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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DESMOND LAMAR GREEN,

APPELLANT

APPELLATE CASE NO. 2024-000119

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JANUARY 16, 2024	1
DEFENDANT’S MOTION TO BIFURCATE THE TRIAL	4
RULING OF THE COURT DENYING MOTION TO BIFURCATE	21
OPENING STATEMENT BY MS. MALONE	54
OPENING STATEMENT BY MS. TOLLEY	57
TESTIMONY	
ALLYSON MOREIRA	
Direct Examination by Ms. Malone	59
Cross Examination by Ms. Tolley	61
CHELEEN DOE	
Direct Examination by Ms. Malone	63
Cross Examination by Ms. Tolley	70
Redirect Examination by Ms. Malone	72
NK	
Direct Examination by Ms. Malone	76
Cross Examination by Ms. Tolley	85
DANIEL IRELAND	
Direct Examination by Ms. Malone	87
Cross Examination by Ms. Tolley	98
Redirect Examination by Ms. Malone	103
Re-Cross Examination by Ms. Tolley	104
Further Redirect Examination by Ms. Malone	105
TRIAL TRANSCRIPT DATED JANUARY 17, 2024	111
RENEWAL OF DEFENDANT’S MOTION TO BIFURCATE THE TRIAL	113
RULING OF THE COURT DENYING MOTION TO BIFURCATE	115
THE STATE RESTS	123
MOTION FOR DIRECTED VERDICT	126

RULING OF THE COURT DENYING MOTION FOR DIRECTED VERDICT129

COLLOQUY WITH THE DEFENDANT REGARDING HIS RIGHT TO TESTIFY129

CLOSING ARGUMENT BY MS. MALONE139

CLOSING ARGUMENT BY MS. TOLLEY.....142

CHARGE ON THE LAW150

VERDICT171

SENTENCING179

INDICTMENT.....183

CERTIFICATE OF COUNSEL185

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBITS #3, #4, #5, #6 & #7 (PHOTOS)

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

4 State of South Carolina,

5 vs. Transcript of Record
6 2019-GS-07-01270

7 Desmond Lamar Green,
8 Defendant.

9
10 January 16, 2024
11 Beaufort, South Carolina
12 Volume I of II

13 B E F O R E:

14 The HONORABLE JENNIFER B. MCCOY

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

16 Mary Jordan Lempesis, Assistant Solicitor
17 Sara Malone, Assistant Solicitor
18 Juan Tolley, Representing the defendant

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20
21 SHARON G. HARDOON, CSR
22 Official Circuit Court Reporter, III
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25

1		INDEX		
2	WITNESS/EXAMINATION			
3	Witness Name		Page	Line
3	Allyson Moreira			
4	Examination By Ms. Malone		101	16
4	Cross By Ms. Tolley		103	23
5	Cheleen Moreria			
5	Examination By Ms. Malone		105	11
6	Cross By Ms. Tolley		111	25
6	Re-Direct By Ms. Malone		114	19
7	NK			
7	Examination By Ms. Malone		118	20
8	Cross By Ms. Tolley		127	10
8	Daniel Ireland			
9	Examination By Ms. Malone		129	22
9	Cross By Ms. Tolley		140	1
10	Re-Direct By Ms. Malone		145	18
10	Re-Cross By Ms. Tolley		146	14
11	Re-Direct By Ms. Malone		147	20
11	Certificate of Reporter		151	1
12				
13		E X H I B I T S		
14				
15				
16	COURT EXH. 1, Motion; 1/16/15		80	5
17	COURT EXH. 2, 911 Call		80	7
18	STATE EXH. 1, 911 Call		102	15
18	STATE EXH. 1, 911 Call		103	11
19	STATE EXH. 2, Photo; House		120	3
19	STATE EXH. 2, Photo; House		121	1
20	STATE EXH. 6, Photo; Inside		121	15
20	of House			
21	STATE EXH. 6, Photo; Inside		122	7
21	of House			
22	STATE EXH. 3, Photo		135	1
22	STATE EXH. 4, Photo		135	3
23	STATE EXH. 5, Photo		135	5
23	STATE EXH. 7, Photo		135	7
24	STATE EXH. 3, Photo		137	6
24	STATE EXH. 4, Photo		137	8
25	STATE EXH. 5, Photo		137	10
25	STATE EXH. 7, Photo		137	12

1 names mentioned or any of the topics raised.
2 Everything that you need to reach a verdict be
3 given to you here in this courtroom, and we ask
4 that you not do any independent reading up on any
5 of these topics or any of these people in the
6 meantime. Okay?

7 So with that, I will release you to our
8 apt bailiffs and we'll see you back at 1:15.
9 Thank you so much.

10 THE BAILIFF: Please follow me.

11 (Jury exits the courtroom at 11:30 a.m.)

12 THE BAILIFF: The jury has left the
13 courtroom.

14 THE COURT: Thank you.

15 Briefly, attorneys, I'm happy to take up
16 pretrial motions now or we can wait until after
17 lunch. It's up to you-all. Whatever you'd
18 like.

19 MS. LEMPESIS: We're ready to go now.
20 Miss Malone is going to handle the pretrial
21 argument for us. I think it's just a matter of
22 the bifurcation of the trial.

23 THE COURT: Okay.

24 MS. LEMPESIS: That's the only pretrial
25 issue.

1 THE COURT: I'm happy to hear from you.

2 Tell me your first and last name again for
3 the record.

4 MS. MALONE: Yes, Your Honor. This is
5 Sara Malone for the State.

6 THE COURT: What the State's motion?

7 MS. MALONE: The State's motion is for
8 this trial to not be bifurcated.

9 THE COURT: Okay.

10 MS. MALONE: That is based on the recent
11 case law. I have several where originally under
12 *Chubb v. State*, which is a South Carolina Supreme
13 Court case, they ruled that a bifurcated trial is
14 not required in a non-capital case.

15 THE COURT: Uh-huh.

16 MS. MALONE: And then *State v. Cross*
17 which was an exception for sexual-related offenses
18 when the defendant's priors were of criminal
19 sexual conduct of a minor.

20 THE COURT: Right.

21 MS. MALONE: Recently in 2023, *State v.*
22 *Bright* was a case where the defendant was charged
23 with possession of a firearm by a person convicted
24 of a violent felony. And, in that case, the trial
25 court's decision was affirmed where they decided

1 not to bifurcate the trial for this defendant's
2 two burglary convictions.

3 THE COURT: Right.

4 MS. MALONE: Specifically providing the
5 procedure that the defendants -- the defendant
6 argued that he should be allowed to stipulated.
7 In this case, he was asked and we're happy to take
8 a stipulations as to the prior convictions.
9 However, the defense has declined to proceed that
10 way. But also in *State v. Bright*, they limited it
11 to no evidence of the actual offenses themselves
12 and an elimination instruction that they are only
13 allowed to discuss the fact of the prior
14 conviction, not any of the details.

15 THE COURT: Right.

16 MS. MALONE: Currently, there is no case,
17 other than in a sex-related offense where a trial
18 is bifurcated, and, in that case, they
19 specifically stated that when a prior conviction
20 is an element of the crime, it is highly
21 probative. But also that there is a specific
22 limitation when it comes to sex-related offenses
23 where they are -- by their very nature, they are a
24 special case of unfairly prejudicial evidence
25 where it is necessary to bifurcate.

1 However, even the dissent discusses that
2 there is no procedural rule that they intended to
3 create that would require bifurcation in any case
4 where there is a prior conviction. The State
5 would argue -- and I have *State v. Bright*, a
6 copy of that, if you would like to review it.

7 THE COURT: I'm happy to review it,
8 sure.

9 MS. MALONE: The State would argue that
10 two prior convictions for domestic violence, one
11 being DV 3rd and the other being for DV 1st can
12 come anywhere close to the level of prejudice that
13 you would see with the criminal sexual conduct
14 of a minor in the first degree when the defendant
15 is also being charged with criminal sexual conduct
16 of a minor in the 1st degree as well as a lewd act
17 on a minor.

18 In this case the -- just like in all
19 three of those cases, the prior convictions are an
20 element of the crime. The State is happy to
21 except a stipulation, if defense would prefer,
22 which is what has happened -- defense, in all of
23 these cases, has requested a stipulation, and, in
24 all of those cases, the State declined. We're not
25 doing that here. We are perfectly happy with

1 that. We're also perfectly -- completely see the
2 value in an eliminating instruction where the jury
3 is informed to only consider it as to those
4 elements specific to the 1st degree element, but
5 the State does feel that there is no reason why a
6 trial should be bifurcated in this particular
7 setting, just like prior burglaries and prior
8 armed robbery were never bifurcated in the past.
9 The only exception that currently exists is for
10 sexually-related offenses.

11 THE COURT: Okay.

12 All right. Miss Tolley, happy to hear from
13 you.

14 MS. MALONE: Oh --

15 THE COURT: I'm sorry.

16 MS. MALONE: I'm so sorry. I also wanted
17 to draw attention to the fact that this defendant
18 actually has three prior convictions and we are
19 limited just to the two necessary to prove the
20 conviction in this case.

21 THE COURT: Okay.

22 All right.

23 MS. TOLLEY: Thank you, Your Honor. May
24 it please the Court? First, with regard to the
25 number of convictions, we are not aware of the one

1 from -- they've given us from Beaufort County and
2 they also advised that there was possibly one from
3 Hampton County that we're not aware of or that
4 we've been provided a certified copy of or any
5 information with regard to that particular
6 conviction. So the only two that we are aware of
7 that they have made us aware of are the two from
8 Beaufort County, and we're not sure that either of
9 those should be admitted.

10 But with regard to whether or not the
11 trial should be bifurcated, we believe that State
12 vs. Cross controls here. And, in that case, the
13 court decided that bifurcation was required, that
14 the judge can make a determination about whether
15 the evidence or the prior conviction could be
16 admitted because when it was admitted wouldn't
17 make a difference.

18 Obviously, if the prior convictions are
19 admitted during the case in chief, that would tend
20 to prejudice the defendant given the fact that
21 they are the same charges. They're asking that
22 two charges for domestic violence be admitted
23 during their case in chief rather than bifurcating
24 it and having a second stage hearing with regard
25 to those to establish -- to establish the elements

1 of their charge.

2 So based on that, we would assert that
3 the trial should be bifurcated based by on
4 South Carolina Rules of Evidence 609, South
5 Carolina Rules of Evidence 403, and *State v. Cross*
6 and all the subsequent cases.

7 Criminal sexual conduct and domestic
8 violence are similar in that they -- if it's the
9 same crime -- I think in *State vs. Cross*, it was a
10 similar crime -- then that would be controlling
11 given those circumstances.

12 MS. MALONE: Your Honor, I actually have
13 a copy of *State v. Cross* that specifically
14 provides on page 9 that two-part jury trials are
15 rare and that they're never compelled by the Court
16 as a matter of constitutional law, statutory law,
17 or even a matter of procedure. In this instance,
18 *State v. Cross* itself specifically states the
19 element of a prior crime -- or sorry. A prior
20 conviction when it's an element of a prior crime,
21 there is no argument that it is admissible.
22 There's the two.

23 THE COURT: Thank you.

24 MS. MALONE: And not only that, but under
25 rule 403, rule 403 only provides whether or not

1 evidence should be excluded if it's unfairly
2 prejudicial, not when it should be excluded.

3 So the State's position is that 403 would
4 not be relevant to an argument for bifurcation.
5 And under rule 609, the defense stated as its
6 argument is a rule about impeachment. I'm not
7 sure quite how that would apply here.

8 THE COURT: These priors from the
9 indictment only list two, but it says there's --
10 let's see. There was a criminal domestic violence
11 in June 2014 in general sessions court; is that
12 right? Is that one of your priors?

13 MS. MALONE: He has a -- yes, Your Honor.
14 And then a --

15 THE COURT: Refresh my memory, 2014, was
16 not -- what was the variety of that CDV?

17 MS. MALONE: That is a domestic violence
18 third offense within 10 years and two prior
19 convictions. So that would be a DV 1st, I
20 believe. And then the same for -- there's a 2013,
21 which is also a domestic violence.

22 THE COURT: Do you have those certified
23 copies?

24 MS. MALONE: Yes.

25 THE COURT: You can just hand those up.

1 Okay. One of these is a 30-day offense.
2 The date of the offense was July 5, 2013. The
3 date of the conviction, June 19, 2014. And the
4 other conviction date, sentencing date,
5 March 25, 2014, which I'm a little confused
6 because it says the date of the offense, on this
7 same sheet, October 14, 2014. Have you-all seen
8 that?

9 MS. TOLLEY: I have, Your Honor, and
10 that's one of our concerns.

11 THE COURT: Do you-all see that? Have
12 you seen that? A typo or something. Here you go.
13 I'll hand it back to you. It's a little
14 confusing.

15 MS. MALONE: We have not seen that.

16 THE COURT: I'll tell you what, I'm going
17 to give you-all some time to sort through that,
18 because I doubt you know it on the fly. So we'll
19 take our lunch break. We'll be back about -- it's
20 11:45. We'll resume this about one o'clock. See
21 you-all then.

22 (A break was taken from 11:45 a.m. to 1:15 p.m.)

23 THE COURT: We're back on the record.
24 It's 1:15. I took the break to, kind of, review
25 the case law, re-review it. Once again, that was

1 submitted to me from the State. I will note, I
2 think the State, kind of, jumped the gun a little
3 bit. The defense has to make a motion to
4 bifurcate. There's no such thing as a motion to
5 not bifurcate the trial. The assumption is, the
6 trial is not bifurcated, in other words. So
7 absent a motion from the defense to bifurcate, I
8 really don't need to consider any of this.

9 Does the defense have any motions it would
10 like to make?

11 MS. TOLLEY: We would move to bifurcate,
12 Your Honor.

13 THE COURT: Okay. I'm happy to hear from
14 you on why it should be bifurcated. I've
15 obviously heard the State's response, but what
16 would you like to tell me?

17 MS. TOLLEY: Thank you, Your Honor. We
18 would base our motion on *State vs. Cross*. In
19 *Cross*, the defendant was charged with criminal
20 sexual conduct with a minor. He claimed the State
21 violated rule 403 under South Carolina Rules of
22 Evidence by introducing his prior sex crime
23 conviction before proving he was guilty of the
24 sexual battery for which he was charged, that --
25 the Supreme Court agreed and held that the

1 probative value of the prior conviction at the
2 time it was introduced was substantially
3 outweighed by the risk of unfair prejudice to the
4 defendant.

5 And, based on that, we would ask the
6 Court to bifurcate the trial.

7 In this case, it's a domestic violence
8 charge. The charges that they're trying to --
9 prior convictions that they're trying to
10 introduce, or the similar crimes, two domestic
11 violence charges. In *State vs. Stephon Robinson*,
12 the Court notes that evidence of similar offenses
13 inevitably suggest to the jury the defendant's
14 propensity to commit a crime with which he is
15 charged. The risk is not eliminated by a limiting
16 instruction, and they cite the *Colf* case, 347 S.C.
17 at 628, 525 S.C.2d 249: *When the prior offense is*
18 *similar to the offense for which the defendant is*
19 *on trial, the danger of unfair prejudice to the*
20 *defendant from impeachment by that the prior*
21 *offense weighs against it's submission.*

22 Back to *Cross*, *Cross* sets forth the
23 process by which the trial would be bifurcated,
24 and it indicates that the State obviously could
25 present its case if they're able to prove that a

1 domestic violence in this case did actually
2 happen, that -- then, at the second stage of the
3 trial, they could present the evidence of the
4 prior convictions if that's the basis for the
5 charge being a domestic violence first degree.
6 But before any of that can happen, they would have
7 to prove that there was actually a domestic
8 violence charge. The jury would have to consider
9 that, reach a decision about that, and then we
10 would move on to the second stage.

11 The danger of unfair prejudice is high in
12 this particular case given that the crimes are
13 similar. I mean, if they were something
14 different -- there's also a stigma attached to
15 domestic violence cases, similarly to criminal
16 sexual conduct cases. There are all kinds of
17 collateral consequences as a result of that. And
18 so based on that, we are asking that the Court
19 bifurcate the trial.

20 In addition, we were just provided notice
21 of these two particular charges last week. We
22 were provided with the two, I guess, certified
23 copies that they were trying to use. The case
24 management -- docket management order specifically
25 says that timing of production and supplementation

1 of discovery materials in accordance with rule 5
2 needs to be timely made and that it's paramount.
3 Given the short notice of this and given the
4 inaccuracies in, at least, one of those documents,
5 we would ask the Court to, one, possibly omit that
6 as one that should be admitted and counted against
7 him for purposes of enhancement to domestic
8 violence first. Not only is it an error on the
9 Court's record, it's also an error on the
10 indictment. The indictment also specifically
11 lists, I think, June 14th. June 19, 2014, and
12 March 25th, 2014, which is, according to them, an
13 error.

14 So, I think there's confusion. I think
15 to omit it, would be grounds for prejudice and
16 confusion, and, therefore, should be omitted.

17 In addition, he was originally charged
18 with domestic violence second degree, so the
19 warrant does not provide us sufficient notice.
20 The warrant does not provide us sufficient notice.
21 And we were not provided the certified copies
22 until, I think, Thursday or Friday.

23 THE COURT: Okay. Happy to hear from the
24 State. Obviously, I know your position on the
25 case law regarding bifurcation. You don't need to

1 repeat any of that or anything. But as to these
2 other issues, I'm happy to hear from you.

3 MS. MALONE: Yes, Your Honor. First, I
4 would like to address the error that was pointed
5 out in the sentencing sheets right before we broke
6 for lunch. Your Honor, it's the State's position
7 that is a scrivener's error based on the fact that
8 the other dates that are provided in the same
9 prior conviction are signed as March 25, 2015.

10 THE COURT: Wait. 2015?

11 MS. MALONE: 2015 is the date that's on
12 the other forms that are attached to the
13 sentencing sheet. I'm happy to pass it up to you.

14 THE COURT: Okay. So the indictment is
15 the scrivener's error.

16 MS. MALONE: The judge accidentally, it
17 appears, signed as March 25 of 2014, when it's
18 really March 25, 2015.

19 THE COURT: But the indictment says March
20 25th -- I don't need to see it again.

21 MS. MALONE: Yes, Your Honor.

22 THE COURT: 2014.

23 MS. MALONE: The case was indicted in
24 January -- on January 29th of 2015, and the actual
25 signature date from this is March 25, 2015, at the

1 very bottom.

2 THE COURT: Right. I meant the
3 indictment for which the defendant is on trial
4 today. That indictment says that the prior
5 conviction was from March 25th of 2014.

6 MS. MALONE: It does, and that's a
7 scrivener's error, Your Honor. In addition, I do
8 have -- if you'll beg the Court's indulgence for
9 one second -- I mean, I beg the Court's
10 indulgence. I do have case law that states that,
11 as long as a recidivist statute is included on an
12 indictment, that that provides proper notice that
13 a recidivist of any kind of prior record would be
14 used against the defendant.

15 THE COURT: Okay.

16 MS. MALONE: As well as just an
17 indictment charging him with a statute that is a
18 recidivist statute. And, in this case, the
19 indictment clearly alleges the domestic violence
20 first-degree recidivist statute and clearly
21 indicates that this is based on his prior record.

22 THE COURT: You said you have a case on
23 that or something you said? What's that?

24 MS. MALONE: One moment, Your Honor.

25 MS. TOLLEY: Just for the record, Judge, the

1 indictment has the wrong date, as does the sentencing
2 sheet.

3 THE COURT: Right, okay.

4 MS. MALONE: Your Honor, the case the
5 *State v. Burdette*.

6 THE COURT: Okay.

7 MS. MALONE: It's a South Carolina
8 Supreme Court case.

9 THE COURT: What's that case cite?

10 MS. MALONE: That case cite is
11 335 S.C. 34, and it states that the indictment,
12 along with notice of recividous statute would
13 apply, satisfies the fully informed requirement of
14 South Carolina Constitution, Article I, Section
15 14. And that once the indictment informed the
16 indictment of the charge against him, that it only
17 requires the solicitor to inform the defendant
18 that the recividous sentencing statute will be
19 applied.

20 THE COURT: Okay.

21 MS. MALONE: In addition, the defense was
22 provided the defendant's rap sheet, and that would
23 provide notice of all of the prior convicts that
24 were against him, and that would include the
25 additional one from Hampton County that we are not

1 presenting here today.

2 MS. TOLLEY: We reviewed the rap sheet
3 and it didn't include the one from Hampton, nor
4 did it include the one from June 19th of 2014.
5 They did not include those as convictions.

6 THE COURT: On the rap sheet?

7 MS. TOLLEY: That's correct.

8 THE COURT: Okay. Well, that date is
9 ostensibly correct.

10 Do I have a power outlet up here near
11 this bench?

12 (Off the record.)

13 MS. TOLLEY: This is the rap sheet that
14 we were provided.

15 MS. MALONE: Your Honor, I'll also point
16 out that in the event that this rap sheet doesn't
17 have it, defense counsel also represents the
18 defendant on, I believe, his three or four other
19 domestic violence cases in which case she has four
20 different rap sheets for the same defendant for
21 each case.

22 MS. TOLLEY: I'm not sure what the
23 relevance of that is.

24 MS. MALONE: It would just be that the
25 State has provided several rap sheets for the

1 defendant that are consistently up to date over
2 the course of the last four years since 2019.

3 MS. TOLLEY: I represent him on this
4 particular charge. We are being tried on this
5 particular charge and this is the discovery that
6 was provided in this particular charge.

7 THE COURT: Okay. You can give that back
8 to Miss Tolley if you don't mind.

9 All right. Let me look up this case real
10 quick.

11 All right. She brought up a couple other
12 issues. Let's see. What else did she bring up, or is
13 that it?

14 MS. MALONE: In regard to the other
15 issues, in *State v. Cross*, the defense argued that
16 the prior conviction was bifurcated based on rule
17 403 and the -- the State would just like to argue
18 that the unduly prejudicial value of a charge of
19 criminal conduct in the first degree with a minor
20 is significantly different than a domestic
21 violence charge like this. This is -- one of his
22 prior convictions is a 30-day misdemeanor and it
23 can't possibly be held to have the same
24 prejudicial value that one would find with the
25 aggravated sexual assault of a child under the age

1 of 11 as it was in *Cross*. Currently, that's the
2 only case where the Court has ruled that a
3 specific crime would be considered unduly
4 prejudicial to be included. There is no other
5 case law that the State has come across for -- a
6 procedural rule or Constitutional law that would
7 require bifurcation.

