

CRIMINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY

G. Edward Welmaker, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KEEON BUTLER,

APPELLANT

APPELLATE CASE NO. 2012-212340

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT (dated June 14, 2012).....	1
MOTION FOR <u>JACKSON V. DENNO</u> HEARING BY MS. BENTLEY	6
MOTION TO REDACT LETTER BY MS. HORLBECK.....	6
JURY VOIR DIRE	15
JURY SELECTION	20
COURT REMARKS	27
<u>JACKSON V. DENNO</u> HEARING TESTIMONY	
DANIELLE WOODS-TISDALE	
Direct examination by Ms. Bentley	31
Cross-examination by Ms. Horlbeck	34
Examination by the Court	36
RENEWAL OF MOTION TO REDACT LETTER BY MS. HORLBECK.....	39
JAMES MARTY SHUGART	
Direct examination by Ms. Bentley	47
Cross-examination by Ms. Horlbeck	49
OPENING STATEMENT BY MS. BENTLEY	55
OPENING STATEMENT BY MS. HORLBECK.....	57
TESTIMONY	
DANIELLE WOODS-TISDALE	
Direct examination by Ms. Bentley	60
Cross-examination by Ms. Horlbeck	72
Redirect examination by Ms. Bentley.....	77
Recross-examination by Ms. Horlbeck	78
JAMES MARTY SHUGART	
Direct examination by Ms. Bentley	79
Cross-examination by Ms. Horlbeck	83

Redirect examination by Ms. Bentley.....	87
MOTION FOR A DIRECTED VERDICT BY MS. HORLBECK.....	88
MOTION FOR A MISTRIAL BY MS. HORLBECK.....	89
EXAMINATION BY COURT	
KEEON BUTLER.....	92
CLOSING ARGUMENT BY MS. BENTLEY.....	97
CLOSING ARGUMENT BY MS. HORLBECK.....	102
CHARGE ON THE LAW.....	110
VERDICT.....	120
EXAMINATION BY COURT	
KEEON BUTLER.....	124
SENTENCING.....	127
INDICTMENT.....	129
STATE'S EXHIBIT #1.....	131
CERTIFICATE OF COUNSEL.....	132

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

COURT OF GENERAL SESSIONS
2011-GS-23-0767

ORIGINAL

STATE OF SOUTH CAROLINA)

PLAINTIFF)

vs.)

TRANSCRIPT OF RECORD

KEEON BUTLER)

DEFENDANT)

June 14, 2012
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD WELMAKER, Judge; and a jury.

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

LISA BENTLEY, ESQ.
Attorney for the State

CAROLINE HORLBECK, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

INDEX OF WITNESSES

DANIELLE WOODS-TISDALE

Direct By Ms. Bentley	32
Cross By Ms. Horlbeck	35
Examination By The Court	37

MARTY SHUGART

Direct By Ms. Bentley	48
Cross By Ms. Horlbeck	50

DANIELLE WOODS-TISDALE

Direct By Ms. Bentley	61
Cross By Ms. Horlbeck	73
Redirect By Ms. Bentley	78
Recross By Ms. Horlbeck	79

MARTY SHUGART

Direct By Ms. Bentley	80
Cross By Ms. Horlbeck	84
Redirect By Ms. Bentley	88

KEEON BUTLER

Examination By The Court	93
Examination By The Court	125

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Opening Statement by Ms. Bentley	56
Closing Statement by Ms. Bentley	98
Closing Statement by Ms. Horlbeck	103
Jury Charge	111

Verdict	.121
Sentencing	.128
Certificate of Reporter	.129

STATE EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Letter	5	70
2	Request	5	65
3	Request	5	65
4	Request	5	65
5	Request	5	65
6	Request Envelope	5	70
7	Request	5	67
8	Request	5	67
9	Request	5	67
10	Request	5	

1 (WHEREUPON, State's Exhibits Nos. 1 through 2
2 were marked for identification only.)

3 THE COURT: All right, this is the case of The
4 State vs. Keeon Butler. Everybody ready to proceed on
5 that?

6 MS. BENTLEY: Yes, sir, Your Honor.

7 THE COURT: Defense ready?

8 MS. HORLBECK: Yes, sir. Although, I believe my
9 client has a motion to relieve me.

10 THE COURT: Okay, Mr. Butler, you want to
11 represent yourself then?

12 MR. BUTLER: No, I withdraw my motion.

13 THE COURT: You withdraw your motion?

14 MR. BUTLER: Yes, sir.

15 THE COURT: All right.

16 All right, strikes are five and five; is that
17 right?

18 MS. BENTLEY: Yes, sir, Your Honor. There's a
19 matter of law and some pre-trial motions, I don't know if
20 you want to do those before or after the jury selection.

21 THE COURT: Well, let's go ahead and get our
22 jury, they're downstairs waiting. We'll get them
23 selected, then we'll take care of those motions
24 afterwards. Those motions don't concern the selection of
25 the jury do they?

1 MS. BENTLEY: No, Your Honor.

2 THE COURT: Okay.

3 MS. BENTLEY: One is dispositive as to whether
4 we continue with this case though.

5 THE COURT: Okay. Well I might need to keep --
6 well let me just hear the motions first then. Have an
7 idea of what's going on. Let's hear our motions now.

8 MS. BENTLEY: All right.

9 THE COURT: All right, be glad to hear you.

10 MS. BENTLEY: Well, Your Honor, Ms. Horlbeck was
11 thinking about doing this later on in the trial but the
12 Defendant has been charged with threatening the life of a
13 public official which is 16-3-1040 Subsection A. There's
14 no case law on point, the public official in question is a
15 corrections officer. And we would like a determination
16 from the Court as to whether she would be considered a
17 public official or an employee. I have material prepared
18 for my side.

19 THE COURT: And if she's an employee...

20 MS. BENTLEY: It would be a different charge, I
21 imagine.

22 MS. HORLBECK: It would fall under a different
23 portion to the statute and I believe the penalty is
24 different.

25 Is that correct?

1 MS. BENTLEY: It's a Magistrate offense, Your
2 Honor.

3 THE COURT: The charge under the statute is
4 still the same?

5 MS. HORLBECK: Yes, Your Honor. And the
6 statute, I believe -- well, Your Honor probably already
7 knows this, I'll be quiet.

8 THE COURT: Really all you need to know is the
9 interpretation of that statute of whether a corrections
10 officer is an employee or public official?

11 MS. BENTLEY: Yes, sir, Your Honor.

12 THE COURT: Okay. Are there other motions?

13 MS. BENTLEY: There's Jackson v. Denno hearing,
14 Your Honor. I believe that's the only motion from the
15 State.

16 MS. HORLBECK: And Judge, I have a motion to
17 redact the letter in question. Parts of it -- obviously
18 the case is about threats to either a public official or
19 an employee. Judge, our position is that the entire
20 letter is not relevant to deciding that issue. I believe
21 certain portions may be but I don't think that the entire
22 thing is.

23 THE COURT: Is the letter the threat other than
24 verbal?

25 MS. BENTLEY: Yes. The letter is the threat,

1 Your Honor.

2 THE COURT: Not a verbal threat.

3 MS. BENTLEY: There's a verbal threat but the
4 charge stems from the letter, Your Honor.

5 THE COURT: Do you have anything, Ms. Bentley,
6 to show me that she would be a public official rather than
7 an employee?

8 MS. BENTLEY: Yes, sir, Your Honor. I would
9 rely heavily on the case of State v. Bridgers, it's a
10 Supreme Court case from 1997, I'll bring it up to the
11 Court.

12 THE COURT: That's the one with the State
13 Trooper --

14 MS. BENTLEY: State Trooper was --

15 THE COURT: Was not a public official.

16 MS. BENTLEY: No, he is a public official, Your
17 Honor. And that Court looked to the common law, it looked
18 to the language of the statute and it looked to public
19 policy to determine that a trooper in law enforcement
20 official would be a public official. They found that A
21 public official is one who is charged by law with duties
22 involving exercise of some part of the sovereign power,
23 either small or great, in the performance of which the
24 public is concerned, and which are continuing and not
25 occasional or intermittent. They also looked to whether

1 the qualifications for appointment are established,
2 whether the duties, tenure, salary, bond and oath are
3 prescribed or required. And whether the one occupying the
4 position is a representative of the sovereign.

5 Your Honor, I have here 16 pages from the SCDC
6 policy manual that talks about how different employees and
7 officials are hired and it prescribed all of those things.
8 It also lists out that different positions and who selects
9 those positions. At the time of this threat, Sergeant
10 Tisdale was a Corporal. A Corporal is selected as someone
11 that is selected specifically by the warden or designee.
12 It is separated from other staff and non-security
13 positions. Staff includes food service, canteen,
14 commissary, health services, operational review,
15 grievances and those people can be selected by a board.

16 We would argue that, she, a corporal, just like
17 a Sergeant, a captain, a warden himself would be an
18 official. Not only because of the selection but also to
19 the duty of the public at large that someone in her
20 position held. She's protecting not only the inmates but
21 also everyone in Greenville County keeping inmates inside,
22 keeping them safe from themselves and keeping the public
23 safe.

24 The Bridgers Court found that the greater the
25 duty to the public at large, the more likely it is the

1 individual will be a public official. So corrections
2 officers, people who are Corporals, Sergeants and officers
3 that are dealing with inmates on a regular basis, we
4 believe that those people are officials. The Bridgers
5 Court also looked to Attorney General opinions, other
6 statute sections and public policy considerations to find
7 that both troopers and deputies, police officers, should
8 be considered officials for the purposes of 16-3-1040(a).

9 THE COURT: Is any correctional officer below
10 the rank of Corporal also considered a public official or
11 would you concede that any guard that has not made the
12 rank of Corporal would be an employee --

13 MS. BENTLEY: I would personally believe that
14 any corrections officer would be just like any police
15 officer, highway patrolman on the road. They are dealing
16 with suspects or in this case convicted persons. They're
17 protecting those persons and they're protecting the public
18 at large. I would argue, Your Honor, the State would
19 argue, that anyone below an officer such as non-security
20 staff such as central office staff, the food service,
21 canteen, commissary, health services, operational review,
22 grievances and then other non-security personal would be
23 the employees in a prison. But in this instance Sergeant
24 Tisdale was, in fact, a Corporal.

25 THE COURT: All right, Ms. Horlbeck, I will glad

1 to hear anything in response.

2 MS. HORLBECK: Judge, our position is that
3 Corporal Tisdale was an employee at the time. And we,
4 too, are relying on State vs. Bridgers. Judge, State vs.
5 Bridgers specifically deals with highway patrol and
6 troopers. And I think this case is distinguishable from
7 the Bridgers case. I don't believe that -- by the State's
8 own admission, these employees, such as Ms. Tisdale, are
9 selected by the warden or the designee. In Bridgers,
10 highway patrol officers Asks and troopers are commissioned
11 by the Governor upon a recommendation from the director of
12 the Department of Public Safety. So I think that right
13 there is a distinguishing factor that would put
14 Ms. Tisdale in the category of employees.

15 Judge, additionally, Ms. Tisdale's position was
16 not created by the legislature. And that's another factor
17 that the Bridgers Court looked at. Their SCDC policy,
18 there may be 16 page policy having -- dealing with
19 employees and the hiring of employees. But I don't
20 believe that Ms. Tisdale's position was specifically
21 created by the legislature. I don't believe that the
22 legislature deals with the qualifications for appointment,
23 salary, bond and oath.

24 Specifically in Bridgers the Court said --
25 specifically found that Highway patrol and troopers must

1 file a bond that is condition on the faithful performance
2 of his duties. I'm not trying to say that Corporal
3 Tisdale and others in her position aren't trying to --
4 aren't in the position of performing a public service,
5 obviously they are.

6 The last point I'd make is that the statute
7 specifically was amended some years ago to add teachers
8 and, I believe, principals. Judge, if the legislature had
9 intended for corrections officers or anyone working within
10 the corrections system to be considered a public official,
11 then they would have added that person at that time. They
12 didn't. I believe that's certainly dispositive of this
13 issue. And I think that's why Corporal Tisdale is a
14 public employee and not an official.

15 THE COURT: But there's some pretty strong
16 language in Bridgers that Greater the duty to the public
17 at large, the more likely that the individual would be an
18 public official. Wouldn't you say that's a high duty for
19 a corrections officer to the public at large?

20 MS. HORLBECK: Judge, in this particular
21 situation Corporal Tisdale was assigned to the education
22 department. And I believe she was working in some
23 capacity in the law library. I don't believe that her
24 position was that of law enforcement, specifically, within
25 the department of corrections. I'm not trying to say that

1 they don't perform a service, I'm not trying to say that.
2 But I don't believe it rises to the level of what the
3 troopers do, Judge. The troopers and the highway patrol
4 are actively out on the streets. They are stopping
5 people. They are able to accept, I can't remember the
6 exact wording, but I think they're able to obviously issue
7 tickets, things like that.

8 And no, I would argue that in Corporal Tisdale's
9 capacity in this case is very different from the role
10 served by the highway patrol and the troopers.

11 THE COURT: Did Corporal Tisdale -- she was
12 commissioned?

13 MS. BENTLEY: Your Honor, if may briefly confer
14 with her.

15 THE COURT: Yes, ma'am.

16 MS. BENTLEY: Your Honor, I have been told that
17 yes, she was commissioned as a corrections officer. May I
18 point to one more--

19 THE COURT: Yes.

20 MS. BENTLEY: There's one other passage in
21 Bridgers, Your Honor. It's under or near page 199. The
22 law currently protects law enforcement officers
23 inconsistently. An individual may threaten the life of a
24 city police officer and violate the statute, while no
25 violation of the statute would occur if that individual

1 made the same threat to a highway patrol officer. No
2 rational basis exists for this inconsistency.

3 It's the State's opinion that the Supreme Court
4 is trying to rectify or trying to give guidance on the
5 broad language used in the statute. They're saying that
6 any public official, any public official that is charged
7 with protecting the public at large, should be considered
8 a public official for purposes of this threatening
9 statute.

10 MS. HORLBECK: And, Judge.

11 THE COURT: Yes, ma'am.

12 MS. HORLBECK: Judge, I -- you know, maybe they
13 are trying to offer guidance. I think if they were trying
14 to offer that guidance, then it certainly wasn't followed
15 by the legislature because there's been no amendment to
16 the statute.

17 THE COURT: Well maybe they thought that was the
18 law already and they didn't need to. They added the
19 teethers and they didn't need to address law enforcement.

20 MS. HORLBECK: Well, Judge, it's hard to say
21 what's in the mind of the Supreme Court.

22 THE COURT: I agree with that.

23 MS. HORLBECK: So all we have to rely on is this
24 case. And this case doesn't specifically address it and
25 the statute doesn't specifically address it. So I would

1 argue that she is a public employee, not an official.

2 THE COURT: Let me see your policy real quickly,
3 Ms. Bentley.

4 MS. BENTLEY: The designations on the back page.

5 THE COURT: The?

6 MS. BENTLEY: The destination of the selection
7 process is on the back page.

8 THE COURT: Okay. All right, I think in light
9 of the Bridgers case and also looking at the policy, the
10 warden makes the ultimate call on that. I think that
11 shows that this is a public official. So I will deny your
12 motion, Ms. Horlbeck, that this person be considered as an
13 employee, rather I think the statute is met. Particularly
14 in light of the case law of Bridgers that this official
15 was, in fact, a public official.

16 All right, we'll do the Jackson v. Denno hearing
17 after the jury is impaneled, okay.

18 MS. BENTLEY: Thank you..

19 THE COURT: All right, let's have our jury come
20 up.

21 (WHEREUPON, the jury venire entered the
22 courtroom.)

23 THE COURT: Good morning, ladies and gentlemen
24 of the jury. I thank you for being patient with us, we're
25 now ready to select a jury in the trial of the next case

1 we have this week. This is a case brought by the State of
2 South Carolina against Mr. Keeon Butler. This Indictment
3 that I have says that on or about August the 24th, 2010,
4 that Mr. Butler knowingly and willfully delivered or
5 conveyed Corporal Danielle Woods-Tisdale, an officer at
6 Perry Correctional Institution, a threat to inflict bodily
7 harm upon her or take the life of Corporal Woods-Tisdale
8 or a member of her immediate family. The threat was
9 directly related to her professional responsibilities as a
10 corrections officer.

11 Mr. Butler, he's entered a plea of not guilty to
12 this charge. The State of South Carolina has the burden
13 to prove beyond a reasonable doubt that he, as everyone
14 else that appears in court, is presumed innocent.. The
15 State has that burden of proving guilt beyond a reasonable
16 doubt to 12 fair and impartial jurors to be impaneled to
17 hear this case. I need to ask you some questions to
18 determine your eligibility to serve on this particular
19 trial, ladies and gentlemen.

20 Is there any member of the jury panel have any
21 prior knowledge about this particular incident through
22 media, through hearsay, any means whatsoever? If you have
23 some prior knowledge about this allegation that's been
24 made by the State, would you, please, stand.

25 There was no response.

1 Is there a member of the jury panel related by
2 blood or marriage to Mr. Keeon Butler? If so, would you,
3 please, stand.

4 There was no response.

5 Is there a member of the jury panel who has a
6 close business or social or personal relationship with
7 Mr. Butler? If so, would you, please, stand.

8 Thank you, there is no response.

9 Among the witnesses who may be called upon to
10 testify in this case from Perry Correctional Institute
11 would be Captain Wade, Investigator James Shugart,
12 Danielle Woods-Tisdale. Is there any member of the jury
13 panel related by blood or marriage to any of these
14 potential witnesses? If so, please stand.

