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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DESHAWN TOLLERSON,

APPELLANT

APPELLATE CASE NO. 2025-000868

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSION

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA
Plaintiff,

)
)
)

FILE NOS:

vs.

)
)
)

2025-GS-1000338 - 337

DESHAWN RONTEA TOLLERSON,
Defendant.

)
)
)

TRANSCRIPT, Volume 1 of 4, Pages 1 - 40

Monday, April 21, 2025

Monday, April 21, 2025 General Session

Honorable Maite Murphy, Judge Presiding

Criminal Trial

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1 (The case of the State of South Carolina vs.
2 DeShawn Rontea Tollerson, File No. 2025-GS-1000338
3 - 337, was called for hearing at 10:47 a.m. on
4 Monday, April 21, 2025. All parties were
5 present.)

6 THE COURT: Thank you for your patience. As you
7 can tell, there's lots of moving parts. We have to make
8 sure everyone is where they're supposed to be before we can
9 proceed.

10 The last question I had asked if everyone -- is
11 there a member of the jury panel who is not a resident and
12 citizen of Charleston County, and if not, please come
13 forward. Good morning, sir.

14 JUROR 132: Good morning, how are you?

15 THE COURT: Good. Your juror number, please?

16 JUROR 132: 132. Mr. Hopnick?

17 JUROR 132: Hopnick, yes, ma'am.

18 THE COURT: Yes, sir. And where do you reside?

19 JUROR 132: I live on Daniel Island.

20 THE COURT: So you're Berkeley County?

21 JUROR 132: Berkeley County, yes, ma'am.

22 THE COURT: All right. And you just didn't change
23 your --

24 JUROR 132: I just switched the license over.

25 THE COURT: Okay. Well, perfect. Well, thank you

1 for being here, but you're free to go.

2 JUROR 132: Awesome. Thank you.

3 THE COURT: Your juror number, please?

4 JUROR 267: 267.

5 THE COURT: Mr. Tarango?

6 JUROR 267: Uh-huh.

7 THE COURT: Yes, sir. And where do you reside?

8 JUROR 267: I live here. I'm not a resident of

9 South Carolina; however, I'm a pilot in the Air Force.

10 THE COURT: Okay.

11 JUROR 267: So I'm a resident of California.

12 THE COURT: And that's your permanent residency?

13 JUROR 267: Yes, ma'am.

14 THE COURT: All right, sir. Well, thank you for
15 your service, and you're free to go.

16 JUROR 267: Thank you. I appreciate it.

17 THE COURT: Is there any member of the jury panel
18 who is unable to read, write, speak, or understand the
19 English language? If so, please stand. I find that there
20 is no one standing.

21 Does any member of the jury panel have less than a
22 6th grade education or its equivalent? If so, please stand.
23 I find that there is no one standing.

24 Is there any member of the jury panel unable,
25 because of mental or physical infirmities, to render

1 efficient jury service? For example, does any member of the
2 jury panel have a medical condition which would prevent you
3 from serving on a jury this week?

4 If so, please stand. I find that -- I find that
5 there is no one standing.

6 Has any member of the jury panel been convicted by
7 guilty plea or trial of a crime punishable by imprisonment
8 for more than one year, and your civil rights have not been
9 restored by pardon or amnesty?

10 Punishable by more than one year means that you
11 could have received a sentence of more than one year,
12 regardless of what sentence you may have received. If this
13 applies to you, please stand.

14 Yes, sir, would you come forward? Good morning,
15 sir.

16 JUROR 103: How are you doing?

17 THE COURT: Your juror number, please.

18 JUROR 103: 103.

19 THE COURT: 103? Mr. Green? And what -- what do
20 you have on your record.

21 JUROR 103: Drug selling. Assault and battery.

22 THE COURT: All right. Sir, what type of drug
23 offense was it.

24 JUROR 103: I don't know.

25 THE COURT: Like a PWID or something?

1 JUROR 103: Yeah.

2 THE COURT: Were you on probation?

3 JUROR 103: No, I did prison time.

4 THE COURT: All right. So you are free to go.

5 Thank you.

6 JUROR 103: Thank you.

7 THE COURT: Is there any member of the jury panel
8 a clerk, a deputy clerk of court, constable, sheriff, or
9 other commissioned law enforcement officer, magistrate, or
10 other county officer, or is employed within the walls of any
11 courthouse?

12 If so, please stand. I find that there is no one
13 standing.

14 Is there any member of the jury panel who has
15 previously served on jury duty in circuit court during this
16 past calendar year?

17 Your service must be in circuit court, not in
18 magistrate's court, municipal court, or in federal court.
19 If so, please stand. I find that there is no one standing.

20 Has any member of the jury panel served as a
21 member of the Charleston County Grand Jury during the last
22 several years?

23 If so, please stand. I find that there is no one
24 standing.

25 Ladies and gentlemen, we now move to jury

1 exemption. State law provides for several exemptions for
2 jury service. It does not mean that you're not qualified to
3 serve. It simply means that you have the right to say I
4 choose not to serve.

5 For those of you who are over the age of 65, this
6 exemption could apply to you; however, if you're over the
7 age of 65, we would certainly encourage you to stay with us
8 as you have amassed a tremendous amount of wisdom in your
9 time, and we would love to have you; however, if you're over
10 the age of 65, and you wish to be exempt on this basis,
11 please stand.

12 I find that there is no one standing. Another
13 exemption concerns prior jury service. No person is
14 required to serve as a juror more often than once every
15 three calendar years; therefore, if you have served on a
16 jury during the last two calendar years, you may be exempt
17 from service if you wish to be exempted.

18 Again, please remember that this exemption does
19 not apply if your service was in magistrate's court,
20 municipal court or in federal court.

21 If this exemption applies to you and you wish to
22 exercise it, please stand. I find that there is no one
23 standing.

24 Persons who have served as grand jurors in the
25 last five calendar years may also be exempt from jury

1 service. If any member of the jury panel has served on the
2 Grand Jury during the last five calendar years, and you wish
3 to be exempt on this basis, please stand.

4 I find that there is no one standing. The next
5 exemption deals with those of you who have small children.

6 Please listen very carefully to this exemption as
7 it has several parts, all of which must apply for you to be
8 exempt on this basis.

9 If you have a small child or small children under
10 the age of seven years, you have legal custody of your child
11 or children, you have the principal care, custody, and
12 control of your child or children, and you are unable to
13 make adequate arrangements for the care of your child or
14 children while performing jury duty.

15 If all of these requirements apply to you and you
16 wish to be exempt on this basis, please stand.

17 THE CLERK: Yes, ma'am, if you would, come
18 forward.

19 JUROR 169: Good morning.

20 THE COURT: Your juror number, please.

21 JUROR 169: 169.

22 THE COURT: 169? Ms. Lewis?

23 JUROR 169: Yes.

24 THE COURT: And, yes, ma'am, how old are your
25 children?

1 JUROR 169: Seven and 14.

2 THE COURT: Okay. So this wouldn't apply to you
3 exactly. Under the age of seven, and --

4 JUROR 169: Okay. I just didn't know because I'm
5 the only one that's taking care of them right now, and I
6 have to take them to school and get them out from school,
7 and there's nobody else that can do it.

8 THE COURT: Okay. So again, this exemption
9 doesn't apply to you, but I can try to work with you to see
10 what -- see what we can do -- You don't have anyone that you
11 can call on that --

12 JUROR 169: No.

13 THE COURT: -- that can help with the children?

14 JUROR 169: My -- my husband is currently out of
15 state right now, so there's nobody in state that can take
16 care of them.

17 THE COURT: Okay.

18 JUROR 169: I'm the -- I have full custody.

19 THE COURT: Uh-huh.

20 JUROR 169: Their dad's not in the picture, so
21 it's literally just me.

22 THE COURT: Okay. What I can do is I can transfer
23 your service to another term of court, and that way you can
24 plan ahead to have some -- some childcare available to care
25 for your children since this exemption doesn't apply to you.

1 Is there a week that's better for you that you can come in?

2 JUROR 169: I don't know. Like I said, I work a
3 full-time job, and I have to leave work early every day to
4 go pick them up. I don't -- I'm not sure.

5 THE COURT: Well, we -- give me a month that works
6 for you and you can plan ahead.

7 JUROR 169: Like, three or four months from now,
8 maybe?

9 THE COURT: Sure. So what about in the
10 summertimes or something like that?

11 JUROR 169: At the -- at, like, the end of summer,
12 that way I can, like, actually get them into an actual
13 daycare --

14 THE COURT: Okay.

15 JUROR 169: -- or something like that, or, like, I
16 can get my mom to come in state.

17 THE COURT: Perfect. How about July?

18 JUROR 169: That should work.

19 THE COURT: The end of July is good for you?

20 JUROR 169: Yeah.

21 THE COURT: Okay. Madam Clerk, the end of July.

22 So you'll receive a new summons.

23 JUROR 169: Okay. Thank you.

24 THE COURT: Thank you. The next exemption
25 involves those of you who may be attending school at this

1 time or working in some capacity with a school.

2 If this exemption applies to you, I will transfer
3 your service to another term of court at which time will not
4 conflict with your school responsibilities.

5 Is there any member of the jury panel who is a
6 full-time student, school teacher, school crossing guard,
7 school bus driver, or who serves in any other school-related
8 function who is unable to serve on jury duty this week as a
9 result of that school involvement?

10 If so, please stand. Good morning, sir.

11 JUROR 177: Good morning.

12 THE COURT: Your juror number, please.

13 JUROR 177: 177.

14 THE COURT: 177? Mr. Luciano?

15 JUROR 177: Yes, ma'am.

16 THE COURT: Yes, sir. Where do you go to school?

17 JUROR 177: College of Charleston.

18 THE COURT: And are you getting close to being
19 out, it looks like?

20 JUROR 177: Yes, ma'am. This is our final's week,
21 so I'll be free next month.

22 THE COURT: Okay. Next month. So we will get you
23 a new summons for next month for, what?

24 JUROR 177: July.

25 THE COURT: End of May or July?

1 JUROR 177: End of May.

2 THE COURT: Is June better?

3 JUROR 177: End of May.

4 THE COURT: End of May? All right. So we'll
5 transfer you to the end of May. Good luck with your finals.

6 JUROR 177: Thank you.

7 THE COURT: Is there any member of the jury panel
8 who is employed with the Department of Corrections at a
9 penitentiary? If you wish to be exempt on this basis,
10 please stand. I find that there is no one standing.

11 Is there any juror who performs services for a
12 business, commercial, or agricultural enterprise which are
13 so essential to the operation of the enterprise that if you
14 were required to perform jury duty, the enterprise would
15 have to close or stop functioning?

16 If so, please stand. You can come forward. Good
17 morning. Your juror number, please.

18 JUROR 288: 288.

19 THE COURT: 288? Mr. Willett?

20 JUROR 288: Yes, ma'am.

21 THE COURT: Yes, sir, and tell me your
22 circumstance.

23 JUROR 288: I'm a business owner, me and my
24 brother. The functions that I do, he can't do. So if I'm
25 not there all week, we can't be open.

1 THE COURT: And can you tell me what kind of
2 business it is?

3 JUROR 288: We are an automobile dealership.

4 THE COURT: Do you have any other employees?

5 JUROR 288: No, ma'am. It's just me and my
6 brother. He's the mechanic, and I handle everything on the
7 computer, and he can't do the computer stuff, so we can't
8 sell cars if I'm here all week.

9 THE COURT: All right. Sir, if I were to transfer
10 you, could you plan ahead and --

11 JUROR 288: Yes, ma'am.

12 THE COURT: -- and work that out?

13 JUROR 288: Yes, I could.

14 THE COURT: All right. What's a good week for
15 you?

16 JUROR 288: A month or so from now, I can.

17 THE COURT: So maybe June?

18 JUROR 288: Yeah, June would be fine.

19 THE COURT: We'll transfer him to June. All right.
20 Good luck. Thank you.

21 JUROR 288: Thank you.

22 THE CLERK: Good morning, sir.

23 JUROR 77: Good morning. Sure.

24 THE CLERK: It's 77?

25 JUROR 77: Yes, ma'am.

1 THE COURT: Mr. Feldman?

2 JUROR 77: Yes, ma'am.

3 THE COURT: Yes, sir. And what's your
4 circumstance?

5 JUROR 77: I own and operate Intrust Charleston.
6 I'm the only employee, and I provide concierge home services
7 to clients that pay for their services in advance. There's
8 no one I can offload. There's no one to answer the phone.

9 THE COURT: Okay. So if I were to transfer you
10 down the road, could you plan ahead and make it happen?

11 JUROR 77: Probably not this calendar year,
12 because I'm not in a place to hire employees.

13 THE COURT: Okay. We can wait up to a year. So
14 if I transfer you to, say, next April, would that give you
15 sufficient time?

16 JUROR 77: Let's do it.

17 THE COURT: All right. So next April.

18 JUROR 77: Thank you.

19 THE COURT: All right. Thank you.

20 THE BAILIFF: Juror 197.

21 THE COURT: Ms. Nelson?

22 JUROR 197: Yes.

23 THE COURT: Yes. Good morning.

24 JUROR 197: Hi. How are you?

25 THE COURT: Good.

1 JUROR 197: So I'm the sole operator of my
2 business, so I have -- I have no employees right now.

3 THE COURT: Okay. And what --

4 JUROR 197: This is my third time actually doing
5 this this year.

6 THE COURT: All right. Were you transferred for
7 that same reason?

8 JUROR 197: I guess -- I guess they keep
9 transferring me, yeah.

10 THE COURT: All right. And just tell me about
11 your business. What do you do?

12 JUROR 197: I work at Palmetto Awards. It's a
13 graving and trophy shop, so I'm the only one there right
14 now.

15 THE COURT: And you own the business? You're the
16 only operator of the business?

17 JUROR 197: Yes. Yeah, I'm a co-owner, but, yeah,
18 I'm the only operator.

19 THE COURT: Okay. But the co-owner can't step in?

20 JUROR 197: He doesn't live here.

21 THE COURT: All right. I'm going to go ahead and
22 just excuse you since you've been transferred. Thank you.

23 JUROR 197: Okay. Thank you.

24 THE BAILIFF: Juror 34.

25 THE COURT: Good morning. Mr. Bullitt?

1 JUROR 34: Yes.

2 THE COURT: Yes, sir.

3 JUROR 34: I'm the owner and CEO of a hospitality
4 company on Isle of Palms, but I'm also the broker in charge,
5 so I'm the only one licensed to deal with clients.

6 We do have staff, but it's a small company. My
7 wife is also part of it, and then we have kids and
8 everything we have to attend to.

9 THE COURT: I got you. So obviously, it's an
10 inconvenience for everyone. This technically doesn't apply
11 to you since you have staff and other members of you
12 company.

13 It its -- I can transfer your service to another
14 week and you can plan ahead.

15 JUROR 34: Yeah, it's just on the --

16 THE COURT: Is there anyone --

17 JUROR 34: -- the licensing part of it via the
18 Licensing and Real Estate Commission, some of the employees
19 can't deal with clients on a fiduciary status because I'm
20 the broker-in-charge.

21 THE COURT: I understand that. That's -- that's
22 still not --

23 JUROR 34: Okay.

24 THE COURT: -- you can plan ahead.

25 JUROR 34: Yeah.

1 THE COURT: I -- I can give you any week that you
2 want and plan ahead.

3 JUROR 34: I guess what's best on the calendar. I
4 mean, is it --

5 THE COURT: I mean, or you can stay and see if
6 you're selected or not, you know, you kind of weight the
7 options.

8 JUROR 34: Yeah. If that's not an exemption then
9 I can just see if it's...

10 THE COURT: Do you want to just wait and see?

11 JUROR 34: Yeah.

12 THE COURT: All right.

13 JUROR 34: That's fine.

14 THE BAILIFF: Juror 276.

15 THE COURT: Good morning.

16 JUROR 276: I'm the operator of the business. I
17 do have a staff, but --

18 THE COURT: Well, let me find you first.

19 JUROR 276: Oh, sorry.

20 THE COURT: No, you're good. Mr. Balfour?

21 JUROR 276: Yep, that's me.

22 THE COURT: All right. So, tell me your
23 circumstance.

24 JUROR 276: I'm the owner/operator of the
25 business.

1 THE COURT: What business is it?

2 JUROR 276: It's Auto Mart. It's a car
3 dealership.

4 THE COURT: And you have more than one employee?

5 JUROR 276: I have one employee. One other person
6 that can be there. The whole -- it's just bad timing,
7 really.

8 THE COURT: Uh-huh.

9 JUROR 276: I don't mind getting it continued
10 later on. It's a bad time of the year, especially with only
11 him.

12 THE COURT: Okay. So, here's your options. I can
13 transfer you to another term, or if you want to stay to see
14 if you're selected. We only have one jury to select.

15 JUROR 276: I would get the transfer.

16 THE COURT: Okay. What's a good month for you?

17 JUROR 276: The end of the year would be best.

18 THE COURT: So, November?

19 DEFENDANT: Yeah. Perfect.

20 THE COURT: All right. We'll transfer you to
21 November. Good luck.

22 JUROR 276: Okay. Thank you very much.

23 THE BAILIFF: Juror 171.

24 THE COURT: Ms. Triplett?

25 JUROR 171: I'm sorry?

1 THE COURT: Oh, 171. I'm sorry.

2 JUROR 171: Yes, 171.

3 THE COURT: Wrong number.

4 JUROR 171: Yes.

5 THE COURT: Ms. Lindemeyer?

6 JUROR 171: Yes.

7 THE COURT: Yes, ma'am.

8 JUROR 171: I'm the owner of ByDesign Consulting.

9 I have no employees. I'm having to take June and July off
10 to have double jaw replacement surgery, so I have major
11 construction projects that need to be completed and finished
12 before that time.

13 THE COURT: Uh-huh.

14 JUROR 171: So I'm asking --

15 THE COURT: It's a bad time for you? Can -- how
16 about -- so you've got your jaw surgery. How long is that
17 recovery going to take?

18 JUROR 171: It's probably going to take about two
19 to three months.

20 THE COURT: Okay.

21 JUROR 171: So, I could do something at the end of
22 the year.

23 THE COURT: Sure. Does November work for you?

24 JUROR 171: Yes.

25 THE COURT: Is that better?

1 JUROR 171: That will be fine.

2 THE COURT: I'll transfer you to November. Good
3 luck with that.

4 JUROR 171: Okay. Thank you.

5 THE BAILIFF: Juror 240.

6 JUROR 240: Good morning, Judge.

7 THE COURT: Good morning. Mr. Schuman?

8 JUROR 240: Yes.

9 THE COURT: Yes, sir.

10 JUROR 240: This pertains to the medical. If it
11 would -- I'm not able to perform as a juror because of
12 medical.

13 THE COURT: Okay.

14 JUROR 240: I have a bee sting that is starting to
15 swell like a golf ball.

16 THE COURT: Oh, goodness. That's not good.

17 JUROR 240: I took a Benadryl this morning trying
18 to alleviate it --

19 THE COURT: Uh-huh.

20 JUROR 240: -- but it's sizable.

21 THE COURT: It's started?

22 JUROR 240: Yes, ma'am.

23 THE COURT: Okay.

24 JUROR 240: Can I transfer?

25 THE COURT: Sure.l.

1 JUROR 240: I'm not opposed to being a juror,
2 but --

3 THE COURT: Okay.

4 JUROR 240: -- I just don't know.

5 THE COURT: Well, let me ask you this: Do you
6 want to wait to see if the medicine kicks in, or do you
7 think you need immediate medical attention?

8 JUROR 240: I don't need immediate. Well, the
9 medicine isn't working that I took. It's starting to swell.

10 THE COURT: Okay. It's probably best to transfer
11 you then.

12 JUROR 240: Yeah.

13 THE COURT: I can give you the option, like, if
14 you wanted to say to see if you were selected and then get
15 some treatment during lunchtime, or I'll -- I'll leave it up
16 to you though.

17 JUROR 240: I think it would be --

18 THE COURT: Do you want to transfer?

19 JUROR 240: -- best if I went and saw a doctor.

20 THE COURT: Okay.

21 JUROR 240: Yeah.

22 THE COURT: What -- what's a good -- do you want
23 to come back next month?

24 JUROR 240: Yeah.

25 THE COURT: All right. So we'll transfer him to

1 May.

2 JUROR 240: Okay.

3 THE COURT: Thank you, sir.

4 JUROR 240: I'll just get a notice in the mail
5 about that?

6 THE COURT: Yes, sir.

7 JUROR 240: Okay.

8 THE COURT: I hope that works out for you.

9 THE BAILIFF: Juror number 40.

10 THE COURT: Good morning.

11 JUROR 40: Hey, how are you doing?

12 THE COURT: Let me just find you down here.

13 Mr. Buxton?

14 JUROR 40: Yes, ma'am.

15 THE COURT: Yes, sir.

16 JUROR 40: I do not own my own business, but I'm
17 supporting -- I'm separated and supporting myself and my
18 ex-wife's -- you know, home.