8 THE COURT: Okay.

9 All right, I am going to -- Miss Tolley,
10 did you want to reply at all? You don't have to.
11 Anything else you want to tell me?

12 MS. TOLLEY: Nothing that I haven't
13 already said.

14 THE COURT: Okay.

15 MS. TOLLEY: I can distinguish the *Bright*
16 case, which is the one that she sent up and it
17 says specifically at the top of that case that
18 it's not to be used for precedential value, and
19 that the prior convictions were not the same
20 offenses for which he was being tried, which also
21 distinguishes it from our case and *Cross*.

22 THE COURT: Well, as I stated earlier, I
23 did a re-review of the case law, and I have met
24 this issue before, I am not going to bifurcate the
25 trial. I think that the *Cross* ruling really is

1 specifically limited to the type of case in *Cross*,
2 the CSC with a minor. And the language that the
3 Supreme Court uses in that case was the quote,
4 unquote, ". . . inherently prejudicial stigma of a
5 prior sex-related offense . . ." that that
6 undoubtedly carries. And that really is not the
7 same as a domestic violence incident.

8 I think the Court in that case was
9 concerned with the stigma of sexually-related
10 offenses as they relate to minors and the public,
11 sort of, feeling that once you're prone to that
12 type of conduct with -- sexual conduct toward
13 minors that you're, sort of, always as such prone
14 to that type of conduct.

15 So I don't believe that they intended for
16 it to carry over to the domestic violence cases.
17 Obviously, they delineated it from the burglary
18 cases. This is a little different. So I
19 understand the defense's motion, but,
20 nevertheless, I disagree. I don't agree that 403
21 requires us to bifurcate the prior convictions.

22 I would -- I'll leave it to the defense
23 on how these priors are going to be admitted;
24 either by stipulation or if they're going to have
25 the State, you know, bring it out in evidence.

1 But, obviously, I think the less prejudicial way
2 and manner to do that would be by stipulation of
3 the two prior offenses.

4 Now, I understand then we got to get to
5 the situation with the indictment having the wrong
6 year. Instead of 2014, it should say March 25th,
7 2015. I do think that's a scrivener's error. I
8 think the indictment clearly notices the defendant
9 of the charge he is charged with, as well as the
10 fact that he has two prior offenses that would
11 give rise to the first-degree charge. I think
12 it's a scrivener's error obviously on the
13 sentencing sheet and the Solicitor was just
14 copying the sentencing sheet. But the judge
15 obviously wrote in the wrong year when they signed
16 the sentencing sheet and these things happen.

17 So I think -- you know, the purpose of
18 the indictment is to give notice of the crime
19 charged. I think certainly it did that. There's
20 no doubt it had the correct victim and it had that
21 he had two prior convictions for criminal domestic
22 violence, so I think it did its job of giving him
23 notice of why he's in court today.

24 So, with that, I will leave it to the
25 State on how they intend to present their evidence

1 of these prior convictions, but I would encourage
2 you to do it by stipulation. I think that's what
3 the case law does contemplate as being the least
4 prejudicial way to do it. Otherwise, you run a
5 foul of possibly getting appealed on that issue,
6 so there's always that.

7 Okay?

8 MS. MALONE: The State is happy to
9 stipulate in the event defense would like us to
10 prove those charges. We would keep it to just the
11 prior conviction, no facts, and request a limiting
12 instruction.

13 THE COURT: Yes. They will be instructed
14 at the time that those stipulations, if that's how
15 they're going to be presented, are introduced.
16 That they are to consider them only as to the
17 element that would give rise to the first-degree
18 charge and not any other facts or circumstances on
19 which they are committed.

20 If you have a specific limiting
21 instruction you want the Court to entertain, I'm
22 happy to do that at that time. If there's some
23 specific language you want me to use, I'm happy to
24 do that.

25 MS. TOLLEY: Thank you, You Honor.

1 THE COURT: Sure, okay.

2 All right. What's else? Any other
3 motions from the defense at this time?

4 MS. TOLLEY: We do have a concern about
5 one of the other charges that they're going to use
6 against him. This is the one -- or the one- to
7 five-year statute where I think he was sentenced
8 to four years. It appears that, on that
9 particular charge, he was not represented by
10 counsel. We would assert the right to counsel is
11 paramount, and that if he, in fact, were not
12 represented by counsel in that particular charge
13 that would raise some issue about whether or not
14 he had a fair trial under those circumstances and
15 whether or not this is a conviction that should be
16 used against him for purposes of enhancement
17 and/or for purposes of impeachment.

18 THE COURT: Okay. And which charge is
19 that?

20 MS. TOLLEY: This is, it looks like
21 indictment number 2014-GS-07-02009.

22 THE COURT: Okay. We have the sentencing
23 sheet from that. He did not have an attorney
24 representing him at the time of that; is that
25 right?

1 MS. LEMPESIS: He did, Judge. The
2 attorney just didn't sign. It was a conviction
3 after trial.

4 THE COURT: Oh, a conviction after
5 trial.

6 MS. LEMPESIS: Yes, Your Honor. And so
7 our prosecutor, Brian Holland, prosecuted the
8 case. He signed it, but we often don't sign --
9 have defense -- we often don't sign the sentencing
10 sheets after trial. I think he signed it, but it
11 was a conviction after trial.

12 THE COURT: And he was represented at
13 trial?

14 MS. LEMPESIS: He was represented. I'm
15 sure he was represented by appellate defender
16 counsel Jessica Saxon, who was a previous public
17 defender.

18 MS. TOLLEY: She represented him on the
19 other charge. I don't see where there's any
20 indication about who an attorney was on this other
21 charge.

22 MS. LEMPESIS: It's noted on the public
23 index that he was represented by Jessica Saxon. I
24 can affirm to Miss Tolley and the Court, I was
25 present during that trial and he was represented

1 by counsel. He did not proceed pro se.
2 Certainly, Mr. Green would probably say the same,
3 but he was represented by at least a public
4 defender. I'm not sure if it was Jessica Saxon,
5 but he was represented and it's stated on the
6 public index as well.

7 THE COURT: Okay, he was represented.

8 MS. TOLLEY: Okay. I mean, I think
9 they're required to prove that in order to use it,
10 so I'm not sure --

11 THE COURT: Well, they said the public
12 index.

13 MS. TOLLEY: So sometimes the public
14 index is not exactly accurate. I know the clerk's
15 office does an amazing job, however --

16 THE COURT: Well, let's do this: Let's
17 see if they have -- would they have a letter of
18 representation from that particular charge on
19 file?

20 THE CLERK: What was the GS again?

21 MS. LEMPESIS: The indictment number was
22 2014-GS-07-02009.

23 MS. TOLLEY: While she's checking that, I
24 think I mentioned to the Court while we were in
25 chambers, along with the solicitor, that my client

1 had requested a continuance so that he could
2 obtain other counsel, and he wanted to put that
3 formally on the record.

4 THE COURT: Yeah.

5 MS. TOLLEY: He is asking that he be
6 allowed to obtain private counsel, and that he's
7 already spoken with private counsel and that
8 private counsel is in need of a continuance.

9 THE COURT: Okay.

10 All right. While she's printing this prior
11 counsel's letter, Mr. Green, how are you?

12 MR. GREEN: Good.

13 THE COURT: I understand Miss Tolley has
14 said you've retained another lawyer or you've
15 talked to another lawyer; is that right?

16 MR. GREEN: Yes, ma'am.

17 THE COURT: When did you do that?

18 MR. GREEN: Three days ago.

19 THE COURT: Three days ago.

20 MR. GREEN: Yes, ma'am.

21 THE COURT: Okay. Well, it doesn't
22 really work like that. You can't just get another
23 trial.

24 MR. GREEN: I understand.

25 THE COURT: You know, get a continuance

1 because you talked to another lawyer. Of course,
2 I understand your position and that's fine. You
3 can always get whatever lawyer you want, but that
4 doesn't make your trial automatically continue.
5 You know?

6 MR. GREEN: Yeah.

7 THE COURT: Of course, I'm sure you can
8 understand why we can't go around doing that.
9 People could just swap lawyers every time they had
10 a trial date coming up.

11 Is there anything you wanted to tell me,
12 specifically?

13 MR. GREEN: I wanted to say I wanted to
14 get a lawyer. I know I waited too late to get
15 one. I'm trying to make it better.

16 THE COURT: I understand. You have
17 excellent representation. Miss Tolley has been
18 doing this a long time.

19 MR. GREEN: Yes, ma'am.

20 THE COURT: So I think you're in
21 excellent hands.

22 So, respectfully, your continuance is
23 denied. We're going to go ahead and try the case.
24 Okay?

25 MR. GREEN: Yes, ma'am.

1 THE COURT: All right. Thank you, sir.

2 She's going to print that for me. We'll
3 just make it a court exhibit and let everyone have
4 the opportunity to review it, whatever it says.

5 So the clerk has handed me a motion from
6 that prior representation. It was a motion to
7 revoke bond obviously filed by the State back
8 then. That was Assistant Solicitor Brian Holland
9 and it was directed to Miss Jessica Saxon,
10 attorney for the defendant. The date of that
11 particular motion was January 16th of 2015, two
12 months before the conviction.

13 So I think that's -- it's unusual for a
14 sentencing sheet -- for someone convicted at
15 trial. I can't think of a time that any
16 conviction has ever been signed by the defendant
17 or his attorney. They're just handed straight
18 from the Court from the solicitor and the judge
19 just signs the sentencing sheet. So I don't think
20 the fact that the sentencing sheet is not signed
21 by the defendant or the defense attorney is
22 indicative of the fact that he was, in fact,
23 represented at the trial.

24 You got something else for me?

25 THE CLERK: No, no.

1 THE COURT: Okay. So anything else on
2 that particular issue?

3 MS. TOLLEY: Nothing, Your Honor.

4 THE COURT: Okay. Anything else from the
5 State before we begin? '

6 MS. LEMPESIS: Your Honor, at this time,
7 we move forward with our motion to revoke bond.
8 We'd ask the Court to hear the motion to revoke
9 bond that we filed on January 3rd.

10 THE COURT: Okay. I'm happy to hear from
11 you. What would you like to tell me?

12 MS. LEMPESIS: Yes, Your Honor. I'll
13 hand up the clocked copy for Your Honor.

14 THE COURT: Uh-huh.

15 MS. LEMPESIS: Basically, in summation, it's
16 based on the fact that he has been rearrested multiple
17 times while out on bond. His original bond in this
18 case before you is from 2019. I beg the Court's
19 indulgence while I pull up my copy.

20 Your Honor, Mr. Green, obviously, is here
21 on this case of domestic violence. It was
22 originally charged -- as Miss Tolley has pointed
23 out, it was originally charged second degree. It
24 was indicted as domestic violence first degree.
25 He was arrested for that on June 25th of 2019. He

1 had a \$30,000 cash or surety bond, and, of course
2 a condition being that he maintain good behavior.

3 While on that bond October 3rd of 2019,
4 he was arrested -- I'm sorry. He was -- another
5 incident occurred on October 3rd of 2019, however
6 he was not arrested until June 4th of 2020 for
7 that domestic violence first-degree incident.
8 This is another domestic violence with the same
9 victim.

10 He was arrested on June 4th of 2020, and
11 he had a \$20,000 cash or surety bond set by the
12 magistrate.

13 Then, again -- so, at that point, he's
14 out on bond from the June 25th, 2019, bond when he
15 was arrested on June 4, 2020, on that DV first
16 warrant. It was along with another charge for
17 possession with intent to distribute
18 methamphetamine, and that bond was set at \$10,000.

19 So October 3, 2019, he's arrested for two
20 separate incidents, a total bond of \$30,000.

21 Then, Your Honor, while out on those
22 bonds, he was arrested for the offense of domestic
23 violence first degree. And that incident date
24 is -- I hate to tell, Your Honor, that incident
25 date was -- beg the Court's indulgence while I

1 pull that up.

2 THE COURT: Yes.

3 MS. LEMPESIS: That was May 9th of 2021.
4 May 9th of 2021, he was arrested again for
5 domestic violence first degree and he received a
6 \$250,000 cash bond.

7 And finally, Your Honor, on January 2nd
8 of this year, 2024, he was arrested again. This
9 time for domestic violence second degree, and he
10 received a \$10,000 cash or surety bond by the
11 magistrate.

12 Your Honor, based on all those arrests
13 while being out on bond and violating his
14 conditions that he be on good behavior, we are
15 asking that his bond be revoked and that he be
16 taken into custody.

17 THE COURT: All right. Miss Tolley,
18 happy to hear from you.

19 MS. TOLLEY: Thank you, Your Honor. May
20 it please the Court? Mr. Green has been a member
21 of this community all of his life. He is 40 years
22 old now. He has kept in touch with our office.
23 He has shown up today for trial, which is the
24 purpose of bond. And the fact that he's here
25 showing up for court without incident is reason

1 enough to not revoke his bond at this point, and
2 we would ask the Court to not revoke the bond.

3 THE COURT: Okay. I'm going to take this
4 under advisement until the conclusion of the
5 trial. I will state that my practice is to keep
6 defendants in custody during the pendency of their
7 trial. I'm sure there is a couple of things -- I
8 understand he's appeared and I appreciate that,
9 but it also protects defendants and others from
10 any interference during the trial process. So
11 it's, sort of, for the good of everybody.

12 So during the pendency of his current
13 trial, he will be in the custody of the Beaufort
14 County Detention Center, but I'll reserve my
15 ruling on a motion to revoke all bonds until the
16 end of the trial. Okay?

17 All right. Anything else?

18 MS. TOLLEY: Judge, I believe they are
19 going to try and introduce a 911 audio and we have
20 some concerns about that.

21 THE COURT: Okay. So, sort of, a motion
22 in limine on that?

23 MS. TOLLEY: That's correct.

24 THE COURT: What is your concern?

25 MS. TOLLEY: My concern is that during

1 the course of the 911 interview -- the person who
2 made the call is Cheleen Doe, I believe. She is
3 not the victim in the case. And while she is
4 responding to questions from the 911 operator,
5 she's getting answers from what appeared to be
6 third-party people who are not actually involved
7 in the conversation. For those reasons, we
8 believe it should be excluded as hearsay.

9 THE COURT: I'll have to listen to it
10 before I make a rule. Does the State want to --
11 and I intend to just reserve that until the time
12 it's introduced. We can, kind of, take it up then
13 more specifically. I'll have hear it, of course.

14 The State have anything else they want to
15 say in response at this time? I don't know what
16 the call sounds like. Are there a couple people
17 talking to the dispatch operator or something?

18 MS. MALONE: Your Honor, what I
19 imagine -- what I imagine is the issue is that
20 Cheleen Doe was asleep across the street when she
21 got a knock on the door and her five-year-old
22 niece was there and told her that her mommy needed
23 her -- her daddy was hitting her mommy and she
24 needed help, and so she dialed 911. And, during
25 that 911 call, the victim actually runs into her

1 yard and she explains to 911 what she is saying as
2 the incident continues. She is describing what
3 she is seeing in her front yard.

4 THE COURT: Who's describing it? Cheleen
5 Doe?

6 MS. MALONE: Cheleen Doe.

7 THE COURT: Oh, okay.

8 MS. MALONE: The victim's sister who
9 actually lives across the street. And that little
10 girl is still there on scene. The statement that
11 the little girl made to Cheleen is not being
12 offered to prove the truth of the matter asserted.
13 It's the effect on the listener, that she had a
14 little girl saying, *Help, mommy needs help*, and so
15 she -- because of that, she dials 911. And then
16 the call itself is her witnessing what's
17 happening. It's possible the voices she's hearing
18 is the actual voices of the victim and the
19 defendant in the altercation that's happening in
20 front of her.

21 THE COURT: I'll have to listen to it. I
22 mean, if it's as described, it sounds like an
23 exception, the present sense impression exception
24 to hearsay. But I'll have to take it up. I'll
25 have to listen to it myself and make an educated

1 ruling at the time that it's sought to be
2 admitted. Okay? So we'll just make sure. Maybe
3 we can take a break right before that. You-all
4 can, kind of, just let me know. Or is that the
5 first thing we're going to do? Very first thing?

6 MS. MALONE: First thing.

7 THE COURT: You got a clip of it or
8 something that you can send me?

9 MS. MALONE: Absolutely. Would you like
10 me to send it to you or would you like me to play
11 it?

12 THE COURT: Play it now, by all means.

13 And that prior motion to revoke,
14 Madame Clerk, the representation on that prior
15 offense, can we mark that, please, and give it to
16 the court reporter? We're going to mark that
17 Court's 1 for purposes of the record.

18 And this 911 tape being offered at this
19 point in time for me to make an in-camera review
20 is going to be marked Court's 2. It will be,
21 possibly, duplicated later as another exhibit.
22 But for now it will be marked Court's 2.

23 It needs to be -- do you have it on a disk
24 you can give us later? If you don't have it right
25 now, that's fine. Just get us a disk later with just

1 that.

2 MS. LEMPESIS: We'll make an extra copy
3 and enter it as a court's exhibit.

4 THE COURT: Thank you.

5 (COURT EXH. 1, Motion; 1/16/15, was marked
6 for identification.)

7 (COURT EXH. 2, 911 Call, was marked for
8 identification.)

9 (911 call played.)

10 MS. LEMPESIS: Your Honor, if we could
11 pause while our bailiff turns up the speaker.

12 THE COURT: Oh, yeah. Yes.

13 (911 call played.)

14 THE COURT: Is that it?

15 MS. LEMPESIS: No.

16 THE COURT: What's the break?

17 MS. MALONE: Typically, when 911 puts it
18 on pause to relate to law enforcement what's
19 happening, it has this black out.

20 (911 call continued.)

21 THE COURT: Is that it?

22 MS. MALONE: Yes, Your Honor.

23 THE COURT: Okay.

24 All right. And so, Miss Tolley, your
25 objection is to hearsay as to what, sort of, the

1 caller is being informed of during the time she is
2 making the call; is that right?

3 MS. TOLLEY: That's correct.

4 THE COURT: I really -- to be honest with
5 you, that's a very difficult 911 tape to even
6 hear. I can't even hear anyone talking to the
7 caller. To the extent she's being asked questions
8 from a 911 dispatcher, it's about what she can
9 see, sort of, going on, and she, I guess, responds
10 to what she can see. I didn't hear any other
11 voices. Certainly none that were audible to me
12 during my review of it.

13 MS. TOLLEY: Okay. What I heard, Judge,
14 in the very beginning is where she says -- the
15 operator says, is he still hitting her. She asks
16 someone else -- she repeats the question, *Is he*
17 *hitting her like*, like she's asking someone
18 else.

19 THE COURT: Uh-huh.

20 MS. TOLLEY: And then she says, *Is there*
21 *a weapon?* And the caller repeats the question,
22 *Does he have a weapon*, and the person responds.

23 THE COURT: Is it on -- I guess, is the
24 response on the -- anything beyond the caller,
25 sort of, reasking the questions, is the

1 information then given from the caller? If that
2 makes sense.

3 MS. TOLLEY: The information that she
4 relays back to the 911 operator is information
5 that she got from the third person.

6 THE COURT: Whoever this third person is.

7 MS. TOLLEY: Yes.

8 THE COURT: All right. What does the
9 State want to tell me, anything?

10 MS. LEMPESIS: The State would first
11 argue that it's not being presented for hearsay
12 purpose. It's the effect on the listener as to
13 why she initially dialed 911. Because when she
14 initially calls, it's because her niece showed up
15 and told her she needed help. And it's during
16 that call that the altercation stumbles into the
17 yard and she sees it.

18 Regardless, the State would still argue
19 it's a present sense impression or excited
20 utterance. It clearly falls under either
21 exception. It was a five-year-old little girl,
22 Niasia, who is describing that her father was
23 hitting her mom. I think she -- the part that
24 Cheleen Doe relays to 911 is he was using his
25 hands, and that will clearly fall under either

1 exception. And it could certainly -- Niasia is
2 not here to testify, but it also wouldn't be
3 considered testimonial because it's not part of
4 the prosecution. It's clearly an ongoing
5 emergency. She almost immediately after that sees
6 the defendant in her yard attacking her sister.

7 So any concerns about hearsay, about not
8 being trustworthy, are immediately rectified by
9 the fact that the witness then gets to see exactly
10 what's happening. The altercation continues on
11 into her own front yard.

12 THE COURT: Okay. I'm going to allow it
13 in over defense objection based on the fact that
14 it, sort of, I think just lays the ground work of.
15 why 911 was called. You know, and then everything
16 that is audible to the Court is really that which
17 the caller is actually ostensibly observing
18 herself after that. I don't think it's being used
19 for the truth of the matter asserted so much as
20 it's why she called 911 in the first place and
21 picked up the phone.

22 So, again, over your objection, for the
23 record, I'll allow that part in.

24 Okay. What else can we take up before we
25 bring the jury in?

1 MS. TOLLEY: Nothing from the defense,
2 Your Honor.

3 MS. MALONE: Nothing further from the
4 State, Your Honor.

5 THE COURT: You-all ready to go?

6 MS. LEMPESIS: Can we take just a
7 two-minute break?

8 THE COURT: You need a minute? Yeah,
9 we'll take a five-minute break, and then bring the
10 jury in when you get back.

11 MS. LEMPESIS: Thank you, Your Honor.

12 THE BAILIFF: Your Honor, the jury panel
13 is ready.

14 THE COURT: Bring them on in.

15 (Jury enters the courtroom at 2:18 p.m.)

16 THE COURT: All right. Welcome back,
17 ladies and gentlemen. Sorry for the wait. You'll
18 find this a common thing in trials, so we'll talk
19 about that a little bit more here shortly. Before
20 we get into that, I'm going to tell you about who
21 everybody is in the courtroom.