15 There was no response.

16 Is there a member of the panel who has a close,
17 business or social or personal relationship with any of
18 these potential witnesses? If so, would you, please,
19 stand.

20 Thank you, there's no response.

21 Is there any member of the jury panel expressed
22 or formed an opinion in any way about the facts in this
23 case? If so, would you, please, stand.

24 There was no response.

25 Is there a member of the jury panel aware of any

1 bias or prejudice that would interfere with your ability
2 to be a fair juror if selected in this case? If so, would
3 you, please, stand.

4 There was no response.

5 Is there a member of the jury panel who is a
6 contributing member of any organization whose primary
7 concern is that of the promotion of law enforcement or
8 victim's rights? Such as a sheriff's association, MADD,
9 SADD, CAVE or PAR or any such organization? If you're a
10 contributor would you, please, stand.

11 There was no response.

12 Is there a member of the jury panel or member of
13 your immediate family involved in law enforcement in any
14 capacity? If so, would you, please, stand. If you or
15 member of your immediate family is involved in law
16 enforcement.

17 Thank you, your name, please, ma'am.

18 PROSPECTIVE JUROR: Laura Simmons.

19 THE COURT: What relative do you have?

20 PROSPECTIVE JUROR: My brother's a Sergeant with
21 the police force in Connecticut.

22 THE COURT: All right, your name, please.

23 PROSPECTIVE JUROR: Katherine Sibley. My
24 brother is a City of Landrum police officer.

25 THE COURT: Okay. The fact that you have

1 relatives who are in law enforcement, would that effect
2 your ability to be to fair a juror? Would you listen to
3 the evidence, the testimony given, listen to the law that
4 I give you and make a decision on that and that alone. Or
5 do you believe by having relatives in lawsuit, that would
6 impair your ability to be a fair juror? Do you believe
7 that you can be a fair juror, ma'am?

8 PROSPECTIVE JUROR: Yes, sir.

9 PROSPECTIVE JUROR: Yes, sir.

10 THE COURT: Okay, thank you, very much. You
11 both may be seated.

12 Is there any member of the jury panel believe
13 that because the Defendant in this case was incarcerated
14 in a institution -- a correctional institution at the
15 time, that you would not be able to give him a fair trial
16 in this matter? If you feel that because he was already
17 in jail that you could not be fair to him, would you,
18 please, stand.

19 Thank you, there is no response.

20 At this time I'll ask the attorneys, if you
21 would, please, stand and introduce yourself to the jury.

22 Ms. Bentley.

23 MS. BENTLEY: Good morning, my name is Lisa
24 Bentley. I am a prosecutor here in the 13th Circuit.
25 Seated with me is my investigator, Beth Lesser.

1 THE COURT: Ms. Horlbeck.

2 MS. HORLBECK: Good morning, my name is Caroline
3 Horlbeck. And I work part-time for the Public Defender's
4 Office. The rest of the time I'm a full-time attorney
5 with Larry Crane's office.

6 THE COURT: Thank you.

7 Is there any member of the jury panel related by
8 blood or marriage to either of these attorneys? If so,
9 would you, please, stand.

10 There was no response.

11 Is there a member of the jury panel who has a
12 close business or social or personal relationship with
13 either of these attorneys? If so, would you, please,
14 stand.

15 There was no response.

16 Is there any member of the jury panel who has
17 been involved in any litigation in the past in which
18 either of these attorneys represented you, or represented
19 the opposing side? If so, would you, please, stand.

20 Thank you, there's no response.

21 Both parties come into this courtroom desiring
22 to have fair and impartial jurors to hear this case. Both
23 the State of South Carolina and Mr. Butler, they deserve
24 the same. Is there any member of the jury panel aware of
25 any reason whatsoever that you believe in this particular

1 case you could not be fair to both the State of South
2 Carolina, to the Defendant and render a verdict that would
3 speak the truth on the law and on the evidence and that
4 alone? For any reason if you believe that you could not
5 be a fair juror, would you, please, stand.

6 Thank you, there was no response.

7 Any other questions from the State?

8 MS. BENTLEY: Nothing from the State.

9 THE COURT: From the Defense?

10 MS. HORLBECK: Nothing from the Defense.

11 THE COURT: Let's impanel a jury.

12 THE CLERK: When I call your name, if you'll,
13 please, stand in place and wait for further instruction.

14 Juror 133, Allyn Onisto.

15 (Allyn Onisto, a white male, came forward.)

16 What says the State?

17 MS. BENTLEY: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MS. HORLBECK: Please swear the juror.

20 THE CLERK: All right, sir, please bring your
21 things and have a seat in the jury box.

22 Juror number 1, Vincie Albritton.

23 (Vincie Albritton, a white female, came
24 forward.)

25 What says the State?

1 MS. BENTLEY: Please present Ms. Albritton.

2 THE CLERK: What says the Defense?

3 MS. HORLBECK: Please excuse Ms. Albritton.

4 THE CLERK: Thank you, ma'am, you may be seated.
5 You've been excused in this case.

6 Juror 85, Andrew James.

7 (Andrew James, a white male, came forward.)

8 What says the State?

9 MS. BENTLEY: Please present Mr. James.

10 THE CLERK: What says the Defense?

11 MS. HORLBECK: Please swear Mr. James.

12 THE CLERK: Thank you, Ms. James, please have a
13 seat in the jury box.

14 Juror 143, Flora Riden.

15 (Flora Riden, a white female, came forward.)

16 What says the State?

17 MS. BENTLEY: Please present Ms. Riden.

18 THE CLERK: What says the Defense?

19 MS. HORLBECK: Please excuse Ms. Riden.

20 THE CLERK: All right, ma'am, you may be seated,
21 you have been excused from this case.

22 Juror 91, Katherine Knight.

23 (Katherine Knight, a white female, came
24 forward.)

25 What says the State?

1 MS. BENTLEY: Please present Ms. Knight.

2 THE CLERK: What says the Defendant?

3 MS. HORLBECK: Please swear Ms. Knight.

4 THE CLERK: Thank you, Ms. Knight, please bring
5 your things and have a seat in the jury box.

6 Juror 165, Janet Turner.

7 (Janet Turner, a white female, came forward.)

8 What says the State?

9 MS. BENTLEY: Please present Ms. Turner.

10 THE CLERK: What says the Defendant?

11 MS. HORLBECK: Please excuse Ms. Turner.

12 THE COURT: All right, ma'am, you may be seated.
13 You have been excused from this case.

14 Juror 46, Charlene Durham.

15 (Charlene Durham, a black female, came forward.)

16 What says the State?

17 MS. BENTLEY: Please present Ms. Durham.

18 THE CLERK: What says the Defendant?

19 MS. HORLBECK: Please present Ms. Durham.

20 THE CLERK: Please bring your things and have a
21 seat in the jury box.

22 Juror number 152, Katherine Sibley.

23 (Katherine Sibley, a white female, came
24 forward.)

25 What says the State?

1 MS. BENTLEY: Please seat Ms. Sibley.

2 THE CLERK: What says the Defendant?

3 MS. HORLBECK: Please excuse Ms. Sibley.

4 THE CLERK: All right, ma'am, you may be seated.

5 You have been excused from this case.

6 Juror 70, Kurt Grotler.

7 (Kurt Grotler, a white male, came forward.)

8 What says the State?

9 MS. BENTLEY: Please present the juror.

10 THE CLERK: What says the Defendant?

11 MS. HORLBECK: Please swear Mr. Grotler.

12 THE CLERK: Mr. Grotler, please have a seat in
13 the jury box.

14 Juror 84, David Jacobs:

15 (David Jacobs, a white male, came forward.)

16 What says the State?

17 MS. BENTLEY: Please present Mr. Jacobs.

18 THE CLERK: What says the Defendant?

19 MS. HORLBECK: Please swear Mr. Jacobs.

20 THE CLERK: Mr. Jacobs, please bring your things
21 and have a seat in the jury box.

22 Juror 191, Robert Adamski.

23 (Robert Adamski, a white male, came forward.)

24 What says the State?

25 MS. BENTLEY: Please excuse the juror from the

1 trial of this case.

2 THE CLERK: All right, you may be seated, sir,
3 you've been excused from this case.

4 Juror 183, James Willey.

5 (James Willey, a white male, came forward.)

6 What says the State?

7 MS. BENTLEY: Please present Mr. Willey.

8 THE CLERK: What says the Defendant?

9 MS. HORLBECK: Please swear Mr. Willey.

10 THE CLERK: Mr. Willey, please have a seat in
11 the jury box.

12 PROSPECTIVE JUROR: I sit...

13 THE CLERK: I beg your pardon.

14 PROSPECTIVE JUROR: That's okay.

15 THE CLERK: Juror 86, Bobby Johnson.

16 (Bobby Johnson, a white male, came forward.)

17 What says the State?

18 MS. BENTLEY: Please excuse Mr. Johnson from the
19 trial of this case.

20 THE COURT: All right, sir, you may be seated,
21 you've been excused from this case.

22 Juror 196, Cynthia Sesny.

23 (Cynthia Sesny, a white female, came forward.)

24 What says the State?

25 MS. BENTLEY: Please present the juror for the

1 trial of this case.

2 THE CLERK: What says the Defendant?

3 MS. HORLBECK: Swear the juror.

4 THE CLERK: Ma'am, please come have a seat in
5 the jury box.

6 Juror number 178, Riley West.

7 (Riley West, a white male, came forward.)

8 What says the State?

9 MS. BENTLEY: Please present Mr. West.

10 THE CLERK: What says the Defendant?

11 MS. HORLBECK: Please swear Mr. West.

12 THE CLERK: Mr. West, please have a seat in the
13 jury box.

14 Juror 178 [sic], Brittany Way.

15 MS. HORLBECK: Is there another number? You
16 called the previous number, 178.

17 THE CLERK: I beg your pardon, 176. Thank you.

18 (Brittany Way, a white female, came forward.)

19 What says the State?

20 MS. BENTLEY: Please excuse Ms. Way.

21 THE CLERK: All right, thank you, you may be
22 seated.

23 Juror 45, Kenneth Dunn.

24 (Kenneth Dunn, a white male, came forward.)

25 What says the State?

1 MS. BENTLEY: Please present Mr. Dunn.

2 THE CLERK: What says the Defendant?

3 MS. HORLBECK: Please swear Mr. Dunn.

4 THE CLERK: Sir, please come have a seat in the
5 jury box.

6 Juror 95, Ticcoa Leister.

7 (Ticcoa Leister, a white female, came forward.)

8 What says the state?

9 MS. BENTLEY: Please present Ms. Leister.

10 THE CLERK: What says the Defendant?

11 MS. HORLBECK: Please swear Ms. Leister.

12 THE CLERK: Ma'am, please come have a seat in
13 the jury box.

14 Juror 131, Tommy Odom.

15 (Tommy Odom, a white male, came forward.)

16 What says the State?

17 MS. BENTLEY: Please present Mr. Odom.

18 THE CLERK: What says the Defendant?

19 MS. HORLBECK: Please swear Mr. Odom.

20 THE CLERK: Sir, please come have a seat in the
21 jury box.

22 THE COURT: Any matters that we need to take
23 care of as far as the selection of the jury in this case?

24 From the State?

25 MS. BENTLEY: Nothing from the State.

1 THE COURT: From the Defense?

2 MS. HORLBECK: Nothing from the Defense.

3 THE COURT: Ladies and gentlemen, thank you very
4 much for your participation. I understand that you can --
5 if you need to stop back by the assembly room, they will
6 take your badges down there. I believe that Ms. Olson
7 will have instructions for you as to whether you need to
8 call back or not. You're dismissed at this time.

9 Everyone else please remain seated while the
10 jury departs.

11 (WHEREUPON, the jury venire was excused at
12 approximately 10:20 a.m.)

13 Ladies and gentlemen, let me briefly instruct
14 you a little bit. This is not a instruction on the law
15 but tell you a little bit about what we're going to be
16 doing here. I talked briefly with the attorneys, I
17 understand this will not be a very long case. We don't
18 have an alternate at this time. But obviously it's an
19 important case. You've seen the process by which you were
20 especially selected to hear this case. These parties
21 think you're the best jurors of all those who were on the
22 panel whose names were called, that you're the best ones
23 to hear this particular matter.

24 I look forward to working with you as you judge
25 the facts. I'm going to be judging the law. Even though

1 the case will likely conclude today, we'll certainly be
2 taking breaks along the way. We'll take one in just a few
3 moments, you've been sitting a while. And so have we.
4 Let me remind you that while we're taking a break, when
5 you're back in your jury room, that you're not to be
6 discussing the case while the case is in progress. You
7 need to fulfill your obligation, your commitment to these
8 parties and remain fair and impartial and open minded
9 about what you're going to be hearing and the law that I'm
10 going to give you. So don't discuss the case while you're
11 back there.

12 After a while the trial will begin with the
13 opening statements of the attorneys. They'll address you
14 in the opening and give you an overview of the trial then
15 we'll hear the examination by the attorneys. Sometimes
16 when objections are made I can rule on them promptly.
17 Sometimes we have periods in the trial where I have a
18 legal matter that I need to take care of. And it might
19 necessitate you being back in your jury room while I
20 resolve that legal issue.

21 If you ever need a break and I haven't called
22 for a break, based upon -- we try to stop between the
23 testimony of a witness, sometimes it may be extensive, we
24 might need to take a break in the middle of testimony.
25 But if you need a break, please get my attention, get one

1 of the Bailiff's attention. Folks here in the desk below
2 me, they all will certainly be glad to assist you in any
3 way. But you need to be a good listener so it's obvious
4 that you need to be comfortable.

5 And as you listen to the case, I urge you to
6 watch the proceedings, observe what's going on in the
7 courtroom. Judge the demeanor of the witnesses while on
8 the witness stand. And I'm confident that you'll utilize
9 the good common sense that you have, the everyday
10 experiences and find a factual answer that will indeed
11 speak the truth.

12 At this time, ladies and gentlemen, we are going
13 to take a short break. We have one short legal matter
14 that we need to take care of and we'll take a break. And
15 we'll be ready to start the case in just a few moments.
16 I'm going to ask you, if you would, to go back to your
17 jury room. I'm going to ask you if you would do a task
18 for me while you're back in the jury room. I'd like for
19 you to select among you, the 12 of you, a foreperson. If
20 you will, once you select that foreperson, just write the
21 name down on a slip of paper, give it to the bailiffs.
22 Then when you come back in that foreperson will occupy the
23 seat on the front row, closest to the witness stand here.

24 The foreperson -- sometimes when you're back
25 there you may need to communicate with the Court, you may

1 need to communicate with the Clerk's Office. If you have
2 a need, that's your spokesperson, that foreperson to on
3 whatever juror may that need. Be it a phone call or
4 otherwise. Check on a child, may be other things
5 happening. But the foreperson will occupy that seat, will
6 be the communicator with the Bailiffs and the Court. And
7 the foreperson will be the individual when all the
8 evidence is in and I've given you a legal instruction,
9 will be the one who will facilitate the discussions to
10 make sure everyone has their input as to what their view
11 of the facts are. On behalf of the full jury, write out
12 the verdict form that I'll be providing for you. So, if
13 you would just select that person while we're taking a
14 break, give the name to the Bailiffs, write it out on a
15 piece of paper. Hopefully in about 15 minutes we'll be
16 ready to start with the trial. I'll ask, if you would,
17 retire now to your jury room. Remind you not to discuss
18 the case.

19 (WHEREUPON, the jury left open courtroom at
20 approximately 10:25 a.m.)

21 THE COURT: How many witnesses do we have on the
22 Jackson v. Denno?

23 MS. BENTLEY: Two different statements, Your
24 Honor, one witness on each.

25 THE COURT: Okay.

1 You doing all right, April?

2 THE COURT REPORTER: Yes, sir.

3 THE COURT: Y'all want to go ahead do that now
4 and then take a break?

5 MS. BENTLEY: Yes, Your Honor.

6 THE COURT: All right, be glad to hear from you,
7 Solicitor.

8 MS. BENTLEY: The State calls Danielle
9 Wood-Tisdale to the stand.

10 THE CLERK: Ma'am, if you'd please place your
11 left hand on the Bible, raise your right hand.

12 DANIELLE TISDALE, after being duly sworn,
13 testified as follows:

14 THE CLERK: Please state your name for the
15 record.

16 THE WITNESS: Danielle Woods-Tisdale.

17 DIRECT EXAMINATION

18 BY MS. BENTLEY:

19 Q Sergeant Woods-Tisdale, where are you employed?

20 A Perry Correctional Institution.

21 Q In what capacity?

22 A A Sergeant.

23 Q How long have you been at Perry?

24 A Eleven and a half years.

25 Q Were you working at Perry Correctional on August

1 23rd, 2010?

2 A Yes, ma'am.

3 Q Did you speak to the Defendant on August 23rd, 2010?

4 A Yes, ma'am.

5 Q Could you tell us why you spoke to the Defendant?

6 A In reference to legal materials that I was delivering
7 to him, law books.

8 Q Okay. When you -- tell me where you spoke with him,
9 where did you encounter him?

10 A He was housed in delta dorm on the wing. He was in
11 his room, his cell room.

12 Q And that's where he lived at Perry Correctional?

13 A Yes, ma'am.

14 Q Did you initiate a conversation with him?

15 A Outside of passing him his books, having him sign for
16 the books, just the normal service.

17 Q Okay. Did he initiate a conversation with you?

18 A Can you be more specific?

19 Q Did he say anything to you outside of -- did he say
20 anything to you?

21 A If you're talking about the incident when he
22 threatened me, verbally?

23 Q Yes, ma'am.

24 A He was not allowed -- he was given notice that he was
25 not allowed to receive the books, due to something

1 he'd done. And he was upset about it. And he
2 threatened, you know, he was just verbally
3 threatening.