19 THE COURT: Uh-huh.

20 JUROR 40: Is there any way that I could push this
21 to September when I'm slower in this season?

22 THE COURT: When you have a --

23 JUROR 40: Yes, ma'am.

24 (Speaking simultaneously. Unable to transcribe.)

25 THE COURT: Okay. We can do that, so September.

1 All right. Good luck.

2 JUROR 40: Thank you so much.

3 THE BAILIFF: Juror number 183.

4 THE COURT: Good morning.

5 JUROR 183: Good morning.

6 THE COURT: Mr. Martinez?

7 JUROR 183: Martinez, yes.

8 THE COURT: Yes, sir.

9 JUROR 183: I don't know if this applies to me,
10 but my wife, she had surgery, right, so right now, I'm the
11 only one working, and I do Uber.

12 THE COURT: Okay.

13 JUROR 183: I just want to -- and she probably
14 will take, like, a month or two to completely recuperate.

15 THE COURT: Uh-huh.

16 JUROR 183: So I want to see if I can be moved --

17 THE COURT: So you --

18 JUROR 183: -- to another --

19 THE COURT: -- sure. So I'll give you the option,
20 we only have one trial we're selecting, so --

21 JUROR 183: Okay.

22 THE COURT: -- you know, whether you want to take
23 the chance to see if you're selected for that trial or --

24 JUROR 183: Okay.

25 THE COURT: -- I can transfer you to another term,

1 which might be better, so I'll leave it up to you.

2 JUROR 183: I would say so, but if I can be
3 transferred --

4 THE COURT: You want to be transferred?

5 JUROR 183: -- because that way, you know, I can
6 continue working --

7 THE COURT: I got you.

8 JUROR 183: -- when she's going to be home.

9 THE COURT: All right. When is a good -- when do
10 you think she's going to be recovered?

11 JUROR 183: Two months from now, whenever.

12 THE COURT: Two months?

13 JUROR 183: Two months from now, whenever, yeah.

14 I'm good.

15 THE COURT: Okay. Would June --

16 JUROR 183: Yes.

17 THE COURT: -- work for you? Okay.

18 JUROR 183: June? Yeah.

19 THE COURT: Is that good?

20 JUROR 183: Yes.

21 THE COURT: All right. So June it is. Thank you.

22 JUROR 183: We're good? Thank you. I appreciate
23 it.

24 THE COURT: Solicitor, did you have any more? Is
25 there any juror who's a primary caretaker of a severely

1 disabled person who is unable to care for himself or herself
2 and cannot be left unattended? If so, please stand. I find
3 that there is no one standing.

4 And finally, is there any juror who's a primary
5 caretaker of a person aged 65 or over? If you wish to be
6 exempt on this basis, please stand. I find that there is no
7 one standing.

8 Ladies and gentlemen, that concludes the statutory
9 list of qualifications and exemptions for jury duty. It may
10 be that you are qualified and no exemption applies to you,
11 but jury service this week would constitute an extreme
12 hardship upon you for a particular reason.

13 I cannot permanently excuse a qualified juror from
14 jury service, but under extreme and compelling
15 circumstances, I can transfer your service to another term
16 of court, particularly those jurors who have not been
17 previously transferred.

18 Please understand that general inconvenience is
19 not a sufficient reason to transfer your service to another
20 term of court. To justify a transfer, again, it must be a
21 compelling reason.

22 Ladies and gentlemen, this is now the chance for
23 those of you who did not respond earlier to any questions
24 that I asked, and those of you who have a compelling reason
25 to request a transfer to another term of court to come

1 forward if you believe that you're disqualified or exempt
2 from jury service, or if you have any questions as to
3 whether you're disqualified or exempt from jury service,
4 please come forward at this time.

5 Yes, sir, your juror number?

6 JUROR 236: 236.

7 THE COURT: Mr. Sandifer?

8 JUROR 236: Yes.

9 THE COURT: Yes, sir, and what's your
10 circumstance?

11 JUROR 236: I'm the accounting manager for a small
12 manufacturing operation here. I have an accountant position
13 open, so I'm already doing two jobs.

14 It would be much more ideal if I could do it in
15 July instead of now. I'm just -- I'm covering -- and I've
16 responded to a financial audit as well. I'm going to be
17 working several hours a night if I'm here this week.

18 THE COURT: Gotcha. So what I can do is, is I can
19 transfer you.

20 JUROR 236: Yeah.

21 THE COURT: -- or -- well, we're only picking one
22 jury, so you can take your chances if you want.

23 JUROR 236: One jury? One jury.

24 THE COURT: Yeah.

25 JUROR 236: Oh, gosh.

1 THE COURT: I'll leave it up to you.

2 JUROR 236: Okay. Then will we know that today?

3 THE COURT: Yeah, we'll pick it. As soon as we're
4 finished it here, we'll go upstairs and pick that jury.

5 JUROR 236: Okay. Okay. I'll take my chances.

6 THE COURT: All right.

7 JUROR 236: Okay. Thank you.

8 THE BAILIFF: Number 8.

9 THE COURT: Good morning, ma'am.

10 JUROR 8: Good morning.

11 THE COURT: Ms. Yvonne?

12 JUROR 8: Yes, ma'am.

13 THE COURT: Yes, ma'am, what's your circumstance?

14 JUROR 8: My husband is going to be out of town
15 this week.

16 THE COURT: Uh-huh.

17 JUROR 8: And I have to take the kids to school
18 and picking them up, and I'm not sure what time the court
19 will be adjourned at the end of the day, so I just want
20 to --

21 THE COURT: What time do you have to pick them up?

22 JUROR 8: 3:25.

23 THE COURT: Okay. So that wouldn't work. Do you
24 have anybody that could pick them up for you?

25 JUROR 8: No, we don't have anyone.

1 THE COURT: Not this week? So what would be a
2 good week? I can transfer your service. Do you want to do
3 it in the summertime when they're not in school?

4 JUROR 8: Yes, it would be August.

5 THE COURT: August would be okay?

6 JUROR 8: Uh-huh.

7 THE COURT: All right. We'll transfer her to
8 August. All right. Thank you, ma'am.

9 JUROR 8: Thank you.

10 THE BAILIFF: Juror 271.

11 THE COURT: Good morning.

12 THE BAILIFF: How are you?

13 THE COURT: Let me find your name here. Ms.
14 Triplett?

15 JUROR 271: Yes, ma'am.

16 THE COURT: Yes, ma'am?

17 JUROR 271: I'm a federal employee, and I was
18 accepted into the deferred resignation program.

19 THE COURT: Can you speak up a little bit?

20 JUROR 271: Yeah. I'm a federal employee. I was
21 accepted into the deferred resignation program as of last
22 week, and this was a transfer of my job duties to somebody
23 else this week.

24 THE COURT: Uh-huh.

25 JUROR 271: So my last day is at the end of this

1 week, so I need to transition there. And my son has college
2 fund orientation Friday.

3 THE COURT: Okay. So here's what we can do. I
4 can give you the option. Basically, we're only picking one
5 jury --

6 JUROR 271: Okay.

7 THE COURT: -- this morning out of all of these
8 people. So you can take your chances to see if you're
9 selected, or I can transfer your term to another term of
10 court.

11 JUROR 271: I guess another term of court.

12 THE COURT: That would be better for you?

13 JUROR 271: Even next week would be fine. Any
14 day.

15 THE COURT: This is --

16 JUROR 271: Just --

17 THE COURT: -- is just --

18 JUROR 271: -- just this week.

19 THE COURT: -- this week?

20 JUROR 271: Yeah.

21 THE COURT: Okay. Do we have a term next week?

22 THE CLERK: We do not.

23 THE COURT: Okay. How about --

24 JUROR 271: Whatever.

25 THE COURT: -- next month?

1 JUROR 271: Yeah.

2 THE COURT: All right. So we'll transfer you to
3 next month.

4 JUROR 271: Okay.

5 THE CLERK: I have a list of dates as well that
6 she can choose from.

7 JUROR 271: Whatever the next available is fine,
8 yeah.

9 THE COURT: All right. You can pick a date at the
10 back then.

11 JUROR 271: All right. Perfect. Thank you.

12 THE BAILIFF: Number 76.

13 JUROR 76: Good morning. How are you?

14 THE COURT: Good. Ms. Fagans?

15 JUROR 76: Fagans.

16 THE COURT: Fagans. I'm sorry.

17 JUROR 76: No, you're fine.

18 THE COURT: Yes, ma'am.

19 JUROR 76: I get that all the time. So I'm a
20 server and a bartender, and I just can't take a whole week
21 off of court because I have to make rent.

22 THE COURT: Uh-huh.

23 JUROR 76: So we do have a slower season that's
24 usually, like in the fall, I don't know if it's -- like,
25 will it be transferred out that far?

1 THE COURT: I can transfer you that far. I'll
2 give you the option though. See all of these people? We're
3 only picking one jury.

4 JUROR 76: Okay.

5 THE COURT: I don't know if you want to take your
6 chances to see if you're selected this week, or if you want
7 to transfer.

8 JUROR 76: Okay. Well, I have the whole day off
9 today, so I'll stay and find out.

10 THE COURT: Okay. Perfect.

11 JUROR 76: All right. Thank you.

12 THE BAILIFF: Juror 110.

13 JUROR 110: Good morning.

14 THE COURT: Good morning, Mr. Gressman.

15 JUROR 110: Yes.

16 THE COURT: Yes, sir. What's your circumstance?

17 JUROR 110: I work very closely with the South
18 Carolina Department of Corrections and PI. Our company
19 indirectly employs about 50, 60 inmates at a local prison,
20 and I'm in there multiple times a week sometimes.

21 THE COURT: Okay.

22 JUROR 110: I don't know if that effects anything.

23 THE COURT: Not really.

24 JUROR 110: Okay.

25 THE COURT: Basically, obviously, this is -- this

1 will be a criminal case.

2 JUROR 110: Yes.

3 THE COURT: So do you think that based upon your
4 experience, you can set that aside and be fair and impartial
5 to both sides?

6 JUROR 110: Possibly. Like I said, I would not
7 love that person to be at my prison that I'm in if I'm on
8 the jury because, like I said, I am in there.

9 I do also have two international business clients
10 flying in this week for an out-of-town board meeting that
11 I'm supposed to be heading Wednesday through Friday.

12 THE COURT: All right.

13 JUROR 110: So.

14 THE COURT: So what I can do is I'll transfer you
15 to a civil term then.

16 JUROR 110: Okay.

17 THE COURT: And then we can -- do we have just a
18 common please term we can transfer him to?

19 THE BAILIFF: Maintain order in the courtroom.

20 THE CLERK: We do. I will have to -- I'll have to
21 go look --

22 THE COURT: Okay.

23 THE CLERK: -- to see what we have.

24 THE COURT: All right. So we'll send you a new
25 notification and you'll be transferred to a civil term of

1 court.

2 JUROR 110: Okay. Thank you so much.

3 THE BAILIFF: 217.

4 THE COURT: Ms. Prensip?

5 JUROR 217: Prensip.

6 THE COURT: Prensip, yes, ma'am.

7 JUROR 217: So it's child care. I have a
8 3-year-old during the weeks that I don't work. I have to
9 take him to and from daycare at 8:00 -- 11:00.

10 I don't think I could -- and I don't have anyone
11 else to do it. My husband already misses work when I'm
12 working.

13 THE COURT: Okay. So if I transfer you to a
14 different week, you can plan ahead?

15 JUROR 217: Probably not because he -- he does it
16 when I'm working, and then he can't do it when I'm not
17 working.

18 THE COURT: Oh, so even on the weekends that you
19 don't work? Okay. Well, that would apply to you, so I'll
20 go ahead and excuse you.

21 JUROR 217: Thank you.

22 THE BAILIFF: Juror 296.

23 THE COURT: Good morning.

24 JUROR 296: Good morning.

25 THE COURT: Ms. Wynkoop?

1 JUROR 296: Yeah.

2 THE COURT: Yes, ma'am?

3 JUROR 296: So I'm a single parent, and I have two
4 doctor's appointments for my kids tomorrow, and I'm there
5 medial primary, so I don't know how all of that effects it.

6 I've already pushed it once because the last time
7 you all scheduled me for when I was in family court.

8 THE COURT: Uh-huh.

9 JUROR 296: So I'm not sure exactly what to do.

10 THE COURT: What time are the appointments?

11 JUROR 296: Two.

12 THE COURT: Okay. Yeah, so I'll need to transfer
13 you if you were selected. When is, like, a good time
14 though?

15 I know that you were transferred once before. We
16 can transfer you one more time, but you've got to plan
17 ahead.

18 JUROR 296: It would have to be in the fall on a
19 week that I don't have my kids.

20 THE COURT: So if we put you, say, in September?

21 JUROR 296: Possibly.

22 THE COURT: You could look at the dates in the
23 back --

24 JUROR 296: Okay.

25 THE COURT: -- you could go ahead and pick a date

1 in September --

2 JUROR 296: Okay.

3 THE COURT: -- and then you'll get a new notice.

4 JUROR 296: Okay.

5 THE COURT: All right.

6 THE COURT: Okay. Thank you.

7 THE BAILIFF: Juror 59.

8 THE COURT: Ms. Darpino?

9 JUROR 59: Yes.

10 THE COURT: Yes, ma'am.

11 JUROR 59: How are you? I'm a mom, a stay-at-home
12 mom of three, and two of my children have special needs, so
13 this week, I have two big appointments.

14 My son has a medical appointment, and my daughter,
15 I have an appointment for her, IEP --

16 THE COURT: Okay.

17 JUROR 59: -- at the school. So I can't
18 reschedule. It would be weeks before I could reschedule
19 those, so that's my concern for the week --

20 THE COURT: Sure.

21 JUROR 59: -- as well as I'm going out of town on
22 Friday.

23 THE COURT: Okay.

24 JUROR 59: So.

25 THE COURT: So is there a week you can plan ahead

1 and make it work?

2 JUROR 59: It could possibly be, like, in the fall
3 because in the next three weeks, my kids are home for the
4 entire summer --

5 THE COURT: Right.

6 JUROR 59: -- when school is over, so I wouldn't
7 be until probably, next fall.

8 THE COURT: The fall? Oh, that's fine.

9 JUROR 59: Okay.

10 THE COURT: We can transfer you to the fall.
11 There's some -- does September work okay for, or October?

12 JUROR 59: Yeah, probably a September, October.

13 THE COURT: There's some dates in the back of the
14 courtroom. Go ahead and select one of those dates and we'll
15 transfer you.

16 JUROR 59: Thank you.

17 THE COURT: Okay.

18 THE BAILIFF: Juror 250.

19 THE COURT: Good morning.

20 JUROR 250: Good morning.

21 THE COURT: Let me find your name here, sir.

22 JUROR 250: Yes.

23 THE COURT: Mr. Simmons?

24 JUROR 250: Yes, ma'am.

25 THE COURT: Yes, sir.

1 JUROR 250: Yes.

2 THE COURT: What's your circumstance?

3 JUROR 250: My wife is -- she's a prior police
4 officer.

5 THE COURT: Okay.

6 JUROR 250: She's now working right here in the
7 courthouse --

8 THE COURT: Okay.

9 JUROR 250: -- as a coordinator.

10 THE COURT: Uh-huh.

11 JUROR 250: I just feel like the -- the time that
12 we spent in -- in and out of the law enforcement and things
13 of that nature, it may hinder my decisions as far as -- fair
14 to -- fairness to witness, and counsel, and things of that
15 nature.

16 Of course, that would be your decision if you
17 would want me to -- consider being on the jury, but I don't
18 want to hinder any decisions based on me possibly being
19 biased for or against either or.

20 THE COURT: Well, let me ask you this --

21 JUROR 250: Sure.

22 THE COURT: -- obviously, you make decisions all
23 of the time, right --

24 JUROR 250: Yeah. Uh-huh.

25 THE COURT: -- based on factual determination.

1 JUROR 250: Sure.

2 THE COURT: You're a juror -- your job as a juror
3 would be to make factual determinations based upon what you
4 hear from the witness stand.

5 JUROR 250: Okay.

6 THE COURT: Do you think you can be fair and
7 impartial and make a decision solely from what you hear on
8 the witness stand.

9 JUROR 250: That would be questionable.

10 THE COURT: Okay. So what I'll -- I'm going to
11 transfer you to a civil term of court instead of a criminal
12 term of court.

13 JUROR 250: Okay.

14 THE COURT: All right. So you can pick a date on
15 the back, because they have to pick to make sure it's just a
16 civil term of court for you.

17 JUROR 250: Okay.

18 THE COURT: All right. Thank you.

19 JUROR 250: Thank you.

20 THE BAILIFF: Juror 74.

21 THE COURT: Good morning.

22 JUROR 74: Good morning.

23 THE COURT: You're Ms. Ennis?

24 JUROR 74: Yes, ma'am.

25 THE COURT: Yes, ma'am?

1 JUROR 74: I am able to serve this week. I just
2 wanted to let the Court know that I am leaving the country
3 on Sunday morning.

4 THE COURT: Oh, you'll be fine.

5 JUROR 74: Great. Thank you very much.

6 THE COURT: Okay. Thank you, ladies and gentlemen
7 of the jury panel, the jury panel is now qualified. We're
8 picking the jury upstairs, right?

9 THE CLERK: Yes, Your Honor.

10 THE COURT: Okay. So the Clerk of Court is going
11 to give you instructions as to which courtroom to report to
12 to pick the jury in our trial this morning, so we will see
13 you upstairs.

14 (Jury qualifications were concluded at 11:18 a.m.)

15 (These proceedings were continued to Tuesday,
16 April 22, 2025 at 9:30 a.m.)

17 (End of Volume 1.)
18
19
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22
23
24
25

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSION

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Plaintiff,

vs.

DESHAWN RONTEA TOLLERSON,
Defendant.

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FILE NOS:

2025-GS-1000338 - 337

TRANSCRIPT, Volume 2 of 4, Pages 41 - 210

Tuesday, April 22, 2025

Monday, April 21, 2025 General Session

Honorable Maite Murphy, Judge Presiding

Criminal Trial

 Julia A. Titus Emerson, CVR, RCP-M
 Official Court Reporter
 Jemerson@sccourts.org

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<u>No.</u>	<u>Description</u>	<u>Marked</u>	<u>ID'd</u>	<u>Admit</u>
1	Aerial view	102	123	102
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11	Photo	102	131	102
12	Photo	102	132	102
13	Photo	102	159	102
14	Photo	102	132	102
15	Photo	102	N/A	102
16	Photo	102	N/A	102
17	Photo	102	132	102
18	Photo	102	133	102
19	Photo	102	132	102
20	Photo	102	N/A	102
21	Photo	102	131	102
22	Photo	102	163	102
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1 (The case of the *State of South Carolina vs.*
2 *DeShawn Rontea Tollerson*, File No. 2025-GS-1000338
3 - 337, was called for hearing at 10:14 a.m. on
4 Tuesday, April 22, 2025. All parties were
5 present.)

6 THE COURT: Good morning everyone, please have a
7 seat. Welcome back, ladies and gentlemen of the jury panel.
8 Solicitor, you may call your first case.

9 MS. FRIES: May we approach?

10 THE COURT: Yes ma'am.

11 (Bench conference.)

12 MS. FRIES: I have -- I just made a copy for you
13 guys of the State's jury -- the witness list. And for
14 scheduling purposes, should -- do we expect to go into
15 pre-trial after this? We're just trying to figure out when
16 to get my witnesses here.

17 THE COURT: Yeah, I'd like to do the pre-trial
18 motions right after we select the jury. And then maybe just
19 have them come back right after lunch and start the trial
20 right after lunch.

21 MS. FRIES: Okay.

22 THE COURT: This will give us time after picking
23 the jury.

24 MS. FRIES: Okay.

25 THE COURT: All right.

Jury Selection

1 MR. GOODWYN: Okay. Thank you.

2 (End of bench conference.)

3 THE COURT: You may call your case.

4 MS. FRIES: Thank you your Honor. This is the
5 *State of South Carolina versus DeShawn Rotea Tollerson*.

6 He is charged with domestic violence, first
7 degree, and unlawful conduct towards a child. The
8 indictment number is 2025-GS-10-00338 and 2025-GS-10-00337.

9 JURY SELECTION

10 THE COURT: Thank you, Solicitor. Ladies and
11 gentlemen of the jury panel, we're about to begin the trial
12 of this case of the State of *South Carolina versus DeShawn*
13 *R. Tollerson*.

14 I'm going to read to you the indictments in this
15 case, and this is solely for the purpose to see if you know
16 anything about this case, have heard anything about this
17 case, or if any of the questions that I will ask you during
18 the jury selection process would -- would affect your
19 ability to be fully fair and impartial during -- as far as
20 being a juror in this case.

