you describe that for me?

20 A. That is the stairs leading down to the foyer.

21 Q. That's Exhibit 21. Showing you what's been marked
22 as State's Exhibit 1. Please take a look at that. Do you
23 recognize that?

24 A. That appears the shotgun that I located behind the
25 bathroom door.

1 Q. What did you do when you located that shotgun?

2 A. Made sure it was cleared. I don't remember if
3 there was any ammunition in it at this time, and then it was
4 taken to my vehicle, and secured in the trunk.

5 Q. And in your role as a civil process deputy, you
6 guys don't do search warrants, do you?

7 A. Not usually, no, sir.

8 Q. So did you turn the crime scene over to somebody
9 else?

10 A. Yes, sir.

11 Q. Can you describe -- can you describe the crime
12 scene at that point?

13 A. It was -- would've been the same condition that we
14 found it. The only thing we did was to obviously look for
15 anything dangerous which would -- firearm would be dangerous,
16 and we would secure those. And at that point the decision
17 was made to obtain a search warrant so everybody left the
18 residence at that time.

19 Q. Can you describe -- can you tell the jury who all
20 responded, who all was involved, what all agencies were there
21 and present at the home?

22 A. I do not recall every agency that was there.
23 Myself, Deputy Booker, Sergeant -- no, Lieutenant Craven was
24 there. And then after the decision was made to execute a
25 search warrant, Deputy McElroy from our crime scene responded

1 as well.

2 MR. MCALLISTER: State moves to introduce Exhibit 1
3 into evidence

4 THE COURT: Exhibit?

5 MR. MCALLISTER: State's Exhibit 1.

6 THE COURT: One? Oh I had it written down as 21. Any
7 objection?

8 MR. MACK: No objection.

9 THE COURT: It'll be admitted as State's 1 without
10 objection.

11 (State's Exhibit 1 was admitted into evidence.)

12 MR. MCALLISTER: The State has no further questions.

13 THE COURT: Cross-examination?

14 MR. MACK: No questions, sir.

15 THE COURT: You can step down, sir.

16 THE WITNESS: Thank you, sir.

17 MS. BREWER: State calls Chad Barton.

18 CHAD BARTON,

19 being duly sworn, testified as follows:

20 COURT CLERK: Please be seated.

21 THE WITNESS: Thank you.

22 COURT CLERK: Please state your full name, spelling
23 your last name directly in the microphone.

24 THE WITNESS: Lieutenant Chad Barton, B-A-R-T-O-N.

25 DIRECT EXAMINATION

1 BY MS. BREWER:

2 Q. Afternoon, Mr. Barton.

3 A. Good afternoon.

4 Q. Where are you currently employed?

5 A. I am a lieutenant with the Charleston County
6 Sheriff's Office. And --

7 Q. How long have you worked in the sheriff's office?

8 A. Since 2009.

9 Q. And have you always been a lieutenant?

10 A. Since 2020.

11 Q. Okay. And in 2020 what were you -- what were your
12 responsibilities as lieutenant's office?

13 A. I was the lieutenant over the civil process unit
14 here at the sheriff's office.

15 Q. Okay. What's the civil process unit?

16 A. So the civil process unit basically deals with any
17 court proceedings, services, subpoenas, briefs, any kind of
18 legal proceedings that have to be issued through the court.
19 We are responsible for the service.

20 Q. Okay, so you supervise that office?

21 A. Yes, ma'am.

22 Q. And you still do that?

23 A. No ma'am, I'm currently assigned to headquarters.
24 I'm in an administrative position.

25 Q. Okay, so you were employed as a lieutenant of the

1 civil process in January, 2021?

2 A. Yes, ma'am.

3 Q. And when did you start (inaudible) in that
4 position, I'm sorry?

5 A. I was transferred, I believe it was April of --
6 maybe April of 20 -- 2020.

7 Q. Okay. And are you familiar with the Defendant
8 Alan Nix?

9 A. Yes, ma'am.

10 Q. How are you familiar with him?

11 A. Our unit received a case with Mr. Nix regarding an
12 eviction, and that's how I became familiar with Mr. Nix.

13 Q. And when did you start becoming familiar with Nix?

14 A. And that would be around --

15 MR. MACK: Objection, Judge. Relevance.

16 MR. MCALLISTER: Rule 402. Does this have to do with
17 the incident at hand, Judge, his familiarity.

18 THE COURT: Overruled.

19 THE WITNESS: I would say around January, 2021-ish.

20 BY MS. BREWER:

21 Q. Okay. And did you ever have the occasion to make
22 eye contact with Mr. Nix?

23 A. Yes, ma'am.

24 Q. When did that happen?

25 A. Mr. Nix would frequent the courthouse to file

1 various briefs, legal proceedings here at the courthouse, and
2 so it was almost on a daily basis, and so I was familiar when
3 Mr. Nix was in the courthouse.

4 Okay. And is Mr. Nix in the courtroom today?

5 A. Yes, ma'am.

6 Q. Can you identify him?

7 A. The gentleman sitting to my left with the grey
8 sports coat, glasses, white male.

9 Q. Okay. Are you familiar with the specific incident
10 in January of 2021, with the writ involving Mr. Nix?

11 A. Yes, ma'am.

12 Q. And are you familiar with how that process was
13 being carried out?

14 A. Yes, ma'am. One of our civil process deputies
15 served him with notice of foreclosure on his residence, and
16 he was to evict from his residence, and was given a time
17 frame to evict, and he failed to comply with that.

18 Q. And prior to the date when he was supposed to
19 evict the residence, did he have the occasion to come to --
20 to your office?

21 A. He would come to the courthouse like I stated
22 earlier, daily. I don't recall specifically any specific
23 date. He was at the civil process office, which is located
24 here at the courthouse, but he was here at the courthouse on
25 a daily basis.

1 Q. And did you witness him doing anything?

2 A. So I did observe one time Judge Scarborough, who
3 is the judge over Master-in-Equity.

4 MR. MACK: Objection Judge. Relevance?

5 THE COURT: I haven't heard his answer yet.

6 MR. MACK: I believe we have a matter of law here that
7 we need to discuss.

8 THE COURT: Okay, well, we've been going a little over
9 an hour anyway. That'd be a good time for a break. Ladies
10 and gentlemen, we're going to take a short break while I
11 address a matter of law, and you can refresh yourself while
12 you're out so please don't discuss the case. We'll be back
13 with you as soon as we can.

14 (Jury exits.)

15 THE COURT: All right Mr. Mack, what you got?

16 MR. MACK: Thank you, Judge. I got relevancy concerns
17 under four -- Rule 402 SCRE, and Rule 403, and then character
18 evidence concerns under Rule 404 SCRE. I will start with the
19 biggest concern Rule 404, I have a feeling he's going to talk
20 about a prior bad act that I'm completely unfamiliar with.
21 My client has just informed me of it where they have an
22 encounter before this incident that's completely irrelevant
23 to the eviction serving a process.

24 MS. BREWER: Your Honor, Mr. -- sorry. Lieutenant
25 Barton hadn't responded to the question. I cannot reply to

1 Mr. Mack's argument.

2 THE COURT: All right, yeah, I'll let you (inaudible)
3 to the testimony.

4 MS. BREWER: Okay.

5 BY MS. BREWER:

6 Q. Lieutenant Barton?

7 A. Yes.

8 Q. What did you observe him do? Who was up here?

9 A. So he was at Judge Scarborough's entrance to his
10 chambers, and he was taking pictures outside the actual
11 entrance, and I confronted him because that's unusual
12 behavior to be taking pictures adjacent to a courtroom, and
13 he was very cordial. He didn't give me any problems, and
14 after that encounter he left the premises.

15 MS. BREWER: Your Honor, the purpose of that testimony
16 is just to show that he was -- I mean -- this is threatening
17 the life of a court official working in that building. He's
18 taking pictures, he's showing up unannounced and what -- I
19 mean Lieutenant Barton's not going to talk about the chief
20 justice told order that (inaudible) not to take pictures in
21 the courtroom. He's not testifying about that. It's just a
22 intimidating factor showing up, and taking pictures house in
23 his office.

24 THE COURT: I thought he took -- well, Judge
25 Scarborough's?

1 THE WITNESS: It was, Master-in-Equity, Judge
2 Scarborough.

3 MS. BREWER: And we need to admit any testimony about
4 it being about Judge Scarborough's office that it was in the
5 civil process unit where he was showing complete photos.

6 THE WITNESS: Well, for clarification, it was not the
7 specific unit where the civil process office is housed, but
8 for clarification, Judge Scarborough would be the one who
9 would issue the actual order of eviction. Those orders would
10 come from Judge Scarborough. So that's where a majority of
11 his filings went to Judge Scarborough.

12 MS. BREWER: Your Honor, just to go to the overall
13 intimidation of the -- I'm sorry not intimidation but
14 threatening of -- threatening the public officials. I don't
15 know if he knew if that was Judge Scarborough's office
16 necessarily, but he knew that was where Sergeant Craven was
17 located in civil processing of the dates.

18 MR. MACK: Judge if I may, what the solicitor just said
19 I think is key. It goes to the intimidating, he only said it
20 court official. That's not what he's on trial for today,
21 okay? He's on trial for threatening a Public Official Chris
22 Craven also, this is all news to me. I'm objecting under
23 Rule 5 South Carolina rules of criminal procedure as a Brady
24 violation here too. I had no idea about this, no concept of
25 what happened, or an opportunity to discuss this with him

1 because no report was provided for us in the discovery,
2 and/or from the solicitor's office about this matter.

3 MS. BREWER: Lieutenant Barton didn't write a
4 supplemental report to this so --

5 THE COURT: Well, I -- I tend to agree with Mr. Mack
6 now if Judge Scarborough was the victim and not the Civil
7 Process Division, I think it would be relevant. But unless
8 he's got any testimony that says Mr. Nix showed up at the
9 civil process office taking pictures there I don't think is
10 relevant and I'm going to sustain the objection.

11 MS. BREWER: Okay. Thanks, our Honor.

12 THE COURT: All right -- all right, we'll be at ease
13 for about 10 minutes now. Is there anything else?

14 MR. MCALLISTER: Nothing from the State, Judge.

15 THE COURT: No other matters at all. Okay.

16 MR. MACK: Nothing further from Defense. Thank you,
17 Judge.

18 THE COURT: For scheduling purposes, where are we as
19 far as how far along y'all are hoping to get tomorrow? The
20 clerk has asked about lunch, if you think y'all going to wrap
21 up around lunchtime, and they could be deliberating, or is it
22 something we're probably going to finish up tomorrow, and
23 then arguing charge Friday morning?

24 MR. MCALLISTER: I don't -- as far as the State's
25 concerned, I have 1, 2, 3, 4 more witnesses. One of them

1 shouldn't be more than five or 10 minutes. One of -- two of
2 them shouldn't be more than 10 minutes. One of them is the
3 lead case agent. He honestly probably won't be more than 15,
4 20 minutes. One of them is the fellow who took the pictures.
5 He -- I can't imagine we're going to be more than lunch
6 putting up the State's case and I don't know about Defense.

7 THE COURT: Certainly not holding you to anything. He
8 has the right not to testify obviously, just to clear --
9 again, I'm not trying to hold you to anything or give up your
10 trial strategy.

11 MR. MACK: Right at this juncture we don't call any
12 witnesses.

13 THE COURT: Okay.

14 MR. MACK: But I'll let you know if that changes.

15 THE COURT: All right.

16 MR. MCALLISTER: I know -- at least -- yeah, we could
17 -- we could probably do the last -- at least two of the last
18 ones this afternoon, if they want to try to knock them out
19 real quick. I don't know what the jury's appetite for
20 finishing is, but --

21 THE COURT: And then that would leave you how many
22 tomorrow?

23 MR. MCALLISTER: That would leave us two tomorrow: The
24 case agent and one quick one in closing.

25 THE COURT: Okay.

1 MR. MCALLISTER: I know the two witnesses would be
2 thrilled to do that but I know my two deputies would be
3 thrilled to do that.

4 THE COURT: Yeah, I mean -- I'm not going to keep the
5 jury here till six o'clock at night.

6 MR. MCALLISTER: Oh, I understand that.

7 MR. MACK: Judge, the only issue is the case agent's
8 testimony is kind of the whole case and preparing my closing,
9 I need some time to digest what he testifies to. If you
10 could take that into consideration for sure.

11 THE COURT: I mean -- I don't mind. Well, I got to do
12 a plea first thing in the morning. I mean -- I don't mind we
13 wrap up when we wrap up, and we argue and charge Friday
14 morning if that -- if y'all want to do that. I mean I always
15 myself, practicing to have the night to sort of get all my
16 thoughts together, or if they think they're going to finish
17 really quick, we come back at three o'clock, and give you a
18 couple hours.

19 MR. MACK: Okay. Either is fine.

20 THE COURT: Okay, well, let's just see where we finish
21 up today. All right. Bring the jury in, please sir.
22 Because I -- if I'm not going to be here Friday, I need to
23 let my hotel know as soon as possible too so they might let
24 me out. Not charge me for it.

25 MR. MCALLISTER: A steward of taxpayer money. You

1 don't want pay your (inaudible)?

2 THE COURT: Well, I have to pay that.

3 MR. MCALLISTER: That's different I guess.

4 THE COURT: Yeah.

5 (Jury enters)

6 THE COURT: Y'all can be seated. You come in, they're
7 standing for y'all. Not the other way around.

8 BAILIFF: All present, your Honor.

9 THE COURT: Very good. You may proceed Counsel.

10 MS. BREWER: Thank you, your Honor.

11 BY MS. BREWER:

12 Q. Lieutenant Barton, you are familiar of the writ
13 eviction for Mr. Nix's home?

14 A. That's correct.

15 Q. Did he evict by the date he was supposed to?

16 A. No ma'am.

17 Q. And how did you -- how did you know that?

18 A. Two ways: One, we received correspondence through
19 email. Mr. Nix stated that he would not be in compliance
20 with the order. Secondly, I myself went by the residence and
21 noticed that vehicles were still present in the driveway,
22 which was indicative that the residence was not abandoned.
23 There were no signs as of moving trucks, anything to that
24 nature that there's an attempt to vacate the premises. And
25 due to the original correspondence that Mr. Nix had sent us

1 for the safety of our officers, that's why we continued to
2 periodically go by the residence to see if he had vacated the
3 residence, which he did not. He had no intentions to vacate.

4 Q. And then issued that correspondence that caused
5 your office hot alarm.

6 A. That is correct.

7 Q. (Inaudible).

8 A. Yes, ma'am.

9 MS. BREWER: Nothing further.

10 THE COURT: All right, thank you. Cross-examination.

11 MR. MACK: I have no questions, Judge.

12 THE COURT: All right Lieutenant, you may step down.

13 THE WITNESS: Thank you, sir.

14 MR. MCALLISTER: Deputy Hood. Are you Stephanie Hood?

15 MS. HOOD: Yes.

16 STEPHANIE HOOD,

17 being duly sworn, testified as follows:

18 COURT CLERK: Please be seated. Please state your full
19 name, spelling your last name directly in the microphone.

20 THE WITNESS: Okay. Stephanie Hood. And last name,
21 H-O-O-D.

22 DIRECT EXAMINATION

23 BY MR. MCALLISTER:

24 Q. Good afternoon, Deputy. Thanks for your patience
25 today. It's been long?

1 A. Yes.

2 Q. Can you tell us what your title is?

3 A. I'm Master Deputy.

4 Q. How long have you been with the Sheriff's
5 Department?

6 A. Nearly eight years.

7 Q. What was your title in January of 2021?

8 A. I was a Deputy.

9 Q. What were your duties?

10 A. Patrol deputy.

11 Q. Were you involved in this case?

12 A. Yes I was.

13 Q. How?

14 A. I did a traffic stop on the vehicle, and made
15 contact with the Defendant.

16 Q. On what date?

17 A. I believe January 25th I believe. 2021.

18 Q. So long time ago, right?

19 A. Yes.

20 Q. But how many traffic stops have you been involved
21 in?

22 A. I'm in traffic so I do a lot.

23 Q. Do you run an incident report each time?

24 A. No, not each time.

25 Q. But most times?

1 A. If it's something substantial that requires a
2 report.

3 Q. Did you write an incident report this time?

4 A. I did, yes.

5 Q. If you looked at it, would it help refresh your
6 memory?

7 A. Yes.

8 MR. MCALLISTER: Your Honor, permission to approach?

9 A. Yes, sir.

10 Q. And you reviewed your body cam footage in
11 preparation for this hearing, right?

12 A. Correct.

13 Q. So what day did you stop Defendant?

14 A. January 25, 2021.

15 Q. And where -- where did you stop him?

16 A. Where I first observed the vehicle or traffic
17 stop?

18 Q. Where did you first observe the vehicle?

19 A. 526 Westbound at the split going right before the
20 26th Westbound.

21 Q. What were you aware of when you saw the car?

22 A. My knowledge of the vehicle was, it was beyond the
23 lookout, and actually it was occupied by a wanted subject.

24 Q. What kind of car was it?

25 A. A Jeep Wrangler.

1 Q. Was it his car?

2 A. That I was not aware of. It just had a tag
3 associated to it which I believe an out-of-state tag. I can
4 reference that, it was a Tennessee tag, and that's when I set
5 up on 526, the split right before 26, and that's when I
6 observed the vehicle matching that description when I got
7 behind the vehicle, and I initiated a traffic stop on the
8 vehicle.

9 Q. How long did you follow the car before you
10 stopped?

11 A. I was waiting for additional backup just due to
12 the -- be on the lookout for the vehicle of the potential one
13 suspect inside. And finally when nobody -- because everybody
14 was further out, all my backup was further out. The vehicle
15 turned into Tanger where it was the gas station and the Sam's
16 parking lot, like, the Sam's gas station. So finally after
17 it was coming to rest, the vehicle came to rest. I had no
18 other option but to initiate a traffic stop on the vehicle.

19 Q. So at first you were all by yourself?

20 A. That's correct.

21 Q. And you ordered the Defendant out of the car?

22 A. Yes, I did a felony stop, and ordered him out at
23 gunpoint.

24 Q. And you detained without incident?

25 A. That's correct.

1 Q. And do you see the person you detained that day?

2 A. I do.

3 Q. Can you describe him?

4 A. He is sitting at that table right there, middle
5 with the glasses on, and the hair gray -- grayish hair.

6 Q. And that's the same person you stopped in January,
7 2021? January 25th?

8 A. That's correct.

9 MR. MCALLISTER: I've got no further questions, Judge.

10 THE COURT: Cross-examination?

11 MR. MACK: Yes, Judge. Thank you.

12 CROSS-EXAMINATION

13 BY MR. MACK:

14 Q. Officer Hood, my client Alan Nix complied with all
15 of the commands of the felony stop, correct?

16 A. That's correct.

17 MR. MACK: No further questions Judge.

18 THE COURT: Anything on re-direct

19 MR. MCALLISTER: Just briefly, Judge.

20 RE-DIRECT EXAMINATION

21 BY MR. MCALLISTER:

22 Q. Over the radio you knew -- what did you know about
23 the Defendant when you -- you stopped him?

24 A. It was one suspect, I was not sure exactly what
25 was going on. I knew of a potential issue but that was not

1 too much going on.