4 Q Okay. Was he free to leave that dorm room when you
5 encountered him?

6 A No.

7 Q Did you advise him of his rights when you were
8 delivering the books?

9 A I gave him the rules as to why he couldn't receive
10 books. So yes, he received those.

11 Q Would you have advised him of his Miranda rights?

12 A No.

13 Q Why not?

14 A Because he was already incarcerated.

15 Q Did you ask him any questions?

16 A No.

17 Q Did you state anything to him, aside from telling him
18 he was not allowed to receive the books, giving him
19 the rules that would have necessitated a response on
20 his end?

21 A No.

22 Q Was he in handcuffs?

23 A No.

24 Q Was he -- was anyone else present?

25 A Not to my knowledge, no.

1 Q Did he have a is single room?

2 A Yes.

3 MS. BENTLEY: Your Honor, I don't -- I don't
4 know what other questions I could ask of this witness. I
5 mean, it's a interesting situation since he's already
6 incarcerated.

7 THE COURT: Well, what's the -- is there a
8 statement given by him?

9 MS. BENTLEY: Oh.

10 BY MS. BENTLEY:

11 Q Do you recall any specific -- specificities of the
12 verbal threat he made to you?

13 A Something like, it was so long ago, something like, I
14 better get my books or I'm going -- you slave, you
15 slave B-I-T-C-H, something like that.

16 Q Okay. Did you report that verbal threat?

17 A I did. I did an incident report and turned it in.

18 Q To whom did you report that?

19 A Captain Wade?

20 MS. BENTLEY: Okay. I have no further questions
21 at this time.

22 CROSS-EXAMINATION

23 BY MS. HORLBECK:

24 Q Ms. Tisdale, you were a corporal at the time, you're
25 a sergeant now?

1 A Correct.

2 Q And you've been with Perry Correctional for 11 and a
3 half years?

4 A Correct.

5 Q You said these things happened to you, that was on
6 August the 3rd, 2011?

7 A Approximately.

8 Q Okay. And you stated that Mr. Butler was housed in
9 delta dorm in Perry Correctional?

10 A Correct.

11 Q He was in his cell, in his actual cell when he
12 said -- when you said that he said these things?

13 A Yes.

14 Q Okay. And was his cell door opened?

15 A No. No cell doors are opened, no.

16 Q He was not free to leave his cell then, correct?

17 A No. No, ma'am, he was not.

18 Q And obviously he's in Perry Correctional because he
19 was incarcerated, right?

20 A Yes, ma'am.

21 Q And in other words he wasn't a visitor or anything
22 like that?

23 A Correct.

24 Q Okay. All right. And you said that he was not
25 cuffed?

1 A No, ma'am.

2 Q Okay. And you the -- reason for your going to his
3 cell was to explain to him why he was not able to
4 receive books at that time?

5 A Correct.

6 Q Okay. And you can't recall the specific nature of
7 what he said?

8 A No, ma'am.

9 Q Okay.

10 MS. HORLBECK: Judge, that's all I have. Except
11 I've got -- when you're prepared to hear from me.

12 THE COURT: Any redirect?

13 MS. BENTLEY: No, Your Honor.

14 THE COURT: I need to get some clarification.

15 EXAMINATION BY THE COURT

16 BY THE COURT:

17 Q Did you take him books or not take him books?

18 A On that particular day, if I'm not mistaken, I
19 believe he masturbated prior to and I believe he had
20 books on the cart. Because they fill the cart up,
21 you know, based off the request. But he could not
22 receive them that day.

23 Q So you had the books to deliver to him but he could
24 not receive them?

25 A Correct.

1 Q So why were you taking the books if he couldn't have
2 them?

3 A Well because I take the books to all the dorms on the
4 max compound. I service about 18 inmates.

5 Q Okay. All right. Did this happen on August the 24th
6 of 2011 or 2010?

7 A Was it 10?

8 MS. BENTLEY: It's 10.

9 THE WITNESS: Well, I've been back on shift a
10 year. So prior to -- so it was.

11 BY THE COURT:

12 Q Two years ago now?

13 A Correct.

14 Q Okay. And that was the only statement of import that
15 he made to you, Get your books?

16 A About the book as of then, yes.

17 Q But the books were out in the hallway?

18 A Yes.

19 THE COURT: All right, that's all the questions
20 I have. Any other questions from either of you?

21 MS. BENTLEY: I don't believe that we need to do
22 a Jackson v. Denno on this letter, the actual substance of
23 the case, the threat, but...

24 THE COURT: You may step down.

25 Neither of you have any questions?

1 MS. BENTLEY: No.

2 MS. HORLBECK: No further questions.

3 THE COURT: You may step down.

4 All right, Ms. Horlbeck.

5 MS. HORLBECK: Judge, the statute that we're
6 dealing with specifically refers to -- makes it unlawful
7 for a person to deliver or convey a letter or paper or
8 writing, print missive document or electronic
9 communication or verbal, which contains the threat to take
10 a life or inflict bodily harm upon the person. And what
11 was allegedly said -- first of all, the officer is unable
12 to remember the specifics of what was allegedly said. But
13 what she reported she thought was said is certainly not,
14 in my opinion, a threat. Maybe inflammatory language.
15 But I don't believe it falls within the confines of this
16 statute. And I don't believe that it is relevant to this
17 case. And I think that its submission to the jury is
18 going to be just more prejudicial than probative. I don't
19 know that it's probative of the letter. Whether or not
20 the letter was written by him, whether it came from him,
21 whether it's threatening. So I would ask that, Your
22 Honor, keep it out.

23 THE COURT: Does this statement tie into the
24 letter?

25 MS. BENTLEY: Yes, Your Honor.

1 THE COURT: How?

2 MS. BENTLEY: Well the letter is not signed by
3 the Defendant. However, I have proof -- the letter
4 begins, If my writing material and law work ain't here
5 ASAP, he's clearly angry about the fact that a day prior
6 to receiving the letter, he did not receive the books that
7 he requested. And that was the reason for the threat. It
8 shows his motives, it shows identity. It's clearly
9 admissible under 404(b). Or the gist that they had -- or
10 he was angry at the fact she did not get the books.

11 THE COURT: Can't she testify that I was passing
12 the books out, I came to him, he requested some books.
13 Told him he wasn't able to have them and he was upset.

14 MS. BENTLEY: Yes, sir, Your Honor, that's all
15 we wanted to get out.

16 THE COURT: Without any statement from him
17 that -- that he was upset.

18 MS. BENTLEY: That's fine with the State.

19 THE COURT: Okay.

20 MS. BENTLEY: But I wanted to make sure that it
21 was covered.

22 MS. HORLBECK: I'm sorry, I didn't know that was
23 that fine with the State. All right, I'm sorry, Judge.

24 THE COURT: All right, so she doesn't need to
25 state anything he said other than he was very angry when

1 he couldn't get his books.

2 MS. BENTLEY: Correct, Your Honor, we'll leave
3 it at that.

4 MS. HORLBECK: And, Judge, I would also ask that
5 there not be any testimony about it the reason for his
6 inability to receive the books.

7 THE COURT: I gathered that was not going to be
8 issue here.

9 MS. BENTLEY: No, Your Honor, I'll instruct the
10 victim --

11 You can't say that he couldn't get the books
12 because of masturbating.

13 THE COURT: Okay. But --

14 MS. HORLBECK: Judge --

15 THE COURT: Maybe the State ought to be able to
16 say that they were -- there were policy reasons that he
17 could not have the books.

18 MS. BENTLEY: He was handed rules for why he
19 could not receive the books.

20 THE COURT: Okay, that's fine.

21 MS. HORLBECK: Judge, with respect to the
22 contents of the letter, I don't believe that the entire
23 letter is a threat.

24 THE COURT: Do you have a copy of the letter for
25 me?

1 MS. BENTLEY: I can provide, Your Honor, a copy,
2 yes.

3 THE COURT: All right, which portions,
4 Ms. Horlbeck, do you believe are not pertinent?

5 MS. HORLBECK: Well, Judge, as I read the
6 letter, I think it contains possibly two threats. The
7 statement about Chopping her first, second, third born in
8 half. I think that would--

9 THE COURT: Can you sort of give me the line
10 number?

11 MS. HORLBECK: Yes, sir.

12 THE COURT: Let's just sort of pretend we have
13 line numbers.

14 MS. HORLBECK: Yes, sir, it would be line four.

15 THE COURT: All right.

16 MS. HORLBECK: And then I would say that the
17 next line -- I think the last line, Feeding -- I can't
18 quite read it all but there's language about Feeding
19 somebody to the hogs. I think those might be the only two
20 portions that are admissible.

21 MS. BENTLEY: And, Your Honor, the State would
22 disagree. I believe that the entire letter, from
23 beginning to end, is very threatening. It also shows the
24 venom behind it. And the various portions of the letter
25 were corroborated to help prove that Mr. Butler was

1 writing this letter.

2 THE COURT: Ms. Horlbeck, you don't believe the
3 tenure of the letter is threatening other than these two
4 places?

5 MS. HORLBECK: Judge, I believe that the tenor
6 of the letter is inflammatory. And parts of it, yes, are
7 threatening, I don't believe the whole thing is. I think,
8 for example, the opening several lines of the letter, I
9 think that while inflammatory, I don't think that that is
10 a specific threat. I think that a lot of the language in
11 here is not prohibited by the statute. And I don't want
12 the jury to look at this language and say well he said
13 some inflammatory things, he must have -- I think that
14 they should be allowed to look at the threatening part of
15 the letter. But I think the rest of it with the swearing,
16 things like that, I believe that that's irrelevant. I
17 think it's inflammatory and I think if it's admitted, I
18 just think it's going to be unduly prejudicial to
19 Mr. Butler.

20 THE COURT: All right. Can you -- can you give
21 me -- let's go line by line. What is the first line do
22 you believe is prejudicial and not threatening?

23 MS. HORLBECK: I think certainly the first part.
24 I mean, the part where it says, If my writing material and
25 lawyer -- I don't know what that word is, Laundry isn't

1 here ASAP. I think that that part is. I think everything
2 after that, except for the two lines that I mentioned
3 should be redacted.

4 THE COURT: What in line three do you believe is
5 objectionable?

6 MS. HORLBECK: I don't believe that it contains
7 a threat. And I don't think that it's relevance. Judge,
8 I think that the whole thing should be redacted except for
9 the two threats that I mentioned earlier. Which would be
10 on lines four and then the last line.

11 MS. BENTLEY: And, Your Honor, I believe that
12 there's essentially a threat on almost every line between
13 Sergeant Woods-Tisdale, her children and her spouse.
14 Everyone is threatened in this letter throughout.

15 THE COURT: Wouldn't, I got to teach you a
16 lesson, be a threat, Ms. Horlbeck? Or the context,
17 couldn't that be considered a threat?

18 MS. HORLBECK: Well--

19 MS. BENTLEY: Your Honor--

20 MS. HORLBECK: If I can just answer.

21 Your Honor, the statute is pretty specific. It
22 says, Contain to take a life or inflict bodily harm. So I
23 don't know if that quite meets the standard.

24 THE COURT: Well I certainly would be glad to
25 visit it line by line but just stay the first and the last

1 are the only threats, I think the jury is going to miss
2 the context of it. So I would deny your motion.

3 MS. HORLBECK: Well, Judge, I can go back line
4 by line if, Your Honor, prefers.

5 THE COURT: Well it's up to you.

6 MS. HORLBECK: Yes, sir. Let me get -- let me
7 just go through. On line one, I think the first five
8 words need to be redacted. And the rest of line one is
9 fine. Lines two, lines three, four are fine. Line five
10 is fine. Line six is fine. Judge, I think line seven
11 where it starts with, Your white slave master, I think
12 that should be redacted. If, Your Honor, feels that I got
13 to teach you a lesson is a threat, then I would say from
14 Your white slave master up to the word, I, should be
15 redacted.

16 THE COURT: You're going down now?

17 MS. HORLBECK: Yes, sir. On line nine where it
18 starts--

19 THE COURT: All right, where you saying it needs
20 to be redacted from Your white--

21 MS. HORLBECK: Your white slave master, that
22 sentence--

23 THE COURT: Just the whole sentence? Or that
24 line?

25 MS. HORLBECK: Up until that line. That line

1 starting--

2 THE COURT: Starting there.

3 MS. HORLBECK: Yeah, needs to be redacted.

4 THE COURT: And then where does it pick back up?

5 MS. HORLBECK: The word I. I got to teach you a
6 lesson. If the Court feels that -- I don't know that
7 that's a threat. If the Court feels that's a threat then
8 I would say that redact up to the word I.

9 THE COURT: All right, then what's next?

10 MS. HORLBECK: The next line where it starts,
11 Danielle Woods-Tisdale find the address on the internet.
12 Starting there up to, Guarantee. That's probably not
13 redactable. Judge, I would say, I max out December so
14 save your ink. I think from the word I on that line up to
15 the word H-O-E should be redacted.

16 THE COURT: So where are you saying to start? I
17 can't do....

18 MS. HORLBECK: No, I max out December.

19 THE COURT: All right, you think that needs to
20 be redacted?

21 MS. HORLBECK: Yes, sir.

22 THE COURT: Through what?

23 MS. HORLBECK: Up through the next several lines
24 it should be redacted through the word blood. And that's
25 all I have.

1 THE COURT: All right.

2 All right, what's the State's position on those
3 redactions?

4 MS. BENTLEY: Your Honor, the State believes
5 that entire letter is a threat. Is a threat to Corporal,
6 now Sergeant Woods-Tisdale, her husband, which
7 Ms. Horlbeck pointed out, Your white slave master can
8 breath for now, his time drawn near. Your Honor,
9 testimony will show that that is directed specifically at
10 her husband.

11 THE COURT: Okay.

12 MS. BENTLEY: And the context of this letter,
13 each part of this is needed to show that this is, in fact,
14 a threat. A threat on her life, a threat on her family's
15 life, a threat on her children and her husband.

16 THE COURT: All right, I didn't know the context
17 of that so that will come out that he's referring to her
18 relative then?

19 MS. BENTLEY: Yes, Your Honor.

20 THE COURT: All right, I deny your motion,
21 Ms. Horlbeck.

22 I'm assuming that the letter can be verified for
23 proper admission. Anything else?

24 MS. BENTLEY: There's one more statement, Your
25 Honor. I mean, letter that we need to do a Jackson v.

1 Denno.

2 THE COURT: Okay.

3 MS. BENTLEY: The state calls Investigator Marty
4 Shugart to the stand.

5 THE CLERK: Sir, please place your left hand on
6 the Bible, raise your right hand.

7 MARTY SHUGART, after being duly sworn, testified
8 as follows:

9 THE CLERK: Please state your name.

10 THE WITNESS: James Marty Shugart.

11 DIRECT EXAMINATION

12 BY MS. BENTLEY:

13 Q Investigator Shugart, where are you employed?

14 A Perry Correctional Institution.

15 Q In what capacity?

16 A I'm a investigator.

17 Q And what kind of crimes do you investigate at Perry?

18 A Any criminal offense, concerning inmates, I
19 investigate do internal affairs and also investigate
20 introduction of contraband from the outside.

21 Q How long have you worked at Perry?

22 A Seven and a half years.

23 Q Where did you work prior to Perry Correctional?

24 A I was the Investigator of Union County Sheriff's
25 Office.

1 Q Did you receive a document, let me show you what have
2 been marked as State's Exhibit No. 10, do you
3 recognize this document?

4 A I do.

5 Q What is it?

6 A It's a note I received from Mr. Butler. I had sent
7 for him earlier to talk to him about this case and he
8 had refused to come. And this was dated October the
9 14th, 2010. A note that he sent me stating that he
10 didn't know why I wanted him to come but he would
11 talk to me now.

12 Q Okay. Did you -- when you sent for him, did you ever
13 speak to him in the interim between requesting him
14 and receiving that letter?

15 A No, ma'am.

16 Q Did you request that letter?

17 A No, ma'am.

18 Q Do you know whether he was advised of any rights
19 prior to sending you that letter?

20 A No, ma'am.

21 Q Why wouldn't he'd been advised of any rights?

22 A We wun't [sic] asking him any questions.

23 Q Okay. Have you altered this letter in any way?

24 A No, ma'am.

25 Q And how do you know it's from Keeon Butler?

1 A I'm familiar with his handwriting. He had a very
2 distinctive handwriting. And that came from the dorm
3 through the main room to me.

4 Q Does it have his name on it anywhere?

5 A It does.

6 Q Okay. Did you threaten or coerce him to write you
7 this letter?

8 A No, ma'am.

9 Q Did you offer him any -- any bribe or any favorable
10 treatment in exchange for writing you this letter?

11 A No, ma'am.

12 Q Would he have been free to leave or free to go to the
13 outside world at the point that he wrote you this
14 letter?

15 A No, ma'am.

16 MS. BENTLEY: Okay, I don't have any further
17 questions, Your Honor.

18 THE COURT: You may cross-examination the
19 witness.

20 CROSS-EXAMINATION

21 BY MS. HORLBECK:

22 Q Investigator, this letter is just about why
23 Mr. Butler didn't show to speak to you?

24 A Yes, ma'am.

25 Q Okay. Does he admit anything in the letter?

1 A No, ma'am.

2 Q Okay. And you didn't receive -- or are there any
3 threats in this letter?

4 A No, ma'am.

5 Q And did you receive any threatening letters in this
6 case?

7 A Me, personally?

8 Q Yes.

9 A To me, no, ma'am.

10 Q Okay.

11 MS. HORLBECK: That's all I have.

12 MS. BENTLEY: And, Your Honor, the State would
13 only wish to offer this as a sample, a known sample of
14 this Defendant's handwriting. It's not for the content
15 of the letter.