22 Without naming everybody's names,
23 generally speaking, this lady right here in front
24 of me in the blue, who is the most important
25 person in room, she's the court reporter. She is

1 physically taking down every word that is said in
2 this courtroom and creating a record. So that is
3 who that is. We've got some members of the
4 clerk's office here too that will be in these
5 seats from time to time. Your elected clerk of
6 court, obviously, has been in here as well a
7 couple times, and so you'll see them come in and
8 out. Their duty is to keep up with all the
9 documents, all the paperwork, and make sure the
10 files are all squared away and that we're doing
11 things in an organized way.

12 To my right over here is my law clerk.
13 She is on a one-year rotation. She finished law
14 school this past year, and so law clerks typically
15 are on a one-year rotation. Her name is Madeline.
16 She's my clerk this year. She'll be in and out as
17 well, mostly with me, doing legal research and
18 different things from time to time for me --

19 We've got, obviously, the attorney's at
20 the tables, along with the parties they represent.
21 The State sits closest to you because they bear
22 the burden of proof in this case, and we'll talk a
23 little bit about that more closely a little bit
24 later on. But sometimes folks asks, *How do you*
25 *know who sits at what table?* Whoever bears the

1 burden of proof always sits closest to the injury.

2 All right? A little fun fact.

3 Okay. We got some other folks in here.

4 Different deputies. Of course you met your

5 bailiffs. The deputies are here with the Beaufort

6 County Sheriff's Department. They're just here to

7 keep the peace. They'll be rotating in and out,

8 different shifts as well. So if you see them

9 coming and going, it doesn't mean anything is

10 wrong. It's just them rotating through different

11 shifts and whatnot.

12 Of course, the courthouse is a public

13 building, so anybody can come and watch court any

14 time they want. Sometimes we have law students

15 filter in and out or different members of the

16 public. Don't equate any meaning with that. It's

17 just that it's a public building and some folks

18 just like coming and watching court every now and

19 then.

20 With that, we will go ahead and jump

21 right in. Before we begin this trial, I'm going

22 to tell you that this trial will probably be a

23 little bit different than what you might expect.

24 Most people don't have the chance to attend court

25 like you're doing right now, and so they think

1 from watching television or movies or reading John
2 Grisham novels that trials are always full of high
3 drama and an intense and riveting circumstances.
4 And while those things can be true at times, this
5 trial, ladies and gentlemen, is not for your
6 entertainment. This is a fundamental part of our
7 democracy. It's a part of our justice system to
8 make sure justice is done among the parties. And
9 doing that is often a very slow and deliberate
10 process and repetitive. And it will require
11 several breaks at different times for me to take
12 up different things with these lawyers. So please
13 be patient with us throughout that process and
14 understand that's perfectly normal and part of
15 trials.

16 This courtroom is a place of honor. It's
17 dedicated to the protection, the preservation of
18 your rights through what many have called the
19 greatest justice system created on this earth.

20 The attorneys before you are advocates
21 for the parties they represent, but first and
22 foremost they are officers of this court. When
23 they became lawyers, they took an oath to uphold
24 the integrity of our judicial system. You can
25 expect them to be professional and ethical in

1 their representation of their client's interests.
2 In just a minute, you're also going to take an
3 oath to be ethical and to reach a verdict.

4 We, obviously, appreciate your accepting
5 this responsibility today. And what I'm next
6 going to say is, sort of, to be an introduction to
7 the trial. These remarks are not a charge on the
8 law that applies in South Carolina. That's going
9 to come at the end of the case. The law as it
10 applies to this case will be the only law you can
11 consider and that's what I'm going to tell you at the
12 end after the closing arguments. What I'm going
13 to tell you now is, sort of, an explanation of the
14 procedure you can expect so that you can have a
15 better idea of, sort of, what's going on in the
16 courtroom.

17 If you want to take notes, you can.
18 Shortly after the openings, we can pass out
19 notebooks and pens. Some people are note takers
20 and some aren't. So whatever you're most
21 comfortable doing, you're welcome to do. If you
22 are going to take notes, I just ask that you not
23 let it take your attention away from the witness
24 stand. Make sure you keep your eyes and your wits
25 about you as you're watching folks testify. Part

1 of what you're going to be doing as a juror is to
2 determine the believability of witnesses who are
3 going to testify in this case. And, obviously, to
4 be able to do that, you're going to need to be
5 able to observe them closely and watch them as
6 they testify. They will be testifying right here
7 from this witness stand between us, so you will
8 have a chance to see them closely.

9 The defendant, ladies and gentlemen, is
10 Desmond Green. He is charged by an indictment
11 that we discussed earlier during the jury
12 selection process. And that indictment, ladies
13 and gentlemen, again, is just a piece of paper
14 through which charges are brought to court. It's
15 not evidence at all. He is charged with domestic
16 violence first degree. The elements of that crime
17 will be explained to you later.

18 It's going to be the State's burden to
19 prove each of those elements beyond a reasonable
20 doubt, and it's going to be your duty to decide
21 whether or not the State has met that burden at
22 the end of the trial once all of the evidence is
23 admitted. Your purpose is to find and determine
24 the facts of the case. You-all are the sole
25 judges of the facts of the case. You are to

1 determine the facts from the testimony you hear
2 and any other evidence introduced during the
3 course of this trial. It's going to be up to you
4 to determine what inferences you think may be
5 properly drawn from the evidence by the end of the
6 case.

7 On the other hand and with equal
8 emphasis, the same law that makes you-all the
9 judge of the facts, makes me the judge of the law.
10 As I stated earlier, the law as given by the Court
11 is the only law you can consider. You must accept
12 and follow it even if you disagree with it. I'm
13 not allowed to tell you what the facts are and you
14 cannot disagree with me about what the law is or
15 what it should be. Your job will be to take the
16 law as I give it to you at the end and apply it to
17 the facts as you have found them from the
18 testimony of the witnesses, and, after doing that,
19 you will render a verdict. It's as simple as
20 that.

21 Until I advise you to begin your
22 deliberations, you cannot discuss this case with
23 anyone including your fellow jurors, your friends,
24 your family members, and anyone involved in this case.
25 That would include discussions face-to-face by

1 telephone, email, or text. You may not use a
2 computer, a cell phone, or any other electronic device
3 at any time during this or while you're in here or
4 during your deliberations. Of course, during breaks
5 for meals or overnight, we're going to give you your
6 phones back and you can use them. But I'm going to
7 instruct once again, don't ever use them to get or
8 send information about this case or to try to look up
9 any of the topics raised or any of the people you may
10 see testify or be involved during the trial.

11 I'm also going to ask you -- I don't
12 expect media to be present in this case for any
13 reason whatsoever, but I also will instruct you
14 not to read or listen to or watch any news reports
15 about this case. Don't try to look up any past
16 news articles, or anything like that, on the
17 Internet. Okay? Once again, just don't do any
18 independent research. All right?

19 Now, after this case is submitted to you,
20 you must discuss it only in the jury room with all
21 of your fellow jurors present. The attorneys and
22 the parties in this case will be advised that they
23 are not to talk to you at all. So, if you see any
24 of these folks out in the hallways or during
25 breaks and they kind of give you the cold shoulder

1 or turn the other way, it's just because I've told
2 them to do that. They're not allowed to talk to
3 you during the course of the trial.

4 It's important that you keep an open mind
5 and don't decide any issue in the case until all
6 the evidence has been presented, the parties have
7 made their closing arguments, and I've instructed
8 you on the law. It's your solemn responsibility
9 to determine the facts of the case as it bears on
10 the guilt or innocence of the defendant, and your
11 verdict must be based solely on the evidence as it
12 is presented during the course of this trial and
13 on the law as I will instruct you at the end.

14 In just a moment, the solicitor will make
15 what is called an opening statement in which the
16 solicitor will explain to you the issues in the
17 case, or at least what the solicitor thinks the
18 issues are. The attorney for the defendant may
19 also make an opening statement, although she is
20 not required to do so. Now, what these attorneys
21 tell you during their opening statements is not
22 evidence in this case. It's only their contention
23 as to what the issues are. The evidence in this
24 case will be presented to you by the testimony of
25 sworn witness from that witness stand and any

1 exhibits that might be introduced during the
2 course of the trial. From time to time, you might
3 hear these attorneys say something like, *Your*
4 *Honor, we have an objection, or, We have a*
5 *question of law to take up outside the jury's*
6 *presence,* or sometimes I might need to excuse you
7 for one or two reasons, that's because, obviously,
8 you're the judges of the facts, and when I'm
9 discussing matters with these attorneys, it might
10 be necessary for me to make some sort of a comment
11 on the facts. I don't want to tell you what the
12 facts are, and it's going to be my intention not
13 to do that and not to comment on the facts, so
14 that's the reason for me excusing you from the
15 courtroom during breaks. Okay?

16 Now, in evaluating the evidence in this
17 case, you must decide whether or not the testimony
18 of the witnesses is believable. It's going to be
19 my responsibility to rule as a matter of law as to
20 whether certain evidence is admissible. But once
21 it is admitted, whether or not you believe is
22 entirely up to you. Now, in determining whether
23 to believe a witness, you have the right to
24 consider the interest of any witness, the bias of
25 any witness, the prejudice of any witness, the

1 opportunity for the witness to have seen the
2 matters and the things about which the witness
3 testifies, and the way the witness acts on the
4 witness stand. You have a right to consider
5 anything in the record that will help you evaluate
6 the testimony of the witnesses. That means it's
7 your duty to pay close attention to them. Observe
8 them, listen to them, pay close attention to the
9 attorneys, and to the Court. After the arguments
10 of counsel and the charge on the law at the end,
11 you will be in a position to determine what the
12 facts are and to apply the law to those facts and
13 render a verdict.

14 Who is my -- the gentleman right here in
15 this front corner seat, tell me your number.

16 JUROR 208. 208.

17 THE COURT: 208. Sir, you will be the
18 foreman of the jury. It's going to be your added
19 duty at the end to preside in the jury room and be
20 the jury's spokesperson here in court. It's also
21 going to be your duty to write the verdict and
22 sign your name, but I'll give you some more
23 instructions about that at the end. You don't
24 have any greater weight of a vote than anybody
25 else on the jury. Okay?

1 In order to preserve everyone's rights,
2 I'll give the parties an opportunity to object to
3 anything I have said so far.

4 Are there any exceptions or objections
5 from the State?

6 MS. MALONE: Nothing from the State
7 your.

8 THE COURT: All right. Any from the
9 defense at this time?

10 MS. TOLLEY: None from the defense, Your
11 Honor.

12 THE COURT: Thank you very much. We will
13 now begin the trial. Would anybody like a note
14 book? Yeah, maybe one or two. If we could get
15 just a couple ready and then deliver it to you
16 after the openings. We'll be getting those ready.
17 And before we do openings, I'll ask the clerk of
18 court to swear the jury.

19 THE CLERK: Good afternoon. If you-all
20 could stand and raise your right hand. Do you
21 solemnly swear or affirm that you shall well and
22 truly try and true deliverance make between the
23 State of South Carolina and the accused and a true
24 verdict give accordance to the evidence so help
25 you God?

1 THE JURY: I do.

2 THE CLERK: Thank you. You may be
3 seated.

4 THE COURT: All right. Thank you very
5 much. I'm happy to hear from the State.

6 MS. MALONE: Thank you, Your Honor. May
7 it please the Court?

8 THE COURT: Yes, ma'am.

9 OPENING STATEMENT

10 MS. MALONE: Ladies and gentlemen of the
11 jury, the defendant here today, Desmond Green, is
12 charged with domestic violence in the first
13 degree. And while you've already heard that this
14 is probably going to be a short trial, it still is
15 a very serious one.

16 On June 23rd of 2019, Cheleen Doe woke to
17 the sound of banging on her front door. When she
18 stumbled out of bed and ran to the front door, she
19 would find her five-year-old niece, Niasia begging
20 for help. She will tell you that when she heard
21 that little girl saying, *Daddy is hitting mommy*,
22 that she immediately dialed 911.

23 You're going to hear the 911 call that
24 she made following that. And then you're going to
25 hear from Cheleen and she'll tell you that she was

1 on the phone with 911 when she actually saw her
2 sister stumbling into her front yard while the
3 defendant chased her down and continued to attack
4 her. Cheleen is the victim in the case's sister,
5 and on this night she happened to live right
6 across the street thankfully.

7 The victim in this case, her name is
8 **NK** and she is the mother of the
9 defendant's five children. And you will hear from
10 law enforcement who will tell you that when they
11 arrived at the scene that afternoon -- I
12 apologize, that morning, that, when he met with
13 **NK** he immediately smelled lighter
14 fluid.

15 You will also hear from **NK**
16 herself. Now, **NK** is small spoken and mild
17 mannered, and you will likely get the impression
18 that she doesn't particularly want to be here.
19 She doesn't want to be testifying against the
20 father of her five children. However, this has to
21 stop.

22 MS. TOLLEY: Objection.

23 THE COURT: What's your objection?

24 MS. TOLLEY: She's implying that -- if we
25 can approach?

1 THE COURT: Yes.

2 (Bench conference.)

3 MS. TOLLEY: She said, "This has to
4 stop," implying that there are many times where
5 this has happened and there were acts --

6 THE COURT: Your tiptoeing on that whole
7 golden rule. You can't really --

8 MS. LEMPESIS: Okay.

9 THE COURT: Okay, we'll continue. Thank
10 you.

11 MS. MALONE: You will see images that
12 were taken from the scene that day. You won't see
13 dramatic injuries, bloody wounds. This is not
14 Hollywood. However, a victim in a domestic
15 violence case does not have to end up in a
16 hospital bed for it be a very serious situation.
17 And my job in this case is to prove domestic
18 violence in the first degree beyond a reasonable
19 doubt.

20 I'm going to meet that burden. And when
21 I come back here, after you've spoken to all the
22 witnesses and reviewed the evidence, I'm going to
23 ask that you find the defendant, Desmond Green,
24 guilty of domestic violence.

25 THE COURT: All right. Miss Tolley,

1 would you like to make an opening statement?

2 OPENING STATEMENT

3 MS. TOLLEY: Thank you, Your Honor. May
4 it please the Court?

5 Good afternoon. This is a case about a
6 family. This is a case about a family and the ups
7 and downs that families go through.

8 My client under our law, in our
9 courtroom, in our state, and our country is
10 incident until proven guilty, proven guilty beyond
11 a reasonable doubt by the government, and that's a
12 pretty high burden. And at the end of this case,
13 I'm going to ask you to make sure that you have --
14 you've considered whether or not they met their
15 burden.

16 You might have heard the term "benefit of
17 the doubt." I don't know where it comes from, but
18 my guess would be that it comes some from the law.
19 Guilty beyond a reasonable doubt. Give someone
20 the benefit of the doubt. And at the close of
21 this case, I'm going to ask you to give my client
22 the benefit of the doubt.

23 I ask you to just keep an open mind,
24 listen to the evidence, and we thank you for being
25 here.

1 THE COURT: All right. Thank you so
2 much.

3 The State may call its first witness.

4 While we're doing that, did we get any
5 notebooks for the jurors that want some? Have
6 they already been passed out?

7 THE BAILIFF: I have not passed them out.

8 THE COURT: If you could do that at this
9 time, that would be great.

10 THE BAILIFF: You want me to pass them
11 out?

12 THE COURT: Just raise your hand up if
13 you need one. Anyone want a notebook? Just one
14 or two. We'll leave them up there and you-all can
15 get them as you need them.

16 THE BAILIFF: Okay.

17 THE COURT: Please proceed. Thank you so
18 much. Yes, ma'am.

19 MS. MALONE: Thank you, Your Honor. The
20 State will call Allyson Moreira.

21 THE CLERK: I need you to raise your left
22
23
24
25

Testimony of Allyson Moreria

101

1 hand for me. Do you solemnly swear or affirm to
2 truthfully answer all questions asked of you by this
3 court so help you God?

4 THE WITNESS: I do.

5 THE CLERK: Thank you.

6 THE COURT: Just come around here if you
7 will, please, ma'am.

8 THE CLERK: Say your first name and last
9 name in the microphone and spell your last name
10 for the Court. Thank you.

11 THE WITNESS: Allyson Moreria,
12 M-o-r-e-r-i-a.

13 WHEREUPON:

14 ALLYSON MORERIA,
15 after having been sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MALONE:

18 Q Good morning. Would you mind telling the court
19 where you currently work at?

20 A The Beaufort County Sheriff's Office.

21 Q And what job do you specifically do for the
22 Beaufort County Sheriff's Office?

23 A I'm a 911 audio clerk.

24 Q As part of your job, do you keep records of 911
25 calls that are made?

1 A Yes.

2 Q Are these calls kept in the ordinary course of
3 business?

4 A Yes.

5 Q Did you specifically provide a phone call for the
6 case that we're here for today?

7 A I did.

8 Q And did you review that call before trial?

9 A Yes.

10 Q I'm going to show you something that has been
11 marked --

12 MS. MALONE: Permission to approach, Your
13 Honor?

14 THE COURT: Yes.

15 (STATE EXH. 1, 911 Call, was marked for
16 identification.)

17 BY MS. MALONE:

18 Q I'm going to show you what's been marked as
19 State's Exhibit 1. Do you recognize that item?

20 A I do.

21 Q And how do you recognize it?

22 A It has my initials on it.

23 Q Would you mind telling the Court exactly what that
24 item is?

25 A The 911 call from this incident.

Testimony of Allyson Moreria

103

1 MS. MALONE: And, Your Honor, at this
2 point the State would move State's Exhibit 1 into
3 evidence.

4 THE COURT: Any objection to the State's
5 1?

6 MS. TOLLEY: Subject to our previous
7 objections.

8 THE COURT: Previous objection renewed
9 you're telling me. For the record, it will be
10 admitted over that objection. State's 1.

11 (STATE EXH. 1, 911 Call, was entered into
12 evidence.)

13 MS. MALONE: Permission to publish to the
14 jury.

15 THE COURT: Yes, ma'am.

16 (911 call played.)

17 MS. MALONE: No further questions from
18 the State, Your Honor.

19 THE COURT: Okay.

20 All right. Miss Tolley, any questions for
21 this witness?

22 MS. TOLLEY: Just a couple, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. TOLLEY:

25 Q Good afternoon. How you doing?

1 A Good.

2 Q Good.

3 You were not present at this incident, were
4 you?

5 A I was not.

6 Q And you weren't the 911 operator?

7 A I was not.

8 Q And so you didn't speak with the caller of this
9 911 call?

10 A No.

11 MS. TOLLEY: Thank you.

12 THE COURT: Any other questions on
13 direct?

14 MS. MALONE: No further questions from
15 the State, Your Honor.

16 THE COURT: All right. You may step
17 down. You are free to leave. Thank you very
18 much.

19 The State may call its next witness.

20 MS. MALONE: Your Honor, next the State
21 would call Cheleen Doe.

22 THE COURT: Okay.

23 THE CLERK: Raise your right hand. Do
24 you solemnly swear or affirm to truthfully answer
25 all questions asked of you by this court so help

Testimony of Cheleen Doe

105

1 you God?

2 THE WITNESS: Yes.

3 THE CLERK: Have a seat right here. Say
4 your first name and last name into the microphone
5 and spell your last name for the Court. Thank
6 you.

7 THE WITNESS: Cheleen Doe, D-o-e.

8 WHEREUPON:

9 CHELEEN DOE,
10 after having been sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MALONE:

13 Q Good morning -- or afternoon. How are you?

14 A Good.. How are you?

15 Q Good.

16 Where are you from?

17 A Beaufort, South Carolina.

18 Q Can I ask, have you lived in Beaufort your whole
19 life?

20 A Yes.

21 Q And what do you currently do?

22 A I work on Hilton Head at the visitor center.

23 Q And does your family live in Beaufort as well?

24 A Yes.

25 Q And can you tell me, do you have any siblings?

Testimony of Cheleen Doe

106

- 1 A Yes, I have three sisters and one brother.
- 2 Q Is one of your siblings named NK
- 3 A Yes.
- 4 Q And back in 2019, do you remember where you were
5 living?
- 6 A Yes, The Point.
- 7 Q And on June 23rd of 2019, do you remember the
8 specific address where you were living at?
- 9 A Yes. ■ ■ Circle.
- 10 Q And did you live close by to any family members?
- 11 A My sister.
- 12 Q And that would be the sister we mentioned before,
13 NK
- 14 A Yes.
- 15 Q And did your sister or any other family members
16 live close by to you as well?
- 17 A No.
- 18 Q So did your sister live alone?
- 19 A She lived with her kids and her -- the father
20 of her kids.
- 21 Q Okay. And where was that, do you remember?
- 22 A Across the street.
- 23 Q What was that address, do you recall?
- 24 A No.
- 25 Q It was a long time ago.

Testimony of Cheleen Doe

107

1 A I know it's [REDACTED]-something [REDACTED] Circle. I
2 don't know the exact address.

3 Q Is that in Beaufort, South Carolina?

4 A Yes.

5 Q Do you know what county that's in?

6 A I'm still in Seabrook.

7 Q Do you know what county Seabrook is in?

8 A No.

9 Q Do you know what county we're in right now?

10 A Beaufort.

11 Q And do you remember something that happened on
12 June 23rd of 2019?

13 A I don't know the exact date, but I know
14 something that happened in 2019.

15 Q Do you remember what happened for the case that
16 we're here for today?

17 A Yes.

18 Q And do you remember that night -- because I know
19 this was a while ago. Do you remember, kind of -- or
20 that morning, can you recall -- can you, kind of, walk
21 us through what that day was like for you at first?

22 A I don't remember exactly everything, but I
23 can try.

24 Q That would be great.

25 A I remember waking up to the Ring, the Ring

Testimony of Cheleen Doe

108

1 camera that my mom had. I had it on my phone. It
2 went off and my niece was at the door. So I
3 opened the door for her and she told me that,
4 *Daddy is hitting mommy.*

5 MS. TOLLEY: Objection; hearsay.

6 THE COURT: I'll sustain. If you could
7 just, sort of, ask the witness not to, you know,
8 quote other people. But just maybe rephrase the
9 question so that we can understand what she came
10 to know. Okay?