2 Q. What was that to alert you of?

3 A. I knew he -- there was firearms potentially. I'm
4 not sure if it was on him or not. I knew those firearms
5 potentially inside the residence. That was really all I
6 knew. And that's when -- that's what the felony stop was
7 incurring?

8 Q. (Inaudible).

9 A. That's correct.

10 MR. MCALLISTER: No further questions.

11 THE COURT: Anything on re-cross?

12 RE-CROSS-EXAMINATION

13 BY MR. MACK:

14 Q. Did you find any firearms on (inaudible)?

15 A. In the vehicle or on his person? No, sir.

16 MR. MACK: No, Judge -- thank you, Judge.

17 THE COURT: All right Deputy hood, you may step down.

18 Thank you for being here. Call in your next witness.

19 MR. MCALLISTER: State calls Herschel McElroy.

20 HERSCHEL MCELROY,

21 being duly sworn, testified as follows:

22 COURT CLERK: Please be seated. Please state your full
23 name, spelling your last name directly into the microphone.

24 THE COURT: Herschel McElroy. M-C-E-L-R-O-Y.

25 DIRECT EXAMINATION

1 BY MR. MCALLISTER:

2 Q. Good morning.

3 A. Good morning -- afternoon.

4 Q. Afternoon. Excuse me, a long day.

5 Q. What do you do for a living Deputy?

6 A. Deputy sheriff with the Charleston County
7 Sheriff's Office.

8 Q. How long have you been with the Sheriff's
9 Department?

10 A. Going on 11 years.

11 Q. What's your title?

12 A. Master Deputy.

13 Q. What was your title on January of '21?

14 A. I was a forensics investigator.

15 Q. What are your duties as a forensics investigator?

16 A. Processing crime scenes, processing search
17 warrants that has a large amount of property that officers
18 that are in charge of the case want extra documentation on.

19 Q. Did you respond to [REDACTED] Densmore Circle, Mount
20 Pleasant?

21 A. Yes.

22 Q. Why did you respond?

23 A. I was advised there was a search warrant on a
24 residence there that they wanted photographs, and some items
25 inside collected.

1 Q. Can you describe what you found when you arrived
2 at that residence?

3 A. Inside the residence, bottom floor looked like
4 they had previously been trying to renovate the home, and for
5 whatever reason it stopped. It was, like, flooring, I
6 believe on the ground -- doorway on the ground. It was very
7 hard to find the actual flooring on the first floor of the
8 house. Upstairs -- up the stairwell there was a chair at the
9 very top of the stairs there, the left of that chair
10 overlooking the downstairs area, and the front door area was,
11 like, a dresser with a mirror on. It had ammunition and some
12 other various items on it. To the right of that chair where
13 the wall started, there was a big hole in the wall with a gas
14 can with gasoline in it, and a box of matches I believe it
15 was. And then just there was one room with a lot of computer
16 equipment and cell phones, things like that.

17 Q. Can you describe the neighborhood? Can you
18 describe who was there, what was going on outside? How many
19 officers were there? Was the neighborhood -- was there a
20 motion? Can you describe just the scene in general?

21 A. Normal city, HOA neighborhood, nothing out of the
22 ordinary. I think there was maybe two or three officers on
23 scene when I arrived, and everything around there was pretty
24 quiet.

25 Q. And you took photographs while you were there?

1 A. I did.

2 MR. MCALLISTER: Judge permission to approach?

3 THE COURT: Yes, sir.

4 BY MR. MCALLISRER:

5 Q. Show you what's marked State's 24 through 30. Can
6 you please take a look at those?

7 A. Okay.

8 Did you take those photographs?

9 A. I did.

10 Q. On what day?

11 A. I -- apologies I don't have the report in front of
12 me.

13 Q. Did you write a report?

14 A. I did a supplement report, yes, sir.

15 MR. MCALLISTER: May I approach?

16 THE COURT: Yes, sir.

17 BY MR. MCALLISRER:

18 Q. Will it refresh your memory if you look at your
19 report?

20 A. On January the 26, 2021.

21 MR. MCALLISTER: Judge, State moves to enter the photos
22 that the (inaudible) took. The images, State's 24 through
23 30.

24 THE COURT: Any objections from the Defendant?

25 MR. MACK: No objection, Judge.

1 THE COURT: All right, the photos will be admitted as
2 State's 24, 25, 26, 27, 28, 29, and 30 without objection.

3 (State's Exhibits 24-30 were admitted into evidence.)

4 BY MR. MCALLISRER:

5 Q. And you collected some items while you were there,
6 right?

7 A. I did.

8 Q. I show you what's marked State's Exhibit 4. Will
9 you take a look at that? Do you recognize that?

10 A. I do.

11 Q. What is it?

12 A. It is a sportsman's warehouse receipt from Centre
13 Point Drive in North Charleston for some Winchester Steel
14 three-inch shotgun shells. There was two boxes bought, and
15 then some Speer Gold Dot. It's probably a .45 caliber with
16 the .45 that's on here. One box of that.

17 Q. Is there a date that it was purchased?

18 A. January 21, 2021, at 7:04 p.m.

19 Q. Where did you collect that from?

20 A. I believe this was on the dresser at the top of
21 the stairs. Beside the chair.

22 MR. MCALLISTER: State will move to introduce
23 Exhibit 4.

24 THE COURT: Any objection?

25 MR. MACK: No objection, Judge.

1 THE COURT: All right, it's going to be admitted as
2 State's 4.

3 (State's Exhibit 4 was admitted into evidence.)

4 BY MR. MCALLISRER:

5 Q. Go over some of these showing you what's marked
6 State's Exhibit 19. I believe you went over that. Can you
7 describe that briefly?

8 A. To the left -- bottom left of this picture is the
9 stairwell that goes back downstairs, directly in front of
10 those stairs is the doorway. Up above that doorway, it has a
11 very large window where you can see directly down the roadway
12 for any approaching vehicles or people coming in. This chair
13 was positioned at the top of the stairs. This is the dresser
14 that was to the left of the stairs. That dresser is where
15 the receipt came from.

16 Q. You describe the window I'm showing you, it was
17 marked State's Exhibit 21. Is that the view from the top of
18 the stairs?

19 A. It is.

20 Q. And what are you looking at out that window?

21 A. If you're looking back down out the roadway, this
22 would've been the way anybody would've been approaching the
23 residence coming through the neighborhood.

24 Q. I'm showing you what's marked State's Exhibit 20.
25 What are you looking at there?

1 A. Top of the stairs to the right of where the chair
2 was sitting, is the holes that were knocked into the wall
3 with the gas can that had gasoline in it. And the box of
4 matches, they're right behind it.

5 Q. I'm showing you what's marked as State's
6 Exhibit 24. What's that?

7 A. Items that I located on top of the dresser that
8 was to the left of the stairs by the chair. There was
9 magazines with ammunition in it. Ammunition up under one of
10 those smaller boxes. The white piece of papers, the receipt
11 that you just showed me.

12 Q. I guess -- can you tell me what that is?

13 A. That's the receipt you just showed me. It was
14 just a better photograph of what it read.

15 Q. What is that?

16 A. The box is just an ammo box with ammunition,
17 inside that is a Winchester 12-gauge, three-inch shells. It
18 also has some Federal Speed-Shock, 12-gauge three-inch
19 shells. And then there's the Gold Dot ammunition to the
20 right of it. In the black box.

21 Q. I'm showing you what's marked as State's Exhibit
22 27. What was that?

23 A. This was in one of the bedrooms. This was a
24 jacket. The red shotgun shell was located inside of that
25 jacket pocket. And then the magazine that has ammunition in

1 it was located in the pocket that it's sitting on.

2 Q. I'm showing you what's marked 28. What's that?

3 A. The same bedroom, camouflage pants. Those items
4 were pulled out of pockets of that pants.

5 Q. Showing you what was marked 29. What's that?

6 A. Another bedroom in the residence with various
7 items in it. I don't remember everything that was in that
8 room.

9 Q. I'm going to show you 30, which is -- can you tell
10 me what that is?

11 A. It looks like the same bed with a box of federal
12 ammunition. Looks like a shotgun shell box. And then the
13 little box up under it, looks like a pistol ammunition box.
14 And then to the brown boxes .45 caliber 230 Grand ammunition
15 box.

16 Q. I know we already went through this, and I'm going
17 to show it to you again. Can you tell me the date on that
18 receipt?

19 A. January 21, 2021, at 7:04 p.m.

20 Q. And can you tell me how much was spent?

21 A. \$67.55 total.

22 Q. I showed you what was marked State's Exhibit 7.
23 Can you tell me what that is?

24 A. Green ammo can.

25 Q. Was that depicted in any of your photographs?

1 A. It was. Tied shut. You want me to open it? Did
2 you want me to open this?

3 Q. Oh yeah -- yeah, I'm sorry. Contents the same as
4 depicted in 26 -- Exhibit 26?

5 A. Just a second. It is, with the exception of the
6 ammunition that's in this plastic bag.

7 Q. State moves to introduce Exhibit 7.

8 THE COURT: Any objection?

9 MR. MACK: No objection, Judge.

10 THE COURT: It will be admitted as State's 7 with no
11 objection.

12 MR. MACK: If I -- oh, I may withdraw that objection,
13 Judge. I'm not sure what's in that plastic bag that he
14 mentioned.

15 THE COURT: He said -- he said there were bullets in
16 the --

17 MR. MACK: Okay. I'm sorry. Can I object to that
18 plastic bag based on (inaudible)?

19 MR. MCALLISTER: We got a matter of law we need to
20 address.

21 THE COURT: Good. Well, why don't y'all just approach
22 real quick. Let's see if we can handle it right here.

23 (Sidebar held.)

24 MR. MCALLISTER: Judge, we strike that.

25 THE COURT: Yeah.

1 MR. MCALLISTER: Okay.

2 THE COURT: All right. And so that'll be removed.

3 Okay ladies and gentlemen, I'm going to instruct you to --
4 there was some testimony about a bag of bullets or something
5 of that nature. I determined that that is not proper
6 evidence at this juncture, and you should not consider it for
7 any purpose during your deliberations. Anything else?

8 MR. MACK: Just to clarify that it was bullets in the
9 clear plastic bag.

10 THE COURT: The bullets in the clear plastic bag are
11 not to be considered during the jury's deliberations.

12 MR. MACK: Thank you, Judge.

13 THE COURT: All right.

14 MR. MCALLISTER: The remainder is -- the remainder
15 though is -- I move the remainder (inaudible).

16 THE COURT: Any objection?

17 A. No objection, Judge.

18 THE COURT: All right. It'll be the green ammo can
19 with the shotgun shield will be admitted as State 7 without
20 objection.

21 (State's Exhibit 7 was admitted into evidence.)

22 MR. MCALLISTER: Beg the Court's indulgence?

23 THE COURT: Yes, sir.

24 BY MR. MCALLISER:

25 Q. Yeah, that's what's marked as State 6. Do you

1 recognize that?

2 A. This looks like the box of .45 caliber ammo that
3 was sitting on the bed.

4 Q. And did you find that in the Defendant's house?

5 A. It was in one of the upstairs bedrooms.

6 Q. You found that during the execution of your search
7 warrant?

8 A. I did.

9 MR. MCALLISTER: The State moves to introduce State's
10 Exhibit 6?

11 THE COURT: Any objection?

12 MR. MACK: No objection, Judge.

13 THE COURT: All right, It'll be admitted to as State's
14 6 without objection.

15 (State's Exhibit 6 was admitted into evidence.)

16 MR. MCALLISTER: I have no further questions for this
17 witness, Judge.

18 THE COURT: Any cross-examination?

19 MR. MACK: Yes, Judge. Thank you.

20 CROSS-EXAMINATION

21 BY MR. MACK:

22 Q. All right. Master Deputy Colburn, how long were
23 you a CSI detective?

24 A. Seven years.

25 Q. And how many crime scenes did you investigate

1 during that seven-year period?

2 A. I couldn't begin to put a number to it. A lot.

3 Q. Take a guess.

4 A. It'd be triple digits over seven years.

5 Q. Okay. Like, what kind of triple digits? 500,
6 300?

7 A. Probably around 300 maybe.

8 Q. Okay. And did you have to go to school to become
9 a CSI detective?

10 A. We do go through specialized trainings.

11 Q. Tell us a little bit about that.

12 A. You have multiple different kind. One of them is
13 a basic crime scene class. Just teaches you the basics of
14 proper search techniques, proper photographing techniques,
15 things of that nature, things that you need, like, beginning
16 of your photographs. You need the case number, the location
17 you're at, date and times, things like that and that nature.
18 How to document each individual room that you're in, how to
19 document evidence that you find, how to properly collect
20 evidence, things like that.

21 Q. Okay. And did you document what room you found
22 guns in this case?

23 A. In the photographs, yes, sir.

24 Q. Did you take photographs of the guns in this case?

25 A. The one gun that I found in the residence, yes.

1 Q. And which gun was that?

2 A. I believe there was a pistol that I found, but
3 that was it.

4 Q. Okay. And where did you take a photograph of that
5 pistol?

6 A. Without the photographs, I wouldn't be able to
7 tell you off memory.

8 Q. Okay. What about the shotgun involved in this
9 case? Did you take a photograph of that?

10 A. The shotgun was given to me by Deputy Colburn when
11 I first arrived on scene. He had found it during his initial
12 going through the house before they realized they needed a
13 search warrant. So it was handed to me from him -- from his
14 trunk and I just secured it straight to my vehicle. So no, I
15 didn't document that one with a photograph because I didn't
16 locate that in the residence.

17 Q. All right. Tell us a little bit more about
18 training, when they tell you arrive on scene, right, you're
19 not supposed to touch the evidence, correct?

20 A. They're not supposed to, yes.

21 Q. Okay. And moving away from the guns. Let's talk
22 a little bit about this ammo. Are you a bird hunter by
23 chance?

24 A. I am.

25 Q. Okay. So you know the difference between steel

1 shot and lead shot.

2 A. I do a little bit.

3 Q. Lead shot typically used for target practice,
4 right?

5 A. Yes.

6 Q. Steel shot used for birds?

7 A. Larger birds. Yes.

8 Q. Right. It's actually mandated by law that you
9 have to use steel shot for birds, right?

10 A. Yes.

11 Q. And a lot of people don't like that, right?

12 Talking about hunters.

13 A. Cost more.

14 Q. Right. But there's a reason for it, right?

15 A. Yes.

16 Q. You know why?

17 A. Couldn't tell you why. Other than they tell me I
18 got to do it, and I don't want to get a ticket.

19 Q. I think it has something to do with the
20 environmental impacts of the lead shot on the birds that they
21 just (inaudible). What about the difference between a
22 projectile and a shell casing?

23 A. Yes.

24 Q. You know the difference?

25 A. I do.

1 Q. And a projectile cannot be fired without a shell
2 casing. Right?

3 A. Without the gunpowder and primer with it as well.
4 Yes.

5 Q. Which is in -- usually in the shell casings?

6 A. Supposed to be, yes.

7 Q. Yes, correct. And then active brown.

8 A. Yes.

9 Q. This right here is a projectile, right?

10 A. Projectile.

11 Q. And this box is filled, right?

12 A. Yes.

13 Q. Right. See that? So these projectiles are not in
14 fire without a shell, right?

15 A. Correct.

16 Q. Okay. When you typically investigate a crime
17 scene and you take possession of guns, it's important to know
18 that they're in working order. Right?

19 A. I don't function check them there. We have
20 different people inside of our office that function checks
21 them to see if they work properly.

22 Q. Okay. Do you know if any of the weapons in this
23 case were function checked?

24 A. Usually any semi-automatic weapons shotguns are
25 usually not messed with because that's not something our IBIS

1 technicians usually deal with.

2 Q. But there was a semi-automatic weapon found on
3 scene, right?

4 A. Yes.

5 Q. That was the handgun found under the sink, right?

6 A. Yes.

7 Q. And do you know if that was function checked?

8 A. Without looking at the digital computer, seeing if
9 -- or the IBIS technicians did it or not, I couldn't tell
10 you, but they should have.

11 Q. Okay. And then we saw a picture of a bunch of
12 magazines, right?

13 A. Yes.

14 Q. Tell us what a magazine is.

15 A. Magazine's what holds the ammunition that you
16 would stick inside of a pistol or a rifle, depending on what
17 type of magazine it is. In this case it was all pistol
18 magazines, I believe.

19 Q. Okay. And did we function check these magazines?

20 A. No, sir.

21 Q. Do we know if they even fit in the semi-automatic
22 weapon that was found on scene?

23 A. No, sir.

24 MR. MACK: No further questions, Judge.

25 THE COURT: Anything on re-direct?

1 RE-DIRECT EXAMINATION

2 BY MR. MCALLISRER:

3 Q. Do you recognize that? (Inaudible) recognize the
4 contents of that bag?

5 A. It's got seven pistol mags and one shotgun ammo
6 belt.

7 Q. Anything else?

8 A. That's it.

9 Q. Did you find that in the house?

10 A. I'm sorry, I couldn't hear you.

11 Q. Did you find that in the house?

12 A. Yes.

13 MR. MCALLISTER: The State moves to introduce
14 Exhibit 5?

15 THE COURT: Any objection?

16 MR. MACK: No objection.

17 THE COURT: It'll be admitted as State's 5 without
18 objection.

19 (State's Exhibit 5 was admitted into evidence.)

20 BY MR. MCALLISRER:

21 Q. Did you find ammunition capable of being fired
22 from the firearms that were found in the home?

23 A. As I look in my report, I don't remember what
24 caliber of the firearm it was.

25 MR. MCALLISTER: May I approach?

1 THE COURT: Yes, sir.

2 BY MR. MCALLISRER:

3 Q. I'm showing you what's marked State's Exhibit 2.

4 Showing you what's marked State's Exhibit 1.

5 A. Yes, the pistol was capable of shooting the .45
6 caliber ammo, and then the shotgun is capable of shooting the
7 12-gauge ammunition.

8 MR. MCALLISTER: No further questions for this witness.

9 THE COURT: Anything on re-cross?

10 MR. MACK: No, judge.

11 THE COURT: All right, you can step down sir. Counsel
12 can you approach.

13 (Sidebar held)

14 THE COURT: All right ladies and gentlemen, I was going
15 to try to squeeze one more witness in today, but the next
16 one's going to be kind of lengthy, and I don't like keeping
17 you folks here past 5:30. So we're going to break for today.
18 Don't discuss the case at all. I have another matter I need
19 to take up. I think at 9:00 tomorrow morning is when I told
20 them to be here. So I'm going to have y'all be here about
21 9:15 with the understanding you might have to wait a minute.

22 I don't know how long it's going to take, but we will
23 start just as soon as I'm done with that other matter. So
24 again, don't discuss the case, don't do any research, don't
25 do anything like that. Come back tomorrow, and they tell me

1 they're going to have this thing at least in the evidence
2 part of it wrapped up before lunch tomorrow. So enjoy your
3 evening, and see you in the morning.

4 (Jury exits.)

5 THE COURT: All right. Okay, we'll be at ease. Do
6 y'all know if y'all are going to have anything for me to do
7 Friday?

8 MR. MCALLISTER: As far as -- for the county or for the
9 solicitor's office?

10 THE COURT: Yeah.

11 MR. MCALLISTER: Unless you want us to find something
12 for you to do.

13 THE COURT: I'm going back home. I mean -- I don't --
14 I don't mind working. I got assigned here to work so if
15 there's something to do Friday, I'll stay. If not --

16 MS. BREWER: We can ask our office, but your Honor
17 wants to get out of here.

18 THE COURT: Okay, well, (inaudible) we will check on
19 that. I didn't know. Y'all might just know off the top of
20 your head.