16 THE COURT: All right. Thank you, you may step
17 down.

18 MS. HORLBECK: I guess, Judge, my objection
19 would be just I don't think the question is here whether
20 Investigator Shugart can identify the handwriting. So I'm
21 a little bit confused as to why it would be admissible
22 through him.

23 THE COURT: What's the purpose of the admission
24 of this writing?

25 MS. BENTLEY: It's a letter from Mr. Butler to

1 Investigator Shugart, it's just another demonstration of
2 his handwriting received by personal. Since this -- the
3 threatening letter is not signed and this one is signed.
4 I mean, it just shows that it's the same individual, Your
5 Honor. It another example. Solely the purpose of
6 identity.

7 MS. HORLBECK: Judge, I'm just going to object
8 to its admission. I believe that there's other requests
9 to staff members, specifically through Corporal Tisdale
10 that have my client's name on them and the same type of
11 handwriting. And the question would be whether she can
12 recognize the handwriting, not somebody else. So I would
13 object to the admission of this document.

14 THE COURT: May I see the document?

15 MS. BENTLEY: Sure. And the State wants to say
16 that Investigator Shugart investigated the incident. The
17 fact that he corroborated that it was this Defendant's
18 handwriting is relevant.

19 THE COURT: So, Ms. Horlbeck, what is your
20 objection to the letter again?

21 MS. HORLBECK: Judge, the issue in this case
22 is -- would not be whether Investigator Shugart can
23 identify the handwriting. He didn't receive any allegedly
24 threatening letters, it was officer or Corporal Tisdale
25 that did. If she wants to say that she can identify the

1. handwriting, I think that's fine. But I think the rest of
2. the question about whose handwriting, it would be -- would
3. be the jury's decision. And I think for another witness
4. to come in and give an opinion like that, especially--

5. THE COURT: Well wouldn't an investigating
6. officer be able to use his personal knowledge to -- I
7. mean, he's investigating this offense, wouldn't he be
8. allowed to use his personal knowledge? I know his
9. nickname, it wasn't in the prison system but, you know, I
10. heard it was, you know, a guy named Sam. And I knew Sam
11. and I know that was his nickname and so forth. Wouldn't
12. that just go to his ability to investigate? That he knows
13. that writing when he gets the letter?

14. MS. HORLBECK: Judge, I think that just calls
15. for an opinion about the ultimate issue which I believe is
16. for the jury. So no, I would just maintain my objection.

17. THE COURT: Solicitor, can't you get the
18. testimony of the witness in without another writing?

19. MS. BENTLEY: Your Honor, we can get the
20. testimony in. However, I believe that because -- because
21. the writing is distinctive, it's important for the jury to
22. see known comparables of his handwriting. That was signed
23. by him at the top, it's sent to the investigator. We can
24. prove that it's from him. And I believe that it's
25. important for them to see that.

1 THE COURT: Does it relate to this
2 investigation?

3 MS. BENTLEY: It does, Your Honor. He requested
4 to speak to him.

5 THE COURT: All right, I'll allow it in over
6 your objection.

7 MS. HORLBECK: And, Judge, just so I got it on
8 the record, there are several other requests from staff
9 members that I believe were made to Corporal Tisdale that
10 had the same information. And that's all I have.

11 THE COURT: So you saying that you think they
12 should put all them in?

13 MS. HORLBECK: I believe they are already,
14 that's my point, Judge.

15 MS. BENTLEY: Yes, sir, they're various requests
16 to staff but there's no other letter, writing, handwriting
17 that we have.

18 THE COURT: So that's going to be exhibits that
19 are going to be offered later?

20 MS. HORLBECK: Yes, sir but the requests to
21 staff is specifically to Corporal Tisdale has his
22 handwriting on it. So I think that this letter to
23 Investigator Shugart is cumulative and would just be used
24 to bolster. That's another grounds for my objection.
25 That all I have, Judge.

1 THE COURT: Okay. Thank you.

2 All right, let's take a short break and be back
3 in about 10 minutes.

4 (WHEREUPON, a short break was taken.)

5 THE COURT: Let's have the jury come in.

6 (WHEREUPON, the jury came into open court at
7 approximately 11:26 a.m.)

8 THE COURT: Ladies and gentlemen, thank you for
9 your patience. We're ready to proceed with the opening
10 statements of the attorneys. This is not going to be
11 evidence, you're going to hear the evidence from the
12 witness stand. I urge you to listen carefully as the
13 attorneys address you. I'm confident they can give you a
14 good overview of what to be alerted to as the case
15 develops. The Clerk is going to administer an oath to you
16 at this time to qualify you to try this case. Listen
17 carefully as the Oath is administered, I'm confident that
18 you'll be able to fulfill the obligations that you're
19 committing to these parties.

20 Ms. Troupe, you may swear the jury.

21 THE CLERK: Please stand and raise your right
22 hand for the Oath. The proper response is, I will.

23 (WHEREUPON, the jury was sworn.)

24 THE CLERK: Thank you, please be seated.

25 THE COURT: Solicitor, you may address the jury

1 in your opening.

2 OPENING STATEMENT

3 MS. BENTLEY: May it please the Court.

4 Ms. Horlbeck.

5 Ladies and gentlemen, is it ever acceptable to
6 graphically threaten the life or well-being of a person
7 because of the way they are doing their job? My name is
8 Lisa Bentley and I'm the prosecutor in today's case.
9 We're here today because the legislature, along with the
10 State, say no. It is against the law to threaten the life
11 of a public official during the course of their duties.

12 The Defendant in today's case, Mr. Keeon Butler,
13 has been charged with violating that crime. Threatening a
14 life of a public official. And the charge is as
15 straightforward as it sounds. Today I want to talk --
16 briefly, I want to talk about three things. What this
17 case is about, what I have to prove and how I'm going to
18 prove it. What is this case about? This case is about
19 not believing in authority. This case is about having
20 contempt for authority and refusing to follow the rules
21 and procedures.

22 What do I have to prove? In order to prove the
23 Defendant guilty of the crime he's been charged with, I
24 have to prove that he communicated a threat. A tangible
25 threat. A written threat. An email threat to a public

1 official. Corporal now Sergeant Danielle woods-Tisdale is
2 a public official. She's employed at Perry Correctional
3 Institute. And that's where she encountered the
4 Defendant. And that's where she was threatened in the
5 course of her job.

6 How am I going to prove that? Well I just told
7 you that the threat had to be communicated in a tangible
8 way. So you will see the threatening letter that the
9 State says Mr. Butler delivered to Ms. Woods-Tisdale.
10 Additionally, you will see that -- you will see that the
11 letter was not signed. In a cowardly fashion it was
12 signed with something other than a signature. However,
13 there are samples of writing that were collected through
14 the year -- through Ms. Woods-Tisdale's employment, that
15 showed the writing on the threatening letter was the same
16 writing of that as Keeon Butler. You will also hear from
17 Investigator Marty Shugart, an investigator at Perry
18 Correctional, who investigated the letter and the contents
19 of that letter and was also able to tie that back to Keeon
20 Butler.

21 Ladies and gentlemen, this trial will be very
22 brief. At this point I just ask that you listen to all of
23 the witnesses, you examine the testimony, you examine the
24 evidence closely and then you return to a verdict that
25 speaks the truth. Thank you.

1 THE COURT: Ms. Horlbeck.

2 MS. HORLBECK: May it please the Court.

3 Ladies and gentlemen, it's still morning so I'm
4 going to tell y'all good morning. My name is Caroline
5 Horlbeck and I represent Keeon Butler here. Keeon is 31
6 years old. He's from the Charleston, South Carolina area.
7 And while he was in Charleston he was studying business
8 administrative law. He was in school there. Now, when I
9 was thinking about how to describe this case to y'all,
10 the -- and I don't know how much T.V. y'all watch but if
11 you watch some of the commercials that inevitably comes
12 along, Traveler's Insurance Company uses a red umbrella as
13 their logo. And in some of the commercials they got a
14 little man that walks around with this huge, red umbrella.
15 And he walks around the country and he uses it to save
16 various citizens in distress. And the umbrella covers
17 people in the rain. The umbrella can cover people in a
18 storm and, you know, the umbrella is used as a boat to
19 save people.

20 As you think about this case, you may be
21 wondering, how on earth can Mr. Butler be not guilty?
22 He's been indicted, a warrant's been issued and here he is
23 sitting here on trial. Well, if that thought crosses your
24 mind, I want you to remember that red umbrella. Because
25 that red umbrella, even though it's a logo for the

1 insurance company, that red umbrella is certainly present,
2 if not, literally because I'm not going to bring a
3 umbrella in here, but it's certainly present in spirit.
4 And I want you remember that.

5 I used the red umbrella as an example because
6 the red umbrella is very similar to the person's right to
7 presumption of innocence. Everyone who is on trial in
8 this country is presumed innocent. And you're presumed
9 innocent from the time, that you're arrested, from the
10 time the warrant is handed to you, from the time you post
11 bond, to the time that you come to court and stand trial.
12 The presumption of innocence is the red umbrella. And
13 just like the insurance company says, We're here when you
14 need us. Well that red umbrella is here covering
15 Mr. Butler. Okay. And it's going to remain covering
16 Mr. Butler.

17 The only thing that's going to remove that red
18 umbrella, that presumption of innocence, is if the State
19 meets their burden of proof. And in this case, as in
20 every criminal case, the State has several things they
21 have to do to meet the burden of proof. First of all,
22 they've got to bring evidence and testimony to prove the
23 things that they're alleging happened. Second thing they
24 have to do is they have to show -- they have -- their
25 evidence has to be great enough or strong enough to dispel

1 all reasonable doubt.

2 Now, this case is not a long case but it's a
3 very, very, very important case. Not only to the State
4 but certainly to Mr. Butler. So as you listen to the
5 testimony and consider the evidence and eventually go back
6 into your jury room to deliberate, I want you to keep in
7 mind the burden of proof, the presumption of innocence and
8 the fact that nothing removes the presumption of innocence
9 except proof beyond a reasonable doubt. And in order to
10 bring you prove beyond a reasonable doubt the State has to
11 prove their allegations today. When you go back to your
12 jury room when all this is done, we believe it's going to
13 be clear that the State won't have met their burden of
14 proof. And we believe that the only appropriate verdict
15 in this case is not guilty. Thank you.

16 THE COURT: Solicitor, you may call your first
17 witness.

18 MS. BENTLEY: The State calls Danielle
19 Woods-Tisdale.

20 THE CLERK: Please place your left hand on the
21 Bible, raise your right hand.

22 DANIELLE WOODS-TISDALE, after being duly sworn,
23 testified as follows:

24 THE CLERK: Thank you, please be seated. State
25 your name for the record.

1 THE WITNESS: Danielle Woods-Tisdale.

2 DIRECT EXAMINATION

3 BY MS. BENTLEY:

4 Q Sergeant Woods-Tisdale, where are you employed?

5 A Perry Correctional Institution.

6 Q What is your position there?

7 A I'm a Sergeant.

8 Q What are your duties as sergeant?

9 A I supervise lower level officers as well as I
10 supervise inmates in their living areas.

11 Q How long have you been employed at Perry
12 Correctional?

13 A Eleven and a half years.

14 Q What was your position in August 2010?

15 A I was the legal law clerk.

16 Q What were your duties as a legal law clerk?

17 A As a legal law clerk I supervise security in the
18 building of inmates. I also delivered all legal
19 materials and law books, writing materials, pens,
20 pencils to the inmates on the lock-up facility at
21 Perry Correctional Institution.

22 Q Did you wear a uniform while you were Corporal?

23 A I did.

24 Q And to whom did you report?

25 A Captain Wade.

1 Q Okay. Do you know how many inmates are housed at
2 Perry Correctional at any one time?

3 A Roughly a thousand.

4 Q How many would you work with on a regular basis
5 during your job?

6 A Just about all of the inmates, roughly a thousand.

7 Q Was there some you came into contact with more
8 frequently than others?

9 A Yes, ma'am.

10 Q Why would that be?

11 A Because of my job capacity in the education building,
12 I dealt with those inmates. And then in the lock-up
13 inmates that I service with the legal law materials
14 that I explained.

15 Q How would someone request -- or pardon me. Would
16 people -- what would you deliver to inmates?

17 A Legal law books, writing materials, I would make
18 legal copies for their court documentations.

19 Q Would you just deliver them to everyone?

20 A No, just only the inmates on the max compound that
21 requested that service.

22 Q How would somebody request service from you?

23 A They would need to write a request to staff, which
24 would be addressed to me, specifying the books that
25 needed, the materials they needed, the copies they

1 needed.

2 Q Sergeant Woods-Tisdale, I'm going to show you State's
3 Exhibits 2 through 5, could you look at those but not
4 tell me what they are quite yet.

5 A (The witness complies.)

6 Q Do you know what those are?

7 A Yes, ma'am.

8 Q How do you recognize them?

9 A I recognize them by what's written on them, who it's
10 written by and specifically what's written which is
11 requested law books.

12 Q From whom did you receive those requests?

13 A Keeon Butler.

14 Q How do you know that?

15 A Because he signed it, he's put his name and SCDC
16 number.

17 Q Okay. Did he do that on all those?

18 A He did.

19 Q Are they dated as well?

20 A Yes, they are.

21 MS. BENTLEY: Your Honor, at this time the State
22 admits State's Exhibit 2 through 5 into evidence.

23 THE COURT: Any objection to 2 through 5?

24 MS. HORLBECK: Judge, I would just object on the
25 basis that I don't know if the foundation has been

1 properly laid for identifying the...

2 MS. BENTLEY: Would you like me to keep going,
3 Judge?

4 THE COURT: Yes.

5 BY MS. BENTLEY:

6 Q All right, could you please tell me have any changes
7 or alterations -- is that request the same it was
8 when you -- when it came into your office?

9 A Slightly altered. Where I would put Show proof when
10 I receive requests from inmates like these, I have to
11 go and verify that they do have a pending law case.
12 And when I verify that I write on it, Proof showed,
13 the date and my signature.

14 Q So you verify that with each one of those?

15 A You don't have to do with each one, using the on
16 case. If there's another case presented then you
17 have to do that.

18 Q But all of those have been verified?

19 A Yes, ma'am.

20 MS. BENTLEY: The State would, again, show that
21 she's has fully knowledgeable about those documents.

22 THE COURT: Any objection now?

23 MS. HORLBECK: No, sir.

24 THE COURT: Without objection, two through five
25 are admitted.

1 (WHEREUPON, State's Exhibits Nos. 2 through 5
2 were admitted into evidence.)

3 BY MS. BENTLEY:

4 Q When you received these requests and then you
5 verified them, as you said, what would be the next
6 step?

7 A The next step would be to place them on a stack. For
8 example, there's various -- a lot of them there. So
9 they go by day. If he sends me one today, that's put
10 for tomorrow and etcetera. Then once they're
11 stacked, when that day arrives for inmates to receive
12 the books, that notice is then sent to the inmates to
13 work in the law office and they pull the law books,
14 stack them on a cart. And then on a prescribed day
15 myself and the inmate take the cart to the max
16 compound and I deliver those materials to the
17 inmates.

18 Q So you deliver these materials that are requested
19 personally?

20 A Yes.

21 Q Do you merely hand them to the person that's
22 requesting them?

23 A Well, you verify that it is the inmate because they
24 have their name written on the outside of the cell.
25 You let the inmate know that the books are here.

1 Then you hand the books -- what I do is I verify the
2 numbers on the paper to the book that I'm giving the
3 inmate. Then the inmate has to sign.

4 Q I'm going to show you what been marked as State's
5 Exhibit 7 through 9, do you recognize those
6 documents?

7 A Yes, I do.

8 Q What are those documents and how do you recognize
9 them?

10 A As I stated when those -- the papers are sent to the
11 law clerk. The numbers of the books that's required
12 and the material requested, is then transferred to
13 this law book request sheet. And everything is
14 written down that's on there. And this with the
15 inside of the book is sent to the max compound. And
16 when the books are given to the inmate, he signs it,
17 I sign it, we both date it.

18 Q So you observed the person that signed those forms?

19 A Yes, I did.

20 Q Who was the person that signed those forms?

21 A Keeon Butler.

22 MS. BENTLEY: Your Honor, at this time the State
23 admits Exhibits 7, 8 and 9 into evidence.

24 THE COURT: Any objection?

25 MS. HORLBECK: No objection.

1 THE COURT: Without objection, those are
2 admitted.

3 (WHEREUPON, State's Exhibits Nos. 7 through 9
4 were admitted into evidence.)

5 BY MS. BENTLEY:

6 Q Sergeant Woods-Tisdale, do you recall if Mr. Butler
7 made a request for materials toward the end of
8 August, 2010?

9 A I believe, yes.

10 Q Do you recall a date when you were unable to deliver
11 books to Mr. Butler?

12 A Yes.

13 Q What date was that?

14 A Roughly the 23rd, 22nd or 23rd.

15 Q Okay. Could you tell me -- do you recall what books
16 he had requested or what materials he requested?

17 A I believe they were either -- they were either law
18 books or they were legal material, papers and he also
19 needed legal documentation copied.

20 Q Were you able to deliver those items to him on August
21 23rd?

22 A The legal copies and he ordered some debt forms and
23 different materials, were serviced to him the day
24 prior to this incident. They were delivered.