11 MS. MALONE: Absolutely.

12 BY MS. MALONE:

13 Q So just to go back a little bit. You were asleep.

14 A Yes.

15 Q And the Ring camera went off.

16 A Yes.

17 Q And so you checked the Ring camera, and who was it
18 that you saw at the door?

19 A My niece, Niasia.

20 Q Tell me a little bit about Niasia. How old is she
21 now?

22 A She will be 10 in two weeks.

23 Q And do you remember -- so this case is from 2019,
24 do you remember how old she was back then?

25 A Oh, gosh. I don't know.

Testimony of Cheleen Doe

109

1 Q Is it safe to say she was maybe between the ages
2 of five and six?

3 A Yes.

4 Q And so once you saw the Ring camera and you saw
5 your niece, what did you do next?

6 A I immediately got up to open the door.

7 Q And after you open the door and you see your
8 niece, what did you do after that?

9 A I asked her what was wrong.

10 Q And based on what she told you, what did you do
11 after that?

12 A Called 911.

13 Q And while you're on the phone with 911, can you
14 kind of describe what happened after that?

15 A I'm talking with her, and then my sister runs
16 in the yard. I can't remember what liquid. I
17 can't remember if it was gasoline or something,
18 but she was saying that he poured the liquid on
19 her.

20 Q And so are you still on the phone with 911 while
21 this is happening?

22 A I'm not sure.

23 Q So, you say your sister ran into the yard.

24 A Yes.

25 Q Was there anyone else in the yard?

- 1 A I don't remember.
- 2 Q Okay. And so once you're on the phone with 911,
3 can you kind of describe what happens after that?
- 4 A She slowly comes in the yard and the police
5 arrive shortly.
- 6 Q Did you talk to the police once they arrived?
- 7 A Yes.
- 8 Q Okay. And do you recall whether or not you told
9 the police what happened?
- 10 A I did. I did give my statement.
- 11 Q Okay. And can you, kind of, walk us through what
12 it was that you told the police on that day?
- 13 A Yes. I told them how she came in the yard
14 and had the gasoline on her and eventually he
15 started punching her in the back of her head.
- 16 Q Okay. When you say he started punching her in the
17 back of the head, do you recall who that was?
- 18 A It was Desmond.
- 19 Q Do you see the person who you call Desmond in this
20 room here today?
- 21 A Yes.
- 22 Q Would you mind pointing out to the court who that
23 is?
- 24 A (Indicating).
- 25 Q Just for the record, can you describe what that

Testimony of Cheleen Doe

111

1 person is wearing?

2 A Suit with the red tie.

3 MS. MALONE: Your Honor, if the record
4 would just reflect that the witness has identified
5 the defendant as Desmond Green.

6 THE COURT: It shall so reflect.

7 MS. MALONE: Thank you, Your Honor.

8 BY MS. MALONE:

9 Q And so once all this is settled down and you are
10 with your sister, can you describe anything that you
11 noticed about her physical presence?

12 A She was covered in liquid and she was crying.
13 She was very -- really upset.

14 Q Do you know what that liquid was?

15 A I don't.

16 Q Do you recall any distinctive things that you
17 remember about it?

18 A It smelled like gasoline, but I can't be too
19 sure.

20 MS. MALONE: No further questions from
21 the State, Your Honor.

22 THE COURT: All right.

23 Miss Tolley, any questions for this witness?

24 MS. TOLLEY: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MS. TOLLEY:

2 Q Good afternoon, Miss Doe.

3 A Good afternoon.

4 Q Now, were you present when this incident allegedly
5 occurred -- began?

6 A No, I was home.

7 Q So you didn't witness the beginning of this
8 incident?

9 A No.

10 Q So you don't know what happened before your niece
11 came over to the house.

12 A Correct.

13 Q In your statement to the police, you said they
14 were throwing things, like, both of them were throwing
15 things; is that correct?

16 A I don't remember.

17 Q If I showed you your statement, would that refresh
18 your recollection?

19 A It might.

20 MS. TOLLEY: May I approach the witness,
21 Your Honor?

22 THE COURT: Oh, yes.

23 BY MS. TOLLEY:

24 Q Do you recognize that?

25 A Yes.

Testimony of Cheleen Doe

113

1 Q And is that your statement?

2 A Yes.

3 Q Okay. And does it say in that statement that they
4 were both throwing things?

5 A Yes.

6 Q Thank you.

7 EMS was not called in this incident, were
8 they?

9 A I don't remember.

10 Q Okay. You didn't see an EMS truck?

11 A I don't remember.

12 Q And, to your knowledge, your sister didn't go get
13 medical treatment, did she?

14 A I don't remember.

15 Q Did you call EMS?

16 A No.

17 Q Did you take her to the doctor?

18 A I didn't have a car.

19 Q So the answer is no, you didn't take her to the
20 doctor?

21 A No.

22 Q You didn't get anyone else to take her to the
23 doctor?

24 A I was home alone.

25 Q The police didn't take her to the doctor?

Testimony of Cheleen Doe

114

1 A No.

2 Q Okay, thank you.

3 MS. MALONE: Just a few questions. I'm
4 sorry. I thought she was done.

5 THE COURT: I'm not sure. I don't think
6 she's quite finished.

7 MS. TOLLEY: Sorry.

8 BY MS. TOLLEY:

9 Q You also said there was no weapon; is that
10 correct?

11 A Yes.

12 Q Okay, thank you.

13 MS. TOLLEY: That's it, Your Honor.
14 Thank you.

15 THE COURT: Okay. Now. Thank you. Go
16 ahead.

17 MS. MALONE: I was jumping the gun.

18 THE COURT: That's all right.

19 REDIRECT EXAMINATION

20 BY MS. LEMPESIS:

21 Q I just wanted to clarify a few things. So, I know
22 we established you weren't there when this started.

23 A Correct.

24 Q But after your on the phone with 911, you said you
25 -- you said that you saw your sister run into your

Testimony of Cheleen Doe

115

1 yard.

2 A Yes.

3 Q Do you know why she was running in the yard?

4 A He was chasing her.

5 MS. TOLLEY: Objection; calls for
6 speculation.

7 THE COURT: Overruled. I'll allow it to
8 the extent she has personal knowledge. You can
9 maybe ask your question again.

10 MS. MALONE: Yes, Your Honor.

11 BY MS. LEMPESIS:

12 Q To the best of your knowledge, did your sister
13 appear to be running away from someone?

14 A Yes.

15 Q And who was that person?

16 A Desmond.

17 Q And did you see Desmond do anything else to your
18 sister other than chase her?

19 A He came into the yard and started punching
20 her in the back of her head.

21 Q And how many times did you see him hit her?

22 A Two or three.

23 Q Do you know when Desmond stopped hitting your
24 sister?

25 A When I said that the police was on the way.

Testimony of Cheleen Doe

116

- 1 MS. MALONE: Thank you. No further
2 questions. Oh, I apologize. Just one second,
3 Your honor.
- 4 BY MS. LEMPESIS:
- 5 Q That all started when you were woken up by Niasia.
6 Where is she when all this is happening?
- 7 A I told her to go in the house.
- 8 Q Okay.
- 9 A My mom's house. I'm sorry.
- 10 Q And is she your only niece?
- 11 A No.
- 12 Q Were there other kids that were also there?
- 13 A Yes.
- 14 Q About how many?
- 15 A I have three nieces, and I believe she was
16 pregnant with my nephew.
- 17 Q And where were they when all this is happening?
- 18 A They were home and they started walking to my
19 mom's house.
- 20 Q And did you personally --
- 21 MS. MALONE: . Actually, you know what, no
22 further questions from the State, Your Honor.
- 23 THE COURT: All right.
- 24 MS. TOLLEY: Nothing, Your Honor.
- 25 THE COURT: All right. You may step

Testimony of Cheleen Doe

117

1 down.

2 THE WITNESS: Thank you.

3 THE COURT: State can call its next
4 witness.

5 MS. LEMPESIS: Your Honor, can we
6 approach just regarding scheduling?

7 THE COURT: Yes.

8 MS. LEMPESIS: Thank you.

9 (Bench conference.)

10 MS. LEMPESIS: Your Honor, we got our
11 victim up next. Can we just take -- I'm sorry to
12 ask because I know we just sort of started, but
13 can we just take, literally, a ten-minute recess
14 and then we'll call her.

15 THE COURT: Sure.

16 All right. We'll take a quick break.
17 Once again, ladies and gentlemen, sorry. Lots of
18 breaks. We'll see you back here in about ten
19 minutes. Please don't discuss the case. Just
20 leave your notebooks on your seats if you will.

21 (Jury exits the courtroom at 3:02 p.m.)

22 THE BAILIFF: Jury is clear.

23 THE COURT: Thank you very much.

24 (A recess was taken from 3:02 p.m. to 3:12 p.m.)

25 THE COURT: We can bring the jury back

Testimony of NK

118

1 in.

2 (Jury enters the courtroom at 3:13 p.m.)

3 THE COURT: All right. Welcome back.

4 The State can call its next witness.

5 MS. MALONE: Thank you, Your Honor.

6 Next, the State calls NK

7 THE CLERK: High NK Raise your
8 right hand. Do you solemnly swear or affirm to
9 truthfully answer all questions asked of you by
10 this court so help you God?

11 THE WITNESS: Yes, ma'am.

12 THE CLERK: You can have a seat right up
13 her. Say your first and last name for the Court
14 and spell your last name for the Court. Thank
15 you.

16 THE WITNESS: NK NK

17 WHEREUPON:

18 NK

19 after having been sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MALONE:

22 Q Good morning -- good afternoon.

23 NK where do you currently live?

24 A Circle.

25 Q And what city is that in?

Testimony of NK

119

- 1 A Did you say city?
- 2 Q Yes.
- 3 A Seabrook.
- 4 Q Seabrook. Do you recall whether or not you lived
5 there in 2019?
- 6 A I did.
- 7 Q Do you live there by yourself?
- 8 A No.
- 9 Q Who else is there with you?
- 10 A My kids and my -- their father.
- 11 Q How many kids do you currently have?
- 12 A Five.
- 13 Q What are their names?
- 14 A Niasia, Tinasia, Jolia, Joesia, and Allen.
- 15 Q And, in 2019 -- in June of 2019, how many kids did
16 you have?
- 17 A Three.
- 18 Q Can you recall about how old they were back
19 then?
- 20 A Six, four, and two.
- 21 Q That's a big family.
- 22 Do you also work?
- 23 A Yes.
- 24 Q Where do you currently work at?
- 25 A Bojangles.

1 Q And is that the only job that you have?

2 A I was working at UPS.

3 (STATE EXH. 2, Photo; House, was marked for
4 identification.)

5 Q And I'm about to show you a photograph. If you
6 wouldn't mind telling me whether or not you recognize
7 the image in this photo.

8 MS. MALONE: Permission to approach, Your
9 Honor?

10 THE COURT: Yes.

11 BY MS. MALONE:

12 Q Do you recognize the image in the photo?

13 A Yes.

14 Q Would you mind telling the Court what's in that
15 image?

16 A My house.

17 Q Is that the same house that you live in since
18 2019?

19 A Yes.

20 MS. MALONE: Your Honor, at this time,
21 the State moves State's Exhibit 2 into evidence.

22 THE COURT: Any objection to State's 2.

23 MS. TOLLEY: No objection, Your Honor.

24 THE COURT: All right. Without
25 objection, State's 2 will be admitted.

Testimony of NK
(STATE EXH. 2, Photo; House, was entered

121

1
2 into evidence.)

3 MS. MALONE: Permission to publish to the
4 jury, Your Honor.

5 THE COURT: Yes, ma'am.

6 BY MS. MALONE:

7 Q So you said this is where you lived and this is
8 where you lived since 2019?

9 A Yes.

10 Q Do you recall what you were doing on June 23rd of
11 2019?

12 A No, ma'am.

13 Q Okay. Can I show you another image?

14 A Uh-huh.

15 (STATE EXH. 6, Photo; Inside of House, was
16 marked for identification.)

17 BY MS. LEMPESIS:

18 Q Would you mind saying if you recognize what's in
19 that picture?

20 A Yes, ma'am.

21 Q And would you mind telling the Court what that is?
22 And so that's the inside of your --

23 A House.

24 Q The inside of your house at ■■■■■ Circle?

25 A Yes.

Testimony of NK

122

1 MS. MALONE: Permission to enter State's
2 Exhibit 6 into evidence.

3 THE COURT: Any objection to 6?

4 MS. TOLLEY: No objection, Your Honor.

5 THE COURT: All right. Without
6 objection, State's Exhibit 6 will be entered.

7 (STATE EXH. 6, Photo; Inside of House, was
8 entered into evidence.)

9 MS. MALONE: Permission to publish?

10 THE COURT: Yes.

11 BY MS. MALONE:

12 Q Do you remember speaking to a police officer on
13 June 23rd of 2019?

14 A No, ma'am.

15 Q And do you have any recollection of writing a
16 statement to law enforcement on June 23rd of 2019?

17 A No, ma'am.

18 Q Do you remember writing a statement to law
19 enforcement that, *We were fussing*, and that, *He*
20 *started pushing me and choking me. I told my daughter*
21 *Niasia to run next door to get my dad. I finally got*
22 *up and ran outside, and then he --*

23 MS. TOLLEY: Objection.

24 THE COURT: Yeah. Counsel, the
25 appropriate way would be, let her review it and

Testimony of NK

123

1 she can either remember it or not. You have to
2 let her review it first. Okay? You can't just
3 publish it without her -- she just said on the
4 stand she doesn't remember it. Do you want to
5 show it to her and see if it refreshes her
6 recollection as to her statement?

7 MS. MALONE: I apologize, Your Honor. I
8 was just following the rule from 613 that states
9 that extrinsic evidence of a prior --

10 THE COURT: Right.

11 MS. MALONE: -- statement can be
12 introduced.

13 THE COURT: But first you got to give her
14 the opportunity to review it and see if it
15 refreshes her recollection. If she still doesn't,
16 then, at that point, you can do what you're
17 seeking to do.

18 MS. MALONE: Permission to approach, Your
19 Honor?

20 THE COURT: Yeah, just show it to her.

21 MS. MALONE: Well, approach you, Your
22 Honor?

23 THE COURT: Okay.

24 (Bench conference.)

25 MS. MALONE: I just want to make sure

1 that --

2 THE COURT: She didn't say she didn't
3 make it. She says she doesn't remember. There's
4 a big distinction there. So if she denied making
5 it, then, yeah, go right ahead and start doing it.
6 She didn't deny it. She's just like, *I don't*
7 *remember*. So the appropriate thing would be let
8 her look at it and then she either owns it or she
9 doesn't. At that point, it's fair game. You can
10 do whatever you want to with it. That's the
11 appropriate thing to do.

12 MS. LEMPESIS: And our position in the
13 past is that if she's failing to admit it -- you
14 know what I'm saying?

15 THE COURT: I don't understand what
16 you're saying. You just asked her does she
17 remember. She said no. To me, that's not her
18 saying, *I didn't do it*. She's not failing to
19 admit. The way she asked the question was, *Do you*
20 *remember?* She said, *No*. It's, kind of,
21 semantics, but it's important.

22 MS. LEMPESIS: All right. That's how
23 we've done it in the past, but I totally
24 understand. So you want her to approach and have
25 her read it. And when she doesn't remember,

Testimony of NK

125

1 because she's going to say she doesn't remember,
2 then she can move it into evidence?

3 THE COURT: Correct. You'll still get it
4 in, it's just how --

5 MS. MALONE: I apologize.

6 THE COURT: That's okay.

7 MS. MALONE: Permission to approach the
8 witness?

9 THE COURT: Yeah, of course.

10 BY MS. MALONE:

11 Q I'm just going to show you this, and if you want
12 to take a minute to review and let me know if that
13 refreshes your recollection of making a statement.

14 A No, ma'am.

15 Q Do you mind if I take that from you?

16 A (Hands document.)

17 MS. MALONE: Your Honor, at this time,
18 I'd ask the witness: Do you recall making a
19 statement to law enforcement that, "We were
20 fussing and then he started pushing me and choking
21 me. I told my daughter Niasia to run next door
22 and get my dad, and then I finally got up and ran
23 outside. Then he threw lighter fluid on me and
24 started hitting me on my shoulder. He sat out
25 there until he saw the police, and then he walked

Testimony of NK
1 to the door and said, "If they want me, they're
2 going to have to catch me'?"

3 THE COURT: I couldn't hear your
4 response. Did you ask her if she remembers that,
5 Solicitor? Is what you're asking her?

6 MS. MALONE: Yes.

7 THE COURT: Okay. What's your response,
8 ma'am?

9 THE WITNESS: No, ma'am.

10 BY MS. MALONE:

11 Q And the person that you live with, the father of
12 your children, what's his name?

13 A Desmond Green.

14 Q And do you recognize Desmond Green in this
15 courtroom today?

16 A Yes.

17 Q Would you mind pointing out for the jury who
18 Desmond Green is?

19 A (Complies.)

20 Q And what would you describe he's wearing?

21 A A tie and a suit. A red tie and suit.

22 MS. MALONE: Your Honor, if the record
23 would just reflect that the victim has identified
24 Desmond Kelly (sic) as the defendant.

25 THE COURT: Yes, ma'am. It shall so

Testimony of NK

127

1 reflect.

2 MS. LEMPESIS: Desmond Green.

3 MS. MALONE: I'm sorry. Desmond Green.

4 THE COURT: Right.

5 MS. MALONE: No further questions from
6 the State, Your Honor.

7 THE COURT: All right. Does defense have
8 any questions for this witness?

9 MS. TOLLEY: Just a couple.

10 CROSS-EXAMINATION

11 BY MS. TOLLEY:

12 Q This incident happened back in 2019; is that
13 correct?

14 A Yes, ma'am.

15 Q And after the incident, the alleged incident, you
16 guys remained together?

17 A Yes, ma'am.

18 Q In fact, you had two more children together?

19 A Yes, ma'am.

20 Q And that was 2019, 2020, 2021, 2022, 2023, 2024.

21 MS. MALONE: Objection, Your Honor.

22 THE WITNESS: Yes, ma'am.

23 BY MS. TOLLEY:

24 Q So it's been six years.

25 THE COURT: What's the objection?

Testimony of NK

128

1 MS. MALONE: It was going to be was there
2 a question.

3 THE COURT: I think she was just
4 establishing --

5 MS. MALONE: Withdrawn.

6 THE COURT: So, withdrawn. Okay. Go
7 ahead, Miss Tolley.

8 MS. TOLLEY: Okay.

9 BY MS. TOLLEY:

10 Q Have you let the solicitors know that you don't
11 want Mr. Green prosecuted in this case?

12 A Yes, ma'am.

13 Q That you have kids together?

14 A Yes, ma'am.

15 Q That he helps you with the kids?

16 A Yes.

17 Q That he works?

18 A Yes, ma'am.

19 Q You didn't require medical treatment that day?

20 A Not that I can recall.

21 Q Okay. EMS wasn't called?

22 A Not to my knowledge.

23 MS. TOLLEY: I don't have any other
24 questions, Your Honor.

25 THE COURT: Thank you. Any redirect for

Testimony of Daniel Ireland

129

1 this witness?

2 MS. MALONE: No further questions from
3 the State, Your Honor.

4 THE COURT: Okay.

5 All right. Ma'am, you can step down. State
6 can call its next witness.

7 MS. MALONE: Next, the State would call
8 Daniel Ireland.

9 THE CLERK: Can you raise your right
10 hand? Do you solemnly swear or affirm to
11 truthfully answer all questions asked of you by
12 this court so help you God?

13 THE WITNESS: Yes, ma'am.

14 THE CLERK: Have a seat right here and
15 state your first and last name and spell your last
16 name for the Court. Thank you.

17 THE WITNESS: Daniel Ireland,
18 I-r-e-l-a-n-d.

19 WHEREUPON:

20 DANIEL IRELAND,
21 after having been sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MALONE:

24 Q Where do you currently work?

25 A Beaufort County Sheriff's Office.

1 Q And when did you start with the Beaufort County
2 Sheriff's Office?

3 A It was the last day of July of 2017.

4 Q So would you say roughly six-and-a-half years?

5 A Roughly.

6 Q What is your current rank?

7 A Current rank is a corporal?

8 Q In 2019, do you recall what you were ranked back
9 then?

10 A I was PFC.

11 Q And what are the primary responsibilities of a
12 PFC?

13 A Patrol deputy, or patrolman first class.
14 Their Primary responsibility is to answer calls
15 from dispatch on, like, domestic calls, breaking
16 and enterings, burglaries, 911 hang-ups, activated
17 alarms, and things like that.

18 Q And do you recall responding to a 911 call on
19 June 23rd of 2019?

20 A I do.

21 Q And can you, kind of, describe to us what that --
22 what call did you get?

23 A I received a -- what we call a domestic in
24 progress call from [REDACTED] Circle in the area
25 of Seabrook, Beaufort County, South Carolina. I

Testimony of Daniel Ireland

131

1 believe dispatch let us know that it was in
2 progress and it was the sister of the related
3 incident that was calling. It wasn't the actual
4 person involved.

5 Q And so once you arrive on scene, can you, kind of,
6 describe what it is that you see when you pull up?

7 A Yes. I came around the corner. I didn't
8 pull all the way into the driveway, but I did pull
9 into the driveway by the street. I noticed a
10 black female in the yard walking around and a
11 black male up by the porch who eventually went
12 into the residence.

13 Q And so what was the first thing that you did once
14 you got out of the car?

15 A I made contact with the female. I asked her
16 if she was okay, was she injured, did she need any
17 medical attention to which she said she did not.

18 MS. TOLLEY: Objection, Your Honor.

19 Well, I'd overrule myself.

20 THE COURT: Withdrawn. Go ahead.

21 BY MS. MALONE:

22 Q And so once you made sure that she appears to be
23 safe, what do you do next?

24 A Because I saw the male go into the house, I
25 asked who that was, and I learned it was

Testimony of Daniel Ireland

132

1 Desmond Green. I went around to the back of the
2 residence to check the back door. It appeared
3 closed. I believe I knocked on it, and then came
4 around to the front to make contact with

5 NK [REDACTED]

6 Q And did you make any immediate observations about

7 NK [REDACTED]

8 A Yes. I did notice that her shirt was wet and
9 she did smell like lighter fluid. She did appear
10 upset. Her hair of disheveled. She was walking
11 around the vehicles trying to -- appeared to be
12 taking the tags off the vehicles in the front
13 yard.

14 Q To your knowledge and from what you saw, do you
15 know why she was trying to take those tags off of the
16 vehicles?