21 MR. MCALLISTER: I know there's plenty to do.

22 THE COURT: Well, I know there's always plenty to do.
23 It's just why people don't do it. I don't mind working.

24 MR. MCALLISTER: We're scared of our chief admin, so
25 you have to ask her. Yeah.

3 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
4 5:08 P.M.)

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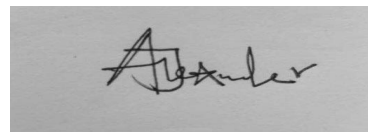
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I, JACKSON ALEXANDER, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on November 6, 2024.

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

December 23, 2024

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Alexander' written in a cursive, stylized script.

JACKSON ALEXANDER
Transcriber

1 CONTINUATION OF PROCEEDINGS - NOVEMBER 7, 2024.

2 (Jury enters.)

3 BAILIFF: All jurors present and seated, your Honor.

4 THE COURT: Very good. Good morning ladies and
5 gentlemen. Thank you for your patience. We've got all our
6 other work done. We're ready to get back this (inaudible).
7 Mr. McAllister, are you ready to proceed?

8 MR. MCALLISTER: I am, Judge.

9 Mr. Mack are you ready?

10 MR. MACK: Yes, Judge.

11 THE COURT: Very good.

12 MR. MCALLISTER: State calls Sergeant Chris Craven.

13 CHRISTOPHER CRAVEN,

14 being duly sworn, testified as follows:

15 COURT CLERK: Please be seated, please state your full
16 name, and spelling your last name directly into the
17 microphone.

18 THE WITNESS: Christopher Craven. Last name
19 C-R-A-V-E-N.

20 DIRECT EXAMINATION

21 BY MR. MCALLISTER:

22 Q. Good morning, Sergeant.

23 A. Good morning.

24 Q. What do you do for a living?

25 A. I'm a deputy with the Charles County Sheriff's

1 Office.

2 Q. How long have you been with the Sheriff's
3 Department?

4 A. Approximately 19 years.

5 Q. How does one become a sheriff's deputy?

6 A. We go through a normal interview process, physical
7 fitness, and psychological testing just like any other
8 department. They were appointed by the sheriff sworn in and
9 we, that is certified by a circuit court judge down here at
10 the courthouse, and we come down, and sign into the logbook
11 at the clerk's office for a register of being a deputy.

12 Q. And who exactly appoints you?

13 A. The sheriff.

14 Q. And is that an elected official?

15 A. Yes, sir.

16 Q. And new sheriff was elected this week?

17 A. Yes, sir.

18 Q. Will you have to get reappointed?

19 A. Yes, every four years we have to get reappointed.

20 Q. So what's your current title?

21 A. I'm a lieutenant.

22 Q. What are your duties?

23 A. I'm a patrol lieutenant for the shift commander
24 for a day shift unit.

25 Q. What were your duties in January of 2021?

1 A. I was a sergeant over the civil process unit.

2 Q. What were your duties then?

3 A. I managed day-to-day operations of the -- of the
4 unit, assigning tasks to the deputies that work for me. We
5 delivered court documents, judgement executions, and did
6 foreclosure evictions, not the magistrate level but
7 foreclosure, not for paying rent, that kind of thing. It was
8 for more of a foreclosure-type evictions.

9 Q. Are you -- are you -- were you the highest-ranking
10 civil process deputy in the (inaudible)?

11 A. No, sir.

12 Q. But you were in charge of how many deputies?

13 A. I believe it was 10.

14 Q. Were you in charge of Mr. Booker?

15 A. I was.

16 Q. How long does this eviction process typically
17 take?

18 A. From --

19 Q. From -- from when an action's initiated until
20 proposal notice, until -- is it a long process? I guess your
21 -- your involvement -- how long are you typically involved?

22 A. Normally we get the paperwork into the office. We
23 try to personally serve the paperwork to the person -- the
24 residents, give them plenty of opportunities to move out, and
25 the law only requires a certain amount of time, but we try to

1 give 30 days' notice so that people have ample time to get
2 their things out and find a place to stay.

3 Q. Are you usually involved with litigating against
4 the duration of the proceedings?

5 A. Not normally.

6 Q. Were you involved with Mr. Nix throughout the
7 duration of his proceedings?

8 A. Yes, sir.

9 Q. I'll get back to that, but first I want to ask
10 you, what is a writ of assistance?

11 A. It's a court order from a judge giving law
12 enforcement permission to act.

13 MR. MCALLISTER: Judge, permission to approach?

14 THE COURT: Yes, sir.

15 BY MR. MCALLISTER:

16 Q. I'm showing you what's marked State's Exhibit 9?

17 A. Yes, sir.

18 Q. Can you please briefly describe what that is?

19 A. It's a cover letter with a writ of assistance for
20 the address of [REDACTED] Densmore Circle Mount Pleasant, South
21 Carolina 29466.

22 Q. What is the purpose of that document?

23 A. It's an order -- in this one it's -- it actually
24 gives us an actual date, 10 days after the posting to enter
25 the residence, and remove any items from the inside of the

1 residence. If someone doesn't move out, we go in, make sure
2 everything's safe. There's nothing harmful that -- because a
3 lot of the property has -- by law has to be taken out, and
4 put on the street for 72 hours so that the person that has --
5 the former occupants have ample time to come and get
6 whatever's left inside the house out from the street corner.
7 So we take anything like guns or large sums of cash, anything
8 that's valuable that someone's going to come back and claim,
9 we would take -- help hold for security at the sheriff's
10 office.

11 Q. Your goal is to make sure they get it back?

12 A. Correct.

13 Q. And is that the writ you received regarding this
14 Defendant?

15 A. Yes, sir.

16 Q. What'd you do when you received it?

17 A. I assigned it to Deputy Booker to -- it was his
18 area to go try to make contact, but first, since I did have a
19 contact with Mr. Nix throughout this process before I even
20 became in the unit, he -- he used to serve things for him in
21 the past for a personal thing. So we had contact with him.
22 I had his email address, and I emailed him telling him that
23 was -- we had possession of this writ, and then try to get a
24 meeting with him to serve it on him.

25 Q. I guess I'll kind of back up a little bit. How do

1 you typically serve writs on folks?

2 A. We go to the -- the residence and -- and try to
3 make contact with them at the house.

4 Q. And why do you do that?

5 A. So they -- they know for sure that this is a date
6 that -- we give them a date that we're going to come back,
7 and do the actual eviction.

8 Q. And -- and your entire role at that time was to
9 serve -- not your entire role, but a large part of your job
10 was to serve these kind of things?

11 A. Correct.

12 Q. And were you met with a lot of resistance?

13 A. In prior?

14 Q. Yeah, usually -- usually kind, what was the rule
15 of the process like?

16 Q. Most people understood that this was coming. This
17 is -- it takes -- the process is a long drawn-out process.
18 It's not a 30-day type thing. Would they -- we would -- you
19 know, we would -- lot of times they would move out
20 themselves, and before they even get there, they're already
21 out.

22 Q. Did you attempt to personally serve the Defendant
23 before he assigned this to Deputy Booker?

24 A. Yes.

25 Q. What was the Defendant's response?

1 A. He emailed me back, and said he would meet with me
2 after he was meeting with the sheriff about some other issues
3 that he wanted to have a meeting with the sheriff about, and
4 he would -- he would take service at that time.

5 Q. You said you were involved with the Defendant
6 during the race of this litigation. How would you
7 (inaudible)?

8 A. Through email.

9 Q. About how often?

10 A. Pretty regularly.

11 Q. Did he always use the same email address?

12 A. He did.

13 Q. Were you able to recognize his writing style?

14 A. Yes, sir.

15 MR. MCALLISTER: Your Honor, permission to approach the
16 witness?

17 THE COURT: Sure.

18 BY MR. MCALLISTER:

19 Q. Showing you what's marked State's Exhibit 8. Do
20 you recognize this document?

21 A. Yes. There's a series of emails from Mr. Nix.

22 Q. How do you know?

23 A. The addresses -- you provide the email address --
24 or?

25 Q. Is it the same email address that you used in --

1 in the past?

2 A. Yes.

3 Q. Are those the emails you received?

4 A. Yes, sir.

5 Q. From the Defendant?

6 A. Yes, sir.

7 MR. MCALLISTER: Judge, I'm going to introduce this as
8 State's Exhibit 8 in evidence.

9 THE COURT: Mr. Mack?

10 MR. MACK: No objection, Judge.

11 THE COURT: All right, that'd be admitted as State's
12 Exhibit 8.

13 (State's Exhibit 8 was admitted into evidence.)

14 BY MR. MCALLISTER:

15 Q. Sergeant Craven, I'm going to have you read some
16 of those emails. I'm going to ask you first to turn to page
17 25. Can you tell me what date that email was sent?

18 A. The one that's from me?

19 Q. Yes.

20 A. January 5, 2021, at 1:48 p.m.

21 Q. And that's from who?

22 A. From myself.

23 Q. To who?

24 A. To Mr. Nix.

25 Q. And you don't have to read the entire email, but

1 can you summarize it for us?

2 A. This is one that I was mentioning earlier that I
3 was -- emailed him to advise him that we had the writ of
4 assistance, and wanted to get -- and I gave him the date and
5 time that he needed to be vacated the residence, and wanted
6 to have them come to our office or I could meet him somewhere
7 to give him a copy of the documents.

8 Q. Hey Judge, excuse me. Sergeant, I'm going to ask
9 you to go to pages 22 and 23.

10 A. Okay.

11 Q. There's an email that starts on 22 and continues
12 on page 23. What date was that email sent?

13 A. January 6, 2021, at 1:20 p.m.

14 Q. Who sent it?

15 A. Mr. Nix.

16 Q. And who was that email -- who -- who's that email
17 sent to? You don't have to list all of them, but give me a
18 couple.

19 A. Myself, was to -- and "CC" to the Sheriff
20 Graziano. David Bernsen, who's my major. Charles Barton was
21 my lieutenant. Joe Dawson, who's the county attorney at the
22 time. Mr. Ferrara, who's another county attorney. Jeff
23 Young, who's a judge. Mark --

24 Q. That's -- that's -- you -- it'll be back there in
25 evidence. Can you read me -- there's a long list -- you see

1 there that the jury can read, but will you read me what
2 number two says?

3 A. Yes, sir. It says "You may serve me at the time
4 and after the meeting go post the same on my family's home.
5 I'll make sure a large billboard is in place in front yard --
6 in the front yard to post the notice. Make sure the notice
7 for the house is protected from the weather because I intend
8 to leave it posted in plain view."

9 Q. That's a pretty long email he sent that day?

10 A. Yes, sir.

11 Q. Did you go on to complain about what -- what else
12 is in there?

13 A. He talks about how it's not a proper jurisdiction
14 of the judge, the order that, and talks about sending
15 certified letters, and all his actions he took regarding this
16 case.

17 Q. Lot more emails in here. The jury will have them
18 all. I'm going to skip ahead to pages three and five.
19 There's an email that starts on page three and continues on
20 to page five. What day was that email sent?

21 A. January 22, 2021, at 9:37 a.m.

22 Q. Is that day significant?

23 A. Yes, sir. That was the day of the eviction.

24 Q. And who was that email sent to? You can just read
25 the first three people.

1 A. Myself, Sheriff Graziano, Lieutenant Barton.

2 Q. There's -- how many pages is that email?

3 A. Looks like three and a half.

4 Q. I'm going to have you read to the jury. Again,
5 they'll have it all, but I want you to read starting at
6 "Rules of engagement" for today. I want you to read from
7 there all the way to the end.

8 A. Okay. "Rules of engagement today, I will not fire
9 on anyone outside of the perimeter of my home unless I am
10 fired upon first. If I'm fired upon by persons outside of
11 the perimeter of my home, I will return the fire to the
12 extent that I can do so without knowingly jeopardizing
13 innocent persons. I'll fire on anyone and everyone that
14 breaches the perimeter of my home without being personally
15 invited in by me. At this point, I believe it is safe to
16 assume that will be no one except for potentially my son and
17 or daughter who I know will not be here. Assuming I do not
18 die today or arrested on some trumped-up charge, I'll make
19 myself available for press statements between Sunday and next
20 Wednesday, 27, January, 2021. I know -- I now have a fair
21 bit of work to do on the RICO case and thus must focus on
22 that as much as possible in the near term. For the press, I
23 left a copy of the SC Court of Appeals filing with Joe
24 Dawson, the county attorney, most likely still the by far
25 highest-paid county attorney in the state yesterday

1 afternoon, Bridge View Road, Charleston, South Carolina
2 29405. I left a note on the copy of what I think is a very
3 good headline for this event, "Shoot-out and standoff between
4 Charleston County Sheriff's Department and Homeowner." I
5 also left copies for Bill Tootin(ph), Charleston County
6 Administrator, and the Charleston County Council. Best
7 regards, Alan Nix."

8 Q. Have you read one more. Starting on page one
9 going on to page two, what date was that email sent?

10 A. January 23, 2021, at 3:46 p.m.

11 Q. Who sent that email?

12 A. Mr. Nix.

13 Q. Who did he send it to?

14 A. Myself.

15 Q. Read the first three or four.

16 A. Sheriff Graziano, Lieutenant Charles Barton, Major
17 David Bernsen, Captain Cook, who's my captain at the time.
18 Mark Keel of the SLED.

19 Q. Who -- who -- and who is Mark Keel SLED?

20 A. He's the director of SLED.

21 Q. We'll keep going. We'll (inaudible) back there.
22 Can you read me the first paragraph in that email?

23 A. Yes, sir. It says "I have barricaded in my
24 family's home now for 28 hours waiting for the assault by the
25 Charleston County Sheriff's Office or Sherriff's Department,

1 Charleston County SWAT team. That was supposed to happen
2 27.5 hours ago. I've also haven't had my service dog to pet
3 for over 48 hours since my son took her away so he -- she
4 wouldn't be killed in the cross fire. Even though Dr. Mad --
5 Thomas, I'm going to let you spend Christmas in jail with
6 your friends. Lynn never recommended any treatment for my
7 apparent exhibits very erratic -- erratic behavior syndrome
8 he diagnosed -- convinced me on December 17, 2019, or
9 December 18, 2019 or sometime between December 17, 2019 and
10 January 3, 2020. I have found that spending some time
11 outside in the sun, and petting my service dog helps a good
12 bit to help with my apparent exhibits very erratic behavior
13 syndrome."

14 Q. Can you read the last paragraph of that email for
15 us?

16 A. Starting with?

17 Q. Can -- can we --

18 A. "Can we" -- I'm sorry. "Can we get the assault
19 started by at least 1730 today, 23 January, 2021, and have
20 James Allen Kits then Ninja Thornton bring his German
21 shepherd down here with him. The same one that he mentioned
22 would eat my service dog on the evening of 17 October, 2020.
23 That way I can pet his German shepherd while I'm laying on
24 the ground waiting for an ambulance or a hearse. Best
25 regards, Alan Nix."

1 Q. Thank you. So what day was the scheduled lockout
2 date for Defendant's house?

3 A. January 22nd.

4 Q. And I'm showing you what's marked State's
5 Exhibit 3. Can you open that?

6 A. Okay.

7 Q. What is that?

8 A. It's an envelope addressed to Joe Dawson,
9 Charleston County Attorney's Office of Bridge View Drive.
10 And inside there's a packet of paperwork that Mr. Nix dropped
11 off copies of all the court proceedings and orders from this
12 case.

13 Q. What's significant about it?

14 A. There's a handwritten note on there that is
15 written, and maybe I can read it to you?

16 Q. Please.

17 A. Joe, here's the headline, "Shoot-out and standoff
18 between Charleston County Sheriff's Office and Homeowner
19 intentionally and premeditatedly set up by corrupt Judge
20 Michael Scarborough."

21 Q. And you know what day that note was received at
22 the Department service building?

23 A. I don't, without looking at a report.

24 Q. Did you write a report in this case?

25 A. Yes, sir.

1 Q. If I showed you a report would that refresh your
2 memory?

3 A. Yes, sir. I am sorry, there is a date on the
4 front cover letter of 18 January, 2021.

5 Q. January 22nd was a lockout date, right?

6 A. Yes, sir. Excuse me.

7 Q. And what time do y'all do the lockouts?

8 A. It was at 12 o'clock.

9 Q. And you intended to be present at that lockout,
10 right?

11 A. Yes, sir.

12 Q. And did you delay?

13 A. We did.

14 Q. Why?

15 A. Starting with the notes, it was dropped off for
16 the headline of the shoot-out and standoff between the
17 Charleston County Sheriff's Office. We knew that this was
18 not going to be a -- we felt that it would not be a normal
19 eviction, and we needed to make sure that we -- that everyone
20 was safe, and my deputies were safe conducting the eviction.

21 Q. And what were you -- why were you fearful?

22 A. We were just -- I was concerned for their safety
23 of everybody, the neighbors, my deputies, the homeowner with
24 -- with that language being written in there -- didn't know
25 his state of mind at the time.

1 Q. What about yourself?

2 A. I wasn't -- I took that note to be more of just
3 his writing styles with the shootout statement. I would be
4 there. So yes, I would be concerned that something would
5 happen.

6 Q. You're referring to the note that was dropped off
7 in the public service building?

8 A. Correct.

9 Q. And that note didn't necessarily concern you?

10 A. Not as much, no, sir.

11 Q. What about the emails?

12 A. The emails, once -- once he gave the rules of
13 engagement, that really became more of a fearful-type
14 situation because he's laying -- laying out what he was
15 planning to do.

16 Q. How did you guys respond to that correction?

17 A. We employed -- deployed -- our SWAT team was on
18 the assist with this. I had drawn up warrants for Mr. Nix
19 and they were going to try -- try to stop him when he left
20 his residence to get him away from the residence and take him
21 to custody at that point. And then we would do the eviction
22 after that.

23 Q. And you said your SWAT team, what does that mean?

24 A. The Charleston County Sheriff's Office SWAT team.

25 Q. Did any other agencies assist?

1 A. Yes. On the actual day that we did the eviction,
2 the Mount Pleasant SWAT team responded, and the Charleston
3 City Bomb Squad responding.

4 Q. Has your SWAT team ever assisted with an eviction
5 before?

6 A. They never have.

7 Q. Has the Mount Pleasant Bomb Squad or has the Mount
8 Pleasant SWAT team ever assisted with an eviction before?

9 A. Not to my knowledge.

10 Q. Has the Charleston Bomb Squad ever assisted with
11 eviction?

12 A. Not the ones that I have done.

13 Q. So I guess to be clear, can you tell us why you
14 didn't execute the writ on January 22, 2021?

15 A. The fear of our safety, and the safety of Mr. Nix.

16 Q. And that's based on what?

17 Q. His emails with the rules of engagement telling he
18 was waiting for a standoff all prior to the eviction time.

19 A. And how did you know he was still in the house?

20 Q. Neighbors told us he was in the house. We had
21 deputies that would drive -- would drive by, and saw his
22 vehicles were parked in the front of the park -- in his --
23 his driveway. And he -- he says in his email that he's been
24 there for 27.5 hours.