25 Q Were there items that you were unable to deliver?

1 A The books were, yes. The books were unable to be
2 delivered.

3 Q Why could not deliver those books to him?

4 A Because of the breaking of policy -- certain policies
5 the inmate broke that prevented him from receiving
6 those law books.

7 Q How did he react when you refused to give him those
8 materials?

9 A He extremely angry. He was verbally assaultive. He
10 extremely angry.

11 Q Sergeant Woods-Tisdale, I want to show you what's
12 been marked as State's Exhibit 1 and 6. Do you
13 recognize these items?

14 A Yes, I do.

15 Q How do you recognize them?

16 A The way that inmates correspond with me is by sending
17 their request as I said through the mail. This was a
18 letter that I received in this envelope public by
19 Keeon Butler addressed to me.

20 Q So you recognize those because you received them in
21 the mail?

22 A Yes.

23 Q Could you tell me that date that's stamped on the
24 envelope?

25 A August 23, 2010.

1 Q Did you receive it on August 23rd?

2 A No. It usually takes maybe two to three days through
3 the mail process at the institution to receive it.

4 Q Did you read that letter -- do you recall what day
5 you read that letter?

6 A It's on the incident report. It was two or three
7 days after the 23rd.

8 Q Okay. Was State's Exhibit No. 1, was that found --
9 where was that found?

10 A Inside the envelope.

11 Q Have any changes or alterations been made to either
12 the envelope or the letter?

13 A No, ma'am.

14 MS. BENTLEY: At this time the State requests to
15 put Exhibit 1 and 6 into evidence and publish Exhibit 1 to
16 the jury.

17 THE COURT: Let me see the attorneys just for a
18 moment.

19 (WHEREUPON, a bench conference was held in the
20 presence of the jury but out of the hearing of
21 the jury.)

22 THE COURT: All right, over objection Exhibits 1
23 and 6 are admitted into evidence and may be published.

24 (WHEREUPON, State's Exhibits Nos. 1 and 6 were
25 admitted into evidence.)

1 BY MS. BENTLEY:

2 Q Sergeant Woods-Tisdale, would you, please, read
3 State's Exhibit 1.

4 A (The witness complies.)

5 (WHEREUPON, State's Exhibit No. 1 was published
6 to the jury.)

7 BY MS. BENTLEY:

8 Q Sergeant Woods-Tisdale, is the letter as you received
9 it sometime after August 23rd, 2010?

10 A Yes.

11 Q The letter contains several -- pardon me, is the
12 letter signed?

13 A No, it's not.

14 Q Do you recognize the handwriting?

15 A Yes, I do.

16 Q How do you recognize it?

17 A Because Keeon Butler has a very distinctive
18 handwriting and I -- when I did the incident report
19 and attached this, I also attached those Exhibits out
20 of my personal filing system to go along to show that
21 it's all the same handwriting from the same inmate.

22 Q In addition to the handwriting, are there other
23 comments in there that led you to believe that it was
24 Mr. Butler that wrote you that letter?

25 A Yes. He's called me some of these names before.

1 MS. HORLBECK: Judge, I'm going to object to
2 that.

3 THE COURT: I'll overrule the objection.

4 THE WITNESS: He's called me those names before
5 on the 23rd and days prior.

6 Q There was a reference--

7 MS. HORLBECK: Judge, just -- we might have a
8 matter just to -- my understanding was that we did a
9 motion to specifically keep that out. And I believe the
10 ruling was it would be kept out.

11 MS. BENTLEY: Could we approach?

12 THE COURT: Let's move on. Do you have anymore
13 on this line of questioning?

14 MS. BENTLEY: I was going to ask her what was
15 the significance of the White slave master was.

16 MS. HORLBECK: And as to things in the letter,
17 that's not my objection. My objection would be to
18 anything verbal said the day before. The ruling was that
19 that was especially kept out.

20 THE COURT: Just disregard anything about what
21 he had said in the past. That's not a concern for you,
22 ladies and gentlemen. And we're dealing with this
23 particular offense and not anything that happened in the
24 past. You should totally disregard that and that should
25 be stricken from the record.

1 MS. BENTLEY: May the witness explain the
2 significance?

3 THE COURT: Yes, ma'am.

4 BY MS. BENTLEY:

5 Q Could you explain the significance of the term, White
6 slave master?

7 A Yes. It's long -- it's long been a thought that my
8 husband -- my husband is white. So that's what that
9 reference was to.

10 Q Did you ever discuss your personal life at work?

11 A No, ma'am.

12 Q Did you discuss your children at work?

13 A No, ma'am.

14 Q Did you confirm or refute the rumor that your husband
15 was white?

16 A No, ma'am.

17 Q Why would you not speak about your personal life at
18 work?

19 A It's prohibited.

20 Q Okay. Sergeant Woods-Tisdale, was it -- the letter
21 references writing material and law work. Would
22 there have been anyone else that would deliver those
23 materials?

24 A No.

25 Q So it's only you?

1 A Yes, ma'am.

2 MS. BENTLEY: One moment.

3 Q Sergeant Woods-Tisdale, you are the one that provided
4 these handwriting samples to Investigator Shugart, is
5 that correct?

6 A Yes, ma'am.

7 Q Did you keep them during the ordinary course of your
8 library duties?

9 A Yes.

10 Q Okay. And when you delivered materials pursuant
11 through State's Exhibit 2 through 9, did Mr. Butler
12 ever seem to be surprised?

13 A Never.

14 Q He appeared to be expecting those items?

15 A Yes, ma'am.

16 MS. BENTLEY: No further questions.

17 THE COURT: You may cross-examine the witness.

18 MS. HORLBECK: Yes, sir.

19 CROSS-EXAMINATION

20 BY MS. HORLBECK:

21 Q Okay, Officer Woods-Tisdale, the request,
22 specifically State's Exhibit 2, 3, 4 and 5, the
23 request to staff. Where are these requests filled
24 out? Are they typically filled out in the inmate's
25 cell?

1 A Yes, ma'am.

2 Q So the requests in State's 2, 3; 4 and 5 were not
3 filled out in front of you, is that correct?

4 A Correct.

5 Q Okay. And then you wouldn't have seen who exactly
6 wrote these requests, is that correct?

7 A Correct.

8 Q And I understand your testimony about the
9 identification -- the identifying information. And
10 let me include in that Exhibit 7, I believe there's
11 another request to staff member, once given that
12 would not have been filled out in front of yourself,
13 correct?

14 A Correct.

15 Q Okay. Requests to staff member are typically filled
16 out in the cell?

17 A Yes, ma'am.

18 Q And then the requests are mailed where they're
19 supposed to go?

20 A Yes, ma'am.

21 Q All right. SCDC has -- or Perry Correctional
22 Institution has a mail system?

23 A Yes, ma'am.

24 Q Okay. All right. Now, we also talked about some law
25 book requests, which are State's Exhibit 8 and 9.

1 And you indicated that these were at least signed in
2 front of you?

3 A Yes, ma'am.

4 Q Okay. Then these are the -- 8 and 9 are the only two
5 documents that you actually would have seen and
6 signed in front of you?

7 A Yes, ma'am.

8 Q Okay. All right. And they would have been signed
9 again, at the cell, that person's cell?

10 A Yes, ma'am.

11 Q Okay. All right. Now, this Exhibit 1, the letter
12 that you received, that was not written or filled out
13 in front of you, is that correct?

14 A Correct.

15 Q Okay. And do you have any direct evidence that
16 Mr. Butler actually stuck this in the mail system?

17 A No, I don't.

18 Q Okay. And there's no return address on the envelope?

19 A No, ma'am.

20 Q Okay. And by envelope I mean State's Exhibit 6,
21 which is the envelope you're saying that the letter
22 came in?

23 A Yes, ma'am.

24 Q Okay. You weren't trained as a handwriting expert,
25 were you?

1 A No, ma'am, I was not.

2 Q And I understand you got quite a bit of experience,
3 you've been in the Department of Corrections for 11
4 and a half years?

5 A Yes, ma'am.

6 Q But that training -- and I know you went -- probably
7 went through some training to be a corrections
8 officer, is that correct?

9 A Yes, ma'am.

10 Q Okay. But that training didn't include identifying
11 handwriting?

12 A No, ma'am, it didn't.

13 Q And to your knowledge, do you know if any of these
14 writings were analyzed by handwriting analyst or
15 expert?

16 A I have no idea.

17 Q Okay. All right. Now, do you continue to work at
18 Perry Correctional?

19 A Yes, ma'am, I do.

20 Q And after this alleged incident, did you continue in
21 your position with the law, I guess -- I'm sorry, law
22 clerk or law library?

23 A Yes, ma'am, until June.

24 Q Okay. And your specific role was -- were you in the
25 education center or the legal center?

1 A The education center which houses the law library.

2 Q Okay. All right. And after this alleged -- after
3 this letter in 2010, you continued in that role in
4 the education department?

5 A Yes, ma'am.

6 Q And you continued delivering legal materials to
7 inmates that requested them?

8 A Correct.

9 Q Okay. All right. And were any steps taken to,
10 transfer you to another department?

11 A No, ma'am.

12 Q Okay. And have any of the things that were said in
13 this letter, have they happened?

14 A No, ma'am.

15 Q Okay. All right. And have you taken steps to make
16 sure your address is not listed, that kind of thing?

17 A Yes, ma'am.

18 Q Did you take those steps before this happened or
19 after?

20 A Before it happened.

21 Q Okay. All right.

22 MS. HORLBECK: Beg the Court's indulgence.

23 BY MS. HORLBECK:

24 Q After this letter was received, did contact between
25 yourself and Mr. Butler continue?

1 A Yes, ma'am.

2 Q Okay. Did you and Mr. Butler continue to speak after
3 this letter incident?

4 A As all inmates, yes, ma'am.

5 Q Okay.

6 MS. HORLBECK: That's all I have, thank you.

7 MS. BENTLEY: Brief redirect.

8 THE COURT: Yes, ma'am.

9 REDIRECT EXAMINATION

10 BY MS. BENTLEY:

11 Q Sergeant Woods-Tisdale, State's Exhibits 2 through 9,
12 are those the only samples that you had from
13 Mr. Butler?

14 A No, ma'am.

15 Q How many requests would you say you had from him in
16 your file?

17 A I would receive probably two requests a day from him.
18 Roughly, five, six days a week. So I have a lot.

19 Q Okay. And did you ever receive a request with his
20 name on it that was in a different handwriting?

21 A No.

22 Q Did he have a roommate?

23 A No.

24 Q Would anyone else -- well, would you have any
25 knowledge of whether he was allowed to have visitors

1 in his room?

2 A No, he was not.

3 Q And the identifying information on State's Exhibits
4 2, 3, 4 and 5, specifically the dorm number and the
5 inmate number, would those have been widely known for
6 everyone in the prison system? Would they have known
7 his information?

8 A Not everyone, no.

9 Q And in your experience, in your work, have you ever
10 received anything that purported to be from Keeon
11 Butler that did not have that exact same handwriting?

12 A No, I did not.

13 MS. HORLBECK: Just briefly, Judge.

14 RE-CROSS-EXAMINATION

15 BY MS. HORLBECK:

16 Q Corporal Woods-Tisdale, each inmate's cell, would the
17 cell have the number and the inmate's name on the
18 outside of the cell?

19 A Yes, ma'am.

20 MS. HORLBECK: That's all I have, thank you.

21 THE COURT: Thank you, you may step down.

22 THE WITNESS: Thank you.

23 THE COURT: You may call your next witness,
24 Solicitor.

25 MS. BENTLEY: The State calls Investigator Marty

1 Shugart to the stand. >

2 THE CLERK: Sir, please, place your left hand on
3 the Bible, raise your right hand.

4 MARTY SHUGART, after being duly sworn, testified
5 as follows:

6 THE CLERK: Thank you, please be seated. State
7 your name for the record.

8 THE WITNESS: James Marty Shugart,
9 S-H-U-G-A-R-T.

10 DIRECT EXAMINATION

11 BY MS. BENTLEY:

12 Q Investigator Shugart, where are you employed?

13 A I'm employed with the South Carolina Department of
14 Corrections. I'm actually headquartered out of
15 Columbia but I have an office at Perry Correctional
16 Institution.

17 Q Where is Perry Correctional Institution located?

18 A It is at 430 Oakland Road in Pelzer, which is
19 Greenville County, South Carolina.

20 Q How long have you been working at Perry, did you
21 already say?

22 A Seven and a half years.

23 Q And where did you work prior to that?

24 A Prior to that I was employed at Union County
25 Sheriff's Office for 17 and a half years.

1 Q So how long have you been in law enforcement total?

2 A Forty-six years.

3 Q All right. Investigator Shugart, what type of
4 institution is Perry?

5 A Perry is a level 3 maximum security institution.

6 Q All right. What types of events do you investigate
7 as law enforcement at Perry Correctional?

8 A At Perry Correctional, which -- let me explain, I'm a
9 law enforcement officer, I'm not a correctional
10 officer. I'm a police officer that's hired through
11 the Department of Corrections to work in a
12 institution. I investigate crimes that occur within
13 the institution which could be anything from murder,
14 rape, any kind of criminal offense that happens on
15 the street can happen in prison. Also, we do
16 internal affairs where we investigate the officers
17 and we investigate contraband being brought in from
18 prisoners or thrown over the fence, introduced into
19 the institution.

20 Q Investigator Shugart, did you begin an investigation
21 into the Defendant in August 2010?

22 A I did.

23 Q What prompted that investigation?

24 A For me to have an investigation, I receive incident
25 reports from the institution that outline an event

1 that's taken place. I received an incident report
2 and a copy of the letter from Ms. Tisdale.

3 Q Would State's Exhibit 1 and 6, would those be what
4 you're referring to?

5 A It is..

6 Q Please continue.

7 A Once I received those, I initiated an investigation
8 which she had also sent along with the report and the
9 letter, the other Exhibits, showing Mr. Butler's
10 handwriting. Also, I can pull his Warden's jacket.
11 He has handwriting samples there where he's made
12 requests over the years and look at that to compare
13 his handwriting. To see that it was the same.

14 Q And did you, in fact, do that? Did you look at the
15 letter along with the samples you had available?

16 A I did.

17 Q Is there any reason that makes you so confident the
18 handwriting was -- that this handwriting is Keeon
19 Butler's?

20 A That is Keeon Butler's handwriting.

21 Q How would you describe Mr. Butler's handwriting?

22 A Very unique and unusual and sometimes hard to read.

23 Q Okay. Investigator Shugart, was there anything
24 written in that letter that you were also able to tie
25 back that was unique to Mr. Butler?

1 A Yes, it was.

2 Q You want to see the letter?

3 A One being that he talked of his max out date, which
4 was in December of 2010. I did confirm that in his
5 record that his max out date was December 1st, 2010.
6 His max out date being the day he gets out of prison.

7 Q Is there a way that you can keep someone longer than
8 their sentence?

9 A No, ma'am.

10 Q Okay. Anything else that you were able to
11 corroborate?

12 A I was aware of the rumor that her husband was white.
13 I knew what he was talking about when he mentioned
14 the slave master.

15 Q Did you speak -- or did you interview Sergeant
16 Woods-Tisdale regarding--

17 A I did speak to her. Interviewed her on receiving the
18 letter and the events surrounding this letter.

19 Q All right. Have you ever personally witnessed
20 Mr. Butler sign anything or write anything?

21 A I have not.

22 Q Have you received items from Mr. Butler in writing?

23 A I have.

24 Q And what did the handwriting look like?

25 A This.

1 Q Okay. And Investigator Shugart -- one moment,
2 please. Are threats taken seriously at Perry
3 Correctional?

4 A Yes, they are.

5 Q Please talk to the jury about -- or pardon me. Are
6 all threats investigated?

7 A Yes, they are.

8 Q Why is that?

9 A There's been several incidents throughout the
10 Department of Corrections, not just at Perry but
11 other institutions where threats have been made and
12 individuals have been harmed on the street.

13 Q So threats -- was Mr. Butler ever involved in those
14 instances?

15 A Not that I'm aware of.

16 MS. BENTLEY: No further questions, please
17 answer any questions that Ms. Horlbeck may have.

18 CROSS-EXAMINATION

19 BY MS. HORLBECK:

20 Q Okay, Investigator Shugart, is that the proper title?

21 A That's correct.

22 Q All right. I just don't want to get it wrong. All
23 right. All these Exhibits that the State has
24 admitted into evidence, none of them were ever
25 written in front of you, is that correct?

1 A No, ma'am.

2 Q And certainly the documents that -- or the letters
3 that you said that you received, those were not
4 written in front of you?

5 A No, ma'am.

6 Q All right. You -- anything that you received with
7 this type of handwriting was that -- did that come to
8 you from the Perry Correctional system mail?

9 A Correct.

10 Q Postal service, I guess, for lack of a better word.
11 All right. And these -- all these items that have
12 been admitted into evidence, they have not been
13 reviewed by handwriting expert, is that correct?

14 A Not by an expert, no, ma'am.

15 Q Okay. Now, you have been with law enforcement for
16 some time through Union County, correct?

17 A Correct.

18 Q And also you certainly continued law enforcement
19 working in Perry Correctional?

20 A Correct.

21 Q And you're getting ready to retire?

22 A Next week.

23 Q All right. And I know you've had a lot of training
24 but have you been -- you have not been trained in
25 handwriting analysis, correct?

1 A Not as an expert.

2 Q Okay.

3 A But I've had training in reading and comparing and
4 noticing comparables, yes, ma'am.

5 Q Okay. And are you a handwriting expert?

6 A Not a expert, no, ma'am.

7 Q Okay. All right. And you testified that
8 Mr. Butler's max out date or, I guess, the date that
9 he would complete his sentence was December 2010?