21 Please, be very mindful and remember that this is
22 only the charging document which brings the case into court,
23 and it is not evidence in any sense of the allegations that
24 it contains but merely the charging documents which brings
25 the case into this court.

Jury Selection

1 The first indictment is indictment
2 2025-GS-10-00337, and that is the *State of South Carolina*
3 *versus Mr. DeShawn R. Tollerson.*

4 This is an indictment for children -- unlawfully
5 placing a child at risk, or cause of harm, or willfully
6 abandon a child, and it states that in Charleston County,
7 South Carolina on or about November 1, 2021, the Defendant
8 DeShawn R. Tollerson while having charge, or custody, or
9 being the parent or guardian, or being responsible for the
10 welfare of the minor -- minor child, Minor
11 did; one, unlawfully place the minor victim at unreasonable
12 risk of harm affecting the child's life, physical, or mental
13 health or safety; or two, unlawfully and maliciously do or
14 cause to be done bodily harm to the child so that the life
15 or the health of the child was endangered or likely to be
16 endangered; or three, willfully abandon the child in
17 violation of the South Carolina Code of Laws as amended.

18 The next indictment is-2025-GS-10-00338, the *State*
19 *versus DeShawn R. Tollerson.*

20 And this is for domestic violence in the first
21 degree, and it states that in Charleston County, South
22 Carolina, on or about November 1, 2021, the Defendant
23 DeShawn R. Tollerson did cause physical harm or injury to
24 Emily Nicole Hopkins a household member, or did offer or
25 attempt to cause physical harm or injury to said household

Jury Selection

1 member with apparent presentability under the circumstances
2 reasonably creating fear of imminent peril, that in addition
3 to the act resulted in great bodily injury to the household
4 member or the act was accomplished by means likely to result
5 in great bodily injury to the household member, or the
6 defendant committed domestic violence in the second degree
7 in the presence of or while being perceived by a minor, or
8 the defendant committed domestic violence in the second
9 degree while using physical force or the threatened use of
10 physical force to block the victim's access to a cell phone,
11 telephone, or electronic communication device for the
12 purpose of preventing, obstructing, or interfering with the
13 victim's efforts to; A, report a criminal offense, bodily
14 injury, or property damage to a law enforcement agency; or
15 B, request an ambulance or emergency medical assistance from
16 a law enforcement agency or emergency medical provider in
17 violation of the South Carolina Code of Laws.

18 Again, ladies and gentlemen, I just read the
19 indictments to you in case you know anything about this
20 case, have heard anything about this case, but they are not
21 evidence of any of the allegations that they contain.

22 Before we begin most of the questioning, I'm going
23 to ask the Solicitor to please stand and introduce
24 themselves and the members of their office, please.

25 MS. FRIES: Good morning, ladies and gentlemen.

Jury Selection

1 My name is Catherine Fries. I'm an assistant solicitor with
2 the Ninth Solicitor's Office.

3 Next to me is Daniel Cooper. She is also an
4 assistant Solicitor with the Ninth Solicitor's Office.

5 Next to him is Lily Cox. She is a law clerk with
6 our office, and then Jennifer Butler, she's an investigator
7 with our office.

8 THE COURT: Thank you, Solicitor. Any -- yes,
9 sir?

10 MR. GOODWYN: Are you ready for me to go now?

11 THE COURT: Oh, not yet.

12 MR. GOODWYN: Okay. Sorry about that.

13 THE COURT: Okay. You're next. You're next. Any
14 members of the jury panel related by blood or marriage, or
15 have a close personal or social relationship with any
16 members of the Solicitor's Office, has ever had a case
17 prosecuted by them on their behalf, or a case against them,
18 if so please stand?

19 I find that there is no one standing.
20 Mr. Goodwin, now it's your turn, sir.

21 MR. GOODWYN: Thank you, Judge. My name is
22 Patrick Goodwyn. I am a senior assistant public defender
23 with the Ninth Circuit Public Defender's Office.

24 Beside me is my colleague and fellow attorney,
25 Lindsey Luthringer. She's also an attorney with the Ninth

Jury Selection

1 Circuit Public Defender's Office.

2 Beside Lindsey is Mr. DeShawn Tollerson. He is
3 my client in this case. It's nice to meet you, guys.

4 THE COURT: Thank you, Counsel. Same question
5 applies, ladies and gentlemen of the jury panel. Anyone
6 related by blood or marriage or have a close personal or
7 social relationship with any member of their office, has
8 ever had a case represented by them or against them, if so
9 please stand?

10 I find that there is no one standing, and you've
11 met now Mr. Tollerson, who is sitting here on my left and
12 your right.

13 The same question applies: Anyone related by
14 blood or marriage, have a close personal or social
15 relationship with Mr. DeShawn Tollerson, if so, please
16 stand. I find that there is no one standing.

17 Ladies and gentlemen, I'm going to read to you a
18 list of potential witnesses in this case, and the same
19 question will apply if you are related by blood or marriage
20 or have a close personal or professional relationship with
21 any of these potential witnesses.

22 Emily Hopkins. Emily Maute. Nicole Browne.
23 Malik Harrison. Alda Thomas, Donavin Lamon Thomas.
24 McKenzie Everham. Tanner Elliott. Tamarin Beard. Melissa
25 High. Dr. Alyssa Rheingold, and a records custodian from

Jury Selection

1 the Charleston County Clerk of Court.

2 Anyone related by blood or marriage or have a
3 close personal, or social relationship, or professional
4 relationship with any of the potential witnesses, if so
5 please stand. I find that there is no one standing.

6 Is there any member of the jury panel who is a
7 member of or a contributor to or has a close affiliation
8 with any group which has it's primary concern the promotion
9 of law enforcement or victim's rights?

10 These groups would include, but are not limited
11 to, MADD, SADD, or Citizens Against Violent Crime, or in the
12 alternative, any member of the jury panel a member or
13 affiliated with any group which opposes such groups, if so
14 please stand? I find that there is no one standing.

15 Ladies and gentlemen of the jury panel, I read to
16 you the indictments in this case. Has anyone heard anything
17 about this case, read anything about this case, or have any
18 information about this case whatsoever whether it's before
19 today or during your time here in the courthouse, if so
20 please stand? I find that there is no one standing.

21 Ladies and gentlemen of the jury panel again, I
22 read to you the indictments in this case, and the
23 indictments are for domestic violence and unlawful placing a
24 child at risk of cause of harm or willfully abandoning a
25 child.

Jury Selection

1 Anything about this type of case based upon your
2 personal experience, your family experience, professional
3 experience, neighbors, any kind of acquaintances, anything
4 at all, that because of the type of case that it is that
5 would cause you to hesitate in your ability to be fully fair
6 and impartial to both the State and to the defense in this
7 case, if so please stand?

8 All right. If you-all would come forward. All
9 right. Yes, sir. Come on up, sir. Your juror number,
10 please.

11 JUROR 88: 88.

12 THE COURT: 88. Mr. Fortier?

13 JUROR 88: Yes, ma'am.

14 THE COURT: Yes, sir?

15 JUROR 88: So my wife, (indiscernible whispering,)
16 counseling for this.

17 THE COURT: Okay.

18 (Indiscernible whispering.)

19 THE COURT: Come on up, ma'am. Yes, ma'am, your
20 juror number, please?

21 JUROR 12: 12.

22 THE COURT: Is it Bathe?

23 JUROR 12: Bathe.

24 THE COURT: Sorry. Please speak into the
25 microphone.

Jury Selection

1 JUROR 12: Yeah. I am going through, kind of, a
2 similar situation right now. My boyfriend and I are exactly
3 through that process.

4 THE COURT: Okay.

5 JUROR 12: We just had, sort of, a little bit of
6 domestic violence, and our child was involved.

7 THE COURT: Okay. So obviously, it's a very
8 personal aspect for you?

9 JUROR 12: Yes.

10 THE COURT: The fact that you're going though
11 that, would that impact your ability in this case to be fair
12 and impartial for both sides?

13 JUROR 12: I'm just not one hundred percent sure.

14 THE COURT: Okay.

15 JUROR 12: I feel that I could, but I just don't
16 know for sure.

17 THE COURT: Okay.

18 (Indiscernible whispering.)

19 THE COURT: Excused.

20 THE CLERK: What juror number was that?

21 THE COURT: Number 12. Same with 88. Good
22 morning. Your juror number, please?

23 JUROR 254: 254.

24 (The court reporter requested verification.)

25 THE COURT: All right. Mr. Simpson?

Jury Selection

1 JUROR 254: Sure. I'm a -- psychiatry. I'm a
2 resident doctor, so I don't know how -- (indiscernible
3 whispering.)

4 THE COURT: All right. So obviously, you have a
5 background in education in that field; however, do you think
6 you could make a determination of the facts solely from what
7 you hear from the witness stand?

8 JUROR 254: I think I -- I think I would be very
9 partial to it, you know, the potential victims --

10 THE COURT: Okay.

11 JUROR 254: -- but I can try.

12 THE COURT: Well, I think I'll just go ahead and
13 move you on. All right.

14 JUROR 254: Okay.

15 THE COURT: 254 is excused.

16 THE BAILIFF: Juror number 234.

17 THE COURT: Good morning, sir. You're
18 Mr. Salisbury?

19 JUROR 234: Yes.

20 THE COURT: Yes, sir, and what is your
21 circumstance?

22 JUROR 234: Okay. In 2000 -- in January of 2011,
23 I was charged with criminal domestic violence in the third
24 degree, and after eight months, the charges were all dropped
25 after lack of evidence.

Jury Selection

1 It gave me a sour taste about the whole process.
2 But if I'm being honest, since then, I've reconsidered some.

3 THE COURT: Okay.

4 JUROR 234: Yeah.

5 THE COURT: Well, let me ask you, just obviously,
6 everybody comes with different background and experiences.
7 Do you think based upon your experience, you could set that
8 aside and discuss and listen to the evidence solely from --

9 JUROR 234: I could --

10 THE COURT: -- the witness --

11 JUROR 234: I could.

12 THE COURT: -- stand?

13 JUROR 234: Yes.

14 THE COURT: Could you be fully fair and impartial
15 to both the State and the defense.

16 JUROR 234: I would be more than fair and
17 impartial.

18 THE COURT: All right. Sir, and will you follow
19 the law as I give it to you.

20 JUROR 234: Yes.

21 THE COURT: All right. Thank you.

22 JUROR 17: Thank you.

23 THE BAILIFF: Juror number 17.

24 THE COURT: Good morning, ma'am.

25 JUROR 17: Amanda Bias, yes.

Jury Selection

1 THE COURT: Yes, ma'am. What's your circumstance?

2 JUROR 17: I took my ex back to court after he was
3 investigated by DSS for exposing our child to violence

4 THE COURT: Okay. Well, let me ask you about
5 this. How long ago was that?

6 JUROR 17: Last year.

7 THE COURT: Last year?

8 JUROR 17: Yeah, and it's still...

9 THE COURT: Still very fresh?

10 JUROR 17: Ongoing, actually.

11 THE COURT: Oh, still ongoing? Okay. The fact
12 that that's a part of what's going on in your life, do you
13 think you could set that aside in this case and listen to
14 the facts solely coming from the witness stand?

15 JUROR 17: No.

16 THE COURT: No? That's alright. I'm going to go
17 ahead and excuse you from the process.

18 JUROR 17: Okay. Thank you.

19 THE COURT: You can excuse 17.

20 THE BAILIFF: Juror number 75.

21 THE COURT: Good morning, ma'am. Ms. Ericson?

22 JUROR 75: Yes.

23 THE COURT: Yes, ma'am.

24 JUROR 75: Yes. I guess I just wanted to make it
25 aware that I had been in an abusive relationship.

Jury Selection

1 THE COURT: Can you -- I just want to make sure
2 everybody can actually hear you.

3 JUROR 75: Oh, yeah. Sorry. I've been in an
4 abusive relationship before. It was years ago, but I think
5 I left him in 2020.

6 THE COURT: Okay.

7 JUROR 75: I think I can still be pretty open
8 minded to both sides, but I guess I just wanted to make
9 it --

10 THE COURT: Uh-huh. I appreciate you letting us
11 know.

12 JUROR 75: -- obvious of that. When I was in a
13 similar situation, and I end up going into a courtroom, that
14 just left me --

15 THE COURT: Okay.

16 JUROR 75: -- and I just wanted to make it
17 apparent that --

18 THE COURT: Okay. So that's -- let me ask them.
19 Let me ask you a follow-up question. Obviously, you're,
20 kind of, past that because you're trying to bring to the
21 table your experiences.

22 JUROR 75: Oh, yeah.

23 THE COURT: Do you think in this case you can set
24 that aside and listen to the evidence solely as it comes
25 from the witness stand?

Jury Selection

1 JUROR 75: I do. I do, yeah.

2 THE COURT: And can you be fully fair and
3 impartial to both the State and the defense?

4 JUROR 75: I can be fair. I think I can -- yeah,
5 I think I can do both defense given the experience that I
6 received. Both sides of the table, I think I can be pretty
7 fair.

8 THE COURT: Okay. So do you think you can, or
9 can't handle?

10 JUROR 75: I can. I think I can.

11 THE COURT: You think you can?

12 JUROR 75: Yes. Yes, I can.

13 THE COURT: You just --

14 JUROR 75: I would like to make apparent that I
15 have family in this situation. (Indiscernible whispering.)

16 THE COURT: And I kind of like to make sure you
17 can be fair and impartial to both sides.

18 JUROR 75: Oh, yeah. Oh, yeah.

19 THE COURT: You can be fully fair to the defense.

20 JUROR 75: Yes.

21 THE COURT: And can you be fully fair to the
22 State?

23 JUROR 75: Yes.

24 THE COURT: And will you further listen to me?

25 JUROR 75: Yes.

Jury Selection

1 THE COURT: All right. You can stay here.

2 MR. GOODWYN: Judge, I would like to motion to --

3 THE BAILIFF: Number 64.

4 MR. GOODWYN: -- (indiscernible whispering.) I

5 don't think I --

6 THE COURT: Uh-uh (negative.) Mr. Day?

7 JUROR 64: Yes.

8 THE COURT: Yes, sir.

9 (Indiscernible whispering.)

10 THE COURT: That's alright. So it looks like,
11 obviously, you've got some life/work experiences you're
12 bringing in that's hindering you. I don't know what all you
13 guys heard.

14 But do you think based upon your experience and
15 background you can set that aside and listen to the evidence
16 fully as it comes from the witness stand.

17 JUROR 64: I can attempt to, but I'm not sure if I
18 can.

19 THE COURT: You don't know.

20 (Indiscernible whispering.)

21 THE COURT: All right. Mr. Day, I'm going to go
22 ahead and excuse you. Thank you. He's excused.

23 THE BAILIFF: Juror number 76.

24 THE COURT: Good morning.

25 JUROR 76: Good morning.

Jury Selection

1 THE COURT: Ms. Feagans.

2 JUROR 76: Ms. Feagans.

3 THE COURT: Yes, ma'am.

4 JUROR 76: So I unfortunately was taken away from
5 my family for child neglect when I was younger.

6 THE COURT REPORTER: Speak up just a little.

7 THE COURT: Get a little bit closer.

8 JUROR 76: I was taken away from my family for
9 child neglect when my sister and I were younger, and
10 unfortunately, as I got older, I got into an abusive
11 relationship, and now I have anxiety disorder from that.

12 THE COURT: Okay.

13 JUROR 76: So I'm -- I'm medicated daily because
14 of what had happened in the past.

15 THE COURT: I know that's difficult.

16 JUROR 76: That's fine. I'm in therapy.

17 THE COURT: Okay. Well, that's a good thing, so
18 hopefully things will turn around in recovery. And the
19 reason I ask this is obviously, we all bring to the table
20 our own experiences and -- and whatnot.

21 Do you think based upon what you've gone through,
22 you can set that aside for this case and listen to the
23 testimony?

24 JUROR 76: I believe the thing is, I feel panicky
25 just being here right now.

Jury Selection

1 THE COURT: Okay.

2 JUROR 76: I didn't want to have a panic attack in
3 court.

4 THE COURT: Yeah. Believe me, I would certainly
5 not want to cause you any embarrassment, and I certainly
6 would understand. I'm going to go ahead from the trial of
7 this case.

8 JUROR 76: Thank you so much.

9 THE COURT: Okay.

10 THE BAILIFF: Number 70.

11 THE COURT: Good morning, Ms. Edwards. Come on up
12 so the court reporter can hear what you're saying.

13 JUROR 76: I guess I have, like, really
14 (indiscernible whispering.) I'm sorry.

15 THE CLERK: You're fine. You don't have to cry.

16 JUROR 76: Because -- domestic violence.

17 (Indiscernible whispering.) Hard to accept.

18 THE COURT: You've had an experience, haven't you?

19 JUROR 76: Yeah. I'm sorry.

20 THE COURT: Oh, no. So from what I see, you
21 appear very upset. Based on that experience, do you think
22 you could set that aside and be fair and impartial to both
23 sides?

24 JUROR NUMBER 17: (No verbal response.)

25 THE COURT: All right. Well, I appreciate you

Jury Selection

1 sharing that with us today. You're excused from the trial
2 of this case.

3 THE BAILIFF: Number 128.

4 THE COURT: Good morning, ma'am. You're
5 Ms. Hodges?

6 JUROR 128: Yes.

7 THE COURT: Yes, Ms. Hodges?

8 (Indiscernible whispering.)

9 THE COURT: Your sister?

10 JUROR 128: Yes.

11 THE COURT: Okay. And the fact that that happened
12 to your sister, you can -- in this case you can listen to
13 the evidence that comes from the witness stand.

14 JUROR 128: (No verbal reply.)

15 THE COURT: Okay. Do you think you can be fair
16 and impartial to both sides?

17 JUROR 128: (No verbal reply.)

18 THE COURT: All right. I'm going to go ahead and
19 let you go. She's excused.

20 THE BAILIFF: Number 109.

21 THE COURT: I'm still just trying to find you on
22 here. Yes, ma'am, Ms. Grobmyer.

23 JUROR 109: Yes.

24 THE COURT: Yes, ma'am, what's your circumstance?

25 JUROR 109: I've been abused.

Jury Selection

1 THE COURT: Okay.

2 JUROR 109: Yeah. It's very hard for me to be
3 impartial.

4 THE COURT: So we all bring our experiences to the
5 table --

6 JUROR 109: Sure.

7 THE COURT: -- our expertise and whatnot. Do you
8 think you're able to listen to the testimony that comes from
9 the witness stand?

10 JUROR 109: I don't. Especially, because some of
11 the names seem familiar. I can't necessarily (indiscernible
12 whispering.)

13 THE COURT: Okay. So you couldn't be fair and
14 impartial in a case like this?

15 JUROR 128: No.

16 THE COURT: All right. Ma'am, I'll go ahead and
17 excuse you.

18 JUROR 109: Thank you.

19 THE COURT: I understand you want one for cause,
20 but I want to put that on the record.

21 Has any member of the jury panel formed or
22 expressed any opinion about any potential issue or matter in
23 this case, if so, please stand? I find that there is no one
24 standing.

25 Has any member of the jury panel aware of any bias

Jury Selection

1 or prejudice towards either the State or to the defense in
2 this case, if so, please stand? I find that there is no one
3 standing.

4 Is there any member of the jury panel that was a
5 member of the Grand Jury which issued the indictments in
6 this case, if so, please stand? I find that there is no one
7 standing.

8 Does any member of the jury panel know of any
9 reason whatsoever why he or she should not serve as a juror
10 in this case with a particular emphasis being placed on your
11 ability to be fully fair and impartial to both the State and
12 to the defense, if so, please stand?

13 I find that there is no one standing. Counsel,
14 any further questions that you believe were not covered?

15 MS. FRIES: Your Honor, we would ask that you read
16 State's number six.

17 THE COURT: Let me pause here, and let me find it.
18 Do you have an extra copy, Solicitor?

19 (Pause in proceedings.)

20 THE COURT: No, ma'am, I believe my previous
21 question regarding law enforcement and any kind of
22 connections covers that concern.

23 MS. FRIES: Thank you, ma'am.

24 THE COURT: All right. Madam Clerk, we're ready
25 to proceed.

Jury Selection

1 THE CLERK: Yes, Your Honor. I'll just need about
2 five minutes to print those last names.

3 THE COURT: So ladies and gentlemen of the jury
4 panel, it's going to take the Clerk about five minutes to
5 put your names in a little hopper for us to call -- call you
6 up as potential jurors.

7 If you need to take a quick comfort break, you may
8 do so. If you would be back in the jury room in five
9 minutes, we'll proceed with the trial of this -- the
10 selection of the jury trial selection. We'll be at ease for
11 five minutes.

12 (A recess was taken at 10:41 a.m. until 10:53
13 a.m.)

14 THE COURT: Thank you everyone. Please, have a
15 seat. Would Juror No. 269 please come forward.

16 (A conversation with Juror No. 269 ensued out of
17 the hearing of the court reporter.)