25 Q. You mentioned the neighbors. Can you describe why

1 the neighborhood -- what was going on when you guys were
2 around that time?

3 A. They were all concerned because he -- if you look
4 at the emails, he "CCs" a lot of people, and a lot of them
5 are in the neighborhood, HOA members, things of that nature.
6 And they were contacting us asking for police presence, law
7 firms, such as -- such as that.

8 Q. What day did you finally enter the Defendant's
9 house?

10 A. Would need that report? Thank you. I believe
11 it's the 26th or the 27th, because we did over two days.

12 Q. When you did go in the house, what'd you find?

13 A. I was one of the last ones to go in the residence.
14 The SWAT team went in first to clear it of any persons
15 inside. Then my deputies went in to look for anything far --
16 as far as it gets held before anything that needs to be taken
17 out for safekeeping. So I was kind of behind everybody else,
18 so I really didn't find anything per se. I didn't notice
19 that the house was in disarray. I did see at the top of the
20 stairs a chair was supposed (inaudible) the top of the
21 stairwell, and a dresser that was over the landing of that
22 stairwell, which was odd.

23 Q. I'm showing you what's marked State's 16. Is that
24 the door that you would've gone into?

25 A. Yes, sir.

1 Q. I'm showing you what's marked 19. What's that?

2 A. That's at the top of the stairs looking to the
3 left. It's a dresser that's blocking that landing of the
4 stairwell.

5 Q. I'm showing you what's marked State's 21. Is that
6 the same door you would've entered?

7 A. Correct.

8 Q. And looking out that window, where would you guys
9 have been stationed before you entered?

10 A. Directly in front of that window.

11 Q. And from that perspective, would there have been a
12 full view of you from that window?

13 A. Yes, sir.

14 Q. And why wasn't the Defendant in the house at the
15 time you entered?

16 A. Because he was arrested.

17 Q. Right. And -- and you were supposed to go in on
18 the 22nd -- you didn't go in for four more days. I know
19 you've said it before, but can you please one more time, tell
20 us why you chose to wait before you entered that?

21 A. We wanted to get Mr. Nix out of the residence,
22 away from the residence, and effect the arrest so that he was
23 in the vehicle and our safety going into the residence.

24 Q. Because?

25 A. Because of the threatening emails that he sent in

1 with his rules of engagement that he provided.

2 MR. MCALLISTER: I don't have any further questions.

3 THE COURT: Cross-examination, Mr. Mack?

4 MR. MACK: Thank you, Judge.

5 CROSS-EXAMINATION

6 BY MR. MACK:

7 Q. Lieutenant Craven?

8 A. Yes, sir.

9 Q. Good to see you again.

10 A. Yes, sir.

11 Q. Mr. Craven you are the case supervisor of Alan

12 Nix's case, right?

13 A. Correct.

14 Q. And what does that mean?

15 A. It means that I was the -- the investigating
16 officer, I guess you'd say, for the whole incident.

17 Q. And does that mean that you review all the
18 evidence in the case before it goes to trial?

19 A. I do, yes, sir.

20 Q. Do you review the (inaudible) issued the warrants
21 in the case?

22 A. Yes, sir.

23 Q. And your close communication with the solicitor of
24 the conduct trial, correct?

25 A. Correct.

1 Q. And you've been sitting in this courtroom for the
2 entirety of this trial, right?

3 A. Yes, sir.

4 Q. Watching the testimony of other officers?

5 A. Yes, sir.

6 Q. And watching the State put up this case?

7 A. Yes, sir.

8 Q. And you saw Deputy Booker's testimony yesterday,
9 right?

10 A. I did.

11 Q. And motion yesterday, right? Election day.
12 Please indulge me while we recap a little bit of that. You
13 got it. So as case manager, you reviewed Deputy Booker's
14 documentation of the service operator, right?

15 A. Correct.

16 Q. And you took a look at this internal document,
17 which I believe is in State's Exhibit 9 generated by Jeffrey
18 Booker. Looks like Rachel Filer.

19 A. I don't see Rachel Filer.

20 Q. Oh, sorry.

21 A. Yes, sir. That's in my handwriting actually, but
22 yes, sir.

23 Q. That's your --

24 A. She's --

25 Q. -- handwriting next to Jeffrey Booker's signature.

1 A. The Rachel Filer has my writing of the telephone
2 number. Yes, sir.

3 Q. So you wrote "Rachel Filer" and telephone number
4 on that document?

5 A. She was the -- the agent for the person taking the
6 property.

7 Q. Okay. And you saw where it was written on this
8 document -- the eviction date was January 26, 2021?

9 A. Correct.

10 Q. Okay. And you're familiar with this document
11 State's Exhibit 9, which I believe is a cover letter -- the
12 writ of assistance that was listed on Alan's door?

13 A. Yes, sir. That's the letter -- the form letter
14 that we put on personal property.

15 Q. And it says "This order will be executed on
16 January 20, 2021, at 12:00 p.m."?

17 A. January 22, 2021. Yes, sir.

18 Q. Yes. Thank you. Sorry for that. And then you're
19 familiar with the response, the State's Exhibit 9, or the
20 letter y'all sent to the Morris Law Firm?

21 A. Yes, sir.

22 Q. You actually notarized it, that's your standard
23 Craven Notary?

24 A. Yes, sir.

25 Q. And that says "Service was completed on

1 January 26, 2021, at 9:00 a.m."

2 A. That's when the eviction happened. Yes, sir.

3 Q. But that's not what it says. It says "Service was
4 completed on January 26, 2021."

5 A. That's the form letter that there's no way to
6 change that wording on there. Our computer system puts that
7 as "Service was completed." We can't change any other
8 wording on there.

9 Q. But that's what it says.

10 A. Yes, sir.

11 Q. All right. Alan Nix was not in Charleston at the
12 time in which you posted the eviction on his door, correct?

13 A. I'm not sure where he was. He was not at the
14 residence.

15 Q. Okay. But -- so just not at the residence, right?

16 A. That's all I can say. Yes, sir.

17 Q. Okay. And an email to you on January 7, 2021, he
18 stated that he downloaded -- or attempted to download a copy
19 of the eviction notice online, right?

20 A. If that's what it says, yes, sir.

21 Q. Is that what he said?

22 A. I'm not sure.

23 Q. Do you need to look at the emails?

24 A. Yes, sir.

25 Q. Okay. Sorry.

1 A. Can you just point me to where that is?

2 Q. Sure. It's on page 21.

3 A. I'm not seeing where you're referring to that.

4 Q. It's down at the bottom of the page, getting the
5 email addressed to Joe and Bernie.

6 A. Okay.

7 Q. For the record, this is State's Exhibit 8. I
8 would say I realized a little earlier that the writ of
9 assistance in yesterday morning was an order in the case. So
10 I went to get it from (inaudible) court-plus thing.

11 A. Yes, sir.

12 Q. Also, when I looked at Armstrong's court-plus
13 (inaudible), I found three more documents to which are
14 attached. The third document -- the third doesn't have a
15 document associated with it, but says something like that
16 party to case.

17 A. Yes, sir.

18 Q. Okay. Do you know what the court plus thingy is?

19 A. It's the court plus thingy that the clerk uses all
20 the documents get put into for court cases.

21 Q. Who does?

22 A. Who puts them in there?

23 Q. Yeah.

24 A. The clerks do.

25 Q. Right. Okay. And in an email to you dated

1 January 14, 2021, Alan stated that it covered the process
2 order that y'all posted on his door thoroughly with packing
3 tape even from being damaged by the weather.

4 A. And that was where?

5 Q. That's on page 10.

6 A. Yes, sir.

7 Q. Okay. Also, the eviction order was eventually
8 removed from Alan's door?

9 A. Yes, sir. It wasn't there when we got there.

10 Q. Okay. Let's talk about Alan's compliance with the
11 eviction order at the prelim. I think you testified that
12 Alan never contacted you after the posting as far as moving
13 out, right?

14 A. Yes, sir.

15 Q. But he did actually contact you by way of those
16 emails?

17 A. He contacted me, he said he wasn't moving out.

18 Q. But y'all had an ongoing conversation as you
19 testified earlier.

20 A. Yes, sir.

21 Q. And he -- you testified that multiple people
22 copied in those emails?

23 A. Yes, sir.

24 Q. (Inaudible) officials in South Carolina and
25 Charleston County, right?

1 A. Correct.

2 Q. And his concern was that Judge Scarborough did not
3 have jurisdiction to issue the writ of assistance that was
4 posted on his board, right?

5 A. Correct.

6 Q. He expresses that in the emails?

7 A. Yes.

8 Q. He does pretty clearly?

9 A. Yes, sir.

10 Q. In great detail, right?

11 A. Yes, sir.

12 Q. I'm looking at page 19. It says -- and I'll
13 paraphrase if they can't find that information for
14 Case Number 2017-CP-10-04031, ask them to go find it in the
15 Case Number 2014-CP-10-05407. I'm thinking they can almost
16 definitely help y'all find the information in the case, and
17 so forth right?

18 A. From the Court of Appeal, yes, sir.

19 Q. In particular, you mentioned an appeal.

20 A. Yes, sir.

21 Q. Right. And that appeal is in the document that he
22 dropped off at the clerk's office?

23 A. Correct

24 Q. Right? It's what is -- what -- the note that he
25 described to Joe Dawson was the cover letter for?

1 A. Yes, sir.

2 Q. Correct. And the jury can take a look at this in
3 the jury room, right?

4 A. Correct.

5 Q. Okay. You also talked about planning a RICO case
6 against Charleston County, right?

7 A. A RICO case, I'm not sure who it was against, but
8 --

9 Q. I mean -- he mentioned it in his emails.

10 A. He mentioned a RICO case. Yes, sir.

11 Q. And he requested a meeting with Sheriff Graziano,
12 right?

13 A. Correct. Yes, sir.

14 Q. And you helped facilitate that meeting -- or at
15 least try to?

16 A. As best I could. Yes, sir.

17 Q. And it never happened?

18 A. Not to my knowledge.

19 Q. Were you -- you -- you testified that you were
20 concerned about Alan's wellbeing, correct?

21 A. Today?

22 Q. Yeah. That's why you delayed the eviction?

23 A. Well, everyone's, yes, sir.

24 Q. Sorry?

25 A. Everyone's. Yes, sir -- everyone's safety.

1 Q. Right. And he mentioned having a service animal?

2 A. Yes.

3 Q. And having some sort of erratic behavior disorder
4 in the emails.

5 A. Yes, sir. He states that.

6 Q. And because of that concern, you didn't attempt to
7 execute the eviction order for Alan's arrest, right?

8 A. Correct.

9 Q. On January 23, 2021, you drafted warrants against
10 Nix for trespassing, and opposing a law enforcement executing
11 a legal order, right?

12 A. Yes, sir.

13 Q. And those are the warrants that -- excuse me. You
14 -- you drafted a warrant for trespassing, and intimidating a
15 court official, right?

16 A. Yes, sir.

17 Q. Not opposing -- sorry, let me back it up. I'm
18 getting confused. Sorry -- sorry. You drafted warrants for
19 trespassing, and opposing a law enforcement executing a
20 lawful order, that's the resisting services process.

21 A. And intimidation of the court official.

22 Q. And intimidation of the court official.

23 A. Correct.

24 Q. Right. Those were the warrants that Jeffrey
25 Booker was talking about when he had testified?

1 A. Yes.

2 Q. Okay. And this was after the lockout date on
3 January 22, 2021?

4 A. I believe so, yes, sir.

5 Q. And you made no effort to notify Alan of these
6 warrants, correct?

7 A. We don't notify anybody they have warrants.

8 Q. But you have this ongoing communication with him
9 via email, right?

10 A. Yes, sir.

11 Q. And you didn't send him an email saying you have a
12 warrant for trespassing on [REDACTED] Densmore Circle?

13 A. No, sir.

14 Q. And you didn't send him an email saying you have a
15 warrant for intimidating a court official?

16 A. No, sir.

17 Q. You also did not stand outside of his house with a
18 megaphone saying, "Alan, you are under arrest for trespassing
19 opposing law enforcement executing a lawful order, come out
20 with your hands up."

21 A. Yes.

22 Q. Is Alan Nick on trial for intimidating a court
23 official today?

24 A. No, sir.

25 Q. Did you draft a warrant at that time for

1 intimidating a public official?

2 A. No, sir.

3 Q. Naming you as the victim?

4 A. No, sir.

5 Q. Naming anybody in the Charleston County Sheriff's
6 Office of the victim?

7 A. No, sir.

8 Q. The eviction order was executed on January 24,
9 2021, right? That's when y'all went into the house.

10 A. It was the 24th, I believe -- 25th.

11 Q. 24th or 25th when y'all went into the house?

12 A. Yes, sir.

13 Q. And that's when you started moving Alan Nix's
14 stuff out of the house?

15 A. We didn't move anything out. No, sir.

16 Q. Did you --

17 A. They had movers that would do that.

18 Q. Okay.

19 A. We physically didn't take anything.

20 Q. Right. But stuff is being moved out of Alan's
21 house at that time?

22 A. Correct.

23 Q. And it wasn't until January 25, 2021, that
24 Stephanie Hood made Alan aware of his arrest warrants during
25 a felony traffic stop, right?

1 A. Yes, sir.

2 Q. And you know from reviewing Stephanie Hood's body
3 cam that Alan was compliant with verbal commands?

4 A. He was.

5 Q. That Alan did not threaten anybody at that time?

6 A. No, sir.

7 Q. And Alan said, "What's this about?"

8 A. I'm not sure if he did or not.

9 Q. And you didn't find any weapons inside of his car?

10 A. I don't believe they did, no, sir.

11 Q. Lieutenant Craven, you are the victim in this
12 case, correct?

13 A. Yes, sir.

14 Q. You are the public official?

15 A. Yes, sir.

16 Q. When did you draft a warrant for threatening a
17 public official?

18 MR. MCALLISTER: Objection.

19 THE COURT: What's the objection?

20 MR. MCALLISTER: It's not relevant. It's not -- it's
21 prejudicial. It doesn't have anything to do with this. I
22 mean, we're talking about --

23 THE COURT: Overruled. I'll allow it.

24 THE WITNESS: I did not.

25 BY MR. MACK:

1 Q. And that of course is a separate charge from
2 threatening a judicial official, right?

3 A. Yes, sir.

4 Q. You testified at a preliminary hearing, correct?

5 A. For the intimidating of a court official, yes,
6 sir.

7 Q. You sure about that?

8 A. Yes, sir.

9 Q. If I showed you a copy of the prelim notice, would
10 that help refresh your recollection?

11 A. Yes, sir -- yes, sir.

12 Q. Does that refresh your recollection?

13 A. It does.

14 Q. Is that a -- you testified prelim, correct?

15 A. Yes. You want me to read the charges?

16 Q. Yeah, if you want.

17 A. Resisting arrest, resisting slash -- resisting
18 arrest, opposing, or resisting a law enforcement officer
19 serving process or making arrest.

20 Q. So when you testified at the prelim intimidating
21 court official -- I'm sorry, intimidating court official was
22 not on the docket, it was not a charge that you were
23 addressing.

24 A. According to this, no, sir.

25 Q. And intimidating a public official was not charged

1 that you were addressing at that hearing?

2 A. No, sir.

3 Q. And what's the date on that notice -- or what was
4 the date of the preliminary hearing? Don't tell me what's on
5 the notice. Tell me the date of the preliminary hearing, and
6 use that to refresh your recollection.

7 A. October 27, 2021.

8 Q. So we're talking 10 months after Alan Nix's arrest
9 -- nine, sorry, bad with math.

10 A. Yes, sir.

11 Q. He's facing resisting arrest, and not threatening
12 a public official.

13 A. For this prelim, yes, sir.

14 Q. Was he facing those charges at his prelim in
15 October?

16 A. No, sir.

17 Q. And when you testified at that prelim, you sat in
18 the witness stand just like that, right?

19 A. Correct.

20 Q. And you swore under oath, right?

21 A. Yes, sir.

22 Q. That you'll tell the truth?

23 A. Yes, sir.

24 Q. And a magistrate judge was there?

25 A. Correct.

1 Q. And a prosecutor was there?

2 A. I believe so, know there was some video things
3 going on at the time because it's COVID around the time, so
4 --

5 Q. You appeared during -- via Zoom?

6 A. Right? Yes, sir.

7 Q. Was there in person, and the prosecutor was there?

8 A. Yes, sir.

9 Q. And I asked you whether Alan Nix resisted service
10 of process based on the emails that he sent you and you said,
11 "No, sir." He was served on January 11, 2021, at 1:35 p.m.,
12 and he resisted that order on January 27th, at 12:00 p.m.

13 A. Did I say 27th?

14 Q. Yes.

15 A. Okay, then that's what I said.

16 Q. I asked you if Alan Nix only resisted service of
17 process because he didn't move out and you said, "Correct?"

18 A. Yes, sir.

19 Q. Through your investigation, you determined that
20 Alan Nix had a concealed weapons permit, right?

21 A. I didn't determine that. No, sir.

22 Q. If I showed you your --

23 A. I know what you're referring to, as a -- a SLED
24 agent contacted me about it.

25 Q. And what did they tell you?

1 A. They wanted to have the jail take that from his
2 property, and they were going to revoke his concealed weapons
3 permit.

4 Q. So in order to revoke it, you would've to have it
5 right?

6 A. Correct.

7 Q. And a concealed weapons permit allows a person at
8 the time, I know the laws changed -- it was back in 2021 to
9 carry a weapon on their person in public.

10 A. Correct. Yes, sir.

11 Q. So if Alan wanted to, he could legally walk out
12 his front door, [REDACTED] Densmore Circle with a handgun strapped
13 to his belt, get in his car, and drive to a gas station,
14 right?

15 A. Yes, sir.

16 Q. In order to get a concealed weapons permit, you
17 have to take a class, right?

18 A. Yes, sir.

19 Q. And in that class, they teach you about ammo
20 storage probably right?

21 A. I'd have to assume so. Yes, sir.

22 Q. Yeah, I guess -- did you take the class?

23 A. No, sir.

24 Q. You're exempted, right? Because you're a police
25 officer?

1 A. Yes, sir.

2 Q. And you're familiar with how firearms work, and
3 the proper storage of ammo, right?

4 A. Yes, sir.

5 Q. And typically the right way to store ammo is away
6 from a firearm, right?

7 A. Safeway. Yes, sir.

8 Q. You also learned from your investigation that Alan
9 gave two guns to his parents before he was arrested, right?

10 A. Yes, sir.

11 Q. One last question. Concealed weapons permit
12 requires a background check, correct?

13 A. I believe so -- yes, sir.

14 MR. MACK: No further questions, Judge.

15 THE COURT: Anything on re-direct?

16 MR. MCALLISTER: No, Judge.

17 THE COURT: You may step down, Lieutenant.

18 THE WITNESS: Thank you.

19 MS. BREWER: State calls Judson Haithcock.

20 JUDSON HAITHCOCK,

21 being duly sworn, testified as follows:

22 COURT CLERK: Please be seated.

23 MS. BREWER: Good morning Mr. Haithcock.

24 THE WITNESS: Good morning.

25 MS. BREWER: Where are you -- oh sorry.

1 COURT CLERK: Please state your full name, spelling
2 your last name directly in the microphone.

3 THE WITNESS: Okay. My name is Judson Haithcock,
4 spelled J-U-D-S-O-N. Last name Haithcock, H-A-I-T-H-C-O-C-K.

5 DIRECT EXAMINATION

6 BY MS. BREWER:

7 Q. Thank you. Can you tell us where you're currently
8 employed?

9 A. I work for the city of Charleston Police
10 Department.

11 Q. And what's your position at City of Charleston?

12 A. Right now, I am the admin sergeant for Team 5,
13 which is Daniel Allen.

14 Q. Okay. And what -- were you employed with the City
15 of Charleston in January of 2021?

16 A. Yes, ma'am.

17 Q. How were you employed with them in that county?

18 A. Well, I had a couple of capacities at that time.
19 One, at that time I was a team admin sergeant for Team 1,
20 which is the downtown district. I was also a member of the
21 bomb squad, at that time I was the commander of the bomb
22 squad for the city of Charleston.