10 A That's correct.

11 Q Okay. Do you have documentation to confirm that with
12 you today?

13 A Yes, ma'am.

14 Q Okay. All right. Good enough. When -- when you --
15 when you took at look at the evidence submitted by
16 the State, specifically the letter in Exhibit 1 and
17 the envelope in Exhibit 6, were those dusted down for
18 fingerprints?

19 A No, ma'am.

20 Q Okay. And certainly there's no evidence that
21 Mr. Butler's fingerprints are one either the letter
22 or the envelope?

23 A Not that I'm aware of.

24 Q Okay. All right. Was Corporal Tisdale moved to
25 another section of the institution after this letter,

1 to your knowledge? You may not know.

2 A I don't know.

3 Q Okay. All right. Let me just --

4 Beg the Court's indulgence.

5 THE COURT: Yes, ma'am.

6 BY MS. HORLBECK:

7 Q Now inmates at the Department of Corrections, they
8 don't have any privacy expectations in their own
9 cells, do they?

10 A No, ma'am.

11 Q In other words, someone -- their cells are certainly
12 searchable?

13 A Absolutely.

14 Q Okay. And if an officer or just anyone wants to come
15 into their cell, then an inmate would not have the
16 right to say, No, you can't come into my cell.

17 A No, they couldn't stop them from coming in.

18 Q All right. And do you have any evidence that
19 Mr. Butler directly was the one that put this letter
20 into the mail system?

21 A No, ma'am.

22 Q Okay. You didn't see him put the letter into the
23 mail system?

24 A No.

25 Q Do you have witnesses that saw him deposit it into

1 the mail system?

2 A No. And actually he wouldn't have, he would have
3 handed it to another officer. But I don't have that
4 officer either.

5 Q Okay. All right.

6 MS. HORLBECK: That's all I have. Thank you.

7 MS. BENTLEY: Briefly on redirect, Your Honor.

8 THE COURT: Yes.

9 REDIRECT EXAMINATION

10 BY MS. BENTLEY:

11 Q Investigator Shugart, when were you trained in
12 handwriting analysis?

13 A It was probably in 2003 or 2004, somewhere in there.

14 Q What type of training was that?

15 A It was training at SLED. It was just a class on
16 handwriting analysis. And I think it might have --
17 it was in a different class, probably was
18 fingerprint, reading, handwriting analysis all in
19 like a week course.

20 Q Would they have discussed the use of handwriting
21 experts in that case?

22 A Was that discussed?

23 Q Would they discuss when you would use a handwriting
24 expert?

25 A Sure.

1 Q Did you feel that you needed to use a handwriting
2 expert to analyze the threat communicated?

3 A No, that's plain as it can be.

4 MS. BENTLEY: Okay, no further questions.

5 THE COURT: All right, thank you, sir, you may
6 step down.

7 State may call its next witness.

8 MS. BENTLEY: The State rests, Your Honor.

9 THE COURT: Mr. Foreman, ladies and gentlemen,
10 I'll ask you to go back to your jury room now. We have a
11 few matters we need to resolve and I'm going to let you
12 order lunch. Hopefully it can be here in about an hour
13 and you can enjoy your lunch before you start your
14 deliberations or during. So if you'll just go back with
15 Ms. Fryer now. They'll give you some menus, you can order
16 your lunch. We'll call you back in just a minute. Don't
17 discuss the case while you're out.

18 (WHEREUPON, the jury left open court at
19 approximately 12:12 p.m.)

20 THE COURT: All right, anything from the State?

21 MS. BENTLEY: Nothing from the State.

22 MS. HORLBECK: Yes, sir, Your Honor. I just
23 have several matters to take up.

24 THE COURT: All right.

25 MS. HORLBECK: The first would be a motion for a

1 directed verdict. Judge, our argument is that the
2 evidence introduced merely raises suspicion. Mr. Butler's
3 guilt is such that the jury is left to merely speculate to
4 conjecture about his guilt. We would just ask the Court
5 to grant a directed verdict in this case.

6 THE COURT: I believe there is sufficient
7 evidence to give the jury to make decision as to whether
8 or not -- I must, of course, consider the motion in the
9 light most favorable to the State at this stage,
10 Ms. Horlbeck. And I believe there is sufficient evidence
11 for the jury to make a factual determination. I
12 respectfully deny your motion.

13 MS. HORLBECK: Yes, sir. The second thing I put
14 before the Court is going back to the -- and I understand
15 the Court gave a curative instruction to the jury but just
16 to preserve the record, I would move for a mistrial at
17 this point. The Court specifically had ruled that there
18 would be no testimony about any verbal threats made by
19 Mr. Butler and that testimony came out. I don't believe a
20 curative instruction is -- I understand the Court makes a
21 curative instruction is sort of like telling the jury to
22 ignore the elephant that just ran through the room. I
23 just ask the Court make a mistrial at this point. I would
24 renew all my prior motions and objections.

25 THE COURT: Solicitor, be glad to hear from you

1 on the mistrial motion.

2 MS. BENTLEY: Your Honor, the mistrial motion,
3 it was my, from what I heard, Sergeant Tisdale did not get
4 into the content of the verbal threat. I asked her a
5 question as to whether or not there was anything
6 significant in this letter that tied it back to Keeon
7 Butler and she said that he said before. She did not
8 state which of those things it was, she did not say when.
9 She did say the day prior but nothing other than that.
10 But we left a vague, he was angry that he did not receive
11 the books. We did not get into specific statements that
12 were made. As, Your Honor, heard from Sergeant
13 Woods-Tisdale, she didn't exactly remember the exact
14 things that were said the day before. So I believe that
15 we are in line with the Court's ruling.

16 THE COURT: As I remember the context of the
17 question, it was geared toward how she would recognize the
18 letter as being from the Defendant. And it was that some
19 of the language in there had been used to her verbally. I
20 think that's what it was geared toward. I know the motion
21 was that, by the Defense, that it would be prejudice to
22 talk about name calling. I believe it was offered in the
23 context of only as an identification method by I recognize
24 the language from having heard it before. I don't believe
25 it was for the purpose of eliciting a statement from him

1 as to what happened at the cell door on that day. I think
2 the State stayed within those perimeters to not elicit a
3 specific statement. I think, as I remember the testimony
4 of the witness, it was just that on other occasions I
5 heard those names.

6 My curative instruction was to make sure that
7 the jury didn't cause to imply that there had been name
8 calling in the past. That issue as to whether or not he's
9 had words to say with a guard in the past. But earlier,
10 whether or not there was a threat made at this time. Not
11 those previous. I think the curative instruction that I
12 had adequately preserves the impact of jury. So your
13 motion is noted for the record, Ms. Horlbeck.

14 Any other matters we need to take up now?

15 MS. HORLBECK: I don't have anything further,
16 Judge. I understand the Court's ruling. Just for the
17 record though, it's just the fact that the State -- a
18 statement being made previously, I'm just concerned that
19 that testimony may lead the jury to render a guilty
20 verdict based not only on the letter but what happened
21 previously. I just want to clarify for the record.
22 That's all I have, Judge. Thank you.

23 THE COURT: Thank you. All right, Ms. Horlbeck,
24 you would come around with your client, let me make sure
25 he understands his rights about testifying.

1 Mr. Butler, if you just stand there at the
2 podium.

3 THE CLERK: Raise your hand, please.

4 KEEON BUTLER, after being duly sworn, testified
5 as follows:

6 EXAMINATION

7 BY THE COURT:

8 Q Mr. Butler, we've reached a stage in the trial now
9 where you can put up a defense, you can call
10 witnesses, you can testify. You have a right not to
11 testify. However, our Constitution in South
12 Carolina, the Constitution of United States of
13 America, says that No person in any criminal case can
14 be compelled to testify in this matter. So you can't
15 be required to testify. You have a choice of either
16 to testify or not to testify. If you chose to
17 testify then, of course, you will be subject to the
18 same rules that govern any other witness. You can be
19 examined and cross-examined on any relevant issues in
20 the case.

21 If you have prior offenses which involve
22 dishonesty or false statements or crimes that are
23 punishable by imprisonment for more than a year and
24 the Court determines that the probative value
25 admitting that evidence outweighs any prejudicial

1 effect to you, then the State would have a right to
2 use your criminal record to impeach your testimony to
3 attack your credibility.

4 If you decide not to testify, I'm going to
5 instruct the jury that they cannot hold that against
6 you in any way. There's to be no prejudice to you.
7 That you have a right not to testify, the State has
8 the burden of proof. I'll tell them they that can't
9 consider that in any manner whatsoever against you.
10 Your decision to testify or not testify has got to be
11 made by you knowingly and intelligently and
12 voluntarily with the understanding of the
13 consequences of your choice to testify or not to
14 testify.

15 Do you understand what I've explained to you
16 now?

17 A Yes, sir.

18 Q Do you have any questions of me as to your right to
19 testify or not testify?

20 A No, sir.

21 THE COURT: Does the State have any offenses,
22 prior offenses for which it would wish to cross-examine
23 the witness?

24 MS. BENTLEY: Yes, Your Honor. There's a strong
25 armed robbery and there's a aggravated assault and

1 attempted armed robbery. For which he was incarcerated.

2 THE COURT: What dates were those?

3 MS. BENTLEY: Conviction on strong armed robbery
4 Your Honor, was June 18th, 1997. He served a YOA so
5 that's probably -- well I believe that would have been the
6 10 years conviction date. On the other two were
7 March 23rd, 2005. Then there's a probation revocation as
8 well as, I believe. March 24th, 2005 was the original
9 sentence date for the armed robbery, strong armed robbery
10 and aggravated assault..

11 THE COURT: When was the revocation, do you
12 know?

13 MS. BENTLEY: Your Honor, I said that, I was
14 wrong. There was no revocation, he was serving a straight
15 eight year sentence.

16 THE COURT: He was doing that sentence when this
17 occurred?

18 MS. BENTLEY: Yes, Your Honor.

19 THE COURT: So has he been released now?

20 MS. BENTLEY: Yes, your. He was released in
21 December 2010.

22 THE COURT: Okay. All right you can return to
23 your seat.

24 MS. HORLBECK: Thank you, Judge.

25 THE COURT: So when was the strong armed

1 robbery? When was he released from that?

2 MS. BENTLEY: It was a YOA, Your Honor.

3 THE COURT: Why would that be within 10 years?

4 MS. BENTLEY: I thought because of probation or
5 parole. We won't question him on it.

6 THE COURT: Well I would not allow that.

7 All right, let's take just a short break to give
8 you time to talk with your client about his testifying.
9 Otherwise, if there's any requests to charge I'll take
10 them and definitely will have a verdict form for you. So
11 we'll take about a 10 minute break, be ready to start
12 back, hopefully.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: Your client going to testify,
15 Ms. Horlbeck?

16 MS. HORLBECK: He's not, Your Honor.

17 THE COURT: You have anything else to present?

18 MS. HORLBECK: No, sir, no other witnesses.

19 THE COURT: Y'all ready for argument now?

20 MS. HORLBECK: Yes, sir.

21 MS. BENTLEY: Yes, sir.

22 THE COURT: Ms. Horlbeck, is your client going
23 to testify, do you have any witnesses to put up?

24 MS. HORLBECK: He's not going to testify, I have
25 no witnesses. The Defense will rest on the record.

1 THE COURT: All right, when I get the jury back
2 then I'll call upon you, let you rest, then we'll be ready
3 for closing. We'll go right to that. I have the verdict
4 form, I just want each of you to look that over, make sure
5 it's in the proper order. Any objection?

6 MS. BENTLEY: No objection.

7 MS. HORLBECK: No objection, Judge.

8 THE COURT: All right, let's have our jury come
9 in if they're ready.

10 (WHEREUPON, the jury came into open court at
11 approximately 12:46 p.m.)

12 THE COURT: You may call your first witness,
13 Ms. Horlbeck.

14 MS. HORLBECK: Your Honor, the Defense rests.

15 THE COURT: All right, Mr. Foreman, ladies and
16 gentlemen. You heard all the testimony that's to be
17 offered in this case. The Exhibits are in. It's now time
18 for the attorneys to make their closing statements to you.
19 I remind you, again, that what they have to say in opening
20 and closing is not evidence. Since you heard all the
21 evidence and testimony, I'm confident that these attorneys
22 can give you viable insights to perhaps help you in your
23 deliberations after I instruct you on the law. So I
24 encourage you to listen carefully as each of these
25 attorneys addresses you in their closing.

1 Ms. Bentley, you may address the jury.

2 CLOSING STATEMENT

3 MS. BENTLEY: May it please the Court.

4 Ms. Horlbeck.

5 Ladies and gentlemen, at the beginning of this
6 trial, not so long ago, I asked you a question. I asked
7 you if it was acceptable to graphically threaten someone
8 in the course of their job. Because of their job. It is
9 never acceptable. And in this State it's also against the
10 law. Because a threat was made to a public official,
11 Danielle Woods-Tisdale. An officer at Perry Correctional.

12 Ladies and gentlemen, the Judge is the
13 determiner of the law. He'll tell you what the law is.
14 And you decide the facts. Danielle Woods-Tisdale is a
15 public official. So it is up to you to determine whether
16 I met the burden of proof prove beyond a reasonable doubt
17 that Keeon Butler communicated a tangible threat to her.
18 Now, you heard today, and you'll receive back in the jury
19 room, that we have a tangible threat. Now in true
20 cowardly fashion, the threatening letter is not signed.
21 The signature, The Death certificate.

22 So I have to prove to you that Keeon Butler is
23 the one that wrote and mailed that letter. How do I do
24 that? How did I prove that to you beyond a reasonable
25 doubt. First, you have the distinctive handwriting.

1 Second, you have the comparables one, two, three, four,
2 five, six, seven, eight -- eight of them to compare that
3 letter and envelope to. You also have the pertinent facts
4 in the letter that match up to Mr. Butler. Did anyone see
5 Mr. Butler write that letter? Did anyone see him deposit
6 it in the mail? No. But, ladies and gentlemen, that does
7 not mean the State cannot or has not met its burden of
8 proof. The burden in this case, like every criminal case,
9 is proof beyond a reasonable doubt. Proof that leaves you
10 firmly convinced of the Defendant's guilt. Proof that
11 leaves you firmly convinced that Keeon Butler wrote that
12 letter.

13 The Judge will instruct you about evidence.
14 About direct evidence versus circumstantial evidence. I'm
15 sure you've all heard those words on T.V. before. There
16 is no direct evidence that Keeon Butler wrote that letter.
17 Nobody saw him do it. There is strong, proof beyond a
18 reasonable doubt strong, evidence that he did. The Judge
19 will tell you that there is no difference in the eyes of
20 the law between circumstantial and direct evidence. There
21 are treated equally. And you may consider them with the
22 same weight.

23 So let's go back through how we proved this was
24 Keeon Butler. First, we have these known requests to
25 staff. Now you only have four here today. But as

1 Sergeant Woods-Tisdale told you, she received
2 approximately two a week. Two a week with information
3 pertinent to Mr. Butler. His signature, his ID number,
4 his dormitory number. Dozens and dozens of these
5 requests. All with the exact same handwriting. The same
6 unique, distinctive handwriting. After she received the
7 requests, she verified there was something pending that he
8 needed the books for and she would compile them. And she
9 would deliver them herself. Was he ever surprised when
10 she made a deliver pursuant to one of those requests? No.
11 He was always expecting them. And, in fact, he would sign
12 for them. Sign for them, the same pen, same penmanship
13 that he filed out the request form.

14 You heard that on August 23rd she was able to
15 delivery him some materials but not able to deliver him
16 the books. Something happened, he was not able to receive
17 those. And he was angry. He had motive and reason to
18 write this letter to her. This letter that begins, If my
19 writing material and law work ain't here A-S-A-P.

20 She testified that she is the only person that's
21 in charge of those requests and she delivers them
22 personally. He was angry that he did not get his
23 materials. You might wonder to yourselves, if I can get
24 some material, I don't know that I would write such a
25 threatening letter. Keeon Butler did. So we've got the

1 handwriting that clearly matches up. The facts that
2 clearly match up to him. The max out date, December.
3 Keeon Butler was being released in December. The
4 reference to the White slave master. That was also
5 something that Keeon Butler had referenced before. Again,
6 believing that Sergeant Woods-Tisdale's husband was white.
7 The letter is clearly from Keeon Butler. And you can see
8 that for yourselves when you take the letter, the envelope
9 and all the known comparisons back there for yourselves.

10 I also have to prove that the letter was
11 threatening. You're heard from the Defense that she did
12 not, Sergeant Woods-Tisdale did not get a new assignment
13 but she did have her address protected on the internet.
14 Because as Investigator Shugart told you, all threats are
15 investigated and all threats against law enforcement are
16 taken seriously. Especially inside Perry. Is this letter
17 threatening?