17 MS. TOLLEY: Objection; speculation.

18 THE COURT: Overruled. If he has
19 knowledge, he can answer.

20 THE WITNESS: I can go off of what she
21 told me. But other than that, I just know she was
22 trying to take the tags off the vehicles.

23 Q And I am going to ask what she told you just based
24 on the present state of mind hearsay exception as to
25 why she was taking tags off of vehicles.

Testimony of Daniel Ireland

133

1 MS. TOLLEY: Objection. The witness
2 testified and she could have asked that question
3 of the person who actually said it. So that
4 person is present and she did not ask that
5 question.

6 THE COURT: Sustained as the question is
7 phrased. I'm not sure if there's some other way
8 to get that information. Maybe you can rephrase
9 it accordingly or something.

10 BY MS. MALONE:

11 Q Was there any information that you had to why
12 someone would be worried about -- or based on your
13 knowledge and experience as a law enforcement officer,
14 do you know of a reason why people would be concerned
15 about taking license plates off of vehicles?

16 A I imagine so they couldn't drive it on a
17 roadway.

18 Q And why would someone --

19 MS. TOLLEY: Objection.

20 THE COURT: Let me hear the whole
21 question.

22 MS. MALONE: We'll leave that one.

23 THE COURT: Okay.

24 BY MS. MALONE:

25 Q So what happened while -- while you're onsite, did

Testimony of Daniel Ireland

134

1 you speak to anybody else or were there any other
2 people on scene that you speak to?

3 A I did. Cheleen eventually came across the
4 street and met with us, but there were some folks
5 coming down the other side of the road that looked
6 like they wanted to start some kind of argument or
7 further fighting, so I requested for more deputies
8 to pick it up and get there quicker. So once the
9 other deputies got there, we ended up clearing the
10 residence. The three of us cleared the residence.
11 We never found the male, Mr. Green. And then when
12 I came back outside, by then Cheleen had come
13 across to the street to talk to us.

14 Q Did Cheleen also make a statement to law
15 enforcement?

16 A She did.

17 Q Okay. So once you've spoken to both the victim
18 and Cheleen, did you gather -- or did you -- did you
19 notice anything else about the scene that you found
20 relevant to this incident?

21 A I did. I found the -- there was a bottle of
22 lighter fluid up by the house, which I did
23 photograph. I photographed -- I think I
24 photographed all the way around the house. And
25 then I took pictures of NK [REDACTED] as well.

Testimony of Daniel Ireland

135

1 (STATE EXH. 3, Photo, was marked for
2 identification.)

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

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

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

9 BY MS. MALONE:

10 Q I am now going to show you what has been marked as
11 State's Exhibit 3, 4, 5, and 7. If you want to take
12 your time to look through, and let me know if you
13 recognize those images.

14 MS. TOLLEY: If I can see them.

15 MS. LEMPESIS: You have copies.

16 MS. TOLLEY: I'm not sure which ones
17 you're showing him.

18 MS. MALONE: This would be 3, 4, 5 and 7
19 of the photographs that I provided prior to
20 trial.

21 Q Do you recognize those photographs?

22 A I do.

23 Q And would you mind telling the Court what they
24 are?

25 A You want me to go picture by picture?

1 Q Sure, that would be great.

2 A Okay. Exhibit 3 is NK [REDACTED] and I talking
3 in front of her resident. I was right up close
4 next to her. I could smell the lighter fluid and
5 then obviously see it on her shirt.

6 State's Exhibit 4 is just probably a little
7 bit further along -- and these are still shots from my
8 in-car camera. I parked to face the house. It's
9 another picture of NK [REDACTED] and I talking in front
10 of her house. She appears to be itching her back.

11 State's Exhibit 5, it looks more like
12 State's Exhibit 3 where we're just talking back
13 and forth.

14 And then State's Exhibit 7 is the bottle
15 of lighter fluid in front of the house.

16 Q And are those pictures an accurate representation
17 of what you remember from that afternoon?

18 A Yes.

19 Q And have they been altered or changed in any
20 way?

21 A It doesn't appear so.

22 MS. MALONE: At this time, Your Honor,
23 State would move State's 3, 4, 5, and 7 into
24 evidence.

25 THE COURT: Any objection to those?

Testimony of Daniel Ireland

137

1 MS. TOLLEY: No, Your Honor. Thank you.

2 THE COURT: Okay.

3 MS. MALONE: Permission to publish to the
4 jury.

5 THE COURT: Okay.

6 (STATE EXH. 3, Photo, was entered into
7 evidence.)

8 (STATE EXH. 4, Photo, was entered into
9 evidence.)

10 (STATE EXH. 5, Photo, was entered into
11 evidence.)

12 (STATE EXH. 7, Photo, was entered into
13 evidence.)

14 MS. MALONE: If you wouldn't mind
15 starting with number 3.

16 BY MS. MALONE:

17 Q If you wouldn't mind just, kind of, walking us --
18 I know you sort of did this already, but if you
19 wouldn't mind walking us through it.

20 A Yes. This is NK [REDACTED] and I talking in her
21 front yard. I'm not sure exactly where in the
22 video this is, but I would imagine it's right in
23 the beginning of the video, so shortly after I got
24 there.

25 Q And can you, kind of, describe what you're seeing

1 when you stated that you could see the lighter fluid
2 on her shirt?

3 A Yes. You can see her shirt is partially wet
4 at the top half. I believe the front half was
5 more wet than the back, and it did smell of
6 lighter fluid.

7 Q And she appears to have her arm backwards. Do you
8 recall from the best of your knowledge what she was
9 doing there?

10 A Yeah. Well, the whole time we were out with
11 her and while we were clearing the residence, when
12 I came back out, she was itching her top half.

13 Q And if you wouldn't mind going to number 5.

14 A That looks like just -- it looks like just
15 another angle of us talking.

16 Q And the last one is number 7.

17 A And that's the bottle of lighter fluid that
18 was in front of the -- the front yard.

19 Q So after everything has happened, can you describe
20 what you did next?

21 A After that, we had -- well, we cleared up and
22 prepared the call on your report. And then I went
23 and saw Judge Brooks the next day -- I believe it
24 was Judge Brooks -- and obtained an arrest warrant
25 of domestic violence for Mr. Green.

Testimony of Daniel Ireland

139

1 Q And do you recall the date of birth of the
2 individual for the arrest warrant that you saw?

3 A Yes, it was [REDACTED] [REDACTED]. Let me refer to my
4 warrant here. [REDACTED].

5 Q And then just lastly, I know you stated before,
6 just going back to the very beginning when you saw a
7 male in the yard when you first arrived, do you
8 recognize that person here in this courtroom today?

9 A I do.

10 Q And what was his name?

11 A It's Desmond Green.

12 Q Would you mind pointing out to where he is in this
13 room?

14 A Yes. He's sitting over there wearing a tie
15 and a -- it looks like a pink tie and a
16 dark-colored suit.

17 MS. MALONE: If the record would just
18 reflect that law enforcement has identified the
19 defendant as Desmond Green.

20 THE COURT: It shall so reflect.

21 MS. MALONE: No further questions from
22 the State, Your Honor.

23 THE COURT: Okay. Miss Tolley any
24 questions for this witness?

25 MS. TOLLEY: Thank you, Your Honor.

Testimony of Daniel Ireland
CROSS-EXAMINATION

140

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BY MS. TOLLEY:

Q During your conversations with NK [REDACTED] did she say that -- did she say that she was not in fear of her life?

A She did say that.

MS. MALONE: Objection, Your Honor.
Hearsay.

BY MS. TOLLEY:

Q During your investigation --

THE COURT: Let me ask her -- hold on real quick. Let me rule on that objection.

First of all, ladies and gentlemen, I'm going to ask you to not consider the prior statement from the witness.

I will sustain the objection and ask defense counsel to rephrase the question potentially. Okay, go ahead.

BY MS. TOLLEY:

Q During the course of your investigation, was it your impression from your conversations and investigation that NK [REDACTED] did not fear for her life?

A She was flustered, but, no, she did not appear to fear for her life.

Testimony of Daniel Ireland 141

1 Q When you were talking with her, did she talk about
2 two girls or a girl that maybe wanted to --

3 MS. MALONE: Objection, Your Honor.
4 First, I would object on the basis of relevance,
5 and next I object based on hearsay.

6 THE COURT: Okay. She hadn't finished
7 the question, so I'm not sure I can make a ruling
8 unless I hear the whole question first. Let me
9 let her get her question out first and then we'll
10 go from there.

11 BY MS. TOLLEY:

12 Q During your testimony, you testified about people
13 coming near the house or walking by the house; is that
14 correct?

15 A Yes, they were coming toward the house.
16 That's correct.

17 Q And did she mention that one of the girls was
18 maybe interested in Desmond?

19 A I have to review the video, but I believe so,
20 yeah.

21 Q And that she, in fact, said that one of the girls
22 had come to her house at one point and maybe wanted to
23 fight her?

24 MS. MALONE: Objection; hearsay. And
25 objection, relevance.

1 THE COURT: Overruled on relevance.

2 Sustained on hearsay grounds. You can ask
3 him -- maybe just rephrase it. Okay?

4 MS. TOLLEY: Okay.

5 BY MS. TOLLEY:

6 Q During the course of your investigation, did it
7 come to your attention that one of the girls maybe
8 wanted to fight her, came to her house and wanted to
9 fight her about Desmond?

10 A Well, if we watch the video, there is a lot
11 of words being thrown back and forth by the
12 family. What I said was *family* in my reporting.
13 Family yelling at her and then she was yelling
14 back at them when I was actually trying to get her
15 in the back of my car so nothing else happened to
16 her.

17 Q Well, did she talk to you about a girl in a pink
18 shirt? You said, *Let that go, let that go, We'll take*
19 *care of that?*

20 A I don't recall that. No, I don't recall
21 that.

22 Q Okay. We can play back the video.

23 A Could we?

24 Q Well, we will in minute maybe, if we get to that.

25 A Okay.

Testimony of Daniel Ireland 143

1 Q Didn't she say when the girl came to her house she
2 said she -- it came to your attention that she's --
3 her opinion was that if the girl wanted him, she could
4 have him?

5 A I never really got into it. As far as a
6 non-heated interview, we never got into any of
7 that. But when she was in the front yard
8 flustered walking around, and when that family was
9 coming down the street, there was a lot of words
10 going back and forth.

11 Q You don't know who that family was?

12 A I do not, no.

13 Q It could have been the girl in the pink shirt.

14 A Yes. I believe in the video I said -- I said
15 on the radio that more family was showing up, and
16 then she might have said, *They're not family*, if I
17 remember right. Yeah.

18 Q Okay. When you asked her about the throwing of
19 the lighter fluid, did she -- was it your impression
20 that it was just something that he grabbed and threw
21 because it was there, not for any --

22 MS. MALONE: Objection, Your Honor.

23 Calls for speculation.

24 THE COURT: He can answer to his
25 knowledge to the extent he has knowledge.

Testimony of Daniel Ireland

144

1 THE WITNESS: I believe I wrote to that
2 in my report. Can I just look at that?

3 THE COURT: Of course.

4 THE WITNESS: It's from her statement.
5 It looks as if he threw the bottle at her, as I
6 wrote in my report.

7 BY MS. TOLLEY:

8 Q Right.

9 And but it just happened to be something that
10 was there. It wasn't like he was -- went out, grabbed
11 lighter fluid, and threw it on her to set her on
12 fire.

13 A That, I don't know.

14 Q Well, I think there was a specific question you
15 asked her when you were interviewing her and her
16 response was no.

17 A Okay. Yeah, that may have been at the end of
18 the video. Yeah.

19 MS. MALONE: Objection, Your Honor.

20 THE COURT: Well, it's untimely, but
21 overruled.

22 BY MS. TOLLEY:

23 Q By the way, you didn't witness any hitting or
24 going or anything when you were there, did you?

25 A I did not.

Testimony of Daniel Ireland

145

1 Q And you weren't there, when this incident
2 initiated; is that correct?

3 A That's correct.

4 Q So you don't know what prompted it; is that
5 correct?

6 A Correct.

7 Q Or what happened before you got there.

8 A Right.

9 MS. TOLLEY: Beg the Court's
10 indulgence.

11 THE COURT: Yes, ma'am.

12 MS. TOLLEY: Okay. I don't have any
13 other questions, Your Honor, at this time.

14 THE COURT: Okay. Any redirect for this
15 witness from the State?

16 MS. MALONE: Yes, Your Honor.

17 THE COURT: Okay.

18 REDIRECT EXAMINATION

19 BY MS. MALONE:

20 Q I'd just like to redirect your attention to the
21 part of your report that you pointed out in regards to
22 the bottle of lighter fluid. And would you mind just
23 telling the Court, to your knowledge, exactly what --
24 exactly what happened with that lighter fluid as to
25 your knowledge based on --

1 A Yes. In the -- well, I don't want to read
2 exactly from the report, but -- yes, I was told
3 that he threw a bottle of lighter fluid at her.

4 Q And based on all the witnesses that you spoke to
5 in this, did any witness ever say that **NK** had
6 started this argument?

7 A No, I don't recall being told that.

8 Q And how many witnesses stated that the defendant
9 struck this victim?

10 A Two.

11 MS. MALONE: Thank you, Your Honor. No
12 further questions from the State.

13 THE COURT: Okay. Any recross?

14 RE-CROSS-EXAMINATION

15 BY MS. TOLLEY:

16 Q You interviewed only two people; is that correct?

17 A That's correct.

18 Q And you didn't talk to Mr. Green, did you?

19 A No, I did not.

20 Q And you're the chief investigating officer on this
21 case?

22 A That's correct.

23 Q And, as the chief investigating officer, you
24 reviewed all of the videos and reports in regard to
25 this matter?

Testimony of Daniel Ireland

147

1 A Leading up until today?

2 Q That's correct.

3 A Yes.

4 Q Was there video of the incident?

5 A No. There was no video of the incident, that
6 I'm aware of.

7 Q Okay. It was caught with a Ring cam. It didn't
8 show up on the Ring cam?

9 A I'm not sure I went over there and spoke to
10 anybody at 27.

11 MS. TOLLEY: Okay, thank you.

12 THE COURT: All right. You can step
13 down. Thank you, sir.

14 MS. MALONE: Your Honor, just -- I have
15 brief redirect, if I am permitted.

16 THE COURT: Limited to the scope of the
17 questions he was just asked?

18 MS. MALONE: Absolutely, Your Honor.

19 THE COURT: Okay. All right.

20 REDIRECT EXAMINATION

21 BY MS. MALONE:

22 Q You said that Desmond Green -- that you did not
23 speak to Desmond Green.

24 A Correct.

25 Q And why was it that you didn't interview the?

1 defendant?

2 A I wasn't there. I mean, I wasn't in the
3 house. I did try his phone number, and I was
4 unable to get in contact with him. I did make an
5 attempt to contact him, yes.

6 MS. MALONE: No further questions from
7 the State, Your Honor.

8 THE COURT: Any final?

9 MS. TOLLEY: Your Honor, if we could
10 approach for just a second?

11 THE COURT: Yes, sure. Can he step down,
12 or you want to wait for a minute?

13 MS. TOLLEY: If he can wait.

14 THE COURT: Yeah.

15 (Bench conference.)

16 MS. TOLLEY: I may want to reserve the
17 right to call him for further redirect.

18 THE COURT: Okay.

19 MS. TOLLEY: Is that possible?

20 THE COURT: Yeah, I mean, I haven't
21 released anybody from subpoena or anything like
22 that. I just let him know. That's fine. I think
23 he's probably going to stick around.

24 MS. LEMPESIS: He'll be here the whole
25 time.

1 THE COURT: All right. You can step down
2 at this time. Thank you, sir.

3 THE WITNESS: You're welcome.

4 THE COURT: All right.

5 Okay. We've moved along a little faster
6 than we initially thought. Does the State want to
7 call it's next witness?

8 MS. LEMPESIS: Your Honor, can we
9 approach again?

10 THE COURT: I should have asked while you
11 were already up here.

12 (Bench conference.)

13 MS. LEMPESIS: At this point, it's just
14 the stipulation' into the record and then we would
15 rest.

16 THE COURT: Okay.

17 MS. LEMPESIS: So I haven't written the
18 stipulation yet, so --

19 THE COURT: That's fine. We still have
20 to come back tomorrow anyway. I'm fine to just
21 rest for the day and come back.

22 MS. LEMPESIS: Okay, perfect.

23 THE COURT: I'll have probably come in at
24 10:00. Is that okay?

25 MS. LEMPESIS: Yes.

1 MS. TOLLEY: Yes, Your Honor.

2 THE COURT: Great, thanks.

3 Ladies and gentlemen, once again I got
4 some things I need to take up with these lawyers.
5 We have moved along a little quicker than
6 anticipated today. But, regardless, we'd still
7 have to come back tomorrow morning so it's really
8 not going to throw us off to release you a little
9 bit early today. It's almost 4:00, and,
10 hopefully, you-all can get a jump on some of the
11 rain and all this afternoon. We'll let you go for
12 the day. I'm going to ask that you return
13 tomorrow at ten o'clock. We will -- we do
14 anticipate, of course, finishing this trial
15 tomorrow, so just, kind of, keep that in mind as
16 you're planning your week. We appreciate your
17 promptness today and we'll see you back tomorrow
18 back at ten o'clock.

19 One final ask is that you, once again,
20 don't discuss the case with anybody and don't do
21 any independent research. We'll see you in the
22 morning. Thank you very much.

23 (Jury exits the courtroom at 3:57 p.m.)

24 THE COURT: We'll be at ease until
25 tomorrow at ten o'clock, everybody. We'll see you

1 then.

2 MS. LEMPESIS: Thank you, Your Honor.

3 THE COURT: I need a quick order.

4 Thanks.

5 Mr. Green, it's nothing personal. I do
6 this with all my trials all the time all around
7 the state. I keep folks in custody during the
8 pendency of their trial. Here's an order to that
9 effect for the Beaufort County jail.

10 (Trial adjourned at 3:57 p.m.)

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CERTIFICATE OF REPORTER

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I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

April 4, 2022



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

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STATE OF SOUTH CAROLINA
IN GENERAL SESSIONS
COUNTY OF BEAUFORT

State of South Carolina,

vs. Transcript of Record
2019-GS-07-01270

Desmond Lamar Green,
Defendant.

January 17, 2024
Beaufort, South Carolina
Volume II of II

B E F O R E:

The HONORABLE JENNIFER B. MCCOY

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

Mary Jordan Lempesis, Assistant Solicitor
Sara Malone, Assistant Solicitor

Juan Tolley, Representing the defendant

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INDEX

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E X H I B I T S

Exhibit	Description	Page	Line
	COURT EXH. 3, Note From Jury	203	9
	COURT EXH. 4, Note From Jury	205	5

1 THE BAILIFF: All rise and come to order.
2 This court is in session. The Honorable Jennifer
3 McCoy presiding.

4 THE COURT: Please Be seated.

5 Good morning, you-all. You ready to
6 proceed? State ready?

7 MS. LEMPESIS: Yes, Your Honor.

8 MS. TOLLEY: We do have a question about
9 the stipulation.

10 THE COURT: All right. I don't have it.
11 I mean, I understand it was emailed to my office
12 last night. Do you have a paper copy or something
13 I can look at? That would great.

14 MS. LEMPESIS: I can hand up a paper copy
15 that I emailed.

16 THE COURT: Okay. Let me look at it and
17 see. I know, I think, what the defense's
18 objection is going to be. Go ahead, Miss Tolley.
19 Happy to hear from you.

20 MS. TOLLEY: Thank you, Your Honor. We
21 would, at this time, renew our motion to
22 bifurcate. We think this stipulation supports our
23 request that the trial should be bifurcated in
24 that what it says sort of indicates that things
25 are worse than they are, particularly the part

1 that says that -- the third offense within 10
2 years, which makes it seem like he's had, you
3 know, many convictions and more than the two that
4 they were going to introduce into the record to
5 begin with. Yeah, I don't know how there would be
6 any way to overcome this. It's going to be so
7 prejudicial that there's not going to be any way
8 that the jury is going to be able to distinguish.

9 I know that one of the things that we
10 talked about yesterday was the fact that one of
11 the domestic violence was a 30-day offense and not
12 a big deal. But when the jury hears that he has
13 two domestic violence charges, they're not going
14 to be able to distinguish whether it's a 30-day
15 offense or whether it's a 10-year offense or --
16 they don't actually know --

17 THE COURT: I don't think it matters for
18 the purposes of the statute, my reading of it.

19 But let me hear from the State.

20 MS. MALONE: Your Honor, the State would
21 argue that the prior convictions are necessary to
22 prove under the statute as a material element of
23 this offense. The State is happy to read them off
24 as purely domestic -- as a prior charge of
25 domestic violence and then the indictment numbers.

1 THE COURT: Yeah, you just need to take
2 out the comma, first offense, comma, on that first
3 one. On that other one, comma, third offense
4 within 10 years, comma. Those don't need to be in
5 the stipulation. You don't need it for --

6 MS. MALONE: I have no objection to
7 that.

8 THE COURT: -- your elements that you're
9 required to prove in this case. It's just two
10 prior offenses for domestic violence.

11 All right. If we can make that
12 amendment.

13 MS. MALONE: The State would renew all
14 the State arguments that it made prior regarding
15 an objection to bifurcating the trial.

16 THE COURT: Okay.

17 MS. MALONE: I know you probably wouldn't
18 like me to repeat all of them, but ...

19 THE COURT: Well, I've already ruled on
20 that. We're not bifurcating the trial. She's
21 just reraising her objections sort of in
22 conjunction with this stipulation language, I
23 think.

24 Okay.

25 MS. MALONE: Thank you, Your HOnor.

1 THE COURT: If you-all can just change this
2 stipulation to take out that comma, first offense,
3 comma part, and then also the comma, third offense
4 within 10 years, comma part, that would be good.

5 MS. LEMPESIS: I've changed it, Your
6 Honor.

7 Donna, do you mind if I just email it to you
8 to print?

9 THE CLERK: Absolutely.

10 MS. MALONE: Your Honor, would you prefer
11 if the State read the stipulation into the record?

12 THE COURT: Yeah, I'll let you do that.
13 I'm happy for you to.

14 MS. MALONE: Thank you.

15 THE COURT: Anything else before we bring
16 the jury back in?

17 MS. MALONE: Nothing from the State, Your
18 Honor. Just so that you're aware, the State would
19 like to recall Corporal Ireland just for a short
20 few questions to authenticate and introduce the
21 written statement into the record. I'm sorry.
22 The victim's written statement into the record.