23 Q. You were the commander of the bomb squad for the
24 city of Charleston?

25 A. Yes, ma'am.

1 Q. And what kind of duties did that involve?

2 A. It can vary. We do a lot of personal security
3 detail for say, like, when the president, vice president,
4 somebody like that comes in town, we do bomb sweeps for them
5 to make sure they're safe. We also deal -- with render safe
6 of any devices, whether they're improvised explosive devices,
7 and or found cannonballs, stuff like that. We also work hand
8 in hand with our SWAT team -- can do work, a hostage rescue
9 with them. We work hand in hand with the FBI, with the Joint
10 Terrorism Task Force as well as working with ATF dealing with
11 guns and devices that they may find, as well SLED on the
12 state level, Charleston County, Mount Pleasant, whoever. We
13 have what's called "Memorandum of Cooperation" with -- so we
14 work with multiple agencies.

15 Q. And what kind of training do you have to receive
16 to be able to do that?

17 A. Yeah, so being on the bomb squad, I had to go
18 through our basic SWAT school. Also went to the Hazardous
19 Devices School, which is run by the FBI down in Huntsville,
20 Alabama. It's basically a six-week school where we go down
21 and learn about how to render safe, assemble devices, x-ray,
22 use robotics, do work in the bomb suit that you've probably
23 all seen "The Hurt Locker" of the big, green bomb suit. So
24 we have to learn how to deal with that. We also deal with --
25 we're also taught HAZMAT. We have to go through a federal

1 HAZMAT class down in Aniston, Alabama so we can put on the
2 whole (inaudible) suit, and go and deal with different types
3 of chemicals, and stuff like that as well. So we work hand
4 to hand with the fire HAZMAT team as well, so --

5 Q. Are you often calling to assist other agencies?

6 A. We are, quite often we help out, so we have
7 memorandums to work with Mount Pleasant, Charleston County,
8 out of Palm Sullivans' Island. Occasionally we'll help out
9 North Charleston, and when I was running a K9, I went and
10 helped Dorchester County run cases as well. So we kind of
11 run a lower region. Anything in Charleston County pretty
12 much have the state from I95, over to the coast from
13 Georgetown County, down to about Beaufort County. So we have
14 a big area of operation we worked out of.

15 Q. Okay. Do you recall being sent to [REDACTED] Densmore
16 Circle in Mount Pleasant on January 26, 2021?

17 A. Yes, ma'am.

18 Q. Why were you sent there?

19 A. We were called to assist from SLED. They needed
20 what was called a "Tactical bomb tech" to go inside a house.
21 They believed there was an explosive threat there. I've been
22 to the Tactical bomb tech school from the FBI, which is a
23 two-week class where they teach us techniques on dealing with
24 hostage rescue, as well as countering -- rendering safe
25 devices safe enough for a SWAT team to get through to clear a

1 building. Basically, we were taught to get them through and
2 often (inaudible) as quickly and safely as possible.

3 Q. Okay and so you went there with your team?

4 A. I went -- well, myself and SPO Toula, and our
5 lieutenant, who was over the special operations division were
6 called by SLED to go assist Mount Pleasant's team who we
7 cross-trained with.

8 Q. And when you got there -- who -- who else was
9 there? What agencies?

10 A. We had -- if I remember correctly, it was Mount
11 Pleasant SWAT team, SLED had two of their bomb techs there,
12 and then we were there, our three officers.

13 Q. Okay. Who went into the house first?

14 A. It would've been Mount Pleasant SWAT team. It
15 would've been to make initial entry.

16 Q. Okay. Your Honor, may I approach the witness?

17 THE COURT: Yes, ma'am.

18 BY MS. BREWER:

19 Q. I'm showing you what's previously been marked --
20 I'm sorry, previously been marked as State's Exhibit 31 & 32.
21 Do you recognize these images?

22 A. Yes, ma'am. They appear to be images from out the
23 front of the residence in question.

24 Q. And those are very accurate representation of what
25 you witnessed that day when you were there?

1 A. Yes, ma'am.

2 MR. MCALLISTER: Judge, State moved to admit State's
3 Exhibit 31 & 32 into evidence.

4 THE COURT: Any objection?

5 MR. MACK: No objection, Judge.

6 THE COURT: It'll be admitted as State's 31 and 32
7 without objection.

8 (State's Exhibits 31 & 32 were admitted into evidence.)

9 BY MS. BREWER:

10 Q. (Inaudible).

11 A. Yes, ma'am.

12 Q. Mr. Haithcock, can you describe what is seen in
13 this photo?

14 A. So in this photo what you're seeing is -- to what
15 is my left side with the officers that are carrying the long
16 guns, that's the SWAT team about to make entry on the right
17 side, you have two agents from SLED, SPO Toula, and
18 Lieutenant Bradley -- where they're standing out front making
19 a plan about how to do the entry because they believe there
20 was nobody in the residence at the time.

21 Q. And what's that truck in the back?

22 A. The very big truck in the back is our explosive
23 devices team truck.

24 Q. Okay. How about this photo?

25 A. So in this photo, the gentleman on the right is

1 SPO Toula. He's one of our other bomb techs, and then
2 there's a drone -- drone present, and a couple of Charleston
3 County vehicles, but that's the front door to the residence.

4 Q. Okay, and whose drone was that?

5 A. I believe the drone belonged to the state law
6 enforcement division. I know it's not ours.

7 Q. Can you describe the -- your entry into the
8 residence and what the procedure was?

9 A. So when we enter a residence attached to a SWAT
10 team, the SWAT team makes it an initial entry. We are more
11 towards the back of the team. We cross train with these
12 gentlemen, we let them -- and ladies as well -- we let them
13 know, "Hey, if you see a piece of fishing line across the
14 doorstep, we'll come up and look at it, inspect it. If it's
15 a device we'll handle it, and get you past it, or find
16 another way for you to get around it." So we -- we are
17 usually in the back of the stack, which is where we set up on
18 this entry because there hasn't been a determination if there
19 were explosives at this point. Once we know there's
20 something in there, we will take the front, and we will go
21 into -- we will start clearing the rooms before they do if we
22 start finding devices. So they went in, we followed in
23 behind, and they cleared the building. We didn't find any
24 explosive devices on scene that were premade. We did find
25 components that could be used to make explosive devices,

1 motherboards, computers taken apart, things like that. There
2 were some gas cans in the garage if I remember correctly, but
3 majority we didn't find anything that had been put together
4 that would lead me to believe that there was a device at that
5 location when we were there.

6 Q. You mentioned computers being taken apart. What
7 does that indicate to you?

8 A. Usually you can take -- so devices can be as
9 simple or as complicated as the bomber wants them to be. You
10 can take and make a device out of a rat trap, or you can get
11 really complicated, and take apart a motherboard, and have a
12 whole device being run off of just capacitors, and resistors,
13 and computer chips. So you could take a computer chip that
14 can build in a time delay, or a capacitor that could be used
15 to build the energy into -- you don't even need batteries for
16 a device. So again, computers are usually -- computer boards
17 are usually used in making a lot of the stuff you see
18 overseas.

19 Q. And were you given any sort of background on Mr.
20 Nix prior to being assessed there?

21 A. I really was not. I was told that there was a
22 possibility of explosive devices, and that's why we were
23 called out.

24 Q. Okay. And that there was a cause for concern?

25 A. Yes, for officer safety, and the safety of the

1 people around.

2 Q. Okay. What did you observe about the residence
3 when you walked in?

4 A. Nothing against him. It was kind of a mess.
5 There was stuff strewn everywhere when you walked in. I do
6 remember to the left was a little room which was kind of set
7 up as an office space, which is where he was (inaudible)
8 apart the computers, and then from there, he floated into the
9 kitchen. There's some dog food on the floor, looked like,
10 you know, the dogs hadn't been out in a while. Then you
11 floated into the living room and then there was a big closet
12 and a garage access if I remember correctly for the
13 downstairs.

14 Q. And was there -- was there a clear path
15 walk-through?

16 A. Kind of clear, you had to step over a bunch of
17 stuff in the hallway.

18 Q. Okay. I'm just showing you what's been marked as
19 State's 20. Can you tell us what's in that photo?

20 A. Yeah, so in this photo you can see of course the
21 chair. It looks like a broom, or mop handle on the floor,
22 and a gas can -- a bunch of holes in a wall.

23 Q. And did it appear that gas was boarded in the
24 wall?

25 A. That I could not tell from my memory.

1 MS. BREWER: Okay. No further questions.

2 THE COURT: Anything on cross-examination?

3 MR. MACK: No questions, Judge.

4 THE COURT: Okay. You can step down sir.

5 THE WITNESS: Yes, your Honor.

6 MR. MCALLISTER: Your Honor, at this juncture, the
7 State rests.

8 THE COURT: All right. All right ladies and gentlemen,
9 the State has presented their case and has rested. I'm going
10 to excuse you to the jury room, have some matters of law I
11 need to take up, and we'll be -- I may go ahead, and excuse
12 you for a long lunch. We have some stuff that we need to
13 take care of, but I'll let you know here shortly. Thank you.
14 Don't discuss the case.

15 (Jury exits.)

16 THE COURT: All right, we need to go ahead and take a
17 break.

18 MS. MANGAN: That would be great, Judge, for me. I'm
19 going to make the directive verdict motion. I'm happy to do
20 that before the break if you'd like me to, but I do.

21 THE COURT: Well, whatever works best for you, I'm
22 going to accommodate as best I can.

23 MS. MANGAN: If I could do it now, I'm going to be
24 10 minutes, that'd be great.

25 THE COURT: Okay. All right.

1 MS. MANGAN: Thank you.

2 THE COURT: All right, well, just let us know when
3 you're -- just -- just let us know when you're -- just send
4 somebody back when you're ready.

5 MS. MANGAN: Okay, thanks, Judge.

6 THE COURT: And while you go do that Ms. Mangan, do you
7 mind if I go ahead and advise Mr. Nix of his Fifth Amendment
8 stuff while you're not here?

9 MS. MANGAN: Judge, if he does decide to testify, I'm
10 going to be the one --

11 THE COURT: Okay, go ahead. We'll do that when you get
12 back.

13 MS. MANGAN: Thank you.

14 THE COURT: All right, we'll be at ease for about 10 or
15 15 minutes.

16 MR. MCALLISTER: Thank you, Judge.

17 (OFF THE RECORD)

18 MS. MANGAN: Yes, your Honor. May it please the Court?

19 THE COURT: Yes, ma'am.

20 MS. MANGAN: Defense makes the motion through its
21 ruling by the South Carolina Rules of Civil Procedure for
22 directed verdict as to both charges. And this is not going
23 to be a case law heavy directed verdict motion to the very
24 fact, but there is nonetheless one case I wanted to cite too.
25 And that was State v Phillips, which says that, "The Court is

1 to consider the existence or non-existence evidence." Now,
2 it's waste, and I'll start over with the resisting arrest
3 indictment 5002. That indictment states that Alan resisted
4 while an officer serving -- executing the arrest or executing
5 a legal writ of process. And I want to start with the
6 service part of that first.

7 The State's first witness, Officer Booker, testified
8 that he served Alan by attaching that notice to Alan's front
9 door in the emails admitted by the State. They showed that
10 Alan invited law enforcement to do that, told them where and
11 how to post it, and in fact, acknowledged service of that
12 document. The State also admitted into evidence a letter
13 sent by Officer Booker to the Morris Law Firm, which stated
14 the service was completed. Not frustrated, not unable to
15 happen, but completed on the 21st. Alan did not resist
16 arrest. Service actually occurred.

17 As to execution, your Honor, State's witnesses, Booker
18 and Colburn, testified that despite the lockout date, the
19 writ was not actually executed until the 26th. Officer
20 Craven also testified that they did not attempt to execute
21 the writ before Alan was arrested. Officer Hood was called
22 to testify and she stated that she arrested Alan on the 25th.
23 Alan was not present at the Densmore Circle home to resist
24 execution, which again, was not attempted until the 26th
25 because he was out in detention center on that day, law

1 enforcement well knew that.

2 Officer Craven also testified on direct when Mr. Mack
3 was asking him about his prelim testimony that Mr. Nix only
4 resisted because he did not move out. That is not what the
5 law requires. The law requires resistance during service or
6 execution. Evictions happen all the time. People don't move
7 out all the time. Those people aren't all arrested. The law
8 requires resistance during service or execution. That is not
9 what happened in this case, Judge.

10 As to the threat, threatening the life of a public
11 official indictment, the State modified their indictment to
12 name one victim, Officer Craven. He testified on direct
13 examination and cross that he is the victim, he's the only
14 victim. He also testified that he did not get the warrant
15 making himself as a victim. That was not taken out until
16 many months after. He also testified, again, the only reason
17 Alan resisted is because he did not move out, not because of
18 the threats that he made.

19 He also testified, Judge, that he took the note that
20 Mr. Nix had dropped off. It's more of just his own writing
21 style. I think what the State has done is tried to create
22 the impression that law enforcement, because they responded
23 with bomb squad and SWAT team to Alan's house, that they were
24 threatened. But what that fails to take into account is that
25 Mr. Nix was (inaudible) because he was in jail.

1 Additionally, Judge, these statements from the emails
2 that the State is going to argue are the threats. They are
3 all qualified statements. I will not fire upon unless I'm
4 fired at first. If I'm fired upon, and whoever breaches the
5 perimeter without being invited, which it's safe to -- to
6 assume would be: no, he didn't think they were ever
7 (inaudible). Those are all qualified statements, Judge.
8 Qualifiers never happened. By the time law enforcement
9 actually went inside, Mr. Nix was already in jail.

10 THE COURT: Well, let me stop you there because that --
11 if you say, "If you breach the perimeter, I'm going to
12 shoot." Right? I mean, that's essentially in a nutshell is
13 what he said. Right?

14 MS. MANGAN: I'm acknowledging that what is in the
15 email, is what was said, Judge.

16 THE COURT: Okay.

17 MS. MANGAN: That's not the issue. It is that
18 qualified statements like that are not the same as me saying
19 with the presentability, right? Which is where we see a lot
20 of these cases when somebody's being arrested. I want more
21 knowledge. I'm going to do this. It is -- if this -- if --
22 if Y -- it's X and Y, right? And what I'm saying Judge, is
23 because --

24 THE COURT: Well, I mean, if you boil it down to the
25 way my simple brain thinks he basically said, "Don't come to

1 my house or I'm going to shoot you." Right?

2 MS. MANGAN: And they never came to his house.

3 THE COURT: Well, maybe that's because they thought
4 they were going to get shot.

5 MS. MANGAN: They never came to his house, Judge.

6 THE COURT: Okay.

7 MS. MANGAN: It requires -- the statute requires
8 execution.

9 THE COURT: Okay.

10 MS. MANGAN: That's not what happened. So for those
11 reasons, Judge, the State has failed to admit any competent
12 evidence that Alan missed the service, he was served, he's
13 set to service. They have failed to admit any competent
14 evidence that he resisted execution. He was in custody when
15 they executed the warrant. And I believe that they failed to
16 present evidence that that law enforcement was actually
17 threatened because he wasn't there. For those reasons, we do
18 ask for directed verdict on those charges.

19 THE COURT: Very good. Mr. McAllister?

20 MR. MCALLISTER: Thank you, Judge. Briefly. When
21 ruling on a motion for directed verdict, the trial court is
22 concerned with the existence or non-existence of evidence,
23 not its weight. That's State v Williams, State v Brennan, et
24 cetera. There's lots of cases that -- that say essentially
25 the same thing. With regard to resisting execution of

1 process, he was supposed to be out January 22nd. Plenty of
2 testimony. Plenty of documents show the same. I'll read a
3 quick email: "I've been barricaded in my family's home for 28
4 hours waiting for the assault by the Charleston County
5 Sheriff's Department SWAT team that was supposed to happen 27
6 and a half hours ago." In that email he says, "I have
7 barricaded myself in my family's home for 28 hours."

8 That's the existence of some evidence right there that
9 he had no intent of complying and that he was resisting the
10 execution of that order that said for him to be out of his
11 home. So he is resisting the execution of that writ. So
12 there is some evidence for the jury to find that the
13 Defendant's guilty of resisting execution process.

14 Threatening the life of a public official, the same
15 could be said about the emails. He knew they were coming.
16 He told him he was going to kill them. In context, Defense
17 is trying to argue that they're a qualified threat, look at
18 all the evidence. It -- it's not a qualified threat. He
19 invited them to their home for a shootout. He tried to
20 schedule a gunfight with law enforcement. It's in the
21 emails. There's sufficient evidence for this case to go to
22 jury. I'd ask that you deny the Defense's motion.

23 THE COURT: Anything else -- anything else?

24 MS. MANGAN: Just briefly in response, Judge. I'd ask
25 you to consider present ability to actually follow through

1 what the State alleges are the threats. As I already stated,
2 Mr. Nix wasn't even at the home by the time he -- watching
3 SWAT squad, everybody actually showed up. And also, Judge,
4 there's been some testimony about cation of the guns in the
5 house down the hall to the right, the shotgun was found
6 behind the back of the door. The revolver around the kitchen
7 sink.

8 Very far -- or at least the kitchen sink gun very far
9 away from where the top of the stairs is located and the
10 shotgun being down the hall to the right front -- the back
11 door. Again, not at the top of the stairs. And there has
12 also been testimony in this case that the weapons and the
13 magazines were not even function-checked. The officer
14 couldn't even remember if the shotgun was loaded. And
15 lastly, Judge, Officer Booker testified that he went inside
16 the home before SWAT team even cleared it. Which shows that
17 he was not there.

18 THE COURT: Okay. All right. I'm going to
19 respectfully deny your motions. I think there's evidence in
20 the record which support both of the charges. So they'll be
21 denied. All right. Yes, I need to advise Mr. Nix of his
22 Fifth Amendment rights. Can you place Mr. Nix under oath?

23 COURT CLERK: Sir, can you please stand and raise your
24 right hand.

25 ALAN GREGORY NIX,

1 being duly sworn, testified as follows:

2 COURT CLERK: Thank you.

3 THE COURT: You can sit back down, Mr. Nix. At this
4 time, I'll explain to you your rights with regard to the
5 Fifth Amendment. If you don't understand anything, please
6 let me know. If you want me to explain anything in more
7 detail, also let me know. We've reached the stage of the
8 trial where you may present your defense. You have the right
9 to claim the privileges afforded to you by the Fifth
10 Amendment to the United States constitution, which states,
11 "No person shall be compelled to testify or in any criminal
12 case to be a witness against themselves."