18 So again, if my writing material and law work
19 ain't heard A-S-A-P, go ahead and clog it in that
20 bottomless hole between your legs or ass. Both wasted
21 disposals. Just to make a demonstration, I'm going to
22 chop your first, second and third born in half. So you
23 know black and white don't mix dumb bitch. Oh, don't
24 worry, after you finish pulling you hair out, I'm going to
25 bust your fucking head too. Your white slave master can

1 breath for now, his time is drawing near. But I got to
2 teach you a lesson for selling out. Danielle
3 Woods-Tisdale, I'll find the address on the internet, no
4 problem. This ain't no threat, it's a motherfucking
5 guarantee. I max out December so save your ink, I can't
6 do no more, no matter what you put on paper. Fuck you
7 trifling ass ho. You talk like your more than what you
8 are but you're a dumb bitch laying up with a cave boy.
9 Honky can't even take care of your funky ass. Everyday
10 you got a hat on, hair tear up, nails eat up, plus your
11 body wasted as fuck. Just three months, that's when the
12 drama begins. All that talking just kills time and keeps
13 you reminded of what to expect. Because bitch, it's only
14 peace in death and respect in blood. You ain't the only
15 one here though, it's long overdue. Get your dumb-ass
16 insurance paid up. Then again, I might spare you the
17 funeral and feed you and them dusty as bastards to the
18 hogs. Death Certificate, signed, sealed and delivered.

19 Would a reasonable person in Corporal
20 Woods-Tisdale position feel threatened by this letter?
21 That is what you need to determine. Whether that threat
22 was a real perception for someone in her shoes. Keeon
23 Butler was angry at Corporal Woods-Tisdale for not bring
24 her -- for not bringing him writing materials. He told
25 her he was angry at her the day this letter was stamped

1 received in the prison mail system. He does not have a
2 roommate, he's not allowed to have visitors in his cell.

3 These requests, there's only a few of them here,
4 you heard there's numerous ones. And you heard from both
5 Corporal Woods-Tisdale and Investigator Shugart, that they
6 have the exact same handwriting as this letter. And you
7 can see it for yourself. Because Investigator Shugart
8 said, whose been trained in handwriting analysis, it's
9 plain as day. There is no question about that, ladies and
10 gentlemen.

11 The evidence has shown that Keeon Butler
12 communicated a threat to Corporal Danielle Woods-Tisdale
13 in August of 2010. I ask that you think back on the
14 testimony, you review the evidence and you return a
15 verdict that speaks the truth. A verdict of guilty.

16 THE COURT: Ms. Horlbeck. You may address the
17 jury now.

18 CLOSING STATEMENT

19 MS. HORLBECK: May it please the Court. Ladies
20 and gentlemen, good afternoon. Let me start by just
21 revisiting some of the basic principles of the case. And
22 I'm not going to dwell on them too long. I know y'all
23 have heard it and you're going to hear a lot more from the
24 Judge when I'm done. But just to refresh your memory, the
25 State has the burden of proof. They have the burden of

1 bringing evidence and testimony to court with them. And
2 what they have to do is they have to prove the things that
3 they alleged that happened. And they have to prove those
4 things to such an extent that they dispel all reasonable
5 doubt. That's the whole goal of coming to trial today.

6 Now, in order to answer the question of whether
7 the State has met their burden, you have to -- we're going
8 to have to talk about proof beyond a reasonable doubt.
9 Now, the Court will instruct you that proof beyond a
10 reasonable doubt is proof that leaves you firmly convinced
11 of somebody's guilt. So okay, we understand what that is.
12 I think the next question you're going have to decide in
13 order to do what you got to do in the deliberation room,
14 is to figure out what a reasonable doubt is.

15 Reasonable doubt is a very important concept in
16 all of our -- in our whole criminal justice system. It's
17 a common thread that's weaved throughout this case and
18 every other case that comes to trial. You're going to
19 hear the Judge talk some more about it when I'm done. A
20 good way to think about reasonable doubt is it might be a
21 feeling or a thought. Gosh, I wish the State had brought
22 more evidence. Or it might be a gut feeling that, Gosh, I
23 just don't think that they quite proven the claims that
24 they come in here to try to prove. Or it might be just a
25 vague feeling. You know, a feeling that, I just don't

1 think that they brought the evidence that they needed to
2 bring. It's not a fanciful or speculative doubt, it's a
3 doubt based on a reasonable common sense thought that you
4 got in your brain. That's really what reasonable doubt
5 is.

6 Now, as you think about reasonable doubt, I
7 think a helpful illustration is to consider the lady of
8 justice. And y'all have probably all seen her. And when
9 you see her, normally she has a set of scales in her
10 hands. And the scales are usually even. Okay. And
11 that's because in most cases they are even. In the
12 criminal justice it's a little bit different because of
13 the presumption of innocence. And remember in the
14 beginning of this case I described the presumption of
15 innocence as this big 'ole umbrella that protects you in
16 all circumstances. Sort of like you're there when you
17 need us. That's what the presumption of innocence means.
18 The presumption of innocence causes those scales in
19 justice's hands to be tipped in Keeon Butler's favor. So
20 the whole goal in this case is for the State to tip those
21 scales back so that they're even, all right. So if they
22 want you to return a not -- a guilty verdict, then they
23 need to return those tipped the scales, that are tipped in
24 favor of Keeon, they need to even them back up. That
25 would be the State's whole goal in this case. Well, our

1 position is that they haven't done that.

2 Now, the prosecutor's already spoken to you a
3 little bit about the weight. And the Court will instruct
4 you that direct and circumstantial evidence, they weigh
5 the same. But, what you're also going to hear is that you
6 decide what weight to give all the evidence. You are the
7 ones that decide what weight. Because you're finders of
8 fact. So you can take a fact and say, I don't believe
9 that, I'm not going to give it any weight. Or you can
10 take another fact or somebody's testimony or one of these
11 letters and say, Well I believe that 100 or I believe it
12 50 percent, or I believe it 75 percent or 30 percent.
13 Y'all are the ones that decide what actual weight to give
14 evidence. And that's another wonderful thing about this
15 jury system.

16 Now our position is that the Government has not
17 removed all reasonable doubt, okay. So let's just go
18 through some of the reasons that you should have a reason
19 to doubt that Mr. Butler is guilty. Number one, first of
20 all, we don't know exactly who wrote these various
21 documents that we've got here in evidence. And we've
22 heard some testimony that, Oh, you know, this looks like
23 the handwriting that Mr. Butler's had on prior documents.
24 You also heard some testimony from the witnesses that they
25 received other letters, you know, staff requests from

1 someone with the same handwriting. But, consider and
2 remember the fact that no one actually saw Mr. Butler fill
3 out of these things. No one has seen him write any of
4 these things in front of them. With the exception of
5 these law book requests. And I think the only thing they
6 saw him do was put his signature there. But all these
7 other things, no one's actually seen who wrote those, all
8 right.

9 So right away we've got testimony that the
10 State's produced, that they think it could be the same
11 handwriting but no one is really sure. The testimony,
12 Well it looks the same but we're not 100 percent sure. I
13 say that because these things have not been analyzed by a
14 handwriting expert. So when you analyze and decide what
15 weight to give evidence, which way -- which would weigh
16 more? Testimony from a handwriting expert that they took
17 this document and compared it to these other documents and
18 said 100 percent, this is the same handwriting. Or
19 testimony that, Well, we received some letters from this
20 same -- someone with the same handwriting in the past and
21 we think it's the same but we really haven't had it
22 analyzed. I've had some classes or a class or two in
23 handwriting analysis but I can't really say 100 percent
24 that this is the same handwriting. That's really what
25 your job is to assign what weight to give the evidence.

1 So which weighs more? As testimony from an expert that
2 this is definitely the same handwriting? Or testimony,
3 Well we think it could be but we're not 100 percent sure.
4 That's your job today.

5 Next thing you got to look at the prints or
6 absence of prints on these documents. Someone had to
7 write these things. And everyone who testified is in some
8 way involved with law enforcement. Investigator Shugart
9 has extensive involvement with the Union County police.
10 As an investigator and in his experience certainly
11 continued as he worked his career on up and moved on to
12 Perry. So certainly these things could be dusted down.
13 Because someone -- whoever wrote these, would have left a
14 print. Or could have left a print. We won't know now.
15 But the thing is that none of these -- this document --
16 this document -- well nothing really was analyzed for
17 prints. So we really don't know whose handled this paper.
18 We certainly don't know that Mr. Butler was definitely the
19 one, or beyond a reasonable doubt, the one that handled
20 this envelope and handled this letter, stuck it in there
21 and sealed it.

22 You know, it looks like this envelope is sealed.
23 So I don't see that any DNA evidence was preformed. Maybe
24 you wouldn't expect DNA evidence to be done in a case like
25 that. Well that's all right but I think this -- again,

1 this goes back to your job which is to weigh the evidence.
2 Which would weigh more? The evidence or testimony from an
3 expert that dusted down the envelope and the letter and
4 can say, you know, Wow, there's Mr. Butler's prints right
5 there. Or no, it's not Mr. Butler's prints, it's
6 Mr. Inmate's x's prints. And it looks like he was the one
7 and his saliva is one on this envelope. And that this
8 envelope was sealed by somebody else's saliva. Which
9 weighs more, evidence and testimony from an expert or
10 evidence and testimony -- or not evidence and testimony?
11 Absolutely no evidence and testimony that these documents
12 had Mr. Butler's print and saliva on them. That's another
13 question you all have to decide as you make your decision
14 today.

15 The State argued that they have to prove that
16 the letter was threatening and that Corporal Tisdale felt
17 threatened. You know, I think that's just something --
18 y'all are going to have to make that decision. But as you
19 consider that, I would just remind you that there was no
20 effort to change departments, there was no further effort
21 to hide ones address. I think Corporal Tisdale said that
22 she -- I think that she was already unlisted before this
23 ever happened. Certainly she wasn't transferred to
24 another department. And interaction between Corporal
25 continued. So that's something that you all need to

1 consider as you make your decision today.

2 Then finally, one of the biggest things in this
3 case that the State has to prove is they have to prove
4 actual delivery of this letter. And delivery has to be
5 knowingly and willful. It can't just be, you know, I kind
6 of left this out and somebody picked it up or it fell on
7 the floor. Or, you know, it can't be something like that.
8 It's actually got to be a knowingly and intentionally
9 deliver.. And the Judge will tell you to listen for it.

10 Now, I remind you too, Investigator Shugart also
11 testified that in SCDC, you can't just go to the mail slot
12 and put your mail in there and have it go where it's
13 supposed to go. You actually have to hand it to an
14 officer. In this case, there's no testimony from any
15 officer that this threatening letter was ever handed to an
16 officer by Mr. Butler. And that's very, very significant
17 in this case. That's an important point that I ask y'all
18 to remember. These inmates, they don't have any privacy
19 in their cell. They may not -- he may not -- Mr. Butler
20 may not have had a roommate or visitor, he has no privacy
21 interest in his cell. His cell is opened for search and
22 opened for access by other officers 24/7. But there's no
23 direct testimony whatsoever that Mr. Butler actually was
24 the person that delivered this letter to anyone.

25 And here, one last time, you all have to weigh

1 that. And which would way more? Evidence and testimony
2 from an officer who said I was on duty that day,
3 Mr. Butler handed me a letter and stuck it in the mail
4 system for him. Which weighs more? Does that weigh more
5 or does the -- does the lack of evidence that Mr. Butler
6 was at all involved in the delivery, does that weigh more?

7 I think at the end of this case when you all
8 consider the scales of justice and consider that we
9 started out with the scales tipped in favor of Mr. Butler.
10 When you remind yourselves that the State has the burden
11 of evening up those scales, the scales have not been
12 evened up. When you weigh the evidence of what they could
13 have done versus what was actually brought, I believe that
14 the scales have not been evened up. And we ask that you
15 find Mr. Butler not guilty in this case. Thank you.

16 JURY CHARGE

17 THE COURT: Mr. Foreman, ladies and gentlemen, I
18 now instruct you on the law of the case. Let me remind
19 you of the fact that in this particular matter
20 Mr. Butler's been arrested and charged and indicted,
21 that's not evidence of any criminal wrong doing, it's not
22 evidence for which you can presume that he's done
23 something wrong. When there's an Indictment it is the
24 charge -- the document by which the case is brought before
25 this Court for disposition. So it's not to be considered

1 in any way as evidence.

2 Of course, the Indictment says that he's charged
3 with threatening the life of a public official and he's
4 pled not guilty to that charge. By pleading not guilty to
5 the charge, the burden is on the State to prove his guilt.
6 A person charged with committing a criminal offense in
7 South Carolina is never required to prove himself
8 innocent. That's an important rule of law that in a
9 criminal trial, no matter how serious that charge may be,
10 the Defendant will always be presumed innocent of the
11 crime for which that Indictment was issued. Until guilt
12 has been established by evidence beyond a reasonable
13 doubt.

14 Presumption of innocence doesn't end when you
15 begin your deliberations. It accompanies the Defendant
16 throughout the trial until you have reached a verdict of
17 guilt based on the evidence satisfying you of that guilt
18 beyond a reasonable doubt. Presumption of innocence isn't
19 a mere legal theory, it's not just a phrase that's tossed
20 about. Presumption of innocence is a substantial right to
21 which every Defendant is entitled. Unless you are
22 satisfied from the evidence that the Defendant is guilty
23 beyond a reasonable doubt.

24 Now, the phrase beyond a reasonable doubt has
25 been used and you've heard it. You may ask yourself what

1 is that in the law? A reasonable doubt is the kind of
2 doubt that would cause a reasonable person to hesitate to
3 act. Now, some of you in the past may have served as
4 jurors and a Judge told you that it was only necessary for
5 a fact to be established by evidence showing that it was
6 more likely true than not true. The standard being the
7 greater weight of the evidence or what was called the
8 preponderance of the evidence.

9 In criminal cases the State's proof is more
10 powerful than that, it must be beyond a reasonable doubt.
11 That would be prove that leaves you firmly convinced of
12 the Defendant's guilt. Now, while in this life there's
13 things that we can't know with absolute certainty, in
14 criminal cases the law doesn't require prove that
15 overcomes every possible doubt. If based upon your
16 consideration of the evidence you are firmly convinced
17 that the Defendant is guilty of the crime charged, then
18 your verdict must be one of guilty. If on the other hand
19 you think there's a real possibility that the Defendant is
20 not guilty, you must give the Defendant the benefit of
21 that doubt and find him not guilty.

22 Now, throughout this trial you and I have had
23 certain duties to perform. As the trial Judge it's been
24 my responsibility to preside over the trial of the case,
25 to rule on the admissibility of evidence offered during

1 the trial. You're to consider only the competent evidence
2 before you. If there's any matters of which objection was
3 made and sustained or any matters ordered stricken from
4 the record in this case, you must disregard such
5 testimony. You're to consider only the testimony of which
6 has been presented from the witness stand, the exhibits
7 which have been made a part of the record and that alone.

8 My job is also to charge you the applicable law
9 in this case. As the presiding Judge, I'm the sole Judge
10 of the law. It's your duty, as jurors, to accept that law
11 and apply the law as I state it to you. If you already
12 have an idea of what the law or an idea of what the law
13 ought to be in a case like this and you're idea does not
14 agree with what I now tell you the law is, then you must
15 abandon such an idea. Because under your oath you've
16 sworn to accept the law and apply that law just as I state
17 it to you.

18 Every case that's tried before a jury, that jury
19 becomes the sole and exclusive judges of the facts in a
20 case. A trial Judge can't intimate, state or comment on
21 or make they statement whatsoever to a trial jury about
22 the facts in a case. Since you, the jury, are the sole
23 judges of the facts, you're not to infer from anything
24 I've said during the progress of the trial, any rulings
25 I've made on the admissibility of evidence or otherwise.

1 Anything I say to you now in the course of this
2 instruction to you that I have an opinion about the facts,
3 I assure you I do not have an opinion about the facts.
4 The law of South Carolina prohibits a trial Judge such as
5 I from having or expressing an opinion about the facts.
6 That's a matter solely for you. And you, the jury, make
7 the determination as to the effect, the value, the weight
8 and the truth of the evidence presented during a trial.

9 Normally there's two types of evidence. There's
10 direct evidence and there's circumstantial evidence.
11 Direct evidence is the testimony of a person who claims to
12 have actual knowledge of a fact such as an eye witness.
13 It's evidence which immediately establishes the main fact
14 to be proved. Circumstantial evidence is proof of a chain
15 of facts and circumstances that indicate the existence of
16 a fact. It's evidence which immediately establishes
17 collateral facts from which the main fact may be inferred.
18 In other words, it's based on inference and not on
19 personal knowledge observations.

20 The law makes absolutely no distinction between
21 the weight or the value to be given either direct evidence
22 or circumstantial evidence. Nor is a greater degree of
23 certainly required of circumstantial evidence than of
24 direct evidence. You should weigh all the evidence in the
25 case, ladies and gentlemen, and if after weighing that

1 evidence you're not convinced of guilt of the Defendant
2 beyond a reasonable doubt, then you must find the
3 Defendant not guilty. Necessarily, you must determine the
4 credibility of witnesses who testified. Credibility
5 simply means believability. It's your duty, as jurors, to
6 analyze and evaluate the evidence and determine which
7 evidence convinces you of its truth.

8 In determining the believability of witnesses
9 who have testified, you can believe one witness over
10 several witnesses, you can believe several witnesses over
11 one witness. You can believe part of the testimony of a
12 witness, disregard the remaining part of the testimony of
13 that very same witness. In your discretion you can
14 believe the testimony of a witness in its entirety or you
15 can reject the testimony of a witness in its entirety.
16 You can consider whether any witnesses exhibited to you an
17 interest or a bias or prejudice or other motive in the
18 case. You can consider the appearance, the demeanor of
19 the witness while on the witness stand.

20 Now, in order to establish criminal liability,
21 criminal intent is required. And it must be proven by the
22 State beyond a reasonable doubt. Criminal intent is
23 always a matter that must be determined by a jury from the
24 circumstances surrounding the situation. There's no way,
25 of course, to prove intent to a mathematical certainty,

1 therefore, it's not necessary to establish intent by
2 direct and positive evidence. But intent may be
3 established by inference the same way as any other fact
4 taken into consideration the acts of the parties and all
5 the facts and circumstances of the case. Criminal
6 intent's a state, it's a conscious wrong doing. It's up
7 to you to determine what the Defendant intended based upon
8 the circumstances shown to have existed.