23 THE COURT: Okay.

24 MS. TOLLEY: I don't know if she can do
25 that.

1 THE COURT: What is your position on
2 that?

3 MS. TOLLEY: Our position is that the
4 witness already testified, and that if she wanted
5 to introduce the witness's statement into the
6 record, the appropriate time to have done that
7 would have been when the witness was on the stand
8 to begin with. So that would be our position.
9 Also, to recall him about something that --

10 THE COURT: He could have done it -- in
11 other words -- let's see. When did she -- he
12 testified after her anyway, didn't he?

13 MS. MALONE: He did, Your Honor.

14 THE COURT: Why didn't you just do it
15 then?

16 MS. TOLLEY: Plus, it would be bringing
17 up something new that wasn't on cross-exam that --
18 she would going into something different at this
19 time.

20 MS. MALONE: But, Your Honor, I know that
21 yesterday there was a little bit of confusion
22 about the procedure for the witness's prior
23 inconsistent statement and introducing that
24 extrinsic evidence. So I apologize for not --

25 THE COURT: You read it into the record.

1 There wasn't any confusion on my end. The way you
2 phrased your question was, you asked her, *Do you*
3 *remember making a statement?* And she said, *No.*
4 If you would have just asked her, did you make a
5 statement, and she said, no, then it's a field
6 day. You do whatever you want. You still
7 published her statement in the record. So what is
8 it that you're trying to the get in? The written
9 document now?

10 MS. MALONE: Yes. And under --

11 THE COURT: But why didn't you do that
12 yesterday when he testified right after her
13 anyway? Why didn't you do it at that time when
14 the witness was on the stand? Did you forget?

15 MS. MALONE: I apologize for not having
16 introduced it yesterday. It was an inadvertent
17 mistake. And based on --

18 THE COURT: Okay. I'm sorry. I
19 appreciate it. But for that inadvertent mistake,
20 I can't let you recall a witness. You should have
21 done it when he was on the stand yesterday. In
22 other words, it's not -- you're not rebutting
23 anything that they've done. So, in other words,
24 there is no necessity out of, you know, you didn't
25 know, or you couldn't have known. You see what

1 I'm saying?

2 MS. MALONE: Under 613(b), the reading of
3 the statement was part of the requirement that we
4 advise the witness of the substance of her
5 statement.

6 THE COURT: Right.

7 MS. MALONE: And then under --

8 THE COURT: Which you did.

9 MS. MALONE: -- *State vs. Barnes*, the
10 procedure for admitting that extrinsic evidence,
11 the proper person to actually authenticate that
12 would have been Investigator Ireland.

13 THE COURT: Right. But you didn't do it
14 when he was on the stand.

15 MS. MALONE: Correct, I didn't. And I'm
16 not trying to argue with Your Honor about that at
17 all. I understand. After the slight confusion
18 with not understanding the --

19 THE COURT: It's okay. I mean, I
20 understand. I'm not frustrated with you. I'm
21 trying to explain to you that, no, you can't
22 recall him again just because you forgot to put in
23 a statement, unless there's something that I'm not
24 aware of.

25 MS. MALONE: I understand it's in the

1 discretion of the Court. I would just ask Your
2 Honor to be able to recall him and authenticate
3 just so that that written statement is introduced
4 as a piece of evidence. I'm not planning on
5 publishing to the jury today, or anything like
6 that.

7 THE COURT: But you did publish it.

8 I guess -- there's a disconnect. You
9 seem to be concerned that, like, it's not in. You
10 read it in the record. Like, they heard it. You
11 can argue that in closing all day long. You can
12 reread it if you want to to them in closing.
13 You've already published it to the jury. So I
14 don't think you're prejudiced by a result of me
15 not exercising discretion to let you recall
16 somebody. You see what I'm saying?

17 MS. MALONE: Yes, Your Honor. I think
18 just to be able to have it -- at the moment, it's
19 been read into the testimony. However, that
20 actual written document itself has not been
21 introduced into evidence.

22 THE COURT: Right.

23 MS. MALONE: And so in order to be able
24 to have introduced into evidence is why I would
25 ask him to testify just briefly.

1 THE COURT: All right. Miss Tolley,
2 anything else you want to say?

3 MS. TOLLEY: We would just say no, and
4 ask that the Court not allow that to happen.

5 THE COURT: Okay. You know, I'm not
6 trying to be difficult. It's just that's a highly
7 unusual procedure. Okay? So I'm just not
8 inclined -- I don't find that it's going to
9 prejudice you. Like I said, you read it into the
10 record. You know, you can still argue it in
11 closing all you want. I have no problem with
12 that. It's been published. I know you wanted the
13 actual piece of paper in, but unfortunately the
14 witness has already been off the stand. You
15 already called him. He's already closed out that
16 part of his testimony. So I don't think this is a
17 reason to allow you to recall him out of order and
18 get that in when it really is already in.

19 All right.

20 MS. MALONE: Thank you.

21 THE COURT: Sure, no problem.

22 What else? We'll bring the jury in and we'll
23 read the stipulation on the record.

24 Does the State have any other witnesses?

25 MS. MALONE: The State does not have any

1 further witnesses, Your Honor.

2 THE COURT: Okay.

3 All right. Well, let's bring the jury
4 in.

5 MS. LEMPESIS: Can we wait for --

6 THE COURT: I'm sorry. We are waiting
7 for something to be printed. It's my fault.

8 MS. LEMPESIS: Your Honor, Miss Tolley is
9 now saying she doesn't want the last sentence
10 included. "This stipulation means that both
11 parties have agreed that these prior convictions
12 will be items of evidence," and, I guess, "And
13 will be made valuable to you, the jury, during
14 your deliberations."

15 THE COURT: That's just the definition of
16 what a stipulation is.

17 I'm happy to hear from you, Miss Tolley.
18 You can make your own objection.

19 MS. TOLLEY: Yes, that would be our
20 objection. But we would defer to whatever the
21 Court decides.

22 THE COURT: I think it's fine. I think
23 it helps to explain what a stipulation is to the
24 jury. Otherwise, they don't know that type of
25 legal jargon. Let's leave it in there. It's

1 appropriate.

2 MS. LEMPESIS: Your Honor, I'll just hand
3 it up for your final review before Miss Malone
4 reads it.

5 THE COURT: Thank you. That's fine.

6 All right. So we're ready for the jury to
7 come in now. Thank you so much.

8 MS. LEMPESIS: Judge, one other thing
9 about the stipulation. Do we need to mark it as
10 an item of evidence?

11 THE COURT: We will. At the time you
12 admit it, we'll mark it as the next State's
13 whatever.

14 MS. LEMPESIS: Yes, Your Honor.

15 THE BAILIFF: Jury is entering the
16 courtroom, Your Honor.

17 (Jury enters the courtroom at 10:35 a.m.)

18 THE COURT: Good morning. Thank you for
19 being so prompt. I think we are ready to proceed.
20 Everybody can be seated at this time.

21 The State may call its next witness.

22 MS. MALONE: Your Honor, at this time,
23 the State has no more witnesses, but the State
24 does have the stipulations regarding the
25 defendant's prior convictions.

1 THE COURT: Okay. I'm happy for you to
2 read that into the record at this time clearly for
3 the jury.

4 MS. MALONE: Thank you, Your Honor.

5 The defense and the State have stipulated
6 for the admission of the defendant's prior
7 convictions of domestic violence. The defendant,
8 Desmond Green, was convicted on June 19, 2014, of
9 criminal domestic violence in *State v. Desmond*
10 *Green*, indictment number 2013-GS-07-01208, the
11 defendant, Desmond Green, was convicted on March
12 25th of 2015 of criminal domestic violence in
13 *State v. Desmond Green*, indictment number
14 2014-GS-07-02009.

15 This stipulation means that both parties
16 have agreed that these prior convictions will be
17 items of evidence and will be made available to
18 you, the jury, during deliberations.

19 THE COURT: Okay. Thank you very much.
20 We'll mark those the next State's Exhibit, which
21 will be what?

22 MS. MALONE: State's Exhibit 10.

23 THE COURT: Thank you so much. Witnesses
24 or anything else from the State at this time?

25 MS. MALONE: Nothing further from the

1 State, Your Honor. The State rests.

2 THE COURT: Thank you so much.

3 All right. Ladies and gentlemen, as
4 silly as it seems, the State has now rested. It
5 is necessary for me to excuse you from the
6 courtroom and handle a couple of things with these
7 attorneys. We'll bring you right back here very
8 shortly. Thank you so much.

9 (Jury exits the courtroom 10:40 a.m.)

10 THE BAILIFF: Jury is clear, Your
11 Honor.

12 THE COURT: Great.

13 All right. Miss Tolley, have you
14 discussed with your client whether or not he
15 wishes to testify during his trial?

16 MS. TOLLEY: I have Your Honor.

17 THE COURT: Okay. Is he ready for me to
18 go ahead and, sort of, advise him of his
19 constitutional right in that regard at this time?

20 MS. TOLLEY: Yes, ma'am. Do we make
21 motions?

22 THE COURT: We will. We will. I just
23 wanted to give him that opportunity. Before we
24 get into that, I wanted to make sure you had an
25 opportunity to talk to him.

1 MS. TOLLEY: Okay.

2 THE COURT: But, yes, we'll go ahead and
3 entertain motions at this stage of the trial. I'm
4 happy to entertain any motions from the State or
5 the defense at this time now that the State has
6 rested.

7 Any from the State?

8 MS. MALONE: No further motions from the
9 State, Your Honor.

10 THE COURT: Okay. Any motions from the
11 defense at this time?

12 MS. TOLLEY: Your Honor, we would just
13 make a motion for directed verdict at this time.
14 We believe that the State has not met its burden.
15 The evidence viewed in the light most favorable to
16 the State does not warrant moving forward.

17 The elements of the case require that
18 there be some sort of physical harm or injury to
19 the person's own household, and I don't believe
20 that that's been established in this particular
21 case, or that the offer or attempt to cause
22 physical harm or injury to a person's own
23 household member or the apparent present ability
24 under circumstances reasonably creating fear of
25 imminent peril have been met in this case.

1 There was no testimony from Miss Doe that
2 there was no injury, EMS was not called, and that
3 she did not go the doctor. You heard from
4 Officer Ireland that there was no fear.

5 And in order to convict someone of this
6 particular charge, you have to have those
7 elements, and we believe that they are missing in
8 this case.

9 At this time, we would also renew all of
10 our previous motions. Those with regard to -- all
11 of them, but the ones regarding the 911 call, the
12 admission of it, as being hearsay and/or
13 testimonial, and all other objections thereafter.

14 THE COURT: Okay. All your objections
15 are timely moved for purposes of the record. You
16 know where I stand on those, but happy to hear
17 from the State in response to their motion for
18 directed verdict.

19 MS. MALONE: Yes, Your Honor.

20 The State would argue that the rules for
21 directed verdict state that the case must be
22 submitted to the jury if there is any substantial
23 evidence that reasonably tends to prove the guilt
24 of the accused, or from which he may be fairly
25 deduced -- or his guilt may be fairly and

1 logically deduced.

2 For domestic violence the statute reads
3 that the State must prove that the defendant
4 either caused physical harm or injury to a
5 person's own household member or offered or
6 attempted to cause physical harm or injury to a
7 person's own household member with the apparent
8 present ability under circumstances reasonably
9 creating a fear of imminent peril, and elevating
10 it to first degree that he has two or more prior
11 conviction of domestic violence within the past 10
12 years.

13 The State would argue that here we have
14 submitted evidence from witnesses that the
15 defendant struck the victim in the head multiple
16 times, that the defendant threw gasoline or threw
17 a box of lighter fluid at the victim. The two
18 prior convictions have been stipulated to.
19 Whether or not **NK** testified that she feared
20 for her life or not, it's still reasonably
21 creating a fear of imminent peril, and we have
22 testify that a five-year-old daughter ran across
23 the street begging for help, that a 911 call was
24 made, that he was attacking her. There is more
25 than sufficient evidence to prove that the

1 defendant committed domestic violence in this
2 case.

3 We argue against the directed verdict.

4 THE COURT: Okay. Anything else at this
5 time?

6 MS. TOLLEY: Nothing, Your Honor. Thank
7 you.

8 THE COURT: Okay. Well, obviously, I
9 think the greatest testimony thus far is to the
10 injuries. The sister, Miss Doe, clearly testified
11 under oath that he started punching her in the
12 back of the head, so I think that's certainly
13 sufficient evidence to render a question of fact
14 for the jury at this point, whether or not they
15 find that to be credible or not.

16 So, we will respectfully deny your motion
17 for directed verdict and move into, once again,
18 whether or not your client would like to testify.
19 Do you want to take a few more minutes to talk to
20 him and then I'll read him his rights?

21 MS. TOLLEY: We're good, Judge.

22 THE COURT: Okay.

23 All right. Well, Mr. Green, if you can,
24 if you're able to stand up, please do so at this
25 time. I'm going to ask that you raise your right

1 hand for me. Do you swear or affirm that the
2 answers you give will be the truth, so help you
3 God, just to me?

4 THE WITNESS: Yes.

5 THE COURT: You can put your hand down.
6 Mr. Green, at this time, I'm going to explain to
7 you certain rights that you have. Okay? If you
8 don't understand anything I say, I want you to
9 stop me immediately and tell me so. Can you do
10 that for me?

11 MR. GREEN: Yes.

12 THE COURT: Okay. We now reached the
13 stage in the trial where you may present your
14 defense. You have the right to claim the
15 protections given to you by the 5th Amendment of
16 our United States Constitution and that says in
17 part that, *No person shall be compelled in any*
18 *criminal case to be a witness against himself.*
19 This means that you cannot be required to testify
20 in this case. You have a right to testify on your
21 behalf. However, no one can make you testify.
22 You understand that?

23 MR. GREEN: Yes, ma'am.

24 THE COURT: Okay. This is a personal
25 right and no one can give that right up except for

1 you. Okay?

2 MR. GREEN: Yes, ma'am.

3 THE COURT: If you decide to testify, you
4 would be subject to the same rules that have
5 governed every other witness on that witness
6 stand, and you would be examined and
7 cross-examined by the State on any relevant issues
8 in this case. In addition, if you have any prior
9 convictions involving dishonesty or false
10 statement or for crimes that were punishable by
11 prison of more than a year and I determine that
12 the probative value of admitting that would
13 outweigh any prejudicial effect to you, the
14 solicitor would be able to introduce your record
15 to attack your credibility. Do you understand
16 that?

17 MR. GREEN: Yes, ma'am.

18 THE COURT: If you decided to testify,
19 this decision on your part must be freely,
20 voluntarily, and intelligently made with the
21 knowledge of these protections given to you by the
22 5h Amendment.

23 If you decide not to testify, I will
24 instruct the jurors that they cannot give the fact
25 that you did not testify any consideration

1 whatsoever, and that there is to be absolutely no
2 prejudice to you because you did not testify. It
3 is left entirely up to you whether or not you
4 testify. I'm going to let you talk to Miss Tolley
5 a little bit more, any family or friends, if you
6 want to, or anybody else, but the final decision
7 is going to be left entirely up to you.

8 Do you understand that?

9 MR. GREEN: Yes, ma'am.

10 THE COURT: Do you understand everything
11 I've explained to you so far?

12 MR. GREEN: Yes, ma'am.

13 THE COURT: Do you have any questions
14 about what I've just explained to you?

15 MR. GREEN: No, ma'am.

16 THE COURT: Have you been able to discuss
17 with your lawyers whether or not you should
18 testify?

19 MR. GREEN: Yes, ma'am.

20 THE COURT: Okay. Do you need to talk to
21 them any more at this time?

22 MR. GREEN: No.

23 THE COURT: Do you want to testify?

24 MR. GREEN: No, ma'am.

25 THE COURT: Okay.

1 and now I'm going to ask the defense if there are
2 any witnesses they would like to call in addition
3 to those that have already been called.

4 Anything from the defense, Miss Tolley?

5 MS. TOLLEY: None from the defense.

6 THE COURT: In that case, does the
7 defense rest?

8 MS. TOLLEY: The defense rests.

9 THE COURT: Ladies and gentlemen, I'm
10 going to excuse you one more time even quicker
11 than the last break. I have one more thing I need
12 to take up with these attorneys and we'll bring
13 you back in. At that time, we'll begin the end of
14 the trial which will be the closing arguments and
15 the charge on the law. Okay, thank you so much.
16 I will tell you, that will take a little while so
17 now is a good time, if you think you need use the
18 restroom in the next hour or so, you might want to
19 take this opportunity to do that now. Thank you.

20 (Jury exits the courtroom at 10:49 a.m.)

21 THE BAILIFF: Jury is clear.

22 Your Honor, may I approach?

23 THE COURT: Of course.

24 (Off the record.)

25 THE COURT: Okay. So I'm going to ask,

1 what's the best way for me to print the verdict
2 form? Oh, you're going to do it.

3 All right. Any specific requests? I
4 think it's a petty basic jury charge. Really,
5 just one -- the alleged -- the only -- you know,
6 in the domestic violence first degree, just to
7 make it clear, I think our case law supports I'm
8 only reading that aggravating factor that applies,
9 really, to this case. In other words, I'm not
10 going to confuse the jury with all the possible
11 aggravating factors. I'm only going to read the
12 one that includes, you know, the prior offenses
13 for domestic violence. It reads, quote, "As it
14 relates to the current charge," comma, "the State
15 must also prove that the defendant has two or more
16 prior convictions of domestic violence within 10
17 years of the current offense."

18 So that's how we're reading it. Okay?
19 Any other specific ones that you think you would
20 like charged?

21 MS. TOLLEY: I guess per her cross, the
22 instruction about the fact that there was a --
23 there's a stipulation with regard to the prior
24 record, that doesn't mean he committed this
25 particular crime. Is there an instruction with

1 regard to that?

2 THE COURT: There might be. Let me see.

3 MS. MALONE: The State has no objection
4 to limiting the instruction.

5 THE COURT: Yeah, okay. I'm just going
6 through it. Bear with me one moment.

7 There's a charge that reads -- I do have
8 a charge on that. It's similar to the one we use
9 for, like, Lyle evidence, and basically it reads
10 as this: "You have heard evidence that the
11 defendant was convicted of a crime or crimes other
12 than the one for which the defendant is now on
13 trial. This evidence, if you conclude it as true,
14 may only be considered by you on the question of
15 prior record and for no other reason and no other
16 purpose. You may give this evidence the weight
17 and value, if any, that you find it should have on
18 the sole issue of prior convictions. You must not
19 consider evidence of the commission of another
20 offense as proof of the defendant's guilt of the
21 charge we are trying today." That's how it reads.

22 Is that sufficient for you, Miss Tolley?

23 MS. TOLLEY: Yes, Your Honor.

24 THE COURT: Okay. Any other specific
25 requests? Obviously, I'm charging that they

1 cannot even consider the fact that he did not
2 testify, and I'll charge them that may not even
3 discuss it in the jury room.

4 And then my beyond a reasonable doubt
5 reads: "A reasonable doubt is a doubt that make
6 an honest, sincere, and conscientious juror
7 hesitate to act. Proof beyond a reasonable doubt
8 is proof that leaves you firmly convinced of a
9 defendant's guilt. There are very few things in
10 this world that we know with absolute certainty.
11 In a criminal trial, the law does not require
12 proof that overcomes every possible doubt. If,
13 based on your consideration of the evidence, you
14 are firmly convinced that the defendant is guilty
15 of the crime charged, you must find him guilty.
16 If, on the other hand, you think there is a real
17 possibility that he is not guilty, you must give
18 him the benefit of the doubt and find him not
19 guilty. That's how that reads. Pretty
20 straightforward.

21 Anything else before we bring the jury
22 back in? I'll let you-all take a five-minute
23 restroom break. We will take a break and you-all
24 can come back.

25 MS. TOLLEY: Yes, Your Honor.

1 MS. MALONE: Thank you, Your Honor.

2 (A break was taken from 10:56 a.m. to 11:13 a.m.)

3 THE COURT: Are you-all ready to go?

4 MS. MALONE: The State is ready, Judge.

5 MS. TOLLEY: The defense is ready.

6 THE COURT: State will close first,
7 followed by the defense, and then I will charge.

8 THE BAILIFF: Jury panel is entering the
9 courtroom, Your Honor.

10 THE COURT: Okay.

11 (Jury enters the courtroom 11:13 a.m.)

12 THE COURT: Thank you-all so much.

13 Please have a seat.

14 The parties have now presented their
15 case, ladies and gentlemen of the jury, and it's
16 now going to be time for these attorneys to make
17 their closing arguments to you. These arguments
18 of the attorneys are not evidence in the case, as
19 they are meant to help you understand the evidence
20 and apply the law to the evidence. But I want you
21 to make sure that the remarks of the attorneys
22 themselves is not evidence in the case.

23 All right. With that, I will turn it
24 over to the attorneys and when they are finished,
25 I'll give you the law that applies to the case and

1 you will retire to reach a verdict.

2 Happy to hear from you. The State will go
3 first.

4 MS. MALONE: Thank you, Your Honor.

5 CLOSING ARGUMENT

6 MS. MALONE: Welcome back. Here is what
7 we know in this case. We know that on June 23rd
8 of 2019, a 911 call was placed by Cheleen Doe. We
9 heard this call unfold in that call. We heard
10 Cheleen tell 911 that her sister needed help. And
11 then we heard when she saw her sister run into her
12 own yard. And then shortly after that, we heard,
13 when she told 911 that she saw the defendant,
14 Desmond Green, strike her sister in the back of
15 the head.

16 And then we heard from Cheleen Doe who
17 stood up here yesterday and testified that she was
18 on the phone with 911 when she told them that she
19 saw her sister being chased by the defendant and
20 that she saw him strike her in the back of the
21 head. That she saw this and relayed it to 911 as
22 it was happening.