13 That means no one here can require you to testify. You
14 have the right to testify on your own behalf. However,
15 nobody here can make you testify, and that's a personal right
16 of yours. If you decide to testify, you'll be subject to the
17 same rules that govern any other witness, and you may be
18 examined and cross-examined on any relevant issue in the
19 case.

20 In addition, if you have any convictions involving
21 dishonesty, or false statement or for crimes punishable by
22 imprisonment for more than one year, and I determine that the
23 probative value of admitting the evidence outweighs its
24 prejudicial effect, the solicitor will be able to introduce
25 your record to attack your credibility. If you decide to

1 testify, this decision on your part must be freely,
2 voluntarily, and intelligently made with knowledge of the
3 protections given to you by the Fifth Amendment.

4 If you decide not to testify, I will instruct the
5 jurors that they cannot give the fact that you did not
6 testify any consideration whatsoever. And that there --
7 there's to be absolutely no prejudice to you because you did
8 not testify. It's left entirely up to you whether or not you
9 want to testify, you can talk with your lawyers, your family,
10 your friends, anybody else. But the -- the decision is
11 solely up to you. Do you understand everything I've
12 explained to you?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: Do you have any questions?

15 THE WITNESS: No, your Honor.

16 THE COURT: Have you discussed with your lawyers about
17 whether or not you should testify?

18 THE WITNESS: Yes.

19 THE COURT: And do you need to talk with them anymore?

20 THE WITNESS: I don't think so.

21 THE COURT: Okay. Do you wish to testify in the case?

22 THE WITNESS: I do not.

23 THE COURT: Okay. Very good. Will you all be putting
24 up any witnesses?

25 MR. MACK: No, Judge.

1 THE COURT: Okay. Well, I'll let you -- when we come
2 back, I'll let you all rest on the record. It's noon, let's
3 start back at 2:30. Will I give you all enough time to get
4 your thoughts together for closing arguments?

5 MR. MCALLISTER: Yes, Judge.

6 THE COURT: And we'll email you a draft of the charge.
7 Caroline can email it to you right now so you can have it
8 while you're preparing to close.

9 MR. MCALLISTER: Thank you.

10 THE COURT: All right. We'll be back at 2:30.

11 MR. MCALLISTER: Thank you, Judge. And Judge on an
12 unrelated matter, my office got very excited when you said
13 you wanted to work tomorrow. Do you still want to work?

14 (Off the record.)

15 THE COURT: Did you read the charge?

16 MR. MCALLISTER: I have -- the State doesn't have any
17 issues with it.

18 THE COURT: Okay.

19 MR. MACK: Yes, Judge, I have -- I only respectfully
20 request that you define terms knowingly and willfully in the
21 section on threatening the life of a public official, the
22 same as you have in the section on resisting service process.

23 THE COURT: Okay. So just read it again?

24 MR. MACK: Yes. Talked to the State about it and they
25 consent.

1 MR. MCALLISTER: No objection.

2 THE COURT: Okay. So you want to set knowing, means,
3 with knowledge, consciously done, willfully means
4 intentionally, and not done by accident? Okay.

5 MR. MACK: Correct. Enlisted in the threatening a
6 public official section.

7 THE COURT: All right.

8 MR. MACK: Thank you.

9 THE COURT: I'll do it right after immediate family
10 definition.

11 MR. MACK: That sounds great.

12 THE COURT: Okay. Are we ready for closings?

13 MR. MCALLISTER: Judge, I guess I -- I didn't talk
14 about this with Defense before. I made a motion at the start
15 of the trial that I don't want us to be talking about the
16 underlying litigation that had -- that -- that brought us to
17 this foreclosure. We got into it a little bit in opening. I
18 just don't want that to be a focus of the closing. And so
19 I'm just asking that we -- we try to limit that. So that's
20 just what I'm moving forward.

21 THE COURT: Okay. Well, I mean -- I'm not going to
22 limit what they talk about in closing. I -- I did not want
23 to re-litigate it --

24 MR. MCALLISTER: Right.

25 THE COURT: -- through the testimony, but I think if it

1 comes up in closing. That's okay. Anything else?

2 MR. MACK: Yes, Judge. We just I guess we got to rest
3 first. I'm sorry.

4 THE COURT: Rest and then you're going to renew it?

5 MS. MANGAN: Yes, sir.

6 THE COURT: And we took out pictures. Right? All
7 right. Bring us to the jury. Please, sir.

8 THE BAILIFF: Yes, your Honor.

9 THE COURT: I've never had this come up, but I was not
10 intending to send firearms into the jury room. I was going
11 to tell them if they didn't want to see them or had any
12 questions about them, they could come back out here and see
13 them. But I don't think we need to be sending guns in the
14 jury room.

15 MR. MCALLISTER: And not with the ammo either. I -- I
16 --

17 THE COURT: There's that.

18 MR. MCALLISTER: I -- I -- I think that's perfectly
19 acceptable to the State.

20 MR. MACK: I think I can work with that, Judge.

21 THE COURT: Okay. Yeah, I didn't even think about the
22 ammo being there. Wouldn't be right. Yeah. We're not doing
23 that.

24 (Jury Enters at 2:36 p.m.)

25 THE BAILIFF: All the jurors are seated and present,

1 your Honor.

2 THE COURT: Very good. Thank you, sir. All right.
3 State ready?

4 MR. MCALLISTER: Yes, Judge.

5 THE COURT: Defense ready?

6 MR. MACK: Yes, Judge.

7 THE COURT: All right. And it's my understanding -- my
8 understanding, you're not doing your case, correct?

9 MR. MACK: That's correct. The Defense rests, Judge.

10 THE COURT: Very good. Ms. Mangan?

11 MS. MANGAN: Yes. We remove -- renew our motion for
12 directed verdict, your Honor.

13 THE COURT: Okay. And we thoroughly discussed them
14 all. I note that you have renewed them and my decision will
15 be the same. All right. Ladies and gentlemen, the parties
16 have presented all the evidence in the case. It's now time
17 for the lawyers to make their closing arguments. The
18 arguments are not evidence in the case.

19 Their statements and arguments are meant to help you
20 understand what they believe the evidence shows and how it
21 will apply to the law that I'm going to give you in a few
22 minutes. You should dis-remark any remarks, statement or
23 argument that's not supported by the evidence presented
24 during the trial or the law that I'm going to explain to you
25 after the arguments. Counsel for the State?

1 MR. MCALLISTER: Thank you, Judge.

2 THE COURT: Yes, sir.

3 MR. MCALLISTER: We're back. I told you since
4 yesterday -- I told you yesterday, "This one isn't going to
5 be complicated." You have two questions to answer when you
6 go back to the jury room. Did Ms. Brewer and I prove the
7 Defendant is guilty of threatening the life of Deputy
8 Christopher Craven? And did Ms. Brewer and I prove the
9 Defendant is guilty of resisting execution process?

10 I'll start with threatening the life of Deputy
11 Christopher Craven. January 21, 2021, the Defendant dropped
12 off a package in the Charleston County Public Service
13 Building where he suggested following headline: "Shootout and
14 standoff between Charleston County Sheriff's Office and
15 homeowner intentionally and premeditatedly set up by corrupt
16 judge."

17 You'll have it. It's his handwriting. He admits it in
18 his emails. He dropped it off. Sometime later that day, he
19 went to Sportsman's Warehouse where he purchased the
20 ammunition for, ironically enough, the two firearms that
21 deputies later located in his house when they finally went in
22 and executed the search warrant. The next day, on January
23 22nd, the Defendant was supposed to be at his house. He knew
24 it. His email shows he knew it.

25 He sent Deputy Craven another email. He outlined,

1 "Rules of engagement." He told Deputy Craven what he thought
2 was supposed to happen that day. He described the shootout
3 he wanted to occur. He told Deputy Craven he was prepared to
4 die. That's a threat. It's not complicated. He threatened
5 to take the life of Deputy Craven. Very next day, Detective
6 Craven got another email from the home.

7 He confirms he's barricading in the residence. He
8 knows he's supposed to be out. He says, "Let's go. Let's
9 get the crossfire started." Another threat. Later on in the
10 email, he says, "Can we get the gunfight scheduled?" He
11 wants to put it on a calendar. I don't know how more clear
12 -- how clear you can be about threat. You'll have the emails
13 back there. You can read them. Defense made a -- an issue
14 about whether Deputy Craven felt threat.

15 Well, that's not held in any defense. The Judge is
16 going to read it to you. But it doesn't matter. You heard
17 his testimony. He was in fear, so much so that he delayed
18 execution of the lockout. He brought in other agencies to
19 assist. He told you he's never worked with the SWAT team.
20 He's never worked with a bomb squad. He's never brought
21 crime scene to a lockout.
22 He took the Defendant's threats seriously. And he told you
23 he did so for the safety of his officers, of the
24 neighborhood, and of himself. He wanted to go home with his
25 family that day just like everyone else. You saw it in his

1 house. You've got the pictures; you'll have them back there
2 when you're deliberating. There are holes in the wall, with
3 magazines, there's gasoline. You'll see his vantage point.

4 You'll see where officer posted up. You'll see how
5 dangerous this situation was. You'll see what the Defendant
6 premeditatedly and intentionally set up. I said this in the
7 beginning. Thankfully everything ended in trial, but that
8 doesn't make the Defendant any less guilty of any offense.
9 You don't get to take the law into your own hands.

10 The resisting charge is just as simple. The Defendant
11 knew he was supposed to be out of his house. You've got the
12 emails. He acknowledges he wasn't supposed to leave. They
13 posted it on his door. January 22nd, he says, "I'm not
14 leaving." Instead of leaving -- him leaving, he purchases
15 his ammunition. He barricades himself in the house and he
16 threatens to kill anyone and everyone who attempts to remove
17 them.

18 Judge Taylor will instruct you on what resisting is.
19 Opposing, obstructing, even peaceful nonviolent indirective
20 obstructing, is resisting. That's not what we have here.
21 He's threatened violence. So much so that these officers are
22 prevented and obstructed from even being able to effectuate
23 the writ that they are obligated to enforce. They made a big
24 deal of how officers not attempting to execute the writ on
25 the lockout date. And somehow that absolves the Defendant of

1 his code.

2 Of course, they didn't go execute the writ because he
3 told him he was going to kill him. Would you go in his
4 house? Of course, not. That's resisting. I'm asking you,
5 you're back there, focus on the Defendant's actions. Don't
6 focus on what didn't happen. That's not why you're here.
7 Don't get distracted. This is simple. Don't let anybody
8 tell you otherwise. You'll have the verdict forms. I'm
9 confident we've proven each of these charges beyond a
10 reasonable doubt. I'm confident we'll be able to return a
11 verdict guilty on both charges.

12 THE COURT: Counsel for the Defense?

13 MR. MACK: Thank you, Judge. In Weathersfield,
14 Vermont, the ghost of Exit 8 can still be seen walking the
15 overpass of Interstate 91. The Green Mountains of Vermont
16 were a very different place in 1964 when Eisenhower was
17 building the interstate across the US. It was full of
18 farmers all about private property rights and small
19 government.

20 That changed with the arrival of the black man bear
21 from the city of New York and Connecticut via I-91. Dairy
22 farmers like from maintaining posed the construction of the
23 interstate, knowing that what was come was transformation of
24 the State that they lived in and loved. The federal
25 government gave dairy farmers on the I-91 corridor,

1 Connecticut River Valley to either take our money or we'll
2 possess your property by and then delete.

3 Farmers then refused. An old timer of the area still
4 talks about how he was milking his cows as bulldozers are
5 leveling his farms surrounding his own. According to the New
6 York Times on May 27, 2021 and they're gathering the
7 witnesses of the account, it was due and gloom.

8 And I quote, "In September week after Mr. Tenney's 64th
9 birthday, state officials authorized local authorities to
10 remove him from the property. Sheriff arrived with deputies
11 to empty his farm, pile his harnesses and plows and tools in
12 the meadow. That night, Mr. Tenney's brother floored him to
13 make a life somewhere else. Highway Department told him it
14 would be his last night in the house.

15 Tears were apparently rolling down Romaine's face,
16 according to his niece. There had been so much agitation and
17 grievance the workers couldn't get where they had to get
18 because Romaine was walking away. Rod's folding was a
19 volunteer fireman at the time and he remembers being awakened
20 by sirens at 3:00 a.m. the following morning. He stumbled
21 outside, looked up the sky and saw as he put it, just one
22 thread, fireball. He heaved on the door where Mr. Tenney
23 slept and realized through the haze that had been nailed
24 shut.

25 He was so intense it melted the bubble on top of the

1 fire chief's car. John Wade was 12 at the time, had run to
2 the scene of his father joining crowd spectators said what I
3 remember most just being boss struck. I could see the
4 reflection of the flames on people's faces. The ruins of the
5 farmhouse with two (inaudible) approached the next day. He
6 looked into the cell bowl, you could see metal glowing red
7 and they could finally enter, the firemen found evidence of
8 old dead frame, a rifle expelled shells and bone fragments.
9 Mr. Tenney's remains were never identified. The ashes were
10 dumped in the woods. The day after his memorial service,
11 state started constructing a highway."

12 And so, the ghost of Exit 8 still haunts people until
13 this day. The legend of Romaine Tenney lives on, is
14 considered by some local hero who stood up against so-called
15 progress at the government over reach. The town even built
16 memorial to him on the side of the interstate, which was the
17 reason for the article in Romaine times. This is a story as
18 old as time and it was played out for you again in this
19 courtroom.

20 What you see over there is a ghost of a man who's lost
21 everything, does not deserve criminal convictions on top of
22 it. Especially, considering the State has not done their job
23 to prove he resisted service of process or was a threat to
24 anybody but him, himself. Let's start with the resisting of
25 process charge, otherwise known as, "opposing execution of an

1 eviction conviction." Why? Because Alan accepted service of
2 process and the sheriff's office never executed the eviction.

3 Process was served in January 11, 2021. When the
4 eviction notice was placed on Alan's door, the eviction did
5 not take place until the sheriff's office -- according to the
6 sheriff's office, until January 26, 2023. It's 24 hours
7 after Alan Nix's arrest during the felony traffic stop by
8 Deputy Hood. Ask yourself, how can a man resist service of
9 process when he admits to it and the document being served is
10 removed by him after being plastered to his front door?

11 How can a man exist -- resist an eviction when he is in
12 jail at the time that it is executed? Simply not possible.
13 But at that, here. Why? Because Charleston County Sheriff's
14 Office does not know the difference between resisting service
15 of process and resisting an eviction. They think entire
16 eviction process is the service being resisted in Alan's
17 case. They conflict the terms, and that's wrong. Service is
18 the receipt of the document and eviction is the removal of
19 the person and property on the service. Both are covered
20 under this (inaudible).

21 The Sheriff's office had lawful authority under Judge
22 Michael Scarborough's order to kick down Alan's door and
23 light him up. Drones, K-9 units and SWAT geared against the
24 mentally unstable order, 12-page shotgun, service animal, a
25 couple boxes, couple of shots. They do it all the time.

1 Now, I know what some of you think and the State argued that
2 they did Alan a favor. This could have ended poorly for him.
3 Much like Romaine Tenney from Vermont.

4 Suicide by cops, which is what they call it in the
5 bids. They saved his life. Maybe so. But what does that
6 have to do with the charges and the State's burden? Why are
7 these charges necessary other than to make the situation in
8 place? Moving on to the threats. The State has to prove
9 that Alan willfully and knowingly threatened a public
10 official. Knowingly means consciously done. Willfully means
11 intentionally done and not done by accident.

12 The State has argued that Alan willfully and knowingly
13 threatened Chris Craven by sending him emails while dealing
14 with a mental health crisis on the verge of losing his family
15 home. They argued that this was consciously done and not
16 done by accident because Alan had the ability to carry out
17 the threat by way of his possession of a bunch of
18 (inaudible), a couple of riffles.

19 Let's start with the guns. Where were they located?
20 We have no clue. Why? Because Deputy Booker and Alan Nix's
21 son tampered with the crime scene. I have so many questions.
22 I could have spent the entire afternoon yesterday shooting it
23 with Master Deputy McElroy about guns, bird hunting and so
24 forth. But I have to hold my tongue because it is not my
25 burden.

1 How far away was the shotgun from so-called tactical
2 position, office chair and dresser with a mirror attached to
3 the top of it? How was it positioned behind the bathroom
4 door? Was there a bunch of crap between it and the office
5 chair that Alan would've had to step over? We don't know.
6 What's the range of that shotgun? How accurate is a
7 45-caliber at long range? How accurate is birdshot when
8 passing through plate glass? Where are the bullets to that
9 45-caliber handgun?

10 And do magazines -- Alan's bedroom actually fit a
11 45-caliber? I am going to show you all the guns because you
12 may not be able to take this back to the jury room. And I
13 want you all to take a look at the label of it. But it's not
14 up close, but you'll see on the slide it says,
15 "Para-Ordinance 45-caliber, 40-caliber Smith and Wesson."
16 Not sure what that is, but it says, "Walter TPS 40-caliber
17 Smith and Wesson." And no name. And no name. What else?
18 Did the guns have Alan's fingerprints on them?

19 Did the guns fire properly? Did the guns cycle around
20 from the magazine to the chamber properly after being fired?
21 Did either of the guns have a round in the chamber? Why
22 would somebody hand over two guns to their kids or safety
23 then leave one stashed in a bathroom under a kitchen sink?
24 Is it possible that Alan is a hoarder in a manic state for
25 fear losing his family home and simply forgot where those

1 guns were located?

2 Now, for the hammer. 12-gauge steel shot. 12-gauge
3 steel shot. 12-gauge Turkey load. And then some 12-gauge
4 bucks -- buck slugs. You heard Master Deputy McElroy's
5 testimony, "Steel shot rarely used or anything other than
6 bird hunting because it is so (inaudible). Bullets cannot be
7 fired without prior -- it doesn't matter. State is trying to
8 scare you with ammo. Why? Because it's all they've got.
9 That, and a couple pieces of paper.

10 Where is the tactical vest? Where is the high-power
11 sniper rifle, the AR-15, and the live bombs? All stuck
12 because Alan could have picked up at the Sportsman Warehouse
13 when he bought two cases of steel shots and 45-caliber
14 bullets that are not going be in the jury room with you.
15 8:11 a.m., steel shot -- steel shot, 45. As a final request,
16 I want you to ask bird hunters on the jury how many boxes of
17 shotgun shells they can go through on a decent day of
18 duck-hunting in South Carolina. Especially, if they're a
19 horrible shot by them.

20 Finally, that Lieutenant Chris Craven's testimony said
21 that something would've happened, said he was afraid for
22 officer safety and safety of Alan Nix. Didn't elaborate on
23 how he planned to facilitate the meeting between Alan and the
24 sheriff, and wasn't afraid enough to arrest Alan for
25 threatening a public official himself upon receipt of those

1 so-called threatening emails.

2 Didn't arrest Alan for threatening a public official
3 until after October 12, 2021, nine months after his eviction
4 date. Craven knew Alan's writing style even though he
5 doesn't normally get involved with litigants. Alan's case is
6 the obsession with the pro se appeal on file with the clerk
7 of court related not just to Alan's personal property rights,
8 but to that of the State. Norma Jean -- Norma J Nix.