18 THE COURT: Do you believe you can sit back and be
19 fully fair and impartial?

20 JUROR 269: Yes, ma'am.

21 (Indiscernible whispering.)

22 THE COURT: All right. Madam Clerk, you may
23 proceed.

24 THE CLERK: Yes, Your Honor. Ladies and gentlemen
25 of the jury, if your name is called, then please, come

Jury Selection

1 forward and stand in front of the podium. Turn and face the
2 parties. Please, bring any belongings that you have with
3 you. And Your Honor, strokes are five and five per party?

4 THE COURT: Correct.

5 THE CLERK: Juror No. 1, Janane Buice.

6 MR. GOODWYN: Judge, juror number?

7 THE COURT: Number 33.

8 MR. GOODWYN: Okay.

9 THE CLERK: Apologies. Juror No. 33, Janane
10 Buice. What say you for the State?

11 MS. FRIES: Please, excuse this juror.

12 THE CLERK: Ma'am, if you would, please return to
13 your seat. You've been excused from the trial of this case.
14 Juror No. 248, Jacqueline Shokes. What say you for the
15 State?

16 MS. FRIES: Please seat this juror.

17 THE CLERK: What say you for the defendant?

18 MR. GOODWYN: Please seat this juror.

19 THE CLERK: Ma'am, if you would, please take a
20 seat in the jury box. You've been selected to serve as a
21 juror in the trial of this case. Juror No. 199, Mahlon
22 Newlin. What say you for the State?

23 MS. FRIES: Please seat this juror.

24 THE CLERK: What say you for the defendant?

25 MR. GOODWYN: Please seat this juror.

Jury Selection

1 THE CLERK: Sir, if you would, please take a seat
2 in the jury box. You've been selected to serve as a juror
3 in the trial in this case. Juror No. 188, Scott Mcelhaney.
4 What say you for the State?

5 MS. FRIES: Please, seat this juror.

6 THE CLERK: What say you for the defendant?

7 MR. GOODWYN: Please, seat this juror.

8 THE CLERK: Sir, if you would, please take a seat
9 in the jury box. You've been selected to serve as a juror
10 in the trial of this case. Juror No. 215, Terri Price.
11 What say you for the State?

12 MS. FRIES: Please, seat this juror.

13 THE CLERK: What say you for the defendant?

14 MR. GOODWYN: Please, excuse this juror.

15 THE CLERK: Ma'am, if you would, please take a
16 seat in the gallery. You've been excused from the trial of
17 this case. Juror No. 100, Patrick Goodwin. What say you
18 for the State?

19 MS. FRIES: Please, excuse this juror.

20 THE CLERK: Sir, if you would, please take a seat
21 in the gallery. You've been excused from the trial in this
22 case. Juror No. 190, Kayla Hamilton. What say you for the
23 State?

24 MS. FRIES: Please, seat this juror.

25 THE CLERK: What say you for the defendant?

Jury Selection

1 MR. GOODWYN: Please, seat this juror.

2 THE CLERK: Ma'am, if you would, please take a
3 seat in the jury box. You've been selected to serve as a
4 juror in the trial of this case. Juror No. 290, Dorian
5 Williams. What say you for the State?

6 MS. FRIES: Please, excuse this juror.

7 THE CLERK: Sir, if you would, please take a seat
8 in the gallery. You've been excused from the trial of this
9 case. Juror No. 101, Katrina Graham. What say you for the
10 State?

11 MS. FRIES: Please, seat this juror.

12 THE CLERK: What say you for the defendant?

13 MR. GOODWYN: Please, seat this juror.

14 THE CLERK: Ma'am, if you would, please take a
15 seat in the jury box. You've been selected to serve as a
16 juror in the trial of this case. Juror No. 85, Theresa
17 Floyd. What say you for the State?

18 MS. FRIES: Please, seat this juror.

19 THE CLERK: What say you for the defendant?

20 MR. GOODWYN: Please, seat this juror.

21 THE CLERK: Ma'am, if you would, please take a
22 seat in the jury box. You've been selected to serve as a
23 juror in the trial of this case. Juror No. 259, Logan
24 Smith. What say you for the State?

25 MS. FRIES: Please, seat this juror.

Jury Selection

1 THE CLERK: What say you for the defendant?

2 MR. GOODWYN: Please, seat this juror.

3 THE CLERK: Ma'am, if you would, please take a
4 seat in the jury box. You've been selected to serve as a
5 juror in the trial of this case. Juror No. 11, Katherine
6 Barwick.

7 MR. GOODWYN: Can you repeat the number?

8 THE CLERK: Juror No. 11, Katherine Barwick. What
9 say you for the State?

10 MS. FRIES: Please, seat this juror.

11 THE CLERK: What say you for the defendant?

12 MR. GOODWYN: Please, seat this juror.

13 THE CLERK: Ma'am, if you would, please take a
14 seat in the jury box. You've been selected to serve as a
15 juror in the trial of this case. Juror No. 233, Matthew
16 Salerno. What say you for the State?

17 MS. FRIES: Please, excuse this juror.

18 THE CLERK: Sir, you may return to the gallery.
19 You've been excused from the trial in this case. Juror No.
20 247, Jeremy Sherman. What say you for the State?

21 MS. FRIES: Please, seat this juror.

22 THE CLERK: What say you for the defendant?

23 MR. GOODWYN: Please, excuse this juror.

24 THE CLERK: Sir, if you would, please return to
25 the gallery. You've been excused from the trial of this

Jury Selection

1 case. Juror No. 16, Katherine Benton. What say you for the
2 State?

3 MS. FRIES: Please, seat this juror.

4 THE CLERK: What say you for the defendant?

5 MR. GOODWYN: Please, seat this juror.

6 THE CLERK: Ma'am, if you would, please take a
7 seat in the jury box. You've been selected to serve as a
8 juror in the trial of this case. Juror No. 291, Jordyn
9 Williams. What say you for the State?

10 MS. FRIES: Please, seat this juror.

11 THE CLERK: What say you for the defendant?

12 MR. GOODWYN: Please, excuse this juror.

13 THE CLERK: Ma'am, if you would, please return to
14 the gallery. You've been excused from the trial of this
15 case. Juror No. 292, Kelly Williams. What say you for the
16 State?

17 MS. FRIES: Please, seat this juror.

18 THE CLERK: What say you for the defendant?

19 MR. GOODWYN: Please, excuse this juror.

20 THE CLERK: Ma'am, if you would, please return to
21 the gallery. You've been excused from the trial of this
22 case. Juror No. 122, Douglas Heaton. What say you for the
23 State?

24 MS. FRIES: Please, seat this juror.

25 THE CLERK: What say you for the defendant?

Jury Selection

1 MR. GOODWYN: Please, seat this juror.

2 THE CLERK: Sir, if you would, please take a seat
3 in the jury box. You've been selected to serve as a juror
4 in the trial of this case. Juror No. 216, Ebony Pride.
5 What say you for the State?

6 MS. FRIES: Please, seat this juror.

7 THE CLERK: What say you for the defendant?

8 MR. GOODWYN: Please, seat this juror.

9 THE CLERK: Ma'am, if you would, please take a
10 seat in the jury box. You've been selected to serve as a
11 juror in the trial of this case. Juror No. 60, Kaniksu
12 Darwin. What say you for the State?

13 MS. FRIES: Please, seat this juror.

14 THE CLERK: What say you for the defendant?

15 MR. GOODWYN: Please, seat this juror.

16 THE CLERK: Sir, if you would, please take a seat
17 in the jury box. You've been selected to serve as a juror
18 in the trial of this case.

19 Now, striking for two alternates. Strikes are
20 State one and defendant two. Juror No. 45, Courtney
21 Carpenter. What say you for the State?

22 MS. FRIES: Please, seat this juror.

23 THE CLERK: What say you for the defendant?

24 MR. GOODWYN: Please, seat this juror.

25 THE CLERK: Ma'am, if you would, please take a

Jury Selection

1 seat in the jury box. You've been selected to serve as a
2 juror in the trial of this case. Juror No. 147, Kenneth
3 Jones. What say you for the State?

4 MS. FRIES: Please, seat this juror.

5 THE CLERK: What say you for the defendant?

6 MR. GOODWYN: Please, seat this juror.

7 THE CLERK: Sir, if you would, please take a seat
8 in the jury box. You've been selected to serve as a juror
9 in the trial of this case. Your Honor, the jury is seated.

10 THE COURT: Thank you, ma'am. Are there any
11 exceptions or objections to selection of this jury from
12 either the State or from the defense?

13 MS. FRIES: None from the State.

14 MR. GOODWYN: Not from the defense, but we do have
15 a motion to make before the jury is sworn.

16 THE COURT: Yes, sir. All right. Ladies and
17 gentlemen of the jury panel that were not selected for the
18 trial of this case, it is your lucky day because you have
19 fulfilled your jury service.

20 This will be the one trial that we will have this
21 week, so thank you so much for your service. If you need
22 anything from the Clerk of Court's Office for work or
23 anything, they'll be happy to provide that for you. You are
24 free to go.

25 (The potential jury pool was excused at 11:11

Jury Selection

1 a.m.)

2 THE COURT: And counsel, would you-all please,
3 approach?

4 (Bench conference.)

5 THE COURT: Let me just go ahead and let them go
6 for lunch and do all the pre-trial stuff and start right
7 after lunch?

8 MS. FRIES: That's good. Thank you.

9 MR. GOODWYN: Yes, ma'am. Thank you.

10 (End of bench conference.)

11 THE COURT: Well, welcome members of the jury that
12 were selected for the trial of this case. We do have a few
13 matters that we must take up outside of your presence before
14 we actually start the trial, so I don't want you to just sit
15 in a jury room waiting for us while that happens.

16 So I'm going to excuse you for an early lunch so
17 that you don't have to sit back there and just wait for us,
18 but please, remember that it is very important that while
19 you are out at lunch or any time during the trial of this
20 case you're not allowed to talk about this case, whether
21 it's amongst yourselves or with anyone else because you must
22 make your determination of the facts solely from what you
23 hear from the witness stand and then obviously, the charge
24 on the law after the case is concluded.

25 So again, please, remember not to discuss this

Pretrial Motions
Argument to the Court by Mr. Goodwyn

1 matter with anyone while you're coming in and out of the
2 courthouse or even while you're here in the courthouse with
3 your fellow jurors.

4 If you would, you return to your jury room, the
5 bailiff here will show you where that is, at 1:15. That
6 will have sufficient time for everyone to have the matters
7 that we need to hear, and hopefully you'll have sufficient
8 time to enjoy a nice lunch.

9 It's beautiful outside, so maybe find a nice spot
10 outside. We will see you at 1:15.

11 (Jury exited at 11:13 a.m.)

12 PRETRIAL MOTIONS

13 THE COURT: All right. Counsel, I understand we
14 have several motions we need to take up.

15 MR. GOODWYN: Yes, Judge. Would you like me to,
16 sort of, dictate the order or?

17 THE COURT: Sure. Let me just find my stack of
18 them here first before we get started. All right.

19 Mr. Goodwyn, which one would you like to start with?

20 MR. GOODWYN: I think the first one we need to
21 address is my motion to quash or elect the section of
22 statute that the State intends to prosecute under.

23 Right now, and I'm speaking specifically to the
24 domestic violence indictment, there are two separate code
25 sections that the State is at least alleging to try to prove

Pretrial Motions
Argument to the Court by Mr. Goodwyn

1 and then present to the jury, which I believe *State versus*
2 *Gentry* makes it a requirement that the defendant be put on
3 notice as far as to which acts constitute the crime that he
4 allegedly committed. If Your Honor is not interested in the
5 cross indictment I understand.

6 We would ask to elect -- that the State to elect
7 which code section they intend to prosecute Mr. Tollerson
8 under. I have had conversations with Ms. Fries.

9 It's my understanding that they have chosen to
10 elect to prosecute him under -- I beg the Court's
11 indulgence.

12 I believe it is 16-25(b)(5), which is that
13 domestic violence in the second degree was committed with
14 aggravated factors.

15 I would just ask that the State confirm that they
16 do not seek to prosecute Mr. Tollerson under 16-25-10(b)(1),
17 which is the great bodily injury enforcement statute.

18 THE COURT: Solicitor; is that correct?

19 MS. FRIES: That's correct, Judge. We will be
20 going forward on (b)5 that he was in the process of
21 committing DV second, and then the committed aggravated
22 factors as well.

23 THE COURT: All right. Well, that takes care of
24 that one.

25 MR. GOODWYN: I think the next one, I believe, the

Pretrial Motions
Argument to the Court by Mr. Goodwyn

1 most -- well, they're all important, but I think the biggest
2 one that I think needs to be taken up is our motion to
3 bifurcate.

4 Judge, the State is seeking to prosecute
5 Mr. Tollerson under what we discussed 16-25(b)(5) and
6 alleging that this is a domestic violence in the second
7 degree, not based on moderate bodily injury, or a
8 restraining order, or something to that effect, but alleging
9 that it's domestic violence in the second degree because he
10 has a prior conviction for domestic violence in the past 10
11 years.

12 The State, to my understanding, is seeking to
13 introduce that fact as fact in their case-in-chief in front
14 of the jury, which, you know, Judge, I understand
15 undoubtedly, that it is probative as to the elements of the
16 crime as far as the way the State legislature has laid it
17 out, but it is not probative at all as to whether
18 Mr. Tollerson struck or threatened to strike Ms. Hopkins.

19 I think that the case on point is *State v. Cross*
20 and that is specific to a CSC with a minor case.

21 You know, I think similarly that CSC with a minor,
22 and in Cross the Court said that the trial -- the Supreme
23 Court said that the trial Court erred in not bifurcating the
24 trial and basically allowing a jury curative instruction to
25 satisfy that is not good enough because you have to go

Pretrial Motions
Argument to the Court by Mr. Goodwyn

1 through 403 analysis.

2 One, is it probative? And two, it may be
3 probative, but is it unduly -- substantially unduly
4 prejudicial to the defendant.

5 And I think a CSC with a minor is very similar to
6 a domestic violence case in the sense that it carries a
7 stigma.

8 I think we saw that with the fact that 11 jurors
9 stood up and said -- and nine of those jurors said that I
10 cannot be fair and impartial.

11 Now, while the State may argue that, well, the 12
12 people in the box did not stand up because they didn't have
13 that so much to believe that they would be unable to be fair
14 and impartial, but I guarantee you if they hear that fact,
15 it's going to lead them to make a consequential decision
16 about the fact of this case based on poor reasoning, which
17 is character reasoning, and that is completely the spirit of
18 Roll and the spirit of Cross, you know, that, you know, we
19 understand that the Court is not required to bifurcate, but
20 you do have the authority to bifurcate.

21 And the South Carolina Rule of Evidence, 611(a)
22 grants, Your Honor, the authority to manage the order in
23 which witnesses are called.

24 We're not telling the State that they can't get
25 into it and offer it into evidence.

Pretrial Motions
Argument to the Court by Mr. Goodwyn

1 I'm just suggesting that it would be a poor
2 decision to offer it in the evidence in front of the jury.
3 We're happy to stipulate to a bench trial at the end, if
4 Mr. Tollerson is -- if found guilty if there is a, indeed, a
5 certified prior conviction.

6 We're not trying to say that they can't get into
7 it, but what I am saying is that a CSC with a minor and
8 domestic-violence-type situation carry similar stigmas.

9 It's not like a burglary case where this is a
10 crime of opportunity. We're talking about crimes of
11 abusers. CSC with a minor, there's an abuser. Domestic
12 violence, there's an abuser.

13 Burglary is a crime of opportunity, and I'm pretty
14 sure that's what they're going to argue is why this case
15 should not be bifurcated.

16 Just to wrap it up Judge is, you know, if the jury
17 hears about a prior conviction for domestic violence,
18 there's no way that Mr. Tollerson is going to be able to
19 receive due process and a fair trial.

20 It's simply going to be a way -- and I'm going to
21 say this delicately, Judge. I'm not insinuating the State
22 is somehow cheating the system in some way.

23 They're using the statute to their advantage, but
24 this is a way of legal maneuvering, and I think the case law
25 is clear that, Your Honor, has the authority to make sure

Argument to the Court by Ms. Fries

1 that a proper trial is granted, and 611(a) allows you to do
2 that by having that specific piece of evidence not come in
3 front of the jury.

4 We can talk about the way jury charges are
5 structured. The jury can certainly -- and Judge, I'll tell
6 you this up front, we're not asking -- we wouldn't be asking
7 for a DV third in our jury instruction request to you
8 anyway.

9 I'm just asking you not to allow the State to get
10 into that in their case-in-chief.

11 THE COURT: Thank you, Counsel. Response?

12 MS. FRIES: Thank you, Your Honor. This case
13 should not be bifurcated. Bifurcation is an exceptional
14 procedure that's reserved for death penalty cases.

15 The only exception that's been made is in *State*
16 *versus Cross*, and that is referencing criminal sexual
17 conduct with a minor.

18 The Court held in that case that while two part
19 trials are rare, criminal sexual conduct with a minor cases
20 are exceptional because of the inherently prejudicial stigma
21 that it undoubtedly carries.

22 Here, we're not dealing with a CSC with a minor.
23 Domestic violence does not carry that same stigma that CSC
24 with a minor cases ultimately does.

25 The Supreme Court has said that sex offenders are

Argument to the Court by Ms. Fries

1 much more likely than any type of offender to be re-arrested
2 for a new rape or assault, and they're much more likely to
3 be prejudiced by the introduction of one of those
4 convictions than defendants charged with any other offense.

5 Nothing in society comes as close as the stigma
6 and belief that people cannot be changed than a child sexual
7 abuse case.

8 Also, *Cross* references *State versus Benton*. That
9 was a case that -- where bifurcation wasn't required in a
10 first degree burglary case, where the element is a record of
11 two prior burglaries. It repeatedly declined to extend
12 bifurcation to those burglaries.

13 And *Cross* came out in 2019, and the domestic
14 violence laws changed in 2015 where it required the
15 statutory element to be that there was a prior conviction to
16 reach domestic violence first degree, so they were aware of
17 this when they decided *Cross*.

18 They could have included domestic violence as
19 another exception, but they didn't, and, you know, here this
20 prior domestic violence conviction is more probative than
21 prejudicial.

22 It is an element to get us to domestic violence
23 first degree. Also, in the Supreme Court in *State versus*
24 *Gleaton* the Court refused to bifurcate a trial of a
25 defendant accused of possessing a firearm by a person

Argument to the Court by Ms. Fries

1 convicted of a violent crime.

2 This came out even after *Cross*, and *Gleaton* said
3 that -- or the Supreme Court said that Gleaton was neither
4 on trial for a sexual related offense, nor was his prior
5 conviction related to a sex crime.

6 There's several other burglary cases that were not
7 bifurcated because it did not rise to the level. It wasn't
8 a death penalty case, and it also wasn't CSC with a minor.

9 Again, domestic violence does not carry that same
10 stigma that CSC with a minor does, which is uniquely
11 associated with recidivism.

12 It is more similar to burglary in the fact that
13 while it's condemned by society it doesn't invoke this
14 universal outrage and this moral condemnation that child
15 sexual abuse crimes does, so we would ask that this case not
16 be bifurcated.

17 The probative value of this prior conviction is
18 not outweighed by its prejudicial effect, and the way we get
19 to domestic violence first degree is proving that prior
20 conviction.

21 It is a necessary element that must come in and;
22 otherwise, you know, we're charging him on domestic violence
23 second degree, and that's -- that's just not the case here.

24 We have to prove that he has a prior conviction to
25 get to domestic violence first degree, so we would ask the

Argument to the Court by Mr. Goodwyn
Court's Ruling

1 case not be bifurcated.

2 THE COURT: Thank you, Solicitor. Any response?

3 MR. GOODWYN: Judge, just -- just briefly. One,
4 to Ms. Fries' last statement that they can prove domestic
5 violence first degree at the second phase of the trial.

6 We're not preventing them from doing that, and
7 that's what I think it State is insinuating, and I think
8 two, it's clear that they are not able to tell you why
9 domestic violence and CSC don't carry the same stigma.

10 They're citing the burglary case. They're citing
11 two gun cases. There's no case that they cited to that says
12 a domestic violence case was not bifurcated.

13 Judge, I think that based on *State v. Cross*, it
14 lays out the method that we should do this, and the only
15 reason the State wants to get this in is -- and I don't mean
16 this in a bad way -- to to win their case.

17 They want to use this extra piece of evidence to
18 win their case. This is an easy thing that we can stipulate
19 to. The only reason they don't want to stipulate to it is
20 because they want the jury to know that he'd done it before.