23 We know that shortly after that call, 911
24 responded to the scene at [REDACTED] Circle. And
25 that when Corporal Ireland arrived, that he saw

1 NK [REDACTED] and Desmond Green in the front yard
2 of [REDACTED] Circle. And that, almost
3 immediately after he arrived, the defendant left
4 the scene.

5 We know that one of the first things he
6 noticed about NK [REDACTED] was the odor of
7 lighter fluid and her shirt that appeared to be
8 soaked. And we saw those photos here on the
9 screen yesterday of NK [REDACTED] that faint
10 dark pattern from the middle of her back and all
11 the way up. And we heard the officer testify that
12 she couldn't stop itching because it was
13 uncomfortable on her.

14 Now, we know that Miss NK [REDACTED]
15 provided a statement to law enforcement on that
16 day. And we know that, while she couldn't
17 remember precisely what happened -- and that
18 Desmond Green is the father of her five children.
19 And it's clear, she did not want to testify, as
20 she told defense, against that man.

21 However on that day, she did provide a
22 statement immediately after it happened while it
23 was still fresh in her mind. And we know that she
24 told law enforcement in that statement, We were
25 fussing and then he started pushing me and choking

1 me. I told my daughter Niasia to run next door to
2 get my dad, then I finally got up and ran outside.
3 Then he threw lighter fluid on me and started
4 hitting me on my shoulder. He sat out there until
5 he saw the police, and then he walked to the door
6 and said, 'If they want me, they're going to have
7 to catch me.' And soon after that, he left."

8 Defense made a point to mention that law
9 enforcement never spoke to Desmond Green that day.
10 That's because he wasn't there. He knew the
11 police were there, but he left as soon as they
12 arrived.

13 And, yes, when Desmond Green sat down
14 here yesterday at the start of this trial, he was
15 entitled to the benefit of the doubt. But as this
16 case has moved forward, and as the truth has come
17 out, it is clear we have presented our case beyond
18 a reasonable doubt. It has been removed.

19 Domestic violence doesn't require that
20 the victim end up in the hospital or that EMS was
21 called out or that she had to go to the doctor, or
22 that she had brutal injuries. The judge is going
23 to instruct you on the law. And, in South
24 Carolina, domestic violence requires that we prove
25 that an assault happened by a person who is a

1 member of that person's household, and she'll
2 clarify when she reads the law exactly what that
3 means.

4 But Desmond Green the father of the
5 victim's five children who lives with her at [REDACTED]
6 [REDACTED] Circle, we've heard chased her down and
7 struck her, and that lighter fluid came at or on
8 her.

9 I have proven my case beyond a reasonable
10 doubt. And because this case is domestic violence
11 in the first degree, it requires that we prove
12 prior incidents that were convictions and you
13 heard those stipulations in this record.

14 So when you go back to the deliberation
15 room and review the evidence and start determining
16 your decision in this case, I have no doubt that
17 you will determine the defendant, Desmond Green,
18 is guilty of domestic violence in the first
19 degree.

20 Thank you.

21 THE COURT: All right. Miss Tolley.

22 MS. TOLLEY: Thank you, Your Honor. May
23 it please the Court?

24 Good morning. You don't judge a man by
25 what he has done in the past. You judge him by

1 what he is doing now, how things are going now.
2 You've heard about the two prior convictions. The
3 fact that he had two prior convictions does not
4 mean that he committed this particular offense,
5 that he did what they accused him of doing in this
6 case. I don't think that the State presented
7 enough evidence to prove that he did that in this
8 case, and he is still entitled to the benefit of
9 the doubt.

10 This is a case about family. This is a
11 case about love. This is a case about jealousy.
12 This is a case where families deals with ups and
13 downs, couple goes through things, they have
14 issues, but that does not make it domestic
15 violence.

16 At the end of the day, this case is about
17 evidence, and there is a lack of it in this case.

18 The only people you heard from in this
19 case are one, the lady who talked about the 911
20 video, you heard from the sister of NK
21 you heard from NK and you heard from
22 Officer Ireland, and I'm going to talk about them
23 a little bit and each of them and what they
24 testified about.

25 The lady about the 911 tape, I'm not even

1 sure why she was here. She didn't take the 911
2 call. She didn't talk to Cheleen Doe who made the
3 911 call. She was never present on the scene.
4 She didn't know what happened, so I'm not sure why
5 she was here. So that's the first witness.

6 And then you heard from Cheleen Doe, who
7 was the sister of the victim. And she testified
8 that they were both throwing things, anything.
9 She testified that she didn't know what happened
10 before they came outside. She was the person who
11 called the police. Of course, she's her sister,
12 so she's going to be concerned about her sister
13 and she's going to want to take her sister's side.
14 She's going to do what -- she's going to, you
15 know, want to say what she needs to say to help
16 her sister.

17 You also heard from Officer Ireland.
18 Officer Ireland testified that he didn't witness
19 any hitting or throwing of things. We heard from
20 Officer Ireland that NK [REDACTED] said that she was
21 not fearful, that she was not afraid for her life.
22 That's not domestic violence. In order to have
23 domestic violence you have to have injury and you
24 have to have fear, and I don't think we have that
25 in this case. Officer Ireland testified that

1 there was no Ring camera. There's no video of
2 this incident. There's talk about there being a
3 Ring cam, but we never saw any video from that.
4 He didn't talk to Desmond Green. Well, yeah, he
5 wasn't there, but he has ways of talking to people
6 and he could have easily reached out to him after.
7 He didn't talk to the people that he referred to
8 as family. The people that were coming by the
9 house, talking, that were getting NK [REDACTED]
10 upset. He said he had to calm NK [REDACTED] down
11 because they were yelling things at her and she
12 was getting worked up. And that one of those
13 people was the girl in the pink shirt, the girl
14 who was interested in Desmond who wanted to -- who
15 had come to her house and wanted to fight her over
16 Desmond. And the girl who, according to
17 NK [REDACTED] said, *If she wants him, she can have*
18 *him as far as I'm concerned.*

19 MS. MALONE: Objection, Your Honor.
20 Facts not in evidence. There is -- that was a
21 hearsay statement that was excluded, that was
22 alleged to be in a video that we never saw.

23 THE COURT: I'm not sure that that was
24 stricken, but she'll move on.

25 MS. TOLLEY: I'm pretty sure the officer

1 testified to that. However, it sounds like
2 there's something else going on here. There was
3 some jealousy going on, there's another woman
4 involved. Another woman was walking by the house.
5 Another woman had come by the house. That sounds
6 like anger, jealousy, and hurt to me. And when
7 you're feeling that way, sometimes you act out in
8 ways you don't show. You don't show yourself that
9 reflect your best self. And then others respond
10 to you in ways that don't reflect their best
11 selves either. And I think that's what was
12 happening in this case.

13 They were talking about this incident
14 with the women. Things got heated and calculated,
15 and things calmed down as quickly as they
16 escalated. That's not domestic violence. That's
17 people working through their issues.

18 MS. MALONE: Objection. This is all --
19 none of is --

20 THE COURT: Miss Malone, the jury is
21 instructed that the arguments of the attorneys are
22 not evidence in the case. They're just simply
23 arguments. Thank you.

24 MS. MALONE: Sorry, Your Honor.

25 THE COURT: Okay.

1 MS. TOLLEY: There wasn't much
2 investigation in this case either. The police
3 simply relied on what was told to them by
4 **NK** **██████████** And I'm going to say this, you know,
5 delicately, but in some cases, 'some instances, you
6 know, there's an inherent bias that the woman is
7 the victim in this case. You can tell that in
8 this particular case by some of the questions of
9 the 911 operator. She never asked if **NK** **██████████**
10 was hitting Mr. Green. She never asked if
11 **NK** **██████████** had a weapon.

12 The officer didn't think anything about
13 talking to the family, including the girl in the
14 pink shirt who was shouting things out at **NK** **██████████**
15 **NK** **██████████** getting her all worked up. He didn't
16 investigate. He didn't talk to any of them to see
17 what they had to say. Clearly, the family had
18 some opinions and possibly some that were not
19 favorable to **NK** **██████████** No one asked what was
20 thrown at Mr. Green. No one asked if Mr. Green
21 was injured. What about him? No one asked
22 **NK** **██████████** what she did. There's an inherent bias
23 and the process proceeds in that way once the case
24 has begun. Once the police get involved.

25 You heard from **NK** **██████████** She

1 testified, of course, that she didn't remember.
2 The solicitor talked to you about what her
3 statement was previously, that she told them she
4 didn't want to prosecute this. She never wanted
5 to go forward with this. Said they have children,
6 he works, he helps. It sounds like this is a
7 family matter. This is the family issue. That
8 they worked through whatever their issues are.
9 They worked through their ups and downs. That's
10 what a family does. They might need some better
11 coping skills to learn how to better resolve
12 conflict, but that doesn't make it domestic
13 violence.

14 If she doesn't want to go forward with
15 it, why is the government so involved. There are
16 plenty of things that the government can be
17 involved in, but this isn't one of those matters
18 where the government needs to be involved.

19 People have disagreements. People argue.
20 People fight. That is not domestic violence.
21 And, in this case, it's a couple working through
22 their differences and their ups and downs.

23 You heard about the two prior charges and
24 you haven't heard about any since then. Those are
25 back in 2014 and 2015. It's been almost 10 years

1 since those happened. You didn't hear about any
2 recent incidents.

3 At the beginning of this case, I talked
4 to you about reasonable doubt and the benefit of
5 the doubt, and that I would ask you 'at the close
6 of this case to give him the benefit of doubt.
7 Let's talk about some of the doubt. No injury.
8 No fear of life. **NK** didn't call the
9 police. There is a girl in a pink shirt and we
10 don't know what her role in all of this is.
11 There's jealousy. There's love. There's the six
12 years they've been together since all of this.
13 There's the children. There is no video of the
14 incident. All of these things are doubt. No one
15 knows what happened before they came outside. No
16 one knows what started this. There was no
17 testimony about that.

18 And the burden of presenting that is on
19 the State. Not on us. Not on Mr. Green. He
20 doesn't have to testify, and the judge will
21 instruct you as to that, because the burden is on
22 the State. Doubt, poor investigation. Doubt,
23 inherent bias in the investigation. All of those
24 things raise doubt.

25 And, at the end of the day, if there is a

1 reasonable doubt, and the judge will instruct you,
2 that a verdict of not guilty would be called for
3 in this case. We're going to ask you to give
4 Mr. Green the benefit of the doubt.

5 Thank you.

6 THE COURT: Okay. Ladies and gentlemen
7 of the jury, during this trial, you and I had
8 certain duties to perform. As the trial judge,
9 it's been my responsibility to preside over the
10 trial of this case and I've also had the duty to
11 rule on the admissibility of certain evidence
12 offered during the trial. You are to consider
13 only the evidence before you. If there was any
14 testimony ordered stricken from the record in this
15 case during this trial, you must disregard that
16 testimony. You are to consider only the testimony
17 which has been presented from this witness stand,
18 any exhibits which have been made a part of the
19 record, and any stipulations of counsel.

20 I have the additional duty to charge you
21 the law that applies to this case. As the
22 presiding judge, I am the sole judge of the law of
23 this case, and it is your duty as jurors to accept
24 it and apply the law as I now state it to you. If
25 you already think you have an idea as to what the

1 law is or what it should be and it does not agree
2 with what I now tell you the law is, you must
3 abandon that idea because you are sworn, you have
4 taken an oath to accept the law and apply it
5 exactly as I now state it to you.

6 In every case tried in this court before
7 a jury, the jury becomes the sole and exclusive
8 judge of the facts in a case. A trial judge
9 cannot comment on or make any statement to a jury
10 about the facts in a case. Since you, the jury,
11 are the sole judges of the facts, do not think
12 from anything I have said during the progress of
13 this trial that I have any opinion about the facts
14 in this case whatsoever. I can assure you, I do
15 not. This is a matter solely for you, the jury,
16 to determine. As jurors, it is your duty to
17 determine the effect, the value, the weight, and
18 the truth of the evidence presented during the
19 trial.

20 When I use the word "defendant," I refer
21 to Mr. Desmond Green. The defendant here has been
22 accused in what we call an indictment. It's just
23 a piece of paper upon which accusations against
24 defendants are placed. Indictments are not
25 evidence in the case.

1 Now, to this indictment, the defendant
2 has rendered a plea of not guilty which then
3 places upon the state the burden of proving beyond
4 a reasonable doubt that the defendant is guilty.

5 In this state and in this country a
6 person who is accused of a criminal offense is
7 never required to come in and prove himself or
8 herself innocent. This principle of law is called
9 the presumption of innocence. Each of you is
10 required under our law and by your oath to
11 actively presume that the defendant is not guilty.
12 The presumption of innocence is maintained at all
13 times throughout the trial of this case. It is
14 only removed when and if the State brings in
15 enough evidence to persuade you beyond a
16 reasonable doubt that the defendant is guilty.

17 What is reasonable doubt? A ready doubt
18 is a doubt that makes an honest, sincere, or
19 conscientious juror hesitate to act. Proof beyond
20 a reasonable doubt is proof that leaves you firmly
21 convinced of the defendant's guilt. There are
22 very few things in this world that we know with
23 absolute certainty. And in criminal cases, the
24 law does not require proof that overcomes every
25 possible doubt. If, based on your consideration

1 of the evidence, you are firmly convinced that the
2 defendant is guilty of the crime charged, you must
3 find him guilty.

4 If, on the other hand, you think there is
5 a real possibility that he is not guilty, you must
6 give him the benefit of the doubt and find him not
7 guilty.

8 As the sole fact finders, you should have
9 listened closely to the evidence presented.
10 Weighing the evidence is entirely a mental
11 process. You must weigh it using your good
12 judgment and your common sense.

13 Ladies and gentlemen, cases can be
14 presented or evidence can be presented in one of
15 two ways: Direct evidence, or indirect evidence,
16 which is also known as circumstantial evidence.

17 Direct evidence is when someone comes in
18 and testifies to the commission of a crime that
19 they perceive through your own senses. For
20 example, if a witness saw someone committing a
21 crime.

22 Indirect evidence or circumstantial is
23 when someone testifies as to different events that
24 occurred and when you link all of them together
25 they point to the commission of a crime.

1 One or both methods can be used to
2 present a case. Crimes may be proven by
3 circumstantial evidence. The law makes absolutely
4 no distinction between the weight or value to be
5 given to either direct or circumstantial evidence,
6 nor is a greater degree of certainty required of
7 circumstantial evidence than of direct evidence.

8 However, to the extent the State relies
9 on circumstantial evidence, all of the
10 circumstances must be consistent with each other,
11 and, when taken together, point conclusively to
12 the guilt of the accused beyond a reasonable
13 doubt. If these circumstances merely portray the
14 defendant's behavior as suspicious, the proof has
15 failed.

16 The State has the burden of proving the
17 defendant guilty beyond a reasonable doubt. This
18 burden rests with the State regardless of whether
19 they rely on direct evidence, circumstantial
20 evidence, or some combination of the two.

21 The evidence you are to consider consists
22 of the testimony of the witnesses who have
23 testified, the exhibits that have been offered and
24 received during the trial. Objections and rulings
25 and matters that may have been excluded from the

1 record are not to be considered by you in any
2 fashion. If it appears to you that I have
3 commented about the trial during the trial or
4 during the giving of these instructions, you must
5 disregard that entirely. Also, the remarks of the
6 attorneys are not evidence. Their statements and
7 their arguments are intended to help you
8 understand the evidence and apply the law, but you
9 should disregard any remark, statement, or
10 argument which is not supported by the evidence or
11 the law as given to you by the Court.

12 So how do you decide of the facts of the
13 case? You do it through the exercise of your good
14 judgment, your common sense, your sense of logic
15 and reasoning, and your experiences in everyday
16 life. Every single day in your lives you judge
17 credibility. You make decisions with regard to
18 whether people are believable, persuasive,
19 convincing, or not. You do the same thing as a
20 juror.

21 In deciding believability, you may
22 consider what was the manner and appearance of the
23 witness who testified. Was she or he
24 straightforward or hesitant in answering? Was the
25 testimony of a witness consistent or inconsistent?

1 How did the witness come to know the facts that he
2 or she testified to, or what was their ability to
3 know these facts? Is there some reason a witness
4 would want to give testimony which would help or
5 hurt one side or the other? In other words, was
6 the witness biased or prejudiced?

7 In determining the question of
8 credibility or believability of the witnesses, you
9 may believe one witness over several, or several
10 witnesses over one. You may believe a part of the
11 testimony of a witness and reject the remaining
12 part of the testimony of that same witness. You
13 may believe the testimony of a witness in its
14 entirety or reject the testimony of a witness in
15 its entirety. You are to consider all the
16 evidence in the case and determine what you
17 believe to be the facts in this dispute.

18 I instruct you and emphasize that the
19 fact that the defendant did not testify is not a
20 factor to be considered by you in any way in your
21 deliberation and your consideration on the
22 question of the guilt or innocence of the
23 defendant. It must not be considered by you in
24 any manner whatsoever. A defendant has a
25 constitutional right to remain silent, and the

1 assertion of this right must not be considered by
2 you in your deliberation. I repeat: Under your
3 oath you are to draw no conclusion whatsoever from
4 the fact the defendant in this case did not
5 testify. The fact that this defendant did not
6 testify should not even be discussed in the jury
7 room. The burden of proof, as I have stated to
8 you, is on the State. The defendant is not
9 required to come in and prove his innocence. The
10 burden of proof remains on the State to prove
11 beyond a reasonable doubt the defendant's guilt.

12 Now, I have the additional duty to charge
13 on the law that applies to this particular case.
14 As the presiding judge, once, again, I'm the sole
15 judge of the law and it's your duty to apply it as
16 I now state it to you.

17 The defendant is charged with
18 first-degree domestic violence. The State must
19 prove beyond a reasonable doubt that the defendant
20 caused physical harm or injury to a member of the
21 defendant's own household or that the defendant
22 offered or attempted to cause physical harm or
23 injury to a member of the defendant's own
24 household with the apparent present ability to
25 cause harm or injury under circumstances

1 reasonably creating a fear of imminent danger. A
2 household member is a spouse, former spouse, a
3 person with whom the defendant has a child in
4 common, or a person of the opposite sex with whom
5 the defendant is living or has lived in the past.

6 As it relates to the current charge, the
7 State must also prove that the defendant has two
8 or more prior convictions of domestic violence
9 within 10 years of the current offense. You have
10 heard evidence that the defendant was convicted of
11 a crime or crimes other than the one for which the
12 defendant is now on trial. This evidence may only
13 be considered by you on the question of prior
14 convictions and for no other reason and no other
15 purpose. You may give this evidence the weight
16 and value, if any, which you find it should have
17 on the sole issue of prior convictions. You must
18 not consider evidence of the commission of another
19 offense as proof of the defendant's guilt of the
20 current charge we are trying today.

21 Ladies and gentlemen, you are not
22 supporters or promoters for the State of South
23 Carolina or this defendant. You do not serve as
24 jurors to reward friends or punish enemies. You
25 have been selected by both the State and this

1 defendant as fair and impartial jurors. It is
2 your duty then to determine the facts in this case
3 giving to this defendant the benefit of every
4 reasonable doubt. Then to the facts which you
5 determine, you take and apply the law which has
6 now been given to you by the Court and you arrive
7 at a verdict. When you accomplish this and
8 written your verdict, you will have satisfied your
9 oath as jurors and you will have discharged your
10 duty to this defendant and to the State. Your
11 verdict must be a unanimous one, meaning all 12 of
12 you must agree.

13 Mr. Foreman, when the jury agrees on the
14 verdict, you will indicate by checking the line
15 next to the verdict and signing your name as
16 foreperson. You will then knock on the jury room
17 door and inform the bailiff that you have reached
18 a verdict. At that time, we will receive you back
19 into the courtroom.

20 This is the verdict form which you will
21 have back there with you. It says: "We, the
22 jury, in the above-captioned case on charge of
23 domestic violence in the first degree unanimously
24 find Desmond Green," it says the foreperson will
25 check one. They are not in any relevant order.

1 It's just that one simply has to come first. You
2 either find him not guilty or guilty, and then the
3 foreperson signs the form right there at the
4 bottom. Okay?

5 Now, ladies and gentlemen, I'm now going
6 to ask that you return to your jury room, but do
7 not yet begin deliberating until you are told to
8 do so by the clerk or bailiff. There are a few
9 additional matters I must discuss with these
10 attorneys before you begin these deliberations.
11 Thank you so much.

12 (Jury exits the courtroom at 11:43 a.m.)

13 THE BAILIFF: Jury is clear, Your
14 Honor.

15 THE COURT: Any objections or exceptions
16 to the charge as read from the State?

17 MS. MALONE: No objections, Your Honor.

18 THE COURT: Any from the defense?

19 MS. TOLLEY: None, Your Honor.

20 THE COURT: I'll let you-all review the
21 evidence then, and we'll get that together along
22 with the verdict form and deliver it to the jury
23 and we'll inform them at that time to begin
24 deliberations.

25 (Deliberations begin at 11:46 a.m.)

1 THE COURT: Well, thank you all so much.
2 Just make sure we can get in touch with you if we
3 need to. Maybe the clerk's office has some of
4 you-all's numbers.

5 We'll be at ease. Thank you so much.

6 I'm just going to go and excuse the
7 alternates right now.

8 (Off the record.)

9 (COURT EXH. 3, Note From Jury, was marked
10 for identification.)

11 THE COURT: Okay. So we received a note
12 that's been marked as Court's Exhibit 3. It said,
13 "We need witness statements," and it's dated today
14 and signed. There's two ways I can handle this.
15 I can write a note back or I can bring them in.
16 My response is going to be that you have
17 everything that was admitted into evidence in the
18 room with you. If you need to replay any
19 testimony, we just need to bring them into the
20 courtroom for that purpose.

21 MS. TOLLEY: We're okay with that,
22 Judge.

23 THE COURT: Can I write it back? Can I
24 reduce it to writing? Is that okay with you-all?

25 MS. TOLLEY: Yes.

1 THE COURT: And I'll let you see it
2 before I send it back.

3 So, here's my response. If you-all want
4 it see it, that's fine. Before I send it back,
5 I'll let you look at it.

6 MS. TOLLEY: That's fine with the
7 defense, Your Honor.

8 MS. MALONE: No objection from the
9 State.

10 THE COURT: So give that to them. We'll
11 be back at ease.

12 (Jury deliberations continue.)