9 Alan's case was the exception with a long line of
10 communication over the course 30 days with meetings between
11 Alan and Sheriff Graziano being discussed. I have a lot of
12 respect to Lieutenant Craven, he is a very patient man and he
13 handled cross-examination very well, but he should have sent
14 that email. This could have been more effectively
15 negotiated.

16 I suspect Lieutenant Craven wanted to send that email,
17 but larger political forces were in play. Especially,
18 Sheriff Graziano was new on the job for only a couple weeks.
19 With this incident happening four years from this coming
20 January, a new sheriff was supposed to take off. Especially,
21 when a warrant or intimidating judge was drafted against Alan
22 resulting in his arrest that was dismissed. Only to have a
23 warrant for threatening a public official drafted nine months
24 later naming Craven as the victim instead of the judge.
25 Eight days passed between Chris Craven's last email and

1 Alan's arrest. 28 hours passed from the lockout date to time
2 to Alan's arrest absolute crickets from Craven. For these
3 reasons you cannot convict Alan for resisting service of
4 process and threatening public official. Because execution
5 of an eviction order requires action, and threats required
6 fear upon.

7 THE COURT: Madam Forelady and ladies and gentlemen of
8 the jury, you've heard all the evidence and the arguments of
9 counsel, I'm now going to explain to you what the law is in
10 the case. And if at times it feels like I'm reading to you,
11 it's because I am. It's kind of complicated and this doesn't
12 get to go back to you. So I'm going to have to -- a lot of
13 it will be reading to -- to you verbatim because I can't have
14 all this stored in my head.

15 First, you and I, as we discussed earlier, have
16 specific duties to perform. As the trial judge, it is my
17 responsibility to preside over the trial. It's your
18 responsibility to consider testimony which has been presented
19 from this witness stand and the exhibits introduced. I have
20 the duty to charge the law on the case. As the presiding
21 judge, I'm the sole judge of the law. It is your duty as
22 jurors to accept and apply the law as I now state it to you.
23 If you already have any idea as to what the law is or what
24 the law ought to be, and if it does not agree with what I now
25 tell you the law is, you must abandon your idea because

1 you're sworn to accept the law and apply the law exactly as I
2 state it to you. Your duty is to determine the facts.

3 In every case, the jury is the sole and exclusive judge
4 of the facts. A trial judge cannot suggest, state, comment
5 on or make any statement to a trial jury about the facts in a
6 case. Since you, the jury, are the sole judges of the facts,
7 you are not to infer from what I have said during the
8 progress of this trial and ruling upon the admissibility of
9 evidence or otherwise, or anything that I say now during the
10 course of this instruction that I have any opinion about the
11 facts in the case.

12 The law does not allow me to have an opinion about the
13 facts. This is a matter solely for you to determine. As
14 jurors, it is your duty to determine the effect, value, and
15 weight of the evidence presented during the trial. The
16 indictments charged the Defendant with one count of resisting
17 service of process and one count of threatening the life of a
18 public official.

19 The fact that the Defendant was arrested, charged, and
20 indicted is not evidence and cannot be considered by you as
21 evidence of guilt, nor does it create any presumption, or
22 inference of guilt. The indictments are simply the formal
23 written instruments which contain the charge made against the
24 Defendant. It is -- they're the formal documents by which
25 the case or the case is rather are brought into this court.

1 The Defendant has pled not guilty to the indictments
2 and that plea puts the burden on the State to prove the
3 Defendant guilty beyond a reasonable doubt. A person charged
4 with committing a criminal offense in South Carolina is never
5 required to prove himself or herself innocent. I charge you
6 that it is a guiding rule of law that the Defendant in a
7 criminal trial, no matter how serious the charge, is always
8 presumed innocent of the crime for which the indictment was
9 issued unless guilt was proven by evidence satisfying you of
10 that guilt beyond a reasonable doubt.

11 This presumption of innocence does not end when you
12 begin your deliberations, but it accompanies the Defendant
13 throughout the trial until you reach a verdict of guilt based
14 on evidence satisfying you with that guilt beyond a
15 reasonable doubt. The presumption of innocence is like a
16 robe of righteousness placed about the shoulders of the
17 Defendant, which remains with the Defendant until it has been
18 stripped from him by evidence satisfying you of the
19 Defendant's guilt beyond a reasonable doubt.

20 The presumption of innocence is not mere legal theory.
21 It's not just a legal phrase. It is a real and substantial
22 right to which every defendant is entitled unless you, the
23 jury, are satisfied from the evidence of the defendant's
24 guilt beyond a reasonable doubt. What is reasonable doubt?
25 A reasonable doubt is the kind of doubt that would cause a

1 reasonable person to hesitate to act.

2 The State has the burden of establishing every fact
3 necessary to prove the Defendant's guilt beyond a reasonable
4 doubt. The law presumes every person charged with a crime to
5 be innocent, and the burden of establishing guilt is placed
6 solely on the State. Some of you may have served as juror
7 was in civil cases where you were told is only necessary to
8 prove that a fact is more likely true than not true, such as
9 by the greater weight or preponderance of the evidence.

10 Other civil cases use the clear and convincing
11 standard. In those cases, it's necessary to prove that a
12 fact is highly probable. But this is a criminal trial and
13 the State's proof must be more powerful than both of those
14 burdens of proof. In criminal cases, the State's proof must
15 be beyond a reasonable doubt. Proof beyond a reasonable
16 doubt is proof that leaves you firmly convinced of the
17 Defendant is guilt.

18 There are very few things in this world that we know
19 with absolute certainty and in -- and in criminal cases, the
20 law does not require proof that overcomes every possible
21 doubt. If based on your consideration of the evidence you
22 are firmly convinced the Defendant is guilty of the crimes
23 charge, you must find the Defendant guilty. The Defendant is
24 not required to prove his innocence.

25 If on the other hand you think there is a real

1 possibility the Defendant is not guilty, you must give the
2 Defendant the benefit of every reasonable doubt and find him
3 not guilty. Necessarily, you must determine the credibility
4 of the witnesses who have testified. Credibility simply
5 means believability. It is your duty as jurors to analyze
6 and evaluate the evidence, and determine which evidence
7 convinces you of its truth.

8 In determining the believability of witnesses who have
9 testified in the case, you may believe one witness over
10 several witnesses, several witnesses over one witness. You
11 may believe a part of the testimony of a witness and reject
12 the remaining part of the testimony of that same witness.
13 You may believe the testimony of a witness in its entirety or
14 reject the testimony of a witness in its entirety.

15 You may consider whether any witness has exhibited to
16 you any interest, bias, prejudice, or other motive in the
17 case. You may also consider the appearance and manner of a
18 witness while on the witness stand. In order to establish
19 criminal liability, criminal intent is required. For
20 example, the mental state required to be proven by the State
21 for a particular crime might be purpose, intent, knowledge,
22 recklessness, or criminal negligence. Criminal intent must
23 be proven by the State beyond a reasonable doubt.

24 Criminal intent is always a matter that must be
25 determined by the jury from the circumstances existing at

1 that time. There is no way to prove intent to a mathematical
2 certainty. There is no way medical science can dissect a
3 person's brain and determine what the person had in mind. So
4 the law says that criminal intent may be inferred from the
5 circumstances shown you have existed.

6 This is how you make a determination of whether or not
7 the element requiring intent was present. It's not necessary
8 to establish intent by direct and positive evidence, but
9 intent may be established by inference in the same way as any
10 other fact. By taking into consideration the acts of the
11 parties and all the facts and circumstances in the case.
12 Criminal intent is a mental state of conscious, wrong duty.

13 You must determine what the Defendant intended to do
14 based on the circumstances existing at that time. Criminal
15 intent can arise from action or failure to act. It may rise
16 from negligence, recklessness, or an indifference to duty or
17 to consequences that are considered by the law to be the
18 equivalent of criminal intent.

19 There are two types of evidence which are generally
20 presented during a trial: Direct evidence and circumstantial
21 evidence. Direct evidence directly proves the existence of a
22 fact and does not require deduction. Circumstantial evidence
23 is proof of a chain of facts and circumstances indicating the
24 existence of a fact. Crimes may be proven by circumstantial
25 evidence. The law makes no distinct -- distinction rather

1 between the weight or value to be given to either direct or
2 circumstantial evidence.

3 However, to the extent the State relies on
4 circumstantial evidence, the circumstances must be consistent
5 with each other, and when taken together, point inclusively
6 to the guilt of the accused beyond a reasonable doubt. If
7 the circumstances merely portray the Defendant's behavior as
8 suspicious, the proof has failed. The State has the burden
9 of proving the Defendant guilty beyond a reasonable doubt.

10 This burden rests with the State regardless of whether
11 the State relies on direct evidence, circumstantial evidence,
12 or some combination of the two. I instruct and emphasize to
13 you that the fact the Defendant did not testify in this case
14 is not a factor to be considered by you in any way in your
15 deliberation and in your consideration of the question of the
16 guilt or innocence of the Defendant. It must not be
17 considered by you in any manner whatsoever.

18 The Defendant has the constitutional right to remain
19 silent, and the assertion of this right must not be
20 considered by you in your deliberations. I repeat under your
21 oath, you are to draw no conclusion whatsoever from the fact
22 that the Defendant did not testify. The fact that the
23 Defendant did not testify should not even be discussed in the
24 jury room. The burden of proof, as I have stated to you, is
25 on the State.

1 A defendant is not required to prove his innocence.
2 The burden of proof remains on the State to prove guilt
3 beyond a reasonable doubt as to the charges against the
4 Defendant. The Defendant is charged with resisting service
5 of process. The State must prove beyond a reasonable doubt
6 that the Defendant knowingly and willfully opposed or
7 resisted a law enforcement officer in serving, executing, or
8 attempting to serve or execute a legal writ or process and
9 knew or reasonably should have known that the individual was
10 a law enforcement officer.

11 Knowingly means with knowledge, consciously done.
12 Willfully means done intentionally and not done by accident.
13 Law enforcement officer means a duly or any duly appointed or
14 commissioned law enforcement officer of the state, a county
15 or municipality. Resist means to oppose, strive against or
16 obstruct. Obstruct means to impede, hinder, or interfere
17 with.

18 Even peaceful nonviolent, indirect obstruction of the
19 service or execution of process, it is considered resisting
20 service of process. If the means used are sufficient to
21 prevent the officer from inducting service, the Defendant is
22 guilty of resisting service of process. The Defendant is
23 also charged with threatening the life of a public official.
24 It is unlawful for a person to knowingly and willfully -- oh,
25 is unlawful for a person knowingly and willfully to deliver

1 or convey to a public official in a letter or paper writing,
2 print, missive, document, or electronic communication, or
3 verbal, or electronic communication, which contain a threat
4 to take the life of, or to inflict bodily harm upon the
5 public official or members of the immediate family. If the
6 threat is directly related to the public official's
7 professional responsibilities. Public official means an
8 elected or appointed official of the United States, or the
9 state, or the county municipality, or other political
10 subdivision of the State.

11 Immediate family means the spouse, child, grandchild,
12 mother, father, sister, or brother of the public official,
13 teacher, principal, or public employee. Again, knowingly
14 means with knowledge, consciously done. Willfully means done
15 intentionally and not done by accident.

16 Ladies and gentlemen, I have declared to you through
17 these instructions the law which is -- should help guide you
18 to a verdict. Whether some of the instructions apply depends
19 on what you find to be the facts. The fact that I have
20 instructed you on various subjects in the case should not be
21 taken as indicating an opinion of this court as to what you
22 should find to be the facts or what your verdict should be.

23 Your verdict must represent the considered judgment of
24 each juror. In order to -- to return a verdict, it's
25 necessary that each juror agree. Your verdict must be

1 unanimous. All 12 of you must agree on the verdict. Your
2 verdict cannot be based on sympathy, passion, prejudice,
3 emotion, or any other consideration not in evidence in the
4 case.

5 Remember, at all times you are not partisans favoring
6 one party over another. You are the judges of the facts.
7 Your sole interest is to determine whether the State has
8 proven the Defendant's guilt to the charges beyond a
9 reasonable doubt from the evidence presented to you in the
10 case. As I told you just a minute ago, your verdict must be
11 unanimous.

12 Madam Forelady, when the jury agrees on the verdict, we
13 are going to circle on the verdict, on the verdict form and
14 sign your name and date it. You'll knock -- knock on the
15 jury room door and one of the bailiffs will bring you all
16 back into the courtroom and at which time we will see the
17 verdict. I'm going to ask that you return to the jury room
18 right now, but do not begin the deliberations until you are
19 told by the clerk or the bailiff to do so. There are some
20 matters I need to take up with the lawyers on.

21 And we'll bring you what evidence we can and we will
22 bring you the verdict forms. I'm not sending the firearms to
23 the jury room, so if there is anyone that would like to see
24 them up close for any reason, just send a note and I'll have
25 you all back in here and you can see them in here. But I --

1 I'm not going to send the firearms back with you. So you all
2 return to your jury room, hang tight for just a minute, and
3 then we'll tell you when you can begin deliberations. Thank
4 you.

5 (Jury Exits at 3:16 p.m.)

6 THE COURT: Any exception to the charge from the State?

7 MR. MCALLISTER: No, Judge.

8 THE COURT: Anything from the Defense?

9 MR. MACK: None from the Defense, Judge.

10 THE COURT: Very good. Let's get the evidence together
11 and we get the verdict forms here. Have you all seen the
12 verdict forms? Go get those two?

13 MR. MACK: Yes, Judge.

14 MR. MCALLISTER: Yes, Judge. No objection from the
15 State.

16 MR. MACK: No objection from the Defense.

17 THE COURT: Okay. All right. You two are excused. We
18 don't need you anymore. You get ready.

19 JUROR NUMBER 184: Oh, God. That sounds like trash.

20 THE COURT: Yeah, that's right -- that's right. But we
21 do appreciate your service. As I -- I've said already, we
22 can't do our jobs without folks like you being willing to
23 show up. All these cases are important, and we need the help
24 from folks like you to get them done.

25 So you are welcome to hang around if you'd like. Free

1 to go, you're free to talk with anybody about the case.
2 Sometimes the lawyers like to talk to you and you don't have
3 to talk to them. But you -- you can do whatever you'd like.
4 Some folks hang around, some folks hit road. So what did you
5 want do?

6 JUROR NUMBER 184: I'd like to stay.

7 THE COURT: Yes, sir. All right. Thanks, all.

8 JUROR NUMBER 184: Thank you, Judge.

9 THE COURT: All right. Okay. We're at ease.

10 (Off the record.)

11 THE COURT: All right. Well, we already have a
12 question, which as -- what would have it? They would like to
13 see the guns and ammo. So what I'm contemplating doing, and
14 I will certainly take any input from you all because I've
15 never had this issue come up before. I'm considering sending
16 just the guns back and then once they're -- they knock and
17 tell us they're done with those, then send the ammo back. I
18 don't want to send them back together. I -- I don't have any
19 reason to believe anybody in there hates each other, but I'm
20 just not going to take a chance.

21 MR. MCALLISTER: The State has no objection to that
22 method of -- of satisfying the jury's request. I -- I --

23 THE COURT: My other -- well, let me confer. My -- my
24 other thought, initially, was to clear the courtroom, let
25 them all come back in. Now, obviously deputies would be in

1 here. Technically someone would be observing their potential
2 deliberation. So that was the heartburn I had with that.

3 MR. MACK: I -- I agree with the first option, Judge.

4 THE COURT: Okay.

5 MR. MACK: Sending them back separately.

6 THE COURT: Let's -- let's try that and if that doesn't
7 work, we'll go from there. All right. Bring them in so I
8 can explain to them what we're going to do.

9 THE BAILIFF: Yes, your honor.

10 THE COURT: I am always good for a note. Were you with
11 me when I had like 17?

12 COURT CLERK: 17.

13 THE COURT: My record is 17 notes.

14 MR. MACK: That's -- that's amazing.

15 THE COURT: What -- that juror started sending notes
16 before the case was over. She's an active forelady.

17 COURT CLERK: Forgot they started --

18 THE COURT: Yeah.

19 COURT CLERK: -- during the trial.

20 THE COURT: Yeah. About halfway through.

21 (Jury Enters at 3:43 p.m.)

22 THE BAILIFF: All jurors are present and seated, your
23 Honor.

24 THE COURT: Thank you, sir. Madam Forelady, I received
25 your note that you all would like to see the firearms as well

1 as the ammunition. What I'm going to do -- and I -- I've
2 talked to lawyers about it. Obviously, just their security
3 concerns with all that. Not that I think any of you have
4 grown to dislike each other this much in two days and you do
5 something wrong.

6 But what I'm going to do is send you the firearms
7 initially by themselves, and then you'll knock and let the
8 bailiff know, and then we will swap out the firearms for the
9 ammunition. You think that will be sufficient? Okay.

10 JUROR NUMBER 43: Are those magazines the empty ones,
11 or?

12 THE COURT: I'm going to check that. I don't know if
13 -- though the clerk told me they were not.

14 JUROR NUMBER 43: Okay.

15 THE COURT: Okay. All right. If you all go back,
16 we'll send you the -- the firearms.

17 JUROR NUMBER 246: Thank you.

18 (Jury Exits at 3:44 p.m.)

19 THE COURT: All right. So Madam Clerk, do you want to
20 do it? Okay. Just send -- I'll send the guns and the
21 magazine. Are the magazines in the bag?

22 MR. MCALLISTER: They are.

23 THE COURT: And I don't think they had bullets in it,
24 did they?

25 MR. MCALLISTER: I don't believe they did.

1 THE COURT: Why don't you check them for me then?

2 (Off the record.)

3 MR. MACK: Judge, before we bring up the jury. I've
4 got a matter of law I need to discuss with --

5 THE COURT: Okay.

6 MR. MACK: -- the Court. Mr. Nix brought to my
7 attention that we overlooked issue with the jury charge. And
8 that is that you stated to the jury that he pled guilty --
9 oh, sorry. Pled not guilty to the charges. And he in fact
10 actually did not do that. There was never an opportunity
11 given to him to do that.

12 THE COURT: I don't think we ever did. I -- I never
13 have him, like, plead not guilty in front of the jury or
14 anything like that.

15 MR. MACK: Understood, Judge.

16 THE COURT: Okay.

17 MR. MACK: Just making the record.

18 MR. NIX: Excuse me. I'm not -- may I -- may I speak?

19 THE COURT: Sure.

20 MR. NIX: I'm -- I'm not following what -- what just
21 happened.

22 THE COURT: I -- I have never, and it's nowhere in our
23 procedure where we have a defendant plead not guilty in front
24 of the jury. It's assumed if you ask for a trial that you
25 have pled not guilty.

1 MR. NIX: So to clarify, I've never asked for a trial,
2 and I've never pled guilty nor not guilty prior --
3 previously.

4 THE COURT: Okay.

5 MR. NIX: So I assume there's some procedure that would
6 make that more systematic or formal. What -- what I'm
7 explaining to you is I've never been in this court before,
8 and I haven't been in this courthouse since late 2020.

9 THE COURT: Okay.

10 MR. NIX: I've never pled guilty to anything. Never
11 pled not guilty to anything. I've never had any pretrial
12 hearings. And so, I didn't request a jury trial. I haven't
13 requested anything. So I'm -- I -- I've kind of been -- if
14 you'll remember, we got a conversation about counsel a couple
15 days ago. And all this has happened without my input or in
16 -- in many cases, knowledge.