21 COURT'S RULING

22 THE COURT: Thank you, Counsel. In considering
23 the law and the arguments of counsel, obviously, the
24 Legislature enacted this statute making the prior conviction
25 an element of the offense, and certainly, in considering

Argument to the Court by Mr. Goodwyn
Court's Ruling

1 criminal sexual conduct with a -- with a child as opposed to
2 domestic violence, certainly, the stigma associated with
3 sexual assault of children is clearly distinguishable from
4 that of domestic violence.

5 The statute having been enacted and case law
6 having come from the Supreme Court since that time, not
7 requiring bifurcation and making that distinction, clearly,
8 in the burglary first cases and gun cases as well where it
9 is proper and more probative than prejudicial for the State
10 to be allowed to present their case in full as required for
11 the elements to be met with what the defendant is being
12 charged with. I respectfully deny your motion.

13 MR. GOODWYN: Thank you, Judge. The next motion I
14 have is a Motion in Limine, and I've listed -- bear with me.
15 Let me just find my motion.

16 It's a Motion in Limine to -- for three things.
17 One, is a general Motion in Limine to exclude any testimony
18 of prior bad acts.

19 Now, I understand Your Honor's ruling on the
20 motion to bifurcate that you can allow the State in their
21 case-in-chief to talk to the jury about a prior conviction.

22 I would; one, ask that it be limited to that
23 while -- while still objecting, I would object to the prior
24 ruling, Your Honor, but as far as any testimony about
25 anything outside the conviction, who the conviction is with,

Argument to the Court by Mr. Goodwyn

1 the date of the conviction, any of that I think is unduly
2 prejudicial and far outweighs any probative value to discuss
3 who the prior conviction was with and -- because the prior
4 conviction was with the same victim in this case.

5 And if the State intends to bring that up, I think
6 that further inflames the jury to make a decision based on
7 bad character evidence that would not grant Mr. Tollerson
8 due process and a fair trial.

9 So I would like, Your Honor, to at least limit any
10 mention of prior bad acts to just the fact that there is a
11 conviction.

12 So the date, what happened, the victim in that
13 case, and any other prior calls made to law enforcement,
14 anything that happened outside of what happened on August
15 1st.

16 There's mention in a lot of the body cameras about
17 things that had happened in the past. I would -- and, you
18 know, Your Honor, the defense is not seeking to bring up
19 anything that happened outside of that evening, so I would
20 ask the State not to be able to get in that either.

21 There's a specific letter that my client wrote to
22 the victim while -- while incarcerated that I believe the
23 State, at one point, intended to get into, but I've been
24 told that they're not seeking to introduce that now.

25 There are two jail calls that the State does seek

Argument to the Court by Mr. Goodwyn

1 to get into that I would object to. One is from -- just a
2 little bit after the arrest in 2021, that call is made from
3 Mr. Tollerson -- allegedly, Mr. Tollerson to a Nadia Young.

4 Nadia is not on the State's witness list, so it's
5 hearsay without a -- without appearing. They're intending
6 to offer Melissa High from the -- the State considers the --
7 is the custodial -- the custodian of the jail calls.

8 But the issue is going to be -- and, Your Honor,
9 I'm -- I'm sure you want to proffer this particular witness,
10 but she would testify that there is absolutely a problem
11 with other inmates using other inmates PINs.

12 And the only person that would be able to
13 authenticate who is on the phone, and the State is assuming
14 that it's Mr. Tollerson, is if Nadia were here to testify.

15 I also believe that is -- that that particular
16 phone call is unduly prejudicial because that particular
17 phone call discusses the smashing of the phone, which is one
18 of the elements, one of the aggravating factors for domestic
19 violence statute.

20 He smashed the phone to prevent her from calling
21 law enforcement, but in reality, that phone call is a
22 response to a question, hey, why didn't-- from -- from
23 Nadia, why didn't she call 911?

24 Well, the phone was smashed. This is a
25 after-the-incident phone call explaining why she couldn't

Argument to the Court by Mr. Goodwyn

1 call 911.

2 The State is seeking to introducing it as an
3 admission that, I called -- she couldn't call 911 because I
4 smashed the phone, and I think that's going to be confusing
5 to the jury.

6 If the State wants to get into that phone call,
7 they could have put Ms. Nadia Young on their witness list.
8 I think it would be inappropriate to authenticate that
9 through -- through Ms. High.

10 And I believe what the State is really trying to
11 do is bait my client to testify against his rights. He does
12 have the right to testify, but they're using that as a ploy
13 to try to get him on the stand.

14 The other phone call it's a more recent phone
15 call, and I say a more recent phone call just to give you a
16 little bit of background.

17 Mr. Tollerson bonded out on these charges, I
18 think, in 2021, or 2022, and he was picked up last year; he
19 was arrested for a public disorderly, and the bondsman came
20 off of his bond.

21 He wasn't able to afford to repost that bond, so
22 basically, he's in a situation that he can't have any
23 private calls with anyone simply because he can't afford to
24 make a bond.

25 That phone call is with the victim, and they are

Argument to the Court by Mr. Goodwyn

1 having a conversation about what she wrote in her witness
2 statement, and Mr. Tollerson is concerned that the way her
3 statement is written is that she's saying that he hit their
4 daughter ^{Minor}.

5 He's seemingly focused on that. She's not
6 understanding in the phone call what Mr. Tollerson is
7 talking about, but that conversation is specific, as far as
8 Mr. Tollerson goes, to ^{Minor}.

9 At the end of the conversation, when she figures
10 out that he's talking about their daughter, and whether or
11 not he assaulted the daughter, Ms. Hopkins realizes that
12 she's talking about that and she says, "no, but you hit me."
13 Mr. Tollerson does not respond.

14 The State is seeking to offer that call into
15 evidence as an adoptive admission, which I also think would
16 be unduly prejudicial because it would cause the jury to
17 feel; one, that he -- he would be able to testify, and if he
18 doesn't testify, they would be able to use that against him.

19 I understand that, Your Honor, can make a jury
20 instruction to cure that, but I don't think the fact that he
21 is having that conversation singly focused on whether or not
22 he hit ^{Minor} and that was in her witness statement.

23 And the fact that he doesn't respond to, "no, but
24 you hit me," you're basically asking him to comment on his
25 right to remain silent, and also his right against

Argument to the Court by Ms. Fries

1 testifying.

2 So, Judge, for those reasons, and I understand if
3 you want to -- if you want to proffer these particular calls
4 to make a decision, but I think they need to be excluded for
5 the same reasons.

6 I think -- and I guess, if -- if Ms. Fries wants
7 to -- I'm done with that argument, Judge.

8 THE COURT: All right. Solicitor?

9 MS. FRIES: Thank you, Your Honor. With regard to
10 knowing the date and time -- or the date of when the prior
11 conviction happened -- well, first, we have instructed the
12 victim not to go into any prior bad acts on her own.

13 We also have a portion of Deputy Elliott's body
14 camera. We've redacted a part of that that maybe goes into
15 him being previously convicted.

16 But as far as the date, we do believe it is
17 important because we do have to prove that he has a prior
18 conviction within the past 10 years.

19 This prior conviction was in September of 2021, so
20 if the jury hears that it's just -- you know, occurred in
21 2021, this case happened in November, they may not know if
22 it's December, so we do think the month and the year is
23 important.

24 Obviously, just getting that part out not going
25 into anything else regarding that, but we do believe that

Court's Ruling
Argument to the Court by Ms. Fries

1 the month and date is important.

2 One, to prove that it occurred within the last 10
3 years and not confuse them as far as when it occurred since
4 this did occur in 2021.

5 COURT'S RULING

6 THE COURT: All right. So as far as the -- the
7 conviction is concerned, so long as you keep it to that. I
8 don't know if you-all just want to stipulate.

9 I guess, you don't want to stipulate as to the --
10 the conviction, but obviously, you can't get into the fact
11 that she was the victim in the -- in the prior conviction,
12 but just the date and that there's a prior conviction.

13 MR. GOODWYN: All right.

14 MS. FRIES: Okay.

15 THE COURT: All right. And tell me about the
16 phone calls from the jail.

17 MS. FRIES: Briefly, Your Honor, as far as the
18 conviction, he was convicted of domestic violence first
19 degree. We would like to have that said as well.

20 I don't know if, Your Honor, is just wanting just
21 that he's convicted of domestic violence, but we believe,
22 you know, domestic -- that the Clerk can testify that he was
23 convicted of domestic violence first degree September of
24 2021, and that's it.

25 THE COURT: The statute requires a conviction for

Argument to the Court by Mr. Cooper

1 domestic violence. Does it specify -- and I just can't
2 recall right off the top of my head -- the degrees?

3 MS. FRIES: It does not.

4 THE COURT: All right. Then, no, he can just --
5 the clerk can just state a prior conviction for domestic
6 violence.

7 MS. FRIES: All right. Thank you.

8 MR. COOPER: And, Judge, with regards to the jail
9 calls, we're going to address several things that -- we
10 would -- first regarding the PIN number.

11 I'm sure, Your Honor, is aware of how this system
12 works at the jail. There's also the voice of the defendant
13 at the beginning of the calls that helps authenticate that
14 being the individual that spoke.

15 All of the calls we seek to introduce have that at
16 the beginning. We didn't clip that, but if we need to, we
17 can do that, but I think this whole PIN number situation is
18 more appropriate fodder for cross-examination.

19 Not -- it is -- in no way affects the authenticity
20 of the call. You hear the defendant's voice say his name,
21 and then you hear the defendant talk, and in one of the
22 calls, he's talking to the victim in this case.

23 If Your Honor wants us to clip that, we can do
24 that. I can also ask Ms. High about that, but I think the
25 appropriate remedy for the PIN situation is they can ask

Argument to the Court by Mr. Cooper

1 that -- about -- on cross-examination.

2 THE COURT: So let me listen to the calls during
3 the lunch break. That way we -- I can listen to see exactly
4 what you're talking about. My inclination is obviously, the
5 defendant is warned that all calls are recorded.

6 I don't believe there's any expectation of privacy
7 in there, but I will certainly listen to the calls during
8 the lunch break to make a proper determination.

9 MR. COOPER: And can I give you -- do you want me
10 to go and give you just our brief -- just the law of why
11 those calls should be able to come in?

12 THE COURT: Yes, sir.

13 MR. COOPER: So, Judge, certainly, I think all
14 statements made by the defendant or statements by a party or
15 opponent in 801(d)2(a) are clearly not hearsay.

16 With regards to the conversation with the victim
17 that Mr. Goodwyn brought up where she is -- and you'll have,
18 like I said, a chance to listen to the call, the defendant
19 says, (as read:) No, I said -- it said I threw her into the
20 car door and hit her in the head with the board with the
21 nails in it. The victim responds, no, you didn't hit her;
22 you hit me with the board. I -- she was in my arms.

23 His response -- he does give a response. He says,
24 "I understand," but in the statement it doesn't say that.

25 So one, I think the victim statement is important,

Argument to the Court by Mr. Cooper

1 and it comes under 801(d)2(b), which is where a defendant
2 manifests an adoption or belief in the statement's truth
3 because he's concerned that it talks about the child.

4 The victim's like, no, it talks about me, and he
5 says, "I understand that." That's not what it says, and so
6 I think he's manifesting an adoption of belief in the truth,
7 which makes his statement and her statement not hearsay.

8 Regarding the other call where they discuss the
9 phone, and it's not with the victim, that was a different
10 witness, and I won't read the full statement, you'll have
11 the chance to listen to that.

12 She asked him a question, and by definition,
13 questions are not statements for the truth of the matter.
14 It is not hearsay.

15 In the defendant's response talking about smashing
16 the phone could not be more probative or relevant in this
17 case because that is one of the aggravating factors the
18 State alleges, and that's what prevents her from calling
19 911.

20 Anything about the way he says it, the defense can
21 argue that, but he says it and he talks about an essential
22 element, an essential factor in proving DV first. His
23 statements aren't hearsay.

24 Hers is a question which is not hearsay, and we
25 think Ms. High should be able to testify to the clips, and

Argument to the Court by Mr. Goodwyn

1 if the clips can come in.

2 And what we also can do, Judge, we have -- and I
3 can show it to the defense -- a CD marked with those three
4 clips. If I can just provide that to you. If you want to
5 listen to that during lunch break?

6 THE COURT: Yes, sir, that would be great.

7 MR. GOODWYN: Judge, can I have a brief response?

8 THE COURT: Of course.

9 MR. GOODWYN: And just specifically to the phone
10 call with the person that is not a witness, Nadia Young, I'm
11 not aware of -- that a question is not -- is not hearsay.

12 You have a party making a statement and having a
13 conversation that is not here to testify about what they
14 talked about.

15 The only person that's going to authenticate that
16 phone call as far as whose voice it is, is Nadia Young.

17 Now, I would definitely disagree with the fact
18 that this is not -- this is a hearsay issue that I think the
19 Court needs to address that.

20 THE COURT: I'll listen to it.

21 MR. GOODWYN: Thank you, Judge.

22 MR. COOPER: May I approach you?

23 THE COURT: Yes, sir.

24 MR. COOPER: And it's marked already as State's

25 35. I don't know if you want to make it a Court's Exhibit

Argument to the Court by Mr. Goodwyn

1 as well?

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Argument to the Court by Ms. Luthringer

1 THE COURT: Yes, sir.

2 MR. COOPER: But if we need to make it one, that's
3 fine, Your Honor.

4 THE COURT: All right. The next motions?

5 MS. LUTHRINGER: Thank you, Judge. We have
6 defense's Motion to Exclude Expert Testimony, particularly
7 that of Dr. Alyssa Rheingold.

8 We aren't contesting that she's an expert in many
9 fields. She has a very impressive resume, but more so that
10 her testimony is inappropriate in this proceeding.

11 We're here today for the trial of DeShawn
12 Tollerson. He's charged with domestic violence first degree
13 and unlawful conduct towards a child.

14 From my understanding, the State would wish to
15 introduce her as an expert in some sort of domestic violence
16 and intimate partner violence behavior.

17 Rule 702 provides, if scientific, technical, or
18 other specialized knowledge will assist the trier of fact to
19 understand the evidence or determine a fact at issue, a
20 witness qualified as an expert by knowledge, skill,
21 experience, training, or education may testify to in the
22 form of opinion or otherwise.

23 We're honestly slightly confused at what
24 Dr. Rheingold's testimony would do for this case. The case
25 is very simple. There's not a complex issue going to the

Argument to the Court by Ms. Luthringer

1 jury.

2 Did he hit the victim or didn't he? That's what
3 the charge of domestic violence first degree that he's
4 charged with. That's what the jury has to decide.

5 Any testimony from her regarding domestic violence
6 studies or patterns is not going to assist the jury in
7 deciding what happened in that house or outside that house
8 that day.

9 We're not questioning any victim of -- any
10 victim's -- any of the victim's behavior. We're not saying
11 she recanted her statement.

12 We're not saying she went back to him and;
13 therefore, this didn't happen. We're not questioning
14 anything that she did.

15 There is a place and time for Dr. Rheingold, or
16 similar experts, in CSC cases where victims recant, or when
17 there is a delayed witness, or when victims do go back to
18 their alleged abusers, which is more appropriate as a
19 rebuttal witness, but we are not disputing any of that.

20 She is an independent blind expert, but she
21 doesn't add anything to this case. Her testimony would be
22 highly prejudicial for her to get up on the stand as a
23 domestic violence expert.

24 I believe it would confuse the jury. They would
25 be led to believe he must be guilty of domestic violence if

Argument to the Court by Mr. Cooper

1 the State paid an expert to get up there and testify in this
2 field.

3 Her testimony also isn't relevant. It violates
4 due process, rights to a fair trial, so we would ask that
5 she be excluded.

6 If the Court is inclined to let her testify, we
7 would ask if the State could proffer her testimony first so
8 we know what the jury is going to hear.

9 THE COURT: Solicitor?

10 MR. COOPER: Thank you, Judge. Regarding the
11 testimony of Dr. Alyssa Rheingold; one, the State would be
12 seeking to qualify her as an expert in the field of intimate
13 partner violence, victim behavior, and trauma.

14 I don't know if, Your Honor, is familiar with
15 Dr. Rheingold, but she has testified a variety of times, I
16 know in this circuit, and I believe across the State, in
17 that field.

18 What the State would be offering her for is for
19 two things; one, the State -- the -- the jury is going to
20 hear jail calls that involve communications between the
21 defendant and the victim, assuming, Your Honor, allows it
22 in; and then also anticipating cross-examination of the
23 victim regarding to -- regarding the defendant as in -- of
24 violence cases.

25 The defendant and the victim had some

Argument to the Court by Mr. Cooper

1 communication after this incident, had some potential for
2 reconciliation, it didn't work out that way, but there are
3 conversations about that, and -- and I anticipate a
4 potential cross on that.

5 In addition to that situation, there is also part
6 of the trauma and the details that she remembers and doesn't
7 remember is part of what happened, that's also part of what
8 Dr. Rheingold explains is the dynamic of trauma and how one
9 perceives it, and remembering it, and things of that nature,
10 and that's generally what she has testified to the variety
11 of times she's been called as an expert.

12 Rule 702, talking about experts, allows for
13 scientific, technical, or other specialized knowledge that
14 will assist the trier of fact to understand the evidence.

15 Certainly, Judge, there is not an element of DV
16 that goes specifically to this, but it is important so that
17 the jury can understand the dynamic because that is part of
18 domestic violence.

19 I don't know if we cited it in the brief. If not,
20 I have a copy of the case to hand it to, Your Honor. It is
21 *State v. Brown*. It's a Court of Appeals case.

22 It's 411-SC-332 from 2015, and it talks about an
23 expert -- and in that case talked about the behavior and
24 trauma of child sex abuse victims.

25 And I know we had a conversation earlier of

Argument to the Court by Mr. Cooper

1 bifurcation differentiating, and this is not a comment on
2 the seriousness of this nature, but it's a comment on in
3 what *State v. Brown* looked at, was the unfamiliarity of
4 normal citizens to sex abuse.

5 And I think, Judge, the same thing would apply to
6 domestic violence as evidenced by the fact that we weeded
7 that out during voir dire, the dynamics of domestic
8 violence, the dynamics of the cycle of potential reconciling
9 with a person that has been accused of assaulting you, as
10 well as the details of her memory and how trauma works.

11 The jury is not -- that is not something that's in
12 the jury's normal purview. It's not the purview of an
13 ordinary -- a normal -- a normal citizen, and that's what
14 *State v. Brown* looked at, is it doesn't have to be this
15 technical knowledge.

16 It can be specialized, but it can help the jury
17 understand the dynamic, and in the domestic violence case,
18 the dynamic is -- is profoundly important.

19 And Judge, I -- the State would be fine if you
20 wanted to proffer her testimony, but I think it's important,
21 Judge, because again, the jury doesn't have that kind of
22 reckless understanding, and that's by design.

23 We weeded that out in voir dire and so, Judge, her
24 testimony is incredibly important and incredibly relevant.
25 One of the other things that *Brown* mentions that I want to

Argument to the Court by Mr. Cooper

1 make sure I'm clear about, is she's a blind expert.

2 She is in no way testifying about this victim,
3 what she said, what she did.

4 She testifies in general based on her expert
5 knowledge, her -- her studies, her research, and generally
6 explains the cycle of domestic violence, the trauma, how
7 people respond to that trauma, memory, things like that,
8 things that she's an expert about.

9 And that's one of the things that *State v. Brown*
10 looked at because it isn't a comment on the credibility of
11 the victim.

12 It's a comment on how these things generally
13 happen, which may or may not be perfectly aligned with what
14 the victim testifies, but the Court made that distinction,
15 and I think that's important for, Your Honor, to note.

16 And Dr. Rheingold goes out of her way to make sure
17 she's a blind expert by not knowing these people. She knows
18 their names only to check to make sure she has never dealt
19 with them, or treated them on a professional or know them on
20 a personal level.

21 So we think pursuant to *State versus Brown* and
22 Rule 702 she by -- by and far has the requisite knowledge to
23 make her an expert, and we think what she is an expert in,
24 would help the jury better understand this dynamic both in
25 the conversations on jail calls, on anticipated

Argument to the Court by Mr. Cooper

1 cross-examination, and just to understand this dynamic as a
2 whole when it comes to domestic violence because by design
3 that is out of the purview of this jury.

4 THE COURT: All right. Thank you, Counselor. I
5 would like to have her testimony proffered before making a
6 determination whether it's admissible at all or not.

7 MR. COOPER: And I think, Your Honor, she's
8 something else is happening.

9 She -- we plan to have her called first thing in
10 the morning, so we can do that and plan that accordingly
11 with the court.

12 THE COURT: That works.

13 MS. LUTHRINGER: Judge, if I may?

14 THE COURT: Yes, ma'am.

15 MS. LUTHRINGER: If we would be able to submit the
16 *Brown* case? If I may just comment because I think the most
17 important part of that case was, kind of, skipped over where
18 the State says that expert testimony may be crucial when the
19 victims are children because of their inexperience and
20 impressionability, so I think, you know, the door, kind of,
21 can't swing both ways.