9 I instruct you, ladies and gentlemen, and
10 emphasize to you the fact that the Defendant did not
11 testify is not a factor to be considered by you in any way
12 in your deliberations and in your consideration of the
13 question of the guilt or the innocence of the Defendant.
14 It must be not be considered by you in any manner
15 whatsoever. The Defendant has a Constitutional right to
16 remain silent. And the assertion of this right must not
17 be considered by you in your deliberations. I repeat,
18 under your oath, you're to draw no conclusions whatsoever
19 from the fact that the Defendant in this case chose not to
20 testify. The fact that he exercised his right not to
21 testify should not even be discussed by you in your jury
22 room.

23 The burden of proof, as I've stated, is on the
24 State of South Carolina. The Defendant's not required to
25 prove his innocence. That burden remains on the State to

1 prove guilt beyond a reasonable doubt. In this case the
2 Defendant is charged with threatening a public official.
3 The State must prove beyond a reasonable doubt that the
4 Defendant knowingly and willfully delivered or conveyed to
5 a public official any letter or paper or writing, a print,
6 a document, a verbal or electronic communication which
7 contains a threat to take the life or inflict bodily harm
8 upon the victim or members of his or her immediate family.
9 And that this threat is directly related to the public
10 official's professional responsibilities.

11 Now there's obviously two possible verdicts.
12 You can have either guilty or not guilty based upon your
13 view of the evidence presented by the State. If you find
14 the State has met its burden of proof in all aspects
15 beyond a reasonable doubt, then Mr. Foreman, you just
16 check guilty as the selection, sign your name and date it.
17 If you find the State has failed in any way to meet its
18 burden of proof, your verdict, obviously, would be not
19 guilty. There's certainly no significance in the order in
20 which they're listed, one has to be listed before the
21 other. Your verdict must be a unanimous one. All 12 of
22 you must agree upon the verdict. It cannot be based upon
23 sympathy or passion or prejudice or emotion or any other
24 consideration not evidence in the case.

25 I remind you that while you're free to ask me

1 any questions related to the law that five just given you,
2 it's impermissible for me to ask any questions regarding
3 the facts of the case. That's your duty as the sole fact
4 finders to determine just what the facts are.

5 At this time, Mr. Foreman, ladies and gentlemen,
6 I'm going to ask you to retire to your jury room, don't
7 start your deliberations just yet. There's a final matter
8 of law that I need to discuss with the attorneys. After
9 which hopefully we'll have the verdict form back for you.
10 We'll have the exhibits back with instruction that is you
11 can begin your deliberations. I understand that lunch is
12 not here now. Should be here very shortly. You can
13 decide whether you want to deliberate during lunch, before
14 lunch or after lunch. I'll leave that up to you once you
15 get the instructions to start your deliberations. But as
16 of right now, don't deliberate the case in any way, I'll
17 call you -- notify you when to begin your deliberations.
18 You may retire to your jury room, Mr. Foreman, ladies and
19 gentlemen.

20 (WHEREUPON, the jury left open court at
21 approximately 1:23 p.m.)

22 THE COURT: Any exceptions to the charge from
23 the State?

24 MS. BENTLEY: No, Your Honor.

25 THE COURT: From the Defense?

1 MS. HORLBECK: No, Your Honor.

2 THE COURT: All right, if y'all make sure all
3 the Exhibits are in order, here's the verdict form to give
4 them.

5 If you'd get all the Exhibits together and the
6 verdict form, you can tell them they can start
7 deliberations whenever they wish.

8 We'll be at ease for about a few minutes. Think
9 we're probably going to be setting up for some bond
10 hearings.

11 (WHEREUPON, deliberations began at approximately
12 1:25 p.m.)

13 THE COURT: We'll be at ease until we hear from
14 our jury.

15 (WHEREUPON, Court was in recess awaiting a
16 verdict.)

17 THE COURT: All right, I understand the jury has
18 reached a verdict. Are there any matters before the jury
19 comes in?

20 MS. BENTLEY: Nothing from the State.

21 THE COURT: From the Defense?

22 MS. HORLBECK: No, sir.

23 THE COURT: All right, if the jury is ready, you
24 can have them come in, Ms. Fryer.

25

1 (WHEREUPON, the jury came into open court at
2 approximately 2:20 p.m.)

3 THE COURT: Mr. Foreman, I understand the jury
4 has a verdict, is that correct?

5 MR. FOREMAN: That's correct, Your Honor.

6 THE COURT: Is it a unanimous verdict?

7 MR. FOREMAN: Yes, sir.

8 THE COURT: If you would, please, hand the
9 verdict form to the Bailiff.

10 Madam Clerk, please publish the verdict.

11 VERDICT

12 THE CLERK: Your Honor, in the case of the State
13 of South Carolina vs. Keeon the Butler, Indictment number
14 2011-GS-23-767, we, the jury, unanimously find the
15 Defendant, Keeon D. Butler, as to the charge of
16 threatening the life of a public official, guilty. This
17 is signed by Mr. Grotler, our Foreman.

18 Ladies and gentlemen of the jury, if you agree
19 this is the verdict you reached in your deliberation room,
20 please raise your right hand.

21 (WHEREUPON, all the jurors raised their right
22 hand.)

23 THE CLERK: Thank you.

24 THE COURT: Are there any matters that we need
25 to take care of with the jury before they're discharged in

1 this case, from the State?

2 MS. BENTLEY: Nothing from the State, Your
3 Honor.

4 THE COURT: Defense?

5 MS. HORLBECK: No, sir.

6 THE COURT: Mr. Foreman, ladies and gentlemen,
7 thank you, very much, for participation with us in this
8 trial. I appreciate having an opportunity to work with
9 you. I appreciate the conscientious effort that you put
10 forth in this case and other cases that I've had a chance
11 to work you this week. You've been a good group to work
12 with and I'm so grateful you fulfilled your obligation as
13 a jury. You remember from Monday I told you that the law
14 allows you to be exempted from jury service if you're
15 called in the next two years, 2013 or 14. You can say I
16 served back in June of 2012 so therefore I'm exempted. I
17 hope you won't claim that exemption if it comes up. I
18 hope you will want to serve again.

19 I'm confident that if one day you aren't sitting
20 in the jury box but at one of the tables, be it a civil
21 case with a dispute over a contract or automobile accident
22 or been charged with some offense, that you'll want good
23 conscientious jurors such as yourself to sit in that box
24 for your case. So I hope that you will serve. I hope
25 it's been an enjoyable week and educational week for you.

1 I understand that you've already been given statements or
2 either Ms. Olson will have them downstairs for you for
3 work statements if you need that to show that you were on
4 jury service.

5 We have several matters to take care of this
6 afternoon that won't require a jury. We also have some
7 probation revocation matters tomorrow that won't require a
8 jury. Plus other matters that won't involve a fact
9 finder. So you're dismissed for the week. Thank you,
10 very much, for your participation. I've enjoyed working
11 with you. It's been a treat for me to have good fellow
12 judges sitting over there. You're dismissed at this time.

13 I would ask the Foreman, please, sir, if you
14 would remain in the hallway just for a moment, the Clerk
15 has one additional paper that she needs to get you to
16 sign.

17 Thank you, ladies and gentlemen, you're
18 dismissed at this time.

19 (WHEREUPON, the jury left open court at
20 approximately 2:25 p.m.)

21 THE COURT: Any matters we need to take care of
22 before sentence is imposed?

23 MS. HORLBECK: No, sir.

24 MS. BENTLEY: No, sir.

25 THE COURT: All right.

1 All right, Ms. Horlbeck, I'll be glad to hear
2 from you and certainly I'll be glad to hear from
3 Mr. Butler. Tell me anything?

4 MS. HORLBECK: Yes, sir, Your Honor. Mr. Butler
5 was incarcerated at Perry Correctional. I believe at the
6 end of August 2010 when this happened. And I don't think
7 he maxed out until -- in other words, he was -- continued
8 to be confined at Perry until early in December 2010.

9 MS. BENTLEY: That's correct.

10 MS. HORLBECK: And then I don't know if he came
11 directly to our jail?

12 MS. BENTLEY: He did not. He was out. He
13 appeared for a court appearance once or twice.

14 MS. HORLBECK: All right, so he's got several
15 months under his belt for time, I would refer to the State
16 as to the exact number of days.

17 Mr. Butler is not from the Greenville area, he's
18 actually from Charleston. His entire family is there. He
19 was born and raised there. He was in school for a time.
20 Actually when he got out of Perry he went home. And he
21 did come to court several times. Drove all the way up
22 from Charleston with his family. And was in school
23 studying business administration, at least for a time.

24 Judge, I think it's very important -- I'm just
25 thankful that whatever was in these letters, none of it

1 was acted upon. And I don't believe there were any
2 further efforts to communicate with Ms. Tisdale or her
3 family. And I would just ask the Court to keep that in
4 mind during sentencing. Mr. Butler would, of course, ask,
5 Your Honor, for as much leniency as possible.

6 THE COURT: Okay. Thank you.

7 Mr. Butler, anything you want to tell me, sir?

8 MR. BUTLER: All I want to say when I wrote the
9 letter, it was my intention so follow through, I was just
10 upset. And really, ultimately I was just trying to get a
11 transfer. It was never malice intended by writing it.

12 EXAMINATION

13 BY THE COURT:

14 Q How old are you, Mr. Butler?

15 A Thirty-one.

16 Q Are you married?

17 A No, sir.

18 Q Do you have any children?

19 A One.

20 Q How old is your child?

21 A Four months.

22 Q How far did you go in school?

23 A Twelfth.

24 Q Did you graduate?

25 A Yes, sir.

1 Q What school did you graduate from?

2 A Sanders. Sanders High School.

3 Q Okay. That's in Charleston?

4 A Yes, sir.

5 Q You took -- did you take some courses after school?

6 A After I came home. After I came home.

7 Q Okay. Do you have any job skills or have you worked
8 anywhere since you been out of school?

9 A Yes, sir.

10 Q What kind of work have you done?

11 A Construction, industrial.

12 Q Have you been working since you've been out of jail?

13 A Yes, sir.

14 Q On the charge you were in on?

15 A Yes, sir.

16 Q Construction work?

17 A Until I stopped and went to school.

18 THE COURT: Is there any prior record,

19 Solicitor, other than what I heard earlier?

20 MS. BENTLEY: Essentially it's what you heard

21 earlier, the 1996 strong armed robbery. The 2003

22 attempted armed robbery and assault and battery with

23 intent to kill. I would also like to note, Your Honor,

24 that while he was incarcerated at Perry, he had been -- he

25 was in disciplinary detention through 2015, which is five

1 years after his max out date. Canteen restrictions
2 through 2026. And his telephone had been revoked through
3 2020. So he had not been a exemplary inmate.

4 THE COURT: Telephone restrictions, he had
5 restrictions on telephone use until the year 2020?

6 MS. BENTLEY: Yes, sir, Your Honor. Canteen
7 restrictions through the year 2026.

8 THE COURT: So they can restrict him beyond his
9 sentence?

10 MS. BENTLEY: Per the letter, Your Honor, Save
11 your ink. There's really nothing else you can do.

12 THE COURT: Okay. Anything else from the State?

13 MS. BENTLEY: I believe that's all, Your Honor.

14 THE COURT: How much time has he served on this
15 charge?

16 MS. BENTLEY: On this charge, Your Honor,
17 nothing. I guess SCDC could calculate anything that he
18 could or should be entitled to.

19 MS. HORLBECK: Judge, I have that his date of as
20 arrest October 14th, 2010.

21 MS. BENTLEY: That's what I have, Your Honor.

22 MS. HORLBECK: Okay. So almost two months
23 credit, I think.

24 MS. BENTLEY: Your Honor, if you're requesting
25 or sentencing him to active time, we would request that it

1 not be served at Perry Correctional. If there's a place
2 to just had that to the sentencing sheet.

3 THE COURT: Department of Corrections need that
4 from me? They can't take care of that on their own?

5 MS. BENTLEY: Your Honor, I don't know what they
6 would do, I would just request that you... I'm not
7 familiar with how it works after the courtroom.

8 THE COURT: Been supporting your child?

9 MR. BUTLER: Yes, sir.

10 THE COURT: Good.

11 SENTENCING

12 This case 2011-GS-23-767, the sentence of the
13 Court is that the Defendant be committed to the State
14 Department of Corrections for a period of five years,
15 provided however upon the service of 13 months. The
16 balance is suspended, placed on probation for 30 months,
17 be given credit for his time served. Condition of
18 probation is to complete anger management course, to have
19 any substance abuse counseling as deemed necessary by
20 probation, random alcohol and drug testing. His probation
21 can be transferred to Charleston County. And I will
22 follow the request of the State that he not be
23 incarcerated at Perry Correctional Institute.

24 Wish you the best, Mr. Butler.

25 MS. BENTLEY: Thank you, Your Honor.

1 MS. HORLBECK: Thank you, Your Honor.

2 (WHEREUPON, the proceedings were concluded.)

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129

WITNESSES

Inv. Shugart

Inv. Shugart

Perry Correctional Institution

10/14/2010

ARREST WARRANT NUMBER

1522107

ACTION OF GRAND JURY

TRUE BILL

Bobby L. Dacmon

Foreperson of Grand Jury

VERDICT

GUILTY

Kent Arthur

Foreperson of Petit Jury

Date: 06-14-2012

DOCKET NO. 2011-GS-23-

LAB

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

✓ August

TERM 2011

6-14-12

THE STATE

vs.

KEEON D. BUTLER

Indictment for

0541

THREATENING A LIFE OF A PUBLIC
OFFICIAL

VIOLATION § 16-03-1040(A)

000767

RECEIVED

FEB 15 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
THREATENING A LIFE OF A PUBLIC OFFICIAL

At a Court of General Sessions, convened on **AUG 16 2011** the Grand Jurors of Greenville

County present upon their oath:

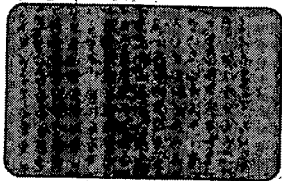
That KEEON D. BUTLER did in Greenville County, on or about the 24th day of August, 2010, knowingly and willfully deliver or convey to CORPORAL DANIELLE WOODS-TISDALE, an officer at Perry Correctional Institution, a threat to inflict bodily harm upon or take the life of CORPORAL DANIELLE WOODS-TISDALE or members of her immediate family and the threat was directly related to CORPORAL DANIELLE WOODS-TISDALE's professional responsibilities. This is in violation of §16-3-1040 (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.


SOLICITOR

131
DIB DUMB DICKSUCKING BITCH - if my writing material & law word
AIN'T HERE ASAP to head and clog it in that bottomless hole betw
een ya 1562 OR ASS. Both wasted disposals. Just to make a dem
stration I'ma chop your 1st, 2nd, & 3rd born in half so you
know Black & White don't mix dumb bitch. Oh don't worry aft
er you finish pulling ya hair out, I'ma buss your fuckin
head too. Ya white slave master can breath for now, his time
drawing near, but I GOTTA TEACH YOU A LESSON FOR SELLIN
OUT! DANIELLE WOODS-TISDALE, I'll find the address on
the internet NO PROBLEM. THIS AIN'T NO THREAT, it's a MURDER
GUARANTEE!! I MAY OUT DEC. SO SAVE YA INK, I CAN'T do
NO MORE NO MATTER what you put ON PAPER. Fuck ya trifl
ing ASS hoe. you talk like ^{you} more than what you ARE but you
a dumb bitch laying up w/ a cave boy. Honkey can't even take care
your funky ASS, every day you got a hat on, hair tear up, NAILS
eat up, plus your body wasted as Fuck. Just 3 months that's
when the drama begins, all that talking that just kill time
and keep you reminded of what to expect cause bitch it's
ONLY PEACE IN DEATH AND RESPECT IN BLOOD. you ain't the
only one here though, it's long over due. But your bond
is INSURANCE paid up, then AGAIN I MIGHT SPARE you this
funeral and just feed you AND dem dusty ASS bastard to
the dogs.

State 1



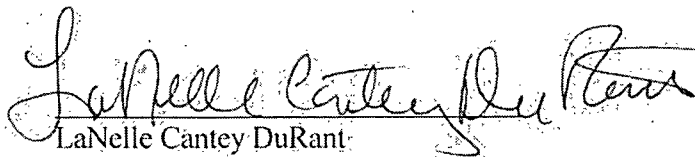
DEATH CERTIFICATE

SIGNED SEALED & DELIVERED !!!

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 15th, 2013



LaNelle Cantey DuRant
Appellate Defender

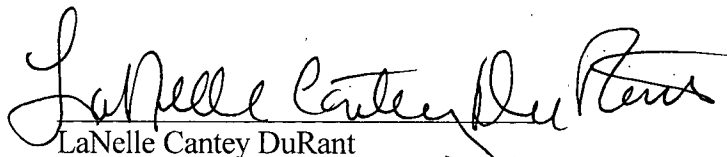
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 15th, 2013



LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

RECEIVED

NOV 15 2013

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KEEON BUTLER,

APPELLANT

APPELLATE CASE NO. 2012-212340

CERTIFICATE OF SERVICE

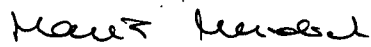
I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Christina J. Catoe, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 15th day of November, 2013.



Brandon Hall

Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 15th day of November, 2013.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.