17 So I -- I guess my question is, when we told the jury
18 that I pled not guilty, I never pled guilty nor not guilty
19 either way. And more specifically, given some of the
20 information that was presented that I haven't seen before, I
21 probably wouldn't have asked for a jury trial. So before we
22 go any further with this, I would kind of like to make sure
23 we're -- we're taking that into account.

24 THE COURT: I will take it into account.

25 MR. NIX: And so, is -- are we saying that's not an

1 issue?

2 THE COURT: No. I mean -- you were placed on the trial
3 docket by the solicitor's office, and the case was called for
4 trial.

5 MR. NIX: Okay.

6 THE COURT: Okay. So that's where we are. All right.
7 Bring in the jurors, please.

8 MR. MACK: Thank you, Judge.

9 THE COURT: Thank, you all.

10 COURT CLERK: Publish this?

11 THE COURT: Yes, ma'am.

12 (Jury enters at 4:29 p.m.)

13 THE BAILIFF: All jurors are present, your Honor.

14 THE COURT: Very good, sir. Madam Forelady, have you
15 reached a verdict?

16 JUROR NUMBER 246: Yes, your Honor.

17 THE COURT: Will you please hand it to the bailiff?
18 Madam Clerk, please publish the verdicts.

19 COURT CLERK: State of South Carolina versus Alan
20 Gregory Nix. Indictment Number 2023-GS-10-05002. "We, the
21 jury, unanimously find the Defendant, Alan Gregory Nix, as to
22 the charge of resisting service of process, guilty." Signed
23 by Madam Foreperson. Dated November 7, 2024.

24 The State of South Carolina versus Alan Gregory Nix.
25 Indictment number 2023-GS-10-05003. "We, the jury,

1 unanimously find the Defendant, Alan Gregory Nix, as to the
2 charge of threatening the life of the public official,
3 guilty." Signed by Madam Foreperson. Dated November 7,
4 2024.

5 THE COURT: Defense --

6 COURT CLERK: Ladies and gentlemen of the jury, if this
7 is your verdict, can you please raise your right hand? Let
8 the record reflect all hands are raised.

9 THE COURT: Anything from the Defense?

10 MR. MACK: Yes, Judge. Please, poll the jury.

11 THE COURT: Madam Clerk, please poll.

12 COURT CLERK: Ladies and gentlemen of the jury, I'll
13 call out your number and when I do, please raise your right
14 hand. I'll then ask you each two questions. Please answer
15 "Yes" or "No." Juror Number 100, is this your verdict?

16 JUROR NUMBER 100: Yes.

17 COURT CLERK: Is it still your verdict?

18 JUROR NUMBER 100: Yes.

19 COURT CLERK: Juror Number 95, is this your verdict?

20 JUROR NUMBER 95: Yes.

21 COURT CLERK: Is it still your verdict?

22 JUROR NUMBER 95: Yes.

23 COURT CLERK: Juror Number 268, is this your verdict?

24 JUROR NUMBER 268: Yes.

25 COURT CLERK: Is it still your verdict?

1 JUROR NUMBER 268: Yes.

2 COURT CLERK: Juror Number 279, is this your verdict?

3 JUROR NUMBER 279: Yes.

4 COURT CLERK: Is it still your verdict?

5 JUROR NUMBER 279: Yes.

6 COURT CLERK: Juror Number 274, is this your verdict?

7 JUROR NUMBER 274: Yes.

8 COURT CLERK: Is it still your verdict?

9 JUROR NUMBER 274: Yes.

10 COURT CLERK: Juror Number 41, is this your verdict?

11 JUROR NUMBER 41: Yes.

12 COURT CLERK: Is it still your verdict?

13 JUROR NUMBER 41: Yes.

14 COURT CLERK: Juror Number 227, is this your verdict?

15 JUROR NUMBER 227: Yes.

16 COURT CLERK: Is it still your verdict?

17 JUROR NUMBER 227: Yes.

18 COURT CLERK: Juror Number 53, is this your verdict?

19 JUROR NUMBER 53: Yes.

20 COURT CLERK: Is it still your verdict?

21 JUROR NUMBER 53: Yes.

22 COURT CLERK: Juror Number 43, is this your verdict?

23 JUROR NUMBER 43: Yes.

24 COURT CLERK: Is it still your verdict?

25 JUROR NUMBER 43: Yes.

1 COURT CLERK: Juror Number 246, is this your verdict?

2 JUROR NUMBER 246: Yes.

3 COURT CLERK: Is it still your verdict?

4 JUROR NUMBER 246: Yes.

5 COURT CLERK: Juror Number 84, is this your verdict?

6 JUROR NUMBER 84: Yes.

7 COURT CLERK: Is it still your verdict?

8 JUROR NUMBER 84: Yes.

9 COURT CLERK: Juror Number 26, is this your verdict?

10 JUROR NUMBER 26: Yes.

11 COURT CLERK: Is it still your verdict?

12 JUROR NUMBER 26: Yes.

13 COURT CLERK: Your Honor, the jury has been polled and
14 the verdict stands.

15 THE COURT: Very good. Anything else from Defense?

16 MR. MACK: No, Judge.

17 THE COURT: Anything from the State?

18 MR. MCALLISTER: No, Judge.

19 THE COURT: All right. Ladies and gentlemen, you can
20 retire to your jury room, and I'll be back there shortly to
21 cut you loose. Counsel, you have any post-trial motions?

22 MR. MACK: I'll just renew all previous motions.

23 THE COURT: Okay. All right. I'll note that they will
24 remain denied as before. All right.

25 MR. MCALLISTER: We will just be here momentarily, your

1 Honor.

2 THE COURT: Okay. All right. I'm going to go release
3 the jury and we'll be back out to take care of that.

4 (Off the record.)

5 THE COURT: All right. Anything from the State?

6 MR. MCALLISTER: Your Honor, with regard to sentencing?

7 THE COURT: Yes, sir.

8 MR. MCALLISTER: It's got a tough case. I've been
9 living with it. I started working in Charleston County about
10 2023. I started getting letters from the Defendant. I got
11 about two boxes of them. I get them every day. I -- I know
12 how frustrated he is to lose his house. He -- he brought
13 this all on himself. This was all over a small HOA bill.
14 I've been sued in several different counties throughout this
15 state, so have so many other attorneys in this county.

16 It's been going on forever. And -- but I have sympathy
17 for him. I -- I -- I know he brought this on himself. I
18 know he's frustrated. He's got no record. The neighbors
19 called me, the neighbors are frustrated, they're scared of
20 him. They don't know what to do. You heard the facts. He's
21 going to get out. This isn't about -- this -- he's not
22 facing a long time. He -- he needs some sort of mental
23 health counseling, but -- but the facts are serious. You
24 heard him.

25 People could have died, people could have been

1 seriously hurt. So -- so I do think he needs some sort of
2 active sentence and I think he needs some sort of supervision
3 to follow. So -- so what I think is appropriate is some kind
4 of split sentence somewhere in the two-year range, two --
5 two-year range. Maybe some change, maybe a little more. And
6 he comes out, and he's got to do a full five years of
7 supervision with the rest of the time hanging over his head.

8 Maybe even more time than that. Because what he did
9 was serious. You know, his behavior today in court and his
10 behavior yesterday in court was a lot more subdued than I was
11 anticipating. Based on what's been going on over the last
12 couple years, it's been going on this whole time. And so,
13 you know, at the same time, what he did was serious. The
14 neighbors are -- the neighbors are concerned.

15 The folks who bought the house still receive letters
16 from this defendant where he's demanding they leave. This
17 isn't over, it's got to be over, and I don't know what it's
18 going to take. And so, I'm hoping a little bit of active
19 time, some supervision that requires some kind of mental
20 health counseling. He has shown no willingness to comply
21 with any court order. He's shown no willingness to
22 participate in this process. He's shown no willingness to be
23 involved.

24 And so, I'm hoping that some sort of active sentence
25 will show what happens if he doesn't. And the supervision

1 will at least ensure that he complies and he knows what
2 happens if he doesn't do it. So -- so as far as that's
3 concerned, the fact that he is going to get out, that's the
4 State's position. Victim is here, is in agreement with me.
5 You heard him testify, doesn't have anything to say that he's
6 in agreement. But other than that, Judge, I will leave it in
7 your discretion.

8 THE COURT: Okay. Mr. Mack?

9 MR. MACK: Thank you, Judge. We're agreeable to the
10 split sentence. Asking for the five years to be suspended to
11 one year. By my calculations, with the 159 days he's done in
12 jail, he'd probably go up the road for, I believe another 90
13 days. He may stay in county for another 90 days. Despite
14 the tenuous relationship that you've probably gleaned from
15 the filings leading up to this trial is actually a light to
16 represent him at trial. I -- if you noticed.

17 Or going back and forth and he was actually extremely
18 helpful in creating the defense. Judge, my heart goes out to
19 him as well. I don't know what's going on in his head, but
20 it's something. Despite what the medical professional said
21 in pretrial, I have never seen anything like this.

22 But I have strong feeling of a bunch of confidence that
23 he will garner some respect for the system, having now seen
24 it in operation, having now had his day in court, having now
25 seen me represent him to the best of my ability, and I think

1 put up a pretty decent fight. And with that said, I'll turn
2 the rest over to my co-Counsel.

3 THE COURT: Yes, ma'am?

4 MS. MANGAN: Thank you, Judge. First, I just want to
5 say that I -- I really love being brought on board to cases
6 where the clients do their own research and -- and they ask
7 questions and they want to talk with you so much because I
8 know that would be me. I would do that. And it has been an
9 absolute privilege and a pleasure to be brought on board and
10 represent Mr. Nix.

11 He's 57. He graduated from Clemson University in '90
12 where he studied business management. He had a very, very
13 successful career as a SAP program manager, which he tells me
14 his role was -- was to travel and to kind of oversee the
15 implementation of software that is used by Fortune 500
16 companies. It's used by our United States government, which
17 is why Mr. Nix has to have a security clearance to have that
18 job.

19 He's been in Charleston for 31 years. He and his wife
20 started out in West Ashley where they welcomed his son and
21 that little boy was five. They bought the Densmore Circle
22 home new from the builder. Moved over to Mount Pleasant,
23 welcomed a baby daughter in that home, celebrated
24 Christmases, birthdays, first steps, first words. It's also
25 where he, unfortunately, lost his wife Norma Jean, she passed

1 away in 2016.

2 His son grew up, moved out. His daughter graduated
3 high school, grew up, moved out and Mr. Nix, who gave me the
4 permission to share, already suffered from seasonal
5 depression. He came to January this time of year, they were
6 trying to foreclose on his family home and his family judge.
7 I think that is crystal clear. Mr. Mack in his closing
8 argument called Mr. Nix a ghost of man. And I can't think of
9 a -- a more accurate way to portray him.

10 We have discussed the fact that the State is going to
11 be asking for probation and no health treatment. Mr. Nix
12 acknowledges that he could have and still could benefit from
13 group counseling. I think that would be incredibly
14 appropriate for him. I cannot tell you how many times in the
15 limited conversations I've had with him. He, at once, teared
16 up talking about his family while also having wide -- eyes
17 wide out talking about that.

18 He may notice they are not here. That is not of their
19 own choosing. He shared with me, he did not tell his
20 children that this was happening this week. He has done his
21 best to insulate them from this. I think that speaks to the
22 sort of man that -- that he is, Judge. This was more than a
23 -- a home to him. This was his life's treasure. All of best
24 memories.

25 He's incredibly smart and successful. I think he's

1 also broken, Judge. And in closing, for what it's worth, I
2 would offer to the Court that there is a bill before the
3 Senate that would make it so that people's homes can be
4 enclosed upon just for unknown nature fees. So I would ask
5 the Court that Mr. Mack requested one year all operation.

6 THE COURT: Anything else?

7 MR. MACK: No, Judge. Thank you.

8 THE COURT: Okay. You said 159 days' time served?

9 MR. MACK: That's correct, Judge.

10 THE COURT: Well, as you all -- or at least the lawyers
11 know, there are several aspects to sentencing. There's a
12 punitive aspect, and there is the rehabilitative aspect, the
13 deterrent aspect. Mr. Nix, I don't -- I don't know what
14 happened. And it sounds like you -- you -- you had
15 everything and then everything got jerked away from you and
16 maybe things just got off the rail.

17 And I know the State is asking for probably a
18 significant, but I -- it's not my sentencing philosophy just
19 to lock somebody up and throw away the key because they had
20 some mental health issues going on. Yeah, this was bad. I
21 mean, it -- it -- it's been bad and, you know, you've been
22 sending emails and suing people and all that stuff, and I get
23 it, you lost your house.

24 And, you know, probably 90 percent of the people in
25 this room would have some sort of issue were they to find

1 themselves in the situation you did with your home and your
2 wife and all that at the same time. I can't imagine having
3 to have lived through that. But I want you to get some help,
4 is the main thing. Is just the way, you know, I -- I heard
5 you Monday and some today, and the way you're living right
6 now is -- I mean, you're -- you're -- you're living in a hell
7 inside your head, and I -- that's just no way to live. And I
8 want -- I want to do what I can to see if we can get you some
9 help and -- and you can get out of them. You got a -- a
10 degree from Clemson. Sounds like you had a very successful
11 career and somehow it all got away from you. So I am -- I'm
12 going to go along with the Defense's recommendation. So --
13 but in addition to that, while you're on probation, I'm going
14 to require that you get mental health counseling.

15 Probation. Is anybody from probation here? They --
16 they have some assets and they can assist you and -- and give
17 you some help if you'll take it. Or you can also seek it on
18 your own. But, again, I just -- I -- I hate seeing where you
19 are here because it sounded like you were on top of the world
20 at one point, and now it's just -- it's not good. But I want
21 -- I want to do what I can to help you get better. All
22 right.

23 All right. On the resisting crime, to be committed to
24 Department of Corrections for a term of one year. Provided
25 upon the service of -- well, that doesn't make sense, but it

1 -- it -- it has to be written that way. One year. The
2 balance would be suspended with probation for three years.

3 It'd be concurrent to the other sentence. Be given 159
4 days' time served. He's going to need to complete mental
5 health counseling while on probation. And I have ordered
6 mental health counseling while he's at the Department of
7 Corrections. I don't know if he'll be there long enough for
8 it to be of any benefit, but I -- I've ordered that as well
9 in hopes that he can get started.

10 On the threatening life, he's going to be committed on
11 a (inaudible) for a term of five years, provided upon service
12 of one year, about to be suspended with probation for three
13 years. That will also be concurrent. They'll be given
14 credit for 159 days' time served, mental health counseling
15 while on probation and mental health counseling while on
16 SCDC. And I -- I think what I'm going to do on the -- on the
17 initial one, on -- on the one year one, I'm just going to
18 make it one year because that way it'll be cleaner and there
19 won't be two probation cases. Good luck to you, Mr. Nix.

20 MR. MCALLISTER: Thank you, Judge.

21 MR. MACK: Thank you, Judge.

22 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT

23 5:04 P.M.)

24

25

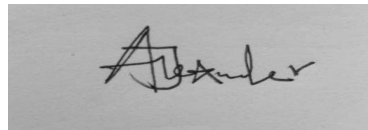
CERTIFICATE OF TRANSCRIBER

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I, JACKSON ALEXANDER, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on November 7, 2024.

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

December 29, 2024

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'Alexander' with a stylized initial 'A'.

JACKSON ALEXANDER
Transcriber

ALM/0375750
WITNESSES

DOCKET NO. 2023-GS-10-05003

Charleston County Sheriff Office

The State of South Carolina

County of Charleston

239

A. Albright / A.A. [Signature]

AGENCY CASE NUMBER

2021-000600

FILED

COURT OF GENERAL SESSIONS

10/20/2023 2:27:55 PM

ARREST WARRANT NUMBER

OCTOBER TERM 2023

2023-GS-10-05003

JULIE J. ARMSTRONG
CLERK OF COURT

DATE OF ARREST

THE STATE

VS.

ACTION OF GRAND JURY
TRUE BILL

ALAN GREGORY NIX

W/M DOB: [REDACTED]-1967

CGT CG 2023

Mallie Woodward
Foreperson of Grand Jury Date:

VERDICT

Indictment for

THREATENING A PUBLIC OFFICIAL

SC Code: § 16-03-1040(A)

CDR Code: 0541

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

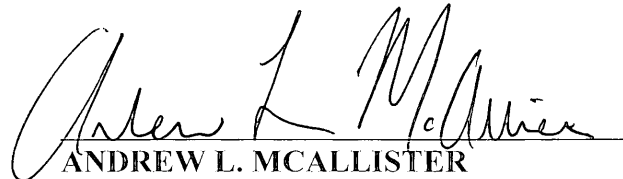
INDICTMENT

At a Court of General Sessions, convened October 2023, the Grand Jurors of Charleston County present upon their oath:

Threatening Life, Person Or Family Of A Public Official

That in Charleston County, South Carolina, on or about January 21, 2021, the Defendant, Alan Gregory Nix, knowingly and willfully did deliver or convey to a public official, by way of letter, writing, print, missive, document, or electronic or verbal communication, a threat to take the life of or to inflict bodily harm upon such public official, teacher or principal or his immediate family and such threat was directly related to his professional responsibilities, in violation of Section 16-3-1040 of the South Carolina Code of Laws (1976) as amended.

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


ANDREW L. MCALLISTER
ASSISTANT SOLICITOR

ALM/0375750
WITNESSES

1 Charleston County Sheriff Office

21
21 *Agge / A. Albright*

AGENCY CASE NUMBER
2021-000600

ARREST WARRANT NUMBER

2021A1010200475

DATE OF ARREST

01/26/2021

DOCKET NO. 2023-GS-10-05002

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

OCTOBER TERM 2023

FILED

10/12/2023 2:18:54 PM
JULIE J. ARMSTRONG
CLERK OF COURT

THE STATE

VS.

ALAN GREGORY NIX
W/M DOB: [REDACTED]-1967

ACTION OF GRAND JURY
TRUE BILL

Matthew Woodhouse OCT 03 2023
Foreperson of Grand Jury Date:

VERDICT

Indictment for

RESISTING SERVICE OF PROCESS

SC Code: § 16-09-0320(A)
CDR Code: 0326

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened October 2023, the Grand Jurors of Charleston County present upon their oath:

Resisting Service of Process

That in Charleston County, South Carolina, on or about January 22, 2021, the Defendant, Alan Gregory Nix, knowingly and willfully did oppose or resist a law enforcement officer, while the officer was serving, executing or attempting to serve or execute a legal writ or process, who the Defendant knew or reasonably should have known was a law enforcement officer, in violation of Section 16-9-320(A) 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.


ANDREW L. MCALLISTER
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 15th day of September, 2025.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Heath P. Taylor, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

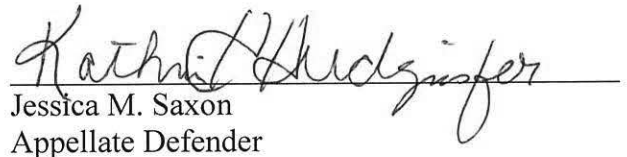
ALAN G. NIX,

APPELLANT

APPELLATE CASE NO. 2024-001926

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Alan G. Nix, via email at alan.g.nix@outlook.com this 15th day of September, 2025.


Jessica M. Saxon
Appellate Defender

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