22 It's a DV it's a CSC. They weren't alike before,
23 but now they are, so I would just ask the Court to also look
24 at that case.

25 THE COURT: Yes, ma'am.

Court's ruling

1 MS. LUTHRINGER: Thank you.

2 MR. COOPER: And I have two copies of that case,
3 if, Your Honor, would like?

4 THE COURT: Yes, please. Thank you.

5 MR. COOPER: Absolutely.

6 THE COURT: Any other matters we need to take care
7 of before we start back up?

8 MR. GOODWYN: I don't believe so, Judge.

9 MS. FRIES: None from the State.

10 THE COURT: All right. We'll see you-all in 15.

11 (A recess was taken from 11:47 a.m. to 1:32 p.m.)

12 COURT'S RULING

13 THE COURT: Everyone, please have a seat. All
14 right. Counsel, I did have an opportunity to review the CD
15 with the phone calls from the jail, and obviously, subject
16 to authentication from the records custodian, I do believe
17 that they are relevant, and that the probative value would
18 outweigh the prejudicial effect.

19 Due to the content, there are statements against
20 interest in there by the defendant, so subject -- obviously,
21 to the testimony of the custodian with the authentication,
22 they would be admissible.

23 Anything before I bring the jury out?

24 MS. FRIES: Judge, just that the defense has
25 agreed to go ahead and admit State's 1 through 30 and also

1 State's 32 through 34.

2 THE COURT: Is that correct?

3 MR. GOODWYN: That's correct, Your Honor.

4 THE COURT: All right. Thank you-all.

5 (State's Exhibit Nos. 1 - 30, 32 - 34 were marked
6 and admitted.)

7 MR. GOODWYN: Judge, I do have one issue that I'd
8 like to bring up before the jury comes out --

9 THE COURT: Yes, sir.

10 MR. GOODWYN: -- whenever you're ready. As far as
11 the prior domestic violence conviction coming in, I don't
12 want to stand up in the middle of the opening and -- and
13 object to that coming in, but I do want to make sure that my
14 objections are renewed, and if I -- if you would like me to
15 do that now, and if it does come up, then I would like to
16 renew all my objections, if that's okay?

17 THE COURT: Yes, sir, you may go ahead and do so
18 now that way you don't interrupt the opening.

19 MR. GOODWYN: I just renew all my -- my prior
20 objections to the motion to bifurcate being denied.

21 THE COURT: Yes, sir, and for the same reasons as
22 previously articulated, your motion is denied.

23 MR. COOPER: And on that same -- on that same
24 note, Judge, I do plan to mention that, just the fact there
25 was a conviction in my opening, so I appreciate that.

1 The second witness -- well, the third witness,
2 former Deputy Randall, was the one who charged -- made the
3 charging decisions.

4 And she did charge him with domestic violence in
5 the first degree, and so subject -- subject to the Court's
6 rulings, I would like to be able to ask her and have her say
7 that he just did have a conviction for domestic violence.

8 I'm not even getting into the date, but just that
9 he -- she had that, or he had that as she explains why she
10 charged for DV first, and I informed Mr. Goodwyn about that.

11 I know he has an objection as he mentioned, but I
12 just wanted to bring that up at the Court before we brought
13 in the witnesses in.

14 THE COURT: Sure, and of course, your witness just
15 must be cautioned to keep it within the Court's ruling.

16 MR. COOPER: Yes, ma'am. She has been.

17 THE COURT: Anything further?

18 MR. GOODWYN: I would object to that. I think
19 that they need to bring it in through the proper --
20 initial -- before they can mention -- before they can
21 mention that.

22 THE COURT: Well, obviously, what -- what the
23 parties say is not evidence in the case, and certainly if
24 the State says something that's not evidence in the case,
25 it's only their -- their articulation as to what the

1 potential issues are, and I'm sure the jury will hold it
2 against them if the evidence doesn't come in to support it.
3 Anything else?

4 MS. FRIES: No, Your Honor, just may I approach
5 to...

6 THE COURT: Yes, ma'am.

7 MR. GOODWYN: Nothing further than the defense,
8 Judge.

9 THE COURT: Thank you. All right. Let's have our
10 jury please. And Solicitor, that was 1 through 30, and then
11 what other number?

12 MS. FRIES: One through 30, and then State's 32
13 through 34.

14 (Pause in proceedings.)

15 (Jury entered at 1:32 p.m.)

16 THE CLERK: All jurors are present, Your Honor.

17 THE COURT: Thank you, ma'am. Everyone, please
18 have a seat. Madam Clerk, if you would, please swear in the
19 jury.

20 THE CLERK: Yes, Your Honor. I could please, have
21 the defendant stand. Ladies and gentlemen of the jury, if
22 you would please stand and raise your right hand to be
23 sworn.

24 (Jury impaneled at 1:38 p.m.)

25 THE JURY: I do.

Opening Jury Remarks

1 THE CLERK: If you have accepted this oath, please
2 be seated. If you have not accepted this oath, please
3 remain standing. Let the record reflect all jurors have
4 been seated.

OPENING JURY REMARKS

6 THE COURT: Thank you, Madam Clerk. Welcome back,
7 ladies and gentlemen of the jury. Thank you for accepting
8 the important responsibility of jury service and for your
9 contribution today to our system of justice.

10 What I will now say to you is meant to serve as an
11 introduction to the trial of this case. These remarks are
12 not a charge on the law in this case.

13 I will instruct you on the law applicable to this
14 case at the end of the trial before you retire to consider
15 your verdict.

16 This is merely an explanation of the procedure
17 that we will follow so you may better understand what is
18 happening during the trial of this case. You may not take
19 notes during this trial of this case.

20 The defendant in this case is charged with two
21 counts -- with two indictments of which I read to you
22 earlier.

23 One count of domestic violence in the first
24 degree, and then an indictment for children -- unlawfully
25 placing a child at risk, or cause harm, or willfully

Opening Jury Remarks

1 abandoning a child. I will explain the elements of each of
2 those charges later to you.

3 The indictment, again, is simply the charge by
4 which the case is brought into this court, and they are not
5 in any sense evidence of any of the allegations that they
6 contain.

7 The defendant has pled not guilty to these
8 indictments. The State; therefore, has the burden of
9 proving each of the elements of each indictment beyond a
10 reasonable doubt.

11 It will be your duty, ladies and gentlemen, to
12 decide whether the State has met that burden. Your purpose
13 as jurors is to find and determine the facts of the case.

14 You are the sole judges of the facts. If at any
15 time I make any comment regarding the facts, you must
16 disregard that.

17 You are to determine the facts of the case from
18 the testimony that you hear and any other evidence that is
19 introduced into this Court. It is up to you to determine
20 the inferences which you may feel may be properly drawn from
21 the evidence.

22 It is especially important that you perform your
23 duty of determining the facts diligently and conscientiously
24 because ordinarily, there is no way to correct an erroneous
25 determination of the facts by a jury.

Opening Jury Remarks

1 On the other hand, and with equal emphasis, the
2 same law that makes you the judges of the facts makes me the
3 judge of the law.

4 The law as given by the Court is the only law that
5 you may consider. You must accept it and follow it even
6 though you may disagree with it.

7 I cannot tell you what the facts are, and you
8 cannot disagree with me about what the law is or what the
9 law should be.

10 Your job is to take the law as I give it to you
11 and apply it to the facts as you find them from the
12 testimony of the witnesses and any other evidence that is
13 properly introduced during the trial of this case.

14 Then you will render your verdict under the solemn
15 oath that you just took as jurors. Until I advise you to
16 begin your deliberations, you must not discuss this case
17 with anyone.

18 This includes your -- your fellow jurors, your
19 friends, your family members, and anyone involved in this
20 case.

21 This would include any discussions with your
22 face-to-face, anything by telephone, email, text, blogs, or
23 any other method of communication.

24 You may not use a computer, a cell phone, or any
25 other electronic device with communication capabilities at

Opening Jury Remarks

1 any time while you're in the courtroom or during your
2 deliberations.

3 During your breaks for meals or overnight, if
4 necessary, of course, you may use these devices; however,
5 you may not at any time use these devices to get or send
6 information about this case.

7 This would include any information about a party,
8 a witness, any of the attorneys, any of the Court officers
9 involved, any potential news accounts about this case, or
10 any research on any topics that may be raised, or any topics
11 that you think might be helpful in deciding the case, or any
12 testimony of any of the potential witnesses.

13 During this trial, please do not read, listen to,
14 or watch any potential news reports about this case. This
15 would include anything that would be in the newspaper, TV,
16 Internet, or radio.

17 You must not consider anything that you may have
18 read or heard about this case outside of this courtroom
19 whether before or during the trial of this case.

20 After the case is submitted to you, you must only
21 discuss it in your jury room with your fellow jurors.

22 The attorneys and the parties in this case have
23 been advised not to talk to you, so if you see them out and
24 about after you're released today and they don't speak to
25 you, they're not being rude. They're just following the

Opening Jury Remarks

1 Court's instructions.

2 It is important that you keep an open mind and not
3 decide any issue in this case until all of the evidence has
4 been presented, the parties have made their closing
5 arguments, and I have instructed you on the law in this
6 case.

7 It is your solemn responsibility to determine the
8 guilt or the innocence of the defendant, and your verdict
9 must be based solely on the evidence as it is presented to
10 you in this trial and the law as I instruct you at the close
11 of the trial.

12 In just a moment, the Solicitor will make what is
13 called an opening statement in which the Solicitor will
14 explain to you what the issues in this case are or at least
15 what the Solicitor thinks the issues in this case are.

16 The attorneys for the defense may also make an
17 opening statement; however, they are not required to do so.
18 What the attorneys tell you during their opening statements
19 is not evidence in this case. It is only their contention
20 as to what the issues are.

21 The evidence in this case will be presented to you
22 by the testimony of the sworn witnesses and any of the
23 articles of evidence that are actually introduced as
24 exhibits during this trial.

25 From time to time during the trial, you may hear

Opening Jury Remarks

1 one of the attorneys say that we have a matter of law, or
2 may we approach the bench, or sometimes myself I might find
3 it necessary to excuse you from the courtroom for a short
4 while so that the attorneys and I can discuss a matter of
5 law.

6 The reason for this is because you are the judges
7 of the facts in this case, and sometimes when I'm discussing
8 matters of law with the attorneys, it may be necessary for
9 me to make some comment as to the facts in connection with
10 ruling as to whether or not a particular law applies.

11 I'm not supposed to tell you what I think the
12 facts are in this case, so I will excuse you from the
13 courtroom for a short while, while these discussions take
14 place so that you in no way will be influenced by anything I
15 might say or do in ruling with -- in connection with the
16 facts of this case.

17 In determining what the true facts are in this
18 case, you must decide whether or not the -- the testimony of
19 the witnesses is believable.

20 It will be my responsibility to rule as a matter
21 of law whether certain testimony is admissible or -- or not,
22 but once that testimony is admissible, whether or not you
23 believe it, is solely for you to determine.

24 In deciding whether to believe a witness, you have
25 the right to consider the -- the interest of any witness,

Opening Statements by Mr. Cooper

1 the bias of any witness, the prejudice of any witness, the
2 opportunity for the witness to have seen the matters and the
3 things about which the witness may testify, and the way that
4 the witness acts on the witness stand.

5 You have a right to consider anything that is in
6 the record that will help you evaluate the testimony of the
7 witnesses.

8 That means it is your duty to pay close attention
9 to the witnesses, to observe the witnesses, and please, pay
10 close attention to the attorneys and to the Court.

11 Please, don't let your thoughts wander, but give
12 strict attention to the testimony in this case so that the
13 end of the trial, after the testimony and the arguments of
14 counsel, and after you have been instructed on the law in
15 this case, you will be in a position to determine what the
16 facts are, and apply the law to those facts, and render your
17 verdict.

18 Are there any exceptions or objections to the
19 opening remarks from either the State or from the defense?

20 MS. FRIES: No, Your Honor.

21 MR. GOODWYN: None from the defense.

22 THE COURT: Counsel, you may proceed.

23 OPENING STATEMENTS

24 MR. COOPER: Thank you, Judge. May it please The
25 court?

Opening Statements by Mr. Cooper

1 THE COURT: Yes, sir.

2 MR. COOPER: Ms. Fries, Mr. Goodwyn,
3 Ms. Luthringer, ladies and gentlemen, good afternoon.

4 I want to, first, start off by thanking you all
5 for being here because I know this is absolutely the last
6 place that you wanted to be today, but your role in our
7 criminal justice system is invaluable.

8 Where ordinary citizens can come in from the
9 community, hear testimony from the witness stand, evaluate
10 evidence, and decide what conduct society will allow, what
11 society will tolerate, and what it won't, so your role is
12 invaluable.

13 I -- we appreciate your time. I know I speak for
14 the State and the defense when I say that, so thank you for
15 being here, and with that, I want to talk to you about this
16 case and what the defendant is charged with.

17 Judge Murphy read the indictments earlier. She
18 told you today, the defendant stands charged with domestic
19 violence in the first degree and what we call unlawful
20 conduct towards a child.

21 By way of background, this incident occurred on
22 Monday night November 1, 2021, about 10:45, 10:50 in the
23 evening.

24 The defendant, the victim, Emily Hopkins, and
25 their one-year-old child Minor, who was one at the time,

Opening Statements by Mr. Cooper

1 were together during the day.

2 At some point, they get back to Emily's residence
3 which is on Poinsettia Road in West Ashley. That is in a
4 neighborhood near the intersection of Sam Rittenberg and
5 Highway 61 in West Ashley.

6 They get back to Emily's house, and at that point
7 is when things start to go sideways. You are going to hear
8 from Emily during this trial. Pay attention to as she
9 describes for you how things unfold.

10 You'll hear about his rage and her fear. You'll
11 hear from Emily Hopkins.

12 Pay attention to what she says about what the
13 defendant said, what the defendant did that night, the
14 choices that he made, the damage her vehicle, to kick in her
15 door to her apartment, and once inside, smash her cell phone
16 and prevent her from calling the police.

17 You'll hear how she tried to get away to protect
18 herself and her one-year-old daughter. You'll also -- as I
19 mentioned, you'll hear what she couldn't do. Because he
20 smashed her phone, she could not call for help.

21 Fortunately, there was a neighbor down the street
22 that heard this altercation, that heard Emily's cry for help
23 and called the police.

24 You'll hear from her, another Emily, Emily Maute,
25 and pay attention as she describes for you from the witness

Opening Statements by Mr. Cooper

1 stand what she heard that night while she was watching TV.

2 The -- the commotion that she heard that led her
3 to go outside, and even though she couldn't see what was
4 going on it was that far away, she'll tell you what she
5 heard, and what caused her concern, and why she called 911.

6 You'll then hear from the two former Charleston
7 County Sheriff's deputies that responded to the scene;
8 McKenzie Randall and Tanner Elliott.

9 Pay attention to they describe -- how they
10 describe for you the scene as it was when they arrived.
11 You'll get to see pictures from the scene.

12 You'll get to see portions of Deputy Elliott's
13 body cam so that you can see firsthand what they saw as they
14 arrived. And you'll get to see the damage to her vehicle,
15 the destruction at her front door, and the shattered remains
16 of her cell phone.

17 You will also hear during the trial -- and this
18 will become important in a minute when I talk about the law,
19 the defendant had a prior conviction for domestic violence
20 that occurred just about two months before this incident
21 occurred.

22 Now, every witness that we'll call today and
23 tomorrow -- and hopefully, we'll be able to wrap this up
24 tomorrow, but every witness that we call plays a part, plays
25 a role is a piece of the puzzle that will come together at

Opening Statements by Mr. Cooper

1 the end.

2 At the end of the trial, Ms. Fries will come up
3 here, and she will go through the law with you in detail,
4 and then after that, and after the defendant has their
5 chance to make their closing arguments, the judge will
6 charge him in the law as well.

7 And as I mentioned, he's charged with domestic
8 violence in the first degree, and unlawful conduct towards a
9 child. The unfortunate part is, as we all know, lawyers
10 like to make things complicated, myself included.

11 The law is not simply written. Domestic violence
12 in the State of South Carolina is a tiered system. You
13 start off with domestic violence in the third degree, and if
14 certain factors or facts or elements are present, you can
15 move up to domestic violence second degree.

16 And again, if certain facts, or factors, or
17 elements are present, you can move up to domestic violence
18 first degree.

19 Now, they will walk through you with the law in
20 detail at the end of the trial. I won't go through it all
21 at this point, but I want to point a couple things out for
22 you so you can pay attention, and I think it will be helpful
23 as you view the testimony in this trial.

24 The first part domestic violence in the third
25 degree requires either the defendant causes harm, or

Opening Statements by Mr. Cooper

1 attempts, or offers to cause harm is what we call a
2 household member.

3 That can be a spouse, that can be a male and a
4 female that cohabitate, or as in this case a male and a
5 female that share a child in common. Okay? And the
6 interesting part that I think is important is it talks about
7 causing harm or attempting to cause harm.

8 Now, in this case Emily was not severely injured,
9 thank goodness, but the law understands that it's not just
10 the impact that's important, it's the act itself.

11 In other words, just because her injuries weren't
12 severe doesn't make him any less guilty, and so keep -- keep
13 that in mind as you're thinking about domestic violence in
14 the third degree.

15 One of the ways that we get from third degree to
16 second degree is that prior conviction.

17 The law allows for the charge to be enhanced from
18 third degree to second degree because of a prior domestic
19 violence conviction in the last 10 years, so we're at second
20 degree already.

21 To get to domestic violence in the first degree,
22 there has to be at least one of a variety of listed factors
23 present. In this case, we have two.

24 The minor child, Minor, the one-year-old, was
25 present during this incident. Present in Emily's arms as

Opening Statements by Mr. Cooper

1 she shielded her from the blows from the defendant, and the
2 second is the smashing of the cell phone and doing that to
3 prevent someone from being able to call for help.

4 Both of those factors enhance its DV first, so as
5 this trial goes on, for things to remember, for you to keep
6 track of, causing harm or trying to cause harm, the prior
7 conviction, the minor child being present, and then fourth,
8 the smashing of the cell phone to prevent her from calling
9 911.

10 Those are the ways the State will prove and get to
11 domestic violence in the first degree. The second child,
12 unlawful conduct towards a child -- or the second charge,
13 unlawful conduct towards a child.

14 A little more simple but still somewhat
15 convoluted. And essentially, it means placing a child in an
16 unreasonable risk of harm, either physically or mentally,
17 and it applies only to someone who has custody over a child
18 or a parent.

19 And the reason for that is the law demands more of
20 someone who has custody, or a parent. Society demands more
21 as we should.

22 And since that was his child that was in the arms
23 of the victim during this altercation, that's where that
24 charge comes from. And so as this case goes along, I want
25 you to keep that in mind.

Opening Statements by Mr. Goodwyn

1 Keep in mind those elements. Keep in mind the
2 choices made by the defendant throughout this incident. The
3 choices he made that led us here today.

4 At the end of the trial, Ms. Fries is going to get
5 up, and she's going to come here.

6 She's going to explain the law to you in detail,
7 and she's going to tell you how through the witnesses,
8 through the testimony from the witness stand, through the
9 exhibits presented, we've proved the defendant's guilt
10 beyond a reasonable doubt.

11 And what she's going to do at the end is, she's
12 going to simply ask that you hold the defendant accountable
13 for his actions that night, and it only takes one word to
14 hold him accountable, guilty. Thank you.

15 THE COURT: Counsel?

16 MR. GOODWYN: Thank you, Judge. May it please the
17 Court?

18 THE COURT: Yes, sir.

19 MR. GOODWYN: Bear with me while I slide this
20 over. I'd rather have it on this side.

21 You know, alcohol, by itself, isn't a bad thing.
22 I hope I'm not stepping on any toes by making that
23 statement. By itself it's not a bad thing.

24 The way it affects a person can be a bad thing.
25 Alcohol is a way of seeping in relationships. It can wreak

Opening Statements by Mr. Goodwyn

1 havoc especially in a family. If you know this, you know
2 that behavior can be erratic, and sometimes scary.

3 Drunk people may say awful things. Drunk people
4 may break things, and some drunk people may become violent,
5 and that's what this case is about. It's about the alcohol.

6 It's about the snowball effect. That slow build
7 as it starts real small, and as it continues to roll
8 downhill, it gets bigger and bigger, and faster and faster.

9 And if it's rolling down a hill getting bigger and
10 bigger, and faster and faster, what our brain tells our
11 minds is to look at the bottom of the hill. Of course it's
12 going to go on to the bottom.

13 That's what your job is here today and probably
14 tomorrow is to watch the snowball. Where does it stop?

15 Our problem -- I say ours, I say -- because it's
16 my problem, the prosecution's problem, Ms. Luthringer, Mr.
17 Tollerson's problem, and everyone in this room because our
18 brains through our life experience can cause us to make
19 assumptions, and a lot of times those are right.

20 But what we miss because we didn't look, that
21 little edge, that little change in the earth that actually
22 stoped the snowball. It didn't make it all the way to the
23 bottom.

24 We miss the truth. As you met earlier, this is my
25 colleague, and fellow attorney Lyndsay Luthringer, who

Opening Statements by Mr. Goodwyn

1 represents DeShawn Tollerson. DeShawn and Emily Hopkins,
2 who you were introduced to earlier, who is the complainant
3 in this case, are the parents of Minor .

4 And this -- and she was about one years old, and
5 that was back in 2021. She's about five years old now.

6 On the night of November 1, 2021, DeShawn had
7 brought -- had brought an overnight bag to stay at Emily's
8 house on Poinsettia Drive. Minor was there, and DeShawn had
9 been drinking.

10 He wasn't a good parent that night, and he wasn't
11 a good co-parent either. He said hurtful things, and he
12 broke things. He broke Emily's side view mirror on her car,
13 and he broke the front door.

14 Emily and Minor had every reason to be scared and
15 upset with DeShawn that night, but he never hit her. That's
16 what this case is about. He never hit her.

17 Something you might find yourself saying in some
18 sort of fashion throughout this trial is, God bless that
19 family, but you can't say that without also saying God bless
20 the truth, and that's your burden and your privilege this
21 week, ladies and gentlemen.

22 You are the finders of the fact. Fact, domestic
23 violence is terrible. Fact, domestic violence when it
24 involves a child, is even worse.

25 Fact, all of you brought the common sense when you

Opening Statements by Mr. Goodwyn

1 sat down in these chairs this week, and that common sense is
2 what DeShawn is counting on you for today, and tomorrow, and
3 as you go into your deliberations.

4 He is innocent right now. He's cloaked with
5 garment of innocence. I'm sure you've heard that term
6 before, but it's real.

7 We live in the United State's of America. That's
8 the great thing about this country is you are innocent until
9 the State proves you guilty beyond any reasonable doubt that
10 DeShawn put Emily and Minor in harm's way.

11 What's reasonable doubt? It's that feeling, that
12 nagging feeling in your brain after you've heard someone
13 tell you a story that causes you to pause and think, "Do I
14 trust what they're telling me?"

15 You're -- as the State said, I fully -- I fully am
16 on board with this. Listen intently to what you hear from
17 this witness stand. Listen and look closely at what the
18 physical evidence can provide to you.

19 Look at the pictures. We -- we agree that they
20 all should come in. I'm -- I'm not arguing about that, that
21 these are things that you need to see because it's your
22 choice, and your job to determine if what they are selling
23 you is true.

24 And if at the end of this trial, you have that
25 nagging feeling that says, "I -- I don't know if everything

Emily Maute - Direct by Catherine Fries

1 they're telling me is true," then you have to find DeShawn
2 Tollerson not guilty. Thank you.

3 THE COURT: You may call your first witness.

4 MS. FRIES: The State calls Emily Maute.

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

7 (The witness was sworn.)

8 THE CLERK: Please, be seated. Please, state your
9 full name, spelling your last name loudly and clearly into
10 the microphone.

11 THE WITNESS: My name is Emily Maute; last name
12 M-a-u-t-e.

13 THE CLERK: Your witness.

14 EMILY MAUTE

15 having been called as a witness for the State at 2:01 p.m.
16 was sworn and testified as follows:

17 DIRECT EXAMINATION by Catherine Fries:

18 Q. Good afternoon, Emily. Where do you work?

19 A. I work at MUSC Shawn Jenkins Children's Hospital.

20 Q. And how old are you?

21 A. I'm 38.

22 Q. And where did you live back in November of 2021?

23 A. [REDACTED] Wappoo Drive.

24 Q. Is that in --

25 A. That is West Ashley, yes.

Emily Maute - Direct by Catherine Fries

1 Q. Okay. And were you at your house on the night of
2 November 1, 2021?

3 A. Yes, I was.

4 Q. Okay. Did you hear anything out of the ordinary
5 that night?

6 A. I did. I was watching TV, and I could hear, over
7 the sound of my TV, someone. A woman screaming, "Help us.
8 Somebody help us," and so I grabbed my phone, walked out to
9 my driveway, and started calling 911.

10 Q. Okay. And if I showed you a general map of the
11 area, would you be able to point out where you heard that
12 screaming come from?

13 A. Yes.

14 Q. Okay. Now I'm going to show you State's Exhibit
15 1. Can you -- and you can draw on that screen in front of
16 you. Can you show where your location is --

17 A. Yes.

18 Q. -- or your house is?

19 A. This is -- it's going to look like a mess.

20 (State's Exhibit No. 1 was identified.)

21 BY MS. FRIES:

22 Q. Okay. And where did you hear the screaming coming
23 from?

24 A. From about right here.

25 Q. Okay. And around what time did you hear someone

Emily Maute - Direct by Catherine Fries

1 screaming?

2 A. I would say it was probably between, like, 11 or
3 12 at night. It was -- it had been dark for quite some
4 time.

5 Q. Did you know anyone that lived in that area?

6 A. I did not. Uhn-uh.

7 Q. And you testified when you heard the person
8 screaming, you called 911 --

9 A. Yes.

10 Q. -- correct? Okay. I'm now going to play for you
11 State's 33.

12 (State's Exhibit No. 33 was identified.)

13 BY MS. FRIES:

14 Q. Is it fair to say that maybe you got disconnected
15 during the call?

16 A. Yes. Yes.

17 (Audio played.)

18 BY MS. FRIES:

19 Q. When you made this 911 call -- or 911 call, could
20 you see anyone?

21 A. No, I couldn't see anyone.

22 Q. And how do you know that it involved a male and a
23 female?

24 A. Just from the voices that I heard. I did walk
25 down the street a little bit to more -- directly across from

Emily Haute - Cross by Ms. Luthringer

1 that strip of apartments to be a little bit closer. I still
2 couldn't see anything that was just very dark over there,
3 but it just sounded like a man and a woman screaming.

4 Q. Do you remember anything else that stood out from
5 that night?

6 A. I do. So after I had already called 911, probably
7 within about 30 seconds to a minute before the police got
8 there, there was a car that I could hear, again, not see,
9 but that peeled out, like, tire screeching peeled out maybe
10 a minute before the police got there from that general area
11 where I was hearing the screaming.

12 MS. FRIES: I beg the Court's indulgence.

13 BY MS. FRIES:

14 Q. I have nothing further, Emily. Please answer any
15 questions the defense may have.

16 THE COURT: Cross-examination?

17 MS. LUTHRINGER: Thank you, Judge.

18 CROSS-EXAMINATION by Ms. Luthringer:

19 Q. Good afternoon. You didn't know the person
20 screaming?

21 A. No.

22 Q. And you don't know Emily Hopkins?

23 A. No.

24 Q. You don't recognize her voice?

25 A. No.

Emily Haute - Cross by Ms. Luthringer

1 Q. You heard a man and a woman?

2 A. Yes.

3 Q. You heard no baby crying?

4 A. I did not hear a baby crying.

5 Q. And you were, kind of, on the other side of the
6 trees in that patch?

7 A. The -- my street and that apartment complex
8 almost, kind of, tee like this, so I was looking, you know,
9 down into the parking lot, I guess, but just because it was
10 dark I couldn't see.

11 Q. Okay. Didn't see anything at all?

12 A. No.

13 Q. Okay. Thank you.

14 MS. LUTHRINGER: No further questions.

15 THE COURT: Any redirect?

16 MS. FRIES: No, Your Honor.

17 THE COURT: You may step down, ma'am. Thank you.
18 May she be excuse from her subpoena or anything?

19 MS. FRIES: No objection from the State.

20 THE COURT: Any objection?

21 MR. GOODWYN: No, Judge.

22 THE COURT: All right. You're free to go, ma'am.
23 You may call your next witness.

24 MS. FRIES: The State calls Tanner Elliott.

25 THE CLERK: Would you please raise, place your

Tanner Elliott - Direct by Ms. Fries

1 left on the Bible.

2 (The witness was sworn.)

3 THE CLERK: Please, be seated. Please, state your
4 full name, spelling your last name loudly and clearly into
5 the microphone.

6 THE WITNESS: Tanner Elliott, E-l-l-i-o-t-t.

7 THE COURT: Your Witness.

8 MS. FRIES: Thank you, Your Honor.

9 TANNER ELLIOTT

10 having been called as a witness for the State at 2:08 p.m.

11 was sworn and testified as follows:

12 DIRECT EXAMINATION by Ms. Fries:

13 Q. Where are you currently employed?

14 A. I'm self-employed.

15 Q. And what do you do?

16 A. Home repair.

17 Q. And how long have you been doing home repair?

18 A. Just over two years.

19 Q. Okay. What were you doing prior to that?

20 A. I worked for the sheriff's office.

21 Q. Okay. And how long did you work for the sheriff's
22 office?

23 A. Five years.

24 Q. What were your duties there?

25 A. Patrol.

Tanner Elliott - Direct by Ms. Fries

1 Q. And did you respond to a call at [REDACTED] Poinsettia
2 Road, Apartment [REDACTED]?

3 A. I did.

4 Q. Is that in Charleston County?

5 A. Yes, ma'am.

6 Q. Do you remember around what time you responded?

7 A. 10:55 p.m.

8 Q. And what was that call in reference to?

9 A. A domestic disturbance.

10 Q. What did you observe when you arrived at the scene
11 that night?

12 A. There was wood from the door, like, on the ground,
13 and then the female was holding a baby coming down the
14 stairs.

15 Q. And what was -- the female that you're
16 referencing, what was her demeanor when you walked in and
17 saw her?

18 A. She seemed like she was, like, out of breath, and
19 then also, like, somewhat relieved that I was there.

20 Q. Did she tell you what had just occurred that
21 night? And I know this was a --

22 MR. GOODWYN: Objection, Your Honor.

23 A. Yeah, this is --

24 MR. GOODWYN: It calls for hearsay.

25 THE COURT: Could you repeat the question?

Tanner Elliott - Direct by Ms. Fries

1 MS. FRIES: Your Honor, I just asked, did she tell
2 you what -- what had occurred that night?

3 THE COURT: Did you lay the foundation as to how
4 she was acting or?

5 MS. FRIES: I did.

6 BY MS. FRIES:

7 Q. What was her demeanor? Was -- what was her
8 demeanor --

9 A. She was -

10 Q. -- when you saw here?

11 A. -- she was, like, out of breath, and then relieved
12 that I got there, like, coming down the stairs.

13 Q. Okay. Were you wearing a body camera that night?

14 A. I was.

15 Q. And was it on recording when you arrived?

16 A. Yes, ma'am.

17 Q. Okay. And have you watched that body camera
18 footage prior to today?

19 A. Yes, ma'am.

20 Q. Okay. At this time, the State is going to play
21 State's Exhibit 34.

22 (State's Exhibit No. 34 was identified and
23 published.)

24 BY MS. FRIES:

25 Q. Was that an accurate depiction of what you

Tanner Elliott - Direct by Ms. Fries

1 remember that night?

2 A. Yes, sir -- yes, ma'am.

3 Q. And again, how did you observe the victim's door?

4 A. Damaged. There was wood on the ground. I could
5 see where, like, the paint was off the wall right from where
6 it ripped trim.

7 Q. And what would cause damage at that time?

8 A. Forcing the door open.

9 MR. GOODWYN: Objection, Your Honor. It calls for
10 speculation.

11 THE COURT: Sustained.

12 BY MS. FRIES:

13 Q. And did it -- well, do you remember if you saw
14 nails in the door trim?

15 A. I do not.

16 Q. And what would you expect to find if a piece of
17 door trim was broken off?

18 A. Nails, either in the door trim or still in the
19 wall. They're small, like, 16- to 18-gauge nails,
20 typically.

21 Q. I'm now going to show you State's Exhibit 9. Can
22 you describe for us what we see in this photo?

23 A. The door is open. The trim is on the ground. The
24 paint is torn. There's a phone on the ground, and the lady
25 with the baby in the chair.

Tanner Elliott - Direct by Ms. Fries

1 (State's Exhibit No. 9 was identified.)

2 BY MS. FRIES:

3 Q. Okay. I'm going to show you State's Exhibit 10.

4 And what do we see here?

5 A. The door is open. The trim is still on the
6 ground. The paint is still ripped from the wall.

7 (State's Exhibit No. 10 was identified.)

8 BY MS. FRIES:

9 Q. Okay. State's Exhibit 11. Is this just a
10 closer-up version --

11 A. Uh-huh.

12 Q. -- of the door?

13 A. Yes, ma'am.

14 Q. Okay.

15 A. The same frame.

16 (State's Exhibit No. 11 was identified.)

17 BY MS. FRIES:

18 Q. Okay. And State's Exhibit 21. And what is this
19 showing with the -- how -- with it being outside?

20 A. Where they park their cars in the parking lot.

21 (State's Exhibit No. 21 was identified.)

22 BY MS. FRIES:

23 Q. Okay. State's Exhibit 12. Again, what do we see
24 here?

25 A. The damaged door, and then you can see both pieces

Tanner Elliott - Direct by Ms. Fries

1 of the trim on the ground with her phone on the ground.

2 (State's Exhibit No. 12 was identified.)

3 BY MS. FRIES:

4 Q. State's Exhibit 14. And again, what do we see
5 here?

6 A. It's, like, the entryway to her kitchen, some wood
7 still on the ground.

8 (State's Exhibit No. 14 was identified.)

9 BY MS. FRIES:

10 Q. And can you just circle on there where you see
11 the -- the wood on the ground? You can -- you can touch on
12 the screen in front of you.

13 A. (The witness complied.)

14 Q. Oh, and did the victim show you her phone that
15 night?

16 A. Yes, ma'am.

17 Q. And what did you observe about her phone?

18 A. It was broken.

19 Q. Okay. I'm now going to show you State's Exhibit
20 17. And what do we see here?

21 A. Part of the phone, and then on the --

22 Q. And can you --

23 A. -- table. Circle it?

24 (State's Exhibit No. 17 was identified.)

25 BY MS. FRIES:

Tanner Elliott - Direct by Ms. Fries

1 Q. Is that the -- do you know if that's the front of
2 her phone, or the back of her phone?

3 A. I believe it's the back.

4 Q. All right. I'm going to show you State's Exhibit
5 18. Is that just a closer-up version?

6 A. Yes, ma'am.

7 (State's Exhibit No. 18 was identified.)

8 BY MS. FRIES:

9 Q. All right.

10 A. Yes, ma'am.

11 Q. All right. And then State's Exhibit 19. What do
12 we see here?

13 MR. COOPER: That's the back of her phone.

14 (State's Exhibit No. 19 was identified.)

15 BY MS. FRIES:

16 Q. Okay. So the -- is it fair to say the two prior
17 photos were the front of her phone? Well, we can go back to
18 State's Exhibit 18. Do you -- does this --

19 A. I'm sorry. Yeah. Yeah. I -- I would -- yeah. I
20 would assume that would be the front of the phone, and that
21 one was the back of her phone.

22 Q. Okay. I'm now going to play State's Exhibit 34,
23 clip 2.

24 (Video played.)

25 BY MS. FRIES:

Tanner Elliott - Direct by Ms. Fries

1 Q. So does this give you a better observation of
2 whether it's the front or the back in this video?

3 A. Yeah, that's the back.

4 Q. Does it appear to be missing?

5 A. Oh, it's missing -- yeah, missing. It looks like
6 it doesn't even have a screen on it.

7 Q. You said it doesn't have a screen; is that what
8 you said?

9 A. Uh-huh.

10 Q. Now, I'm going to show you State's 34, clip 3.

11 (Video played.)

12 BY MS. FRIES:

13 Q. And is that just a slowed-down version of the
14 prior video?

15 A. Yes, ma'am.

16 Q. And that night, did you try to get in touch with
17 the defendant?

18 A. I did.

19 Q. Were you able to?

20 A. No, ma'am.

21 Q. And did anybody else show up to the house that
22 night?

23 A. Yes, ma'am. Do you want me to tell you?

24 Q. Yes, please.

25 A. It was his mom, and then I believe two other

Tanner Elliott - Cross by Patrick Goodwyn

1 relatives showed up that night.

2 Q. Okay. Was she able to get in contact with him?

3 A. No, ma'am.

4 Q. And did you write a report in this case?

5 A. No, ma'am.

6 Q. Why not?

7 A. Because Deputy Everett (sic) -- I'm not sure her
8 last name, but it was Everham at the time. She wrote the --
9 the report.

10 Q. Okay. And would her report reflect what you both
11 observed that night?

12 A. Yes, ma'am.

13 Q. Okay. Did you do anything else in this case?

14 A. No, ma'am.

15 Q. Okay.

16 MS. FRIES: I beg the Court's indulgence. I have
17 nothing further. Please answer any the defense may have.

18 THE COURT: Cross-examination?

19 MR. GOODWYN: Thank you, Judge. May it please the
20 Court?

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION by Patrick Goodwyn:

23 Q. I would call you Patrol Officer Elliot -- Elliot
24 right, but that's -- you're not with --

25 A. No, you can call me whatever. It doesn't matter.

Tanner Elliott - Cross by Patrick Goodwyn

1 Q. Okay. I'll -- I'll call you Mr. Elliot; is that
2 okay?

3 A. Yeah, that's fine.

4 Q. Okay. All right. So you've been out of the
5 police service for two years now?

6 A. Almost three, yes.

7 Q. Almost three? And you were with the Charleston
8 County Sheriff's Office for five years?

9 A. Yes, sir.

10 Q. Were you with any other agency before the
11 Sheriff's Office?

12 A. No, sir.

13 Q. So you had five years experience as a police
14 officer?

15 A. I think it would have been four total. I did a
16 year at the detention center before I worked patrol.

17 Q. Okay. Before you went to the detention center,
18 did you go to the police academy?

19 A. Not before I went to the -- no, I mean, I went to
20 the police academy for whenever I became a cop, not a
21 detention deputy, no.

22 Q. Okay. So you worked at the jail as a -- with the
23 Sheriff's Office, right? And then you went to the police
24 academy, right --

25 A. Uh-huh.

Tanner Elliott - Cross by Patrick Goodwyn

1 Q. -- so that you could work as a -- as a patrol
2 officer, right?

3 A. Yep. Yes, sir.

4 Q. All right. So at the police academy, you know,
5 you received a lot of training; is that correct?

6 A. Yes.

7 Q. Okay. And you're trained on all the different
8 types of cases?

9 A. All sorts of stuff.

10 Q. Yeah. Yeah, and, you know, there -- as far as a
11 police officer, there are cases like burglaries, right?

12 A. Uh-huh.

13 Q. There are shooting cases, right?

14 A. (No verbal response.)

15 Q. There are cases with illegal drugs, right?

16 A. Uh-huh.

17 Q. And you're trained on how to investigate those
18 types of cases?

19 A. Yep.

20 Q. And some cases will require -- let me back up.

21 I'm not insinuating that there's not work in every
22 single case that you do because, I mean, I understand that,
23 but what I am asking is that there are some cases that don't
24 require as much work as other cases, right?

25 A. Potentially.

Tanner Elliott - Cross by Patrick Goodwyn

1 Q. Okay. All right. Let me just give you an
2 example. Like, if you were a -- if you were a witness to
3 the crime, that wouldn't take as much legwork on your part,
4 right?

5 A. If I was there and witnessed everything?

6 Q. Uh-huh. Yes.

7 A. No, it would be a lot easier.

8 Q. But in cases where you don't witness what happened
9 it's important to figure out what happened, right?

10 A. (No verbal response.)

11 Q. And -- and --

12 A. Yes.

13 Q. -- and in your training you, do this through
14 interviewing witnesses --

15 A. Uh-huh.

16 Q. -- and looking for physical evidence?

17 A. Uh-huh.

18 Q. You know, and some cases are more serious than
19 others. You would agree with me that a murder case is
20 probably more serious than somebody possessing some
21 marijuana, right?

22 A. Yes.

23 Q. If you were investigating a murder case, you would
24 want to look for a weapon, right?

25 A. If the murder involved a weapon, yes.

Tanner Elliott - Cross by Patrick Goodwyn

1 Q. If you were to witness the victim, who was
2 deceased, and they had what appeared to be bullet holes,
3 right, you would assume that that's a gun --

4 A. Uh-huh.

5 Q. -- that caused the death, right? And you would
6 want to find that gun?

7 A. Yeah. Yeah.

8 Q. And you would probably want to take it into
9 evidence, right?

10 A. Yeah.

11 Q. Fingerprint it?

12 A. Uh-huh.

13 Q. Do some DNA analysis on it?

14 A. Yes.

15 Q. And as a law enforcement officer, you have that
16 ability to do that, right?

17 A. Yes.

18 Q. Another important thing that you would do in a
19 case that you did not witness, you would document what you
20 saw, right?

21 A. You can, yes.

22 Q. Yeah. And there's different ways of documenting
23 things, right? We already established that you had a body
24 camera in this case, right? You can document what you saw
25 with your body camera?

Tanner Elliott - Cross by Patrick Goodwyn

1 A. Uh-huh.

2 Q. And you can document what you heard by
3 interviewing witnesses?

4 A. Uh-huh.

5 Q. You can have that audio recorded, right?

6 A. Yeah.

7 Q. And you can have them write down a statement about
8 what happened?

9 A. Uh-huh.

10 Q. And you testified earlier that in this case, you
11 did not write an incident report?

12 A. No.

13 Q. Because you relied on -- at the time her name was
14 Officer Everham, right? You relied on her report?

15 A. Yes.

16 Q. Is that what you testified to a while ago, you
17 didn't write the incident report because she did?

18 A. Yes.

19 Q. In this case, you and Officer Everham learned that
20 DeShawn Tollerson, as part of your investigation, assaulted
21 Ms. Hopkins with a broken piece of the front door; is that
22 right?

23 A. Yes.

24 Q. And as we saw on the body camera, you observed
25 those multiple pieces of the broken door trim, right?

Tanner Elliott - Cross by Patrick Goodwyn

1 A. Uh-huh.

2 Q. Do you agree with me that there's different types
3 of wood?

4 A. All sorts.

5 Q. Yeah. Plywood. Oak wood.

6 A. Yes.

7 (The court reporter requested answers out loud.)

8 BY MR. GOODWYN:

9 A. Oh, yes. I'm sorry. I thought you were.

10 Q. That's okay. I -- I --

11 A. Yeah, go ahead. I'm sorry. Yes. Yes.

12 Q. There's -- there's cedarwood, right?

13 A. Yes.

14 Q. And then there's mahogany wood?

15 A. Yes.

16 Q. Different types of wood because, you know, their
17 thickness and their durability are different, right?

18 A. Correct.

19 Q. You know, some are flimsy and light? Some are
20 thick and heavy?

21 A. Yes.

22 Q. If a piece of this wood was used as a weapon, the
23 type of injury sustained would depend on the type of wood
24 used. Do you agree with me on that?

25 A. The type of wood, force, yes.

Tanner Elliott - Cross by Patrick Goodwyn

1 Q. But in this case, you don't know how flimsy or
2 light it was?

3 A. Correct.

4 Q. You don't know how thick or heavy it was?

5 A. Correct.

6 Q. You don't know because you don't know which piece
7 was used?

8 A. Correct.

9 Q. And you never collected any piece of wood for
10 evidence?

11 A. I did not, no.

12 Q. I want to go back and talk about the body cam for
13 a minute and what you and Officer Everham did as far as
14 containing the crime scene.

15 Because Emily was hit in some areas that required
16 to remove her clothes, you stayed downstairs while Officer
17 Everham and Emily went upstairs?

18 A. Correct.

19 Q. And while they were upstairs and you were
20 downstairs, DeShawn's mother arrived, right?

21 A. Correct.

22 Q. And it's your understanding that DeShawn's mom
23 wants to talk to Emily?

24 A. Correct.

25 Q. And she wants to talk to Emily because she

Tanner Elliott - Cross by Patrick Goodwyn

1 received three phone calls and got her up out of bed, right?

2 A. Right.

3 Q. So you go upstairs right after you -- after --
4 after DeShawn's mother asked for you to see if she could
5 talk to Emily --

6 A. Uh-huh.

7 Q. -- you go upstairs?

8 A. Yeah.

9 Q. And you tell Emily that DeShawn's mom, she's
10 outside and wants to talk to you?

11 A. Uh-huh. Well, I can't recall if I told Emily or
12 Deputy Everham, but, yeah.

13 Q. Sure. Yeah. You remember -- I mean, did you have
14 a chance to look at your body camera before you came in and
15 testified here today?

16 A. Yeah, I think I looked at it in, like, in January.

17 Q. But you do remember going upstairs to talk to
18 Emily?

19 A. Yes. I remember -- yeah, I remember stepping on
20 the stairs. I don't remember how high I went up or
21 anything.

22 Q. Sure. If I -- if I showed you your body camera,
23 would that help refresh your memory?

24 A. If you would like, yes.

25 Q. I've got a brand new earbud, so I don't want you

Tanner Elliott - Cross by Patrick Goodwyn

1 to worry about these are dirty earbuds.

2 A. Oh, no, you're...

3 MR. GOODWYN: I beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. GOODWYN: I'm going as fast as I can.

6 (Pause in proceedings.)

7 MR. GOODWYN: May I approach the witness, Your
8 Honor?

9 THE COURT: Yes, sir.

10 (Video played.)

11 BY MR. GOODWYN:

12 A. I'm going back downstairs now. Do you need me to
13 pause it or am I watching more?

14 Q. Yeah, just watch the -- watch the whole thing.

15 (Video played.)

16 BY MR. GOODWYN:

17 Q. Okay?

18 A. Yeah. Yeah. We're good.

19 Q. Thank you.

20 A. Uh-huh.

21 Q. Okay. So we were talking before about you going
22 upstairs, right?

23 A. Correct.

24 Q. Yeah. And when you got upstairs you told Emily
25 that DeShawn's mom wanted to talk to her?

Tanner Elliott - Cross by Patrick Goodwyn

1 A. Correct.

2 Q. And she wanted to talk to her because Emily called
3 her three times and got her out of bed?

4 MS. FRIES: Objection. Speculation.

5 THE COURT: Just rephrase the question. You can
6 ask him why.

7 BY MR. GOODWYN:

8 Q. Did -- when you go up and you see Emily, she's
9 writing her statement, her written statement, correct?

10 A. I don't -- I don't recall seeing her writing.

11 I --

12 Q. But when you're reviewing your body camera, she
13 asks you for a pen?

14 A. Correct. Correct.

15 Q. And when you're observing, her she's calm, right?

16 A. I mean, I feel like that can have multiple
17 different meanings. I mean, what do you mean?

18 Q. She's not crying.

19 A. No. She's not crying, no.

20 Q. And Minor her daughter is playing on the bed?

21 A. Uh-huh. Correct.

22 Q. She's giggling and laughing?

23 A. Yes.

24 Q. And Emily tells you -- you understand after your
25 conversation with Emily about DeShawn's mom wanting to talk

Tanner Elliott - Cross by Catherine Fries

1 to her, you understand that -- from your conversation, Emily
2 doesn't want to talk to her?

3 A. Yeah. Yes.

4 Q. She wants you to help divert her away?

5 A. Yes.

6 Q. You tell her, "I'll help you out."

7 A. Uh-huh.

8 Q. Right?

9 A. Correct.

10 Q. When you go back downstairs, you tell DeShawn's
11 mom she can't talk right now because she's very emotional;
12 is that right?

13 A. Correct.

14 MR. GOODWYN: I beg the Court's indulgence. No
15 further questions, Your Honor.

16 THE COURT: Any re-direct?

17 MS. FRIES: Yes, briefly, Judge.

18 **REDIRECT-EXAMINATION** by Catherine Fries:

19 Q. Regarding your involvement in this case, Officer
20 Everham was with you that night, correct?

21 A. Correct.

22 Q. She also got called out?

23 A. Correct.

24 Q. And did she conduct an interview with the
25 defendant -- I mean with the victim? Sorry.

Tanner Elliott - Cross by Catherine Fries

1 A. Yes, ma'am.

2 Q. And did she take -- is she the one that took
3 photos of the victim?

4 A. Yes, ma'am.

5 Q. And, did she do the report?

6 A. Yes, ma'am.

7 Q. Is it -- is it easier for a female officer to do
8 that with a female victim?

9 A. Absolutely.

10 Q. And regarding the defendant's mother on scene,
11 would you characterize her as being cooperative or
12 uncooperative with you?

13 A. Well, she seemed cooperative.

14 Q. Did -- did you try to get the defendant's number
15 from her?

16 A. Yes, ma'am.

17 Q. And did she give it to you?

18 A. No, ma'am.

19 Q. And just to reiterate, did Emily want to talk with
20 the defendant's mother?

21 A. No, ma'am.

22 MS. FRIES: If I could have just a moment? I have
23 nothing further.

24 THE COURT: You may step down, sir. Thank you.

25 THE WITNESS: Thank you.

1 THE COURT: You may call your next witness.

2 MR. COOPER: Thank you, Judge. The State calls
3 Officer McKenzie Randall. Your Honor, before we begin this
4 witness, may I approach?

5 THE COURT: Sure.

6 (Bench conference.)

7 MR. COOPER: I have to go to the bathroom.

8 THE COURT: Do you need a quick bathroom break?

9 MR. COOPER: She'll be a little bit longer.

10 (End of bench conference.)

11 THE COURT: Ladies and gentlemen, we're going to
12 take a very brief recess before this next witness. I
13 anticipate this testimony may -- may be a little bit long,
14 so we'll take a brief comfort break.

15 We'll be back with you in ten minutes. That
16 should give everyone sufficient time.

17 Again, please remember my previous instruction not
18 to discuss this matter amongst yourselves. You may go to
19 your jury room.

20 (Jury exited at 2:39 p.m.)

21 THE COURT: All right. We'll take a brief recess.

22 MS. FRIES: Thank you.

23 MR. COOPER: Thank you, Judge.

24 (A recess was taken from 2:40 p.m. until 2:54
25 p.m.)

1 THE COURT: Thank you, everyone. Please have a
2 seat. Are the party's ready to proceed?

3 MS. FRIES: Yes, Judge. And we are calling this
4 deputy, and then we'll call the victim after that, that
5 should probably take about an hour, and then we would ask
6 just to have a five-minute break to speak with the Clerk of
7 Court, and then call her as our last witness, and then call
8 Melissa High the jail custodian tomorrow morning as well as
9 Alyssa Rheingold.

10 THE COURT: Sounds good. All right. Let's have
11 our jury, please.

12 (Jury entered at 2:57 p.m.)

13 THE BAILIFF: All jurors are present, Your Honor.

14 THE COURT: Thank you, ma'am.

15 MR. COOPER: Thank you, Judge. The State call
16 Officer McKenzie Randall.

17 THE CLERK: If you would, please raise your right
18 hand, place your left on the Bible.

19 (Witness sworn.)

20 THE CLERK: Please, be seated. Please, state your
21 full name, spelling your last name loudly and clearly into
22 the microphone.

23 THE WITNESS: McKenzie Shyane [phon.] Randall.
24 R-a-n-d-a-l-l.

25 THE COURT: Your witness.

Officer McKenzie Randall - Direct by Mr. Cooper

1 MR. COOPER: Thank you, Judge.

2 OFFICER MCKENZIE RANDALL

3 having been called as a witness for the State at 2:57 p.m.

4 was sworn and testified as follows:

5 DIRECT EXAMINATION by Mr. Cooper:

6 Q. Officer Randall, was your name previously Everham?

7 A. Yes.

8 Q. Did you get married?

9 A. I did get married.

10 Q. Since this incident?

11 A. Since this incident.

12 Q. Okay. Tell the jury where you are currently
13 employed.

14 A. I am currently employed with the City of
15 Charleston Police Department.

16 Q. And what is your role with the City of Charleston
17 Police Department?

18 A. I work on the mounted patrol unit training and
19 riding horses.

20 Q. Okay. Were you previously employed in law
21 enforcement before the City of Charleston?

22 A. Yes.

23 Q. Tell the jury where you were employed previously.

24 A. I was employed with Charleston County Sheriff's
25 Office and Greene County Sheriff's Office, Missouri.

Officer McKenzie Randall - Direct by Mr. Cooper

1 Q. Okay. And in focusing your attention to this
2 incident in November of 2021, where were you employed?

3 A. I was employed with Charleston County Sheriff's
4 Office.

5 Q. Okay. And what would that role entail when you
6 were employed with the Sheriff's Office?

7 A. I was a road deputy at the time, so I responded to
8 calls for service, traffic enforcement.

9 Q. And focusing specifically to the night of November
10 1, 2021, were you working that night at the sheriff's
11 office?

12 A. Yes.

13 Q. Tell the jury how you became involved in this
14 case.

15 A. I had a call for service for a physical domestic.

16 Q. Do you remember where that was, where you were
17 dispatched to?

18 A. It was at [REDACTED] Poinsettia. It was Apartment [REDACTED].

19 Q. Is that in West Ashland?

20 A. Yes, it's in West Ashland.

21 Q. Do you remember approximately what time you were
22 dispatched out to the scene?

23 A. It was about 10:50 at night.

24 Q. And when you say "call for service," does that
25 mean someone has called 911 and asked for your response?

Officer McKenzie Randall - Direct by Mr. Cooper

1 A. Correct, somebody contacted 911 and requested law
2 enforcement, or EMS, or fire depending on the nature of the
3 call.

4 Q. Okay. Describe for the jury how the scene
5 appeared when you arrived.

6 A. When I arrived, I noticed that there appeared to
7 be some car parts a couple of apartments down, and then for
8 Apartment ■, it looked like there was some damage to the
9 doorway to the entrance to the apartment.

10 Q. What did it appear had happened?

11 A. It appeared that the door was kicked in.

12 Q. Okay. And how could you tell?

13 A. The damage to the doorway was consistent with
14 forced entry into the apartment.

15 Q. Okay. Did you have the occasion to make contact
16 with the victim in this case?

17 A. I did make contact with the victim.

18 Q. And was that Emily Hopkins?

19 A. Yes.

20 Q. Describe for the jury her demeanor when you first
21 encountered Ms. Hopkins.

22 A. She appeared visibly upset like she had been
23 crying, disheveled, and she had some noticeable injuries on
24 her body.

25 Q. Okay. Were you the first, I guess, deputy to come

Officer McKenzie Randall - Direct by Mr. Cooper

1 from the sheriff's office? Were you the first deputy on
2 scene?

3 A. I was not.

4 Q. Who was?

5 A. Deputy Elliott.

6 Q. Was that Tanner Elliott?

7 A. Tanner Elliott.

8 Q. Did you have the occasion to speak with the
9 victim?

10 A. I spoke with the victim, yes.

11 Q. Tell the jury what you learned from the victim.

12 A. I learned there was an argument outside of the
13 apartment between the victim and the defendant. She went
14 inside the apartment. She locked the door.

15 The defendant began banging outside of the
16 apartment, and then forced his way into the apartment and
17 used pieces of the wood that broke off of the door frame to
18 strike the victim, Ms. Hopkins, and then eventually left the
19 apartment and started causing damage to her vehicle before
20 fleeing the scene when we arrived.

21 Q. Okay. And were you provided the name of the
22 defendant?

23 A. I was provided the name of the defendant.

24 Q. What was that name?

25 A. DeShawn Tollerson.

Officer McKenzie Randall - Direct by Mr. Cooper

1 Q. Did you have the occasion to speak with him on the
2 scene?

3 A. I did not.

4 Q. Why not?

5 A. He fled the scene before officers arrived.

6 Q. Okay. Did you make any efforts to get in touch
7 with the defendant?

8 A. I did. We attempted to have our dispatch contact
9 the City of Charleston Police Department dispatch to have
10 the City of Charleston go to his residence to make contact
11 with him.

12 Q. Were you provided his address by the victim?

13 A. Yes, I was.

14 Q. And that address was within the jurisdiction of
15 the City of Charleston Police Department?

16 A. Yes.

17 Q. Did they have any luck with getting in touch with
18 the defendant?

19 A. They did not. They could not get anybody to
20 answer at his residence.

21 Q. Okay. Are you aware of whether it was Ms. Hopkins
22 or someone else that called 911?

23 A. I believe it was somebody else that called 911.

24 Q. You mentioned this a couple of answers ago, but
25 describe to the jury, what if any, injuries you observed on

Officer McKenzie Randall - Direct by Mr. Cooper

1 the victim.

2 A. I observed a puncture wound above her left knee on
3 her left leg, and she had a lot of bruising and
4 discoloration on her arms and her legs as well.

5 Q. Were the injuries that you observed consistent
6 with what you learned from her about the incident?

7 A. Yes.

8 Q. You mentioned -- I think you mentioned the minor
9 child being present.

10 A. Yes.

11 Q. Did you observe any injuries on the minor child?

12 A. I did not observe any injuries on the minor child.

13 Q. And I think you also mentioned this before, but
14 did the victim mention any damage to her vehicle?

15 A. She did.

16 Q. And were you able to notice any damage on that
17 vehicle?

18 A. Yes, I was able to.

19 Q. What kind of vehicle did she have?

20 A. She had a white Nissan sedan.

21 Q. And then while you were on the scene, were you
22 wearing a body camera?

23 A. I was wearing a body-worn camera.

24 Q. Okay. Did you also take pictures on the scene?

25 A. I did.

Officer McKenzie Randall - Direct by Mr. Cooper

1 Q. And have you reviewed some of those pictures and
2 screenshots of your body cam in preparation for trial today?

3 A. Yes.

4 Q. Okay. I'm showing you State's Exhibit 2, and it
5 should be up in front of you, and you have the ability on
6 the screen.

7 You can draw on it like it's Monday Night
8 Football, and you can just circle.

9 Tell the jury what we're looking at here at
10 State's Exhibit 2.

11 A. We're looking at the front door entrance to the
12 apartment, and we're looking at the wood flying down from
13 the door frame. That's part of the damages along with
14 splintered wood on the floor here, and then...

15 (State's Exhibit No. 2 was identified.)

16 BY MR. COOPER:

17 Q. And what was it -- you circled it -- the the last
18 thing you circled?

19 A. That's part of the doorknob assembly.

20 Q. Okay. And we'll show you State's Exhibit 3. Is
21 this just a zoomed-in picture of the last one we saw?

22 A. This is a zoomed-in photo. You can see the wood
23 from the doorway a little better, and the doorknob assembly
24 piece.

25 (State's Exhibit No. 3 was identified.)

Officer McKenzie Randall - Direct by Mr. Cooper

1 BY MR. COOPER:

2 Q. Okay. And this is the entrance to the victim's
3 apartment?

4 A. Yes, this is the entrance to Apartment ■, which
5 was the victim's.

6 Q. Okay. I'm showing you State's Exhibit 4. Would
7 this be a screenshot from your body camera?

8 A. Yes.

9 (State's Exhibit No. 4 was identified.)

10 BY MR. COOPER:

11 Q. And just, kind of, again, orient us to what we're
12 looking at here.

13 A. So you're still seeing the entranceway to the
14 victim's apartment.

15 Q. Okay. And then showing you State's Exhibit 5.
16 Are we just taking a couple steps into the apartment at this
17 point or at the doorway?

18 A. We're -- we're standing at the doorway, just a
19 couple steps in.

20 (State's Exhibit No. 5 was identified.)

21 BY MR. COOPER:

22 Q. And what do we see in the apartment?

23 A. So the apartment's disheveled from what occurred.
24 There's things on the ground, and then you have more of
25 those wooden pieces from the doorframe.

Officer McKenzie Randall - Direct by Mr. Cooper

1 Q. Okay. And then showing you State's Exhibit 6.
2 Just another angle of that doorframe?

3 A. This is another angle; however, not only do you
4 have these wood pieces as well, you have the phone case that
5 belonged to the victim.

6 (State's Exhibit No. 6 was identified.)

7 BY MR. COOPER:

8 Q. And are you aware whether that was just the phone
9 case, and the phone was found elsewhere?

10 A. The phone was elsewhere, and that is just the
11 phone case.

12 Q. Okay. I'm showing you State's Exhibit 7 just
13 another angle of again, what we just talked about?

14 A. So this is a zoomed-in photo of the phone case and
15 the -- more of those pieces of wood, bigger pieces.

16 (State's Exhibit No. 7 was identified.)

17 BY MR. COOPER:

18 Q. I'm showing you State's Exhibit 8. Orient us to
19 this picture please, Officer.

20 A. So previously, we were standing in the doorway.
21 This is a photo inside of that living room looking out of
22 the doorway now, so still the items that were disturbed in
23 the apartment, the pieces of wood, the phone case, and then
24 the damage from the wood coming off of the doorframe.

25 (State's Exhibit No. 8 was identified.)

Officer McKenzie Randall - Direct by Mr. Cooper

1 BY MR. COOPER:

2 Q. And was it your understanding from the victim that
3 the defendant struck her with some piece of the wood from
4 the doorway?

5 A. Yes.

6 Q. I'm showing you State's Exhibit 13. What are we
7 looking at here?

8 A. So looking at another angle of those wood pieces,
9 and things were disturbed in other rooms as well, so not
10 just the living room, but this would be looking in -- this
11 is like you're standing in the doorway again, a few steps
12 into the living room looking into the kitchen.

13 (State's Exhibit No. 13 was identified.)

14 BY MR. COOPER:

15 Q. Okay. And then -- I know we talked about it
16 already that you had a chance to speak with the victim. Did
17 you attempt to take pictures of her injuries?

18 A. I did take photos of her injuries.

19 Q. And you mentioned the injuries before. Describe