13 THE COURT: Got another note. This will
14 be marked Court's 4. It says: "What is the
15 definitions of first-degree domestic violence?"

16 So I guess I'll have to bring them in for
17 this to recharge them with that, as well as
18 reasonable doubt again.

19 Any objection to that from the State?

20 MS. MALONE: No, Your Honor.

21 THE COURT: From the defense?

22 MS. TOLLEY: None, Your Honor.

23 THE COURT: Okay. I'll have to charge
24 them the portion that dealt with, not only
25 domestic violence, but also reasonable doubt as

1 well as that portion regarding elements of the
2 crime.

3 Okay. You can bring the jury back.
4 We'll mark this note as Court's 4.

5 (COURT EXH. 4, Note From Jury, was marked
6 for identification.)

7 THE BAILIFF: Jury is entering the
8 courtroom, Your Honor.

9 THE COURT: All right. Welcome back. We
10 got a couple notes from you-all. I responded to
11 the first note. You-all can discuss whether or
12 not we're going to need to bring you back in to
13 replay any testimony of witnesses. If we do need
14 to, we would be required, and that's fine, to play
15 it from the beginning to the end. We can't skip
16 through and hit certain parts. It doesn't work
17 like that, just so you know. Okay? That's fine.
18 If you want to hear it, that's not a problem. You
19 just need to let us know after you talk about it,
20 if you don't remember anything.

21 All right. Next, on this next note it
22 says: "What is the definitions of first-degree
23 domestic violence." I will reread that part of
24 the charge to you-all at this time. Okay? That's
25 all I can do. I can't answer these questions. It

1 may seem a little silly to you, but all I can do
2 is reread you what I've already told you. Okay?
3 So I will do that at this time.

4 Okay. To the indictment against the
5 defendant, the defendant has rendered a plea of
6 not guilty which places upon the State the burden
7 of proving beyond a reasonable doubt that the
8 defendant is guilty. In this state and in this
9 country, a person who is accused of a criminal
10 offense is never required to come in and prove
11 himself or herself innocent. This principle of
12 law is called a presumption of innocence. Each of
13 you is required under our law and by your oath to
14 actively presume that the defendant is not guilty.
15 The presumption of innocence is maintained at all
16 times throughout the trial of this case and is
17 only removed when and if the State brings in
18 enough evidence to persuade you beyond a
19 reasonable doubt that the defendant is guilty.

20 What is reasonable doubt? A reasonable
21 doubt is a doubt which makes an honest, sincere,
22 conscientious juror hesitate to act. Proof beyond
23 a reasonable doubt is proof that leads you firmly
24 convinced of the defendant's guilt. There are
25 very few things in this world that we know with

1 absolute certainty, and, in criminal cases, the
2 law does not require proof that overcomes every
3 possible doubt. If, based on your consideration
4 of the evidence, you are firmly convinced that the
5 defendant is guilty of the crime charged, you must
6 find him guilty. If, on the other hand, you think
7 there is a real possibility that he is not guilty,
8 you must give him the benefit of the doubt and
9 find him not guilty.

10 The defendant is charged with
11 first-degree domestic violence. The State must
12 prove beyond a reasonable doubt that the defendant
13 caused physical harm or injury to a member of the
14 defendant's own household, or that the defendant
15 offered or attempted to cause physical harm or
16 injury to a member of the defendant's own
17 household with the apparent present ability to
18 cause harm or injury under circumstances
19 reasonably creating a fear of imminent danger. A
20 household member is a spouse, a former spouse, a
21 person with whom the defendant has a child in
22 common, or a person of the opposite sex with whom
23 the defendant is living or has lived in the past.

24 As it relates to the current charge, the
25 State must also prove that the defendant has two

1 or more prior convictions of domestic violence
2 within 10 years of the current offense. You have
3 heard evidence that the defendant was convicted of
4 a crime or crimes other than the one for which the
5 defendant is now on trial. This evidence may only
6 be considered by you on the question of prior
7 convictions and for no other reason and no other
8 purpose. You may give this evidence the weight
9 and value, if any, which you find it should have
10 on the soul issue of prior convictions. You must
11 not consider evidence of the commission of another
12 offense as proof of the defendant's guilt of the
13 current charge we are trying today.

14 With that, I will release you back to
15 your jury room. Thank you very much.

16 (Jury exits the courtroom at 12:17.)

17 THE BAILIFF: Jury is clear, Your
18 Honor.

19 THE COURT: Any objections to the
20 response to question 4 -- or Exhibit 4 from the
21 State?

22 MS. MALONE: No, Your Honor.

23 THE COURT: Okay. Any from the defense?

24 MS. TOLLEY: No, Your Honor.

25 THE COURT: Okay. We will be at ease

1 again then. I'll give this Court 4 back to the
2 court reporter. Thank you.

3 (Deliberations continue.)

4 THE COURT: All right. So we got another
5 note, Court 5. It says, "Can we listen to the 911
6 call." It's dated today and signed. I'll bring
7 them back in here and let's listen to that whole
8 witness from the beginning of the testimony all
9 the way through the cross at the end. Okay?
10 Unless you-all have something else you would like
11 me to do that's different. Happy to entertain any
12 other thoughts. They have a disk, right, too, I
13 believe, in evidence with them, but don't have any
14 way to play it.

15 MS. MALONE: We do have a disk. I have a
16 plain disk player. They're welcome, if they'd
17 like to just hear -- listen to the 911 call in
18 their deliberations room.

19 THE COURT: Yeah, I don't know what
20 you-all's facility has got. Is there a way to
21 play disks in their?

22 THE BAILIFF: No. They don't have the
23 technology.

24 THE CLERK: They usually come in here.

25 THE COURT: Just come back and play them?

1 THE CLERK: Yes.

2 MS. MALONE: Is it possible to have them
3 hear just the 911 call itself?

4 THE COURT: Yeah. I mean, that's all
5 they asked for. Do you have anything?

6 MS. TOLLEY: What else did you -- I
7 wasn't clear on what you said.

8 THE COURT: It just says, "Can we listen
9 to the 911 call?"

10 MS. TOLLEY: You were going to play the
11 911 --

12 THE COURT: I guess I was thinking it was
13 in conjunction with the first witness. I was
14 going to --

15 MS. TOLLEY: I would have cross-exam on
16 that as well.

17 THE COURT: -- play the whole thing, but
18 we don't have to.

19 MS. TOLLEY: Or the transcript as opposed
20 to their disk. Is that what you're saying?

21 THE COURT: Right. Play back. Have the
22 court reporter play back the entire thing. Or we
23 can just send back a DVD player, or CD player,
24 whatever.

25 MS. LEMPESIS: They don't really play it

1 in the jury room, Your Honor. We don't have a
2 anything cleaned and scrubbed. So, if we just
3 bring them in, we can play it rather than the
4 whole testimony. It would be harder to hear that.

5 THE COURT: Oh, okay.

6 MS. TOLLEY: The testimony being the
7 witness who introduced the 911 call or Cheleen
8 Doe? I was confused about that part.

9 THE COURT: I was thinking the 911
10 dispatch custodian. But, really, that might be a
11 step too far, to be honest. They just asked for
12 the 911 call. So my proposal then would just be
13 to come in here and play the 911 call. I think if
14 we played back the play back of that, it would be
15 extremely difficult to hear. And they're are only
16 asking for the 911 call.

17 So, yeah, we can bring the jury. Are you
18 cueing that up?

19 MS. LEMPESIS: I will cue it up.

20 THE COURT: Just for the record, that was
21 State's Exhibit 1.

22 THE BAILIFF: Jury is entering the
23 courtroom, Your Honor.

24 Thank you.

25 (Jury enters the courtroom.)

1 THE COURT: Welcome back in. We got your
2 note.

3 Everyone have a seat, everybody.

4 So we'll play back the 911 call for you
5 at this time. Are we ready to go? We'll cue that
6 up and play that back now.

7 (911 call played in its entirety.)

8 THE COURT: Is that the conclusion?

9 MS. MALONE: Yes, ma'am.

10 THE COURT: All right. Ladies and
11 gentlemen, we'll release you back to your jury
12 room. Please continue with your deliberations.

13 (Jury exits the courtroom.)

14 (Deliberations continue at 12:54 p.m.)

15 THE BAILIFF: Jury is clear, Your
16 Honor.

17 THE COURT: We will be at ease until
18 further notice.

19 (Verdict reached at 1:45 p.m.)

20 THE BAILIFF: Your Honor, we have a
21 verdict.

22 THE COURT: Bring the defendant in.
23 Bring them in.

24 THE BAILIFF: The jury is entering the
25 courtroom, Your Honor.

1 THE COURT: Thank you.

2 (Jury enters the courtroom at 1:50 p.m.)

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

6 FOREMAN: Yes, Your Honor.

7 THE COURT: Pass it up to the bailiff and
8 he will pass it over to me. Okay. The form has
9 been filled out correctly. I'll pass it to the
10 clerk for publication.

11 The defendant shall rise.

12 THE CLERK: All right. In the case of
13 *State of South Carolina vs. Desmond Lamar Green*,
14 indictment number 2019-GS-07-02170 in the charge
15 of domestic violence first degree, the jury
16 unanimously finds the defendant guilty.

17 THE COURT: All right. Mr. Foreman, is
18 that the jury's verdict?

19 FOREMAN: Yes.

20 THE COURT: All right. Thank you very
21 much.

22 Any post-verdict motions from the State
23 before I released the jury?

24 MS. LEMPESIS: Nothing from the State,
25 Your Honor.

1 THE COURT: Anything from the defense?

2 MS. TOLLEY: Could we pole the jury, Your
3 Honor?

4 THE COURT: Sure.

5 Ladies and gentlemen, we'll now conduct
6 what's called a pole. The clerk of court will
7 call each of you by your juror number. She will
8 ask if this was your verdict and is it still your
9 verdict, and you'll just answer yes or no
10 accordingly. Okay?

11 Go ahead.

12 THE CLERK: Okay. As I call your number,
13 I'm going to ask you the question that she had
14 said. Just a yes or no answer.

15 Juror number 28, is this your verdict?

16 JUROR 28: Yes, ma'am.

17 THE CLERK: Is it still your verdict?

18 JUROR 28: Yes, ma'am.

19 THE CLERK: Juror Number 128 -- or 182,
20 is this your verdict?

21 JUROR 182: Yes, it is.

22 THE CLERK: Is it still your verdict?

23 JUROR 182: Yes, it is.

24 THE CLERK: Juror number 257, is this
25 your verdict?

1 JUROR 257: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR 257: Yes.

4 THE CLERK: Juror number 277, is this your
5 verdict?

6 JUROR 277: Yes.

7 THE CLERK: Is it still your verdict?

8 JUROR 277: Yes.

9 THE CLERK: Is it still your verdict?

10 JUROR 277: Yes, ma'am.

11 THE CLERK: Juror number 22, is this your
12 verdict?

13 JUROR 22: Yes, ma'am.

14 THE CLERK: Is it still your verdict?

15 JUROR 22: Yes, ma'am.

16 THE CLERK: Juror number 208, this your
17 verdict?

18 JUROR 208: Yes.

19 THE CLERK: Is it still your verdict?

20 JUROR 208: Yes.

21 THE CLERK: Juror number 36, is this your
22 verdict?

23 JUROR 36: Yes.

24 THE CLERK: Is it still your verdict?

25 JUROR 36: Yes.

1 THE CLERK: Juror number 150, is this
2 your verdict?
3 JUROR 150: Yes, ma'am.
4 THE CLERK: Is it still your verdict?
5 JUROR 150: Yes.
6 THE CLERK: Juror number 46, is this your
7 verdict?
8 JUROR 46: Yes.
9 THE CLERK: Is it still your verdict?
10 JUROR 46: Yes.
11 THE CLERK: Jury number 169, is this your
12 verdict?
13 JUROR 169: Yes.
14 THE CLERK: Is it still your verdict?
15 JUROR 169: Yes.
16 THE CLERK: Juror 127, is this your
17 verdict?
18 JUROR 127: Yes.
19 THE CLERK: Is it still your verdict?
20 JUROR 127: Yes.
21 THE CLERK: And juror number 12, is this
22 your verdict?
23 THE COURT: No, ma'am. 223.
24 THE CLERK: Juror number 223, is this
25 your verdict?

1 JUROR 223: Yes.

2 THE CLERK: Is it still your verdict?

3 JUROR 223: Yes.

4 THE CLERK: Thank you.

5 THE COURT: All right. The jury has been
6 polled. Any further motions before I release the
7 jury from the State or the defense?

8 MS. TOLLEY: Nothing, Your Honor.

9 THE COURT: All right.

10 Ladies and gentlemen, thank you for your
11 jury service this week. I am really appreciative
12 that you were so prompt and on time and patient
13 with us. Like I said, it's kind of a tedious
14 process with lots of breaks, but that's just
15 normal in the process. I appreciate your patience
16 with us.

17 You are hereby released from jury
18 service. If you want to stay for next part of
19 what's going to happen, which is my job in this
20 process, I'm happy for you to stay and watch.
21 Like I said earlier, it's a public courthouse.
22 But, certainly, you're free to leave at this time
23 if you choose to. Thank you very much.

24 You got a sentencing sheet for the
25 defendant?

1 MS. LEMPESIS: We got it being brought up
2 right now, Your Honor.

3 THE COURT: Okay.

4 (Jury excused at 1:54 p.m.)

5 THE BAILIFF: Jury is clear, Your
6 Honor.

7 THE COURT: All right. Thank you, sir.

8 MS. LEMPESIS: I'll hand up the
9 sentencing sheets, Your Honor.

10 THE COURT: All right. We're ready for
11 the sentencing part of this process. Obviously,
12 the jury reached a verdict, so here we are.

13 I'll hear from the State. Anything else
14 they want to tell me, such as defendant's record,
15 State's position on sentencing. Any position from
16 the victim, I'm happy to hear as well.

17 Go ahead.

18 MS. MALONE: Yes, Your Honor. The
19 defendant's prior record is a 2003 trespassing;
20 2005, possession of less than one gram of crack
21 cocaine, driving under suspension, operating an
22 uninsured vehicle and a vehicle without
23 registration; 2008, driving under suggestion,
24 second offense; 2009, reckless driving. In 2010,
25 he has two separate charges for domestic violence

1 first offense; 2012 assault and battery in the
2 third degree; 2014, domestic violence first
3 degree -- I'm sorry. First offense.

4 THE COURT: Yeah.

5 MS. MALONE: 2015, domestic violence,
6 third offense for which he received four years; a
7 2019, assault and battery third degree; and a 2021
8 position of marijuana and a violation of a city
9 ordinance.

10 THE COURT: Okay.

11 MS. MALONE: The State's position as it
12 comes to sentencing, the State would recommend 10
13 years based on the extensive prior record for
14 domestic violence.

15 THE COURT: Okay. And the victim, I
16 don't see her in here. I haven't seen her since
17 yesterday. Have you been in contact with her?

18 MS. MALONE: We maintained contact. She
19 did not wish to be today and she does not wish to
20 make a statement.

21 THE COURT: Okay.

22 All right. Switch over to the defense.
23 Miss Tolley, what would you like to tell me?

24 MS. TOLLEY: Thank you, Your Honor. May
25 it please the Court?

1 We are simply asking the Court for
2 leniency in this matter, particularly given
3 **NK** desire that he not be prosecuted that
4 she testified to today -- or yesterday, given the
5 fact that they have been in a long-term
6 relationship, they have five children together.

7 Mr. Green is now 40 years old. He is from
8 this area. He's a high school graduate. And we
9 believe that he's worthy of some grace in this
10 particular case.

11 And for that reason we're asking for the
12 Court to not give the maximum penalty on this case. I
13 believe there were previous discussions about an
14 eight-year sentence suspended to four years and 18
15 months probation. We're asking for even possibly
16 something less than that, Your Honor, or certainly
17 nothing exceeding that.

18 THE COURT: Okay.

19 MS. MALONE: Your Honor, I would like to
20 just correct for the record that the original
21 recommendation that the defendant rejected last
22 week on the record was eight years suspended to
23 the service of five.

24 MS. TOLLEY: That's correct.

25 MS. MALONE: With 18 months of probation

1 to follow.

2 THE COURT: Okay.

3 Well, Mr. Green, you don't have to talk.
4 I understand any reason you wouldn't after a
5 conviction. I understand this isn't an admittance
6 of guilt, but if there's anything else you want to
7 tell me, I'll give you the opportunity.

8 MR. GREEN: No.

9 THE COURT: All right. Well, you know,
10 certainly the Court doesn't look kindly on those
11 who, sort of, beat up on the weaker sex, or weaker
12 age, or anything like that. You've got some
13 history with that. Your history, while
14 repetitive, isn't the most violent. I try to keep
15 sentence commensurate with the crimes, obviously,
16 and the severity of the crimes and folk's prior
17 records. You know, I understand the frustration
18 with the State on the victim's position in these
19 particular cases. I mean, 99 percent of the time,
20 the victims don't want to prosecute domestic
21 violence cases. But, nonetheless, I take that
22 into some consideration. Obviously, I have to. I
23 heard her yesterday. She's not even here to day,
24 so that tells me a lot.

25 So the sentence today is going to be 10

1 years provided on the service of five years. The
2 balance is suspended to probation for five years.
3 A condition of your probation is going to be
4 batterer's treatment once you are out, which I
5 believe is required anyway under this particular
6 law. I'm not indicating no contact with the
7 victim. We don't have any victim to request that.
8 The State hasn't made that request either. It's
9 clear she's back with this gentleman. Obviously,
10 if the State prefers to tell her if she ever needs
11 an order of protection, she can seek that through
12 the magistrate's court or some other family court
13 potentially given there kinship.

14 Any other specific requests from the
15 State or the defense that I haven't addressed?

16 MS. MALONE: Nothing from the State, Your
17 Honor.

18 THE COURT: I do need to address the
19 matter under advisement, which is the State's
20 motion to revoke. This is the reason I held that
21 under advisement. I'm not sure, if I granted
22 that, they might hold him in the county jail as
23 opposed to shipping him up the hill.

24 So would the State like to withdraw that
25 at this time given the guilty verdict?

1 MS. LEMPESIS: Yes, we would, Your Honor.

2 THE COURT: All right. The motion to
3 revoke your bond is withdrawn. The one that was
4 filed in January of this year given the sentence.

5 The sentence, once again, is 10 years
6 provided upon the service of five years. The
7 balance is suspended to probation for five years.

8 MR. GREEN: Yes, Your Honor.

9 THE COURT: You will have to serve five.
10 You get probation after that.

11 How much time did he spend on arrest,
12 Miss Tolley?

13 MS. TOLLEY: Three days, Your Honor.

14 THE COURT: He gets credit for those
15 three days.

16 Good luck to you, Mr. Green.

17 MS. LEMPESIS: Thank you, Your Honor.

18 (Trial concluded.)

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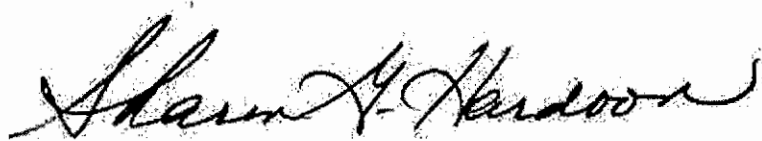
CERTIFICATE OF REPORTER

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I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

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

April 5, 2024



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

WITNESSES

BCSO - *TODA CACHOOD*

DOCKET NO. · 2019GS0701270

The State of South Carolina

County of Beaufort

After being fully advised as to my legal rights, I hereby waive ¹⁸³ presentment to the Grand Jury.

Defendant

COURT OF GENERAL SESSIONS

December Term 2019

I hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

DESMOND LAMAR GREEN

ARREST WARRANT NUMBER

2019A0710400239

Indictment For

Domestic Violence - 1st Degree

SC Code: 16-25-20(A)(2), 16-25-20(B)(3)

CDR Code: 3811

Defendant

ACTION OF GRAND JURY

True Bill

Jan M. Asimus

Foreperson of Grand Jury
Date: DEC 19 2019

Witness:

VERDICT

GUILTY

RECEIVED
JAN 29 2024
SC Court of Appeals

C.C.C. PLS. and G.S.

Foreperson of Petit Jury

Date:
INDICT

Certified - A True Copy

[Signature]
Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Donna Perry

184
STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT
2019GS0701270

At a Court of General Sessions, convened on December 19, 2019, the Grand Jurors of Beaufort County present upon their oath:

Domestic Violence - 1st Degree

That in Beaufort County, South Carolina, on or about June 23, 2019, the Defendant, DESMOND LAMAR GREEN, did cause physical harm or injury to [REDACTED] a household member of DESMOND LAMAR GREEN or offer or attempt to cause physical harm or injury to [REDACTED] a household member of DESMOND LAMAR GREEN, with apparent present ability under circumstances which reasonably created fear of imminent peril, and DESMOND LAMAR GREEN had two or more prior convictions of domestic violence within ten years of the current offense, to wit: Criminal Domestic Violence, June 19, 2014 in General Sessions, Beaufort County, of 16-25-20, in 2013GS0701208 and Criminal Domestic Violence, 3rd offense within ten years, March 25, 2014 in General Sessions, Beaufort County, of 16-25-20, in 2014GS0702009, all in violation of Section 16-25-20(A)(2), 16-25-20(B)(3), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Sean M. Stewart
Beaufort

Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

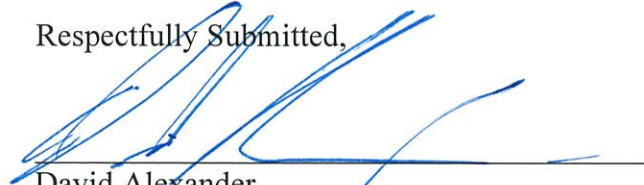
Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

Feb 24 2025

SC Court of Appeals



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 24th day of February, 2025.

RECEIVED

Feb 24 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Jennifer B. McCoy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.


DESMOND LAMAR GREEN,

APPELLANT

APPELLATE CASE NO. 2024-000119

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Joshua A. Edwards, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 24th day of February, 2025.



David Alexander
Deputy Chief Attorney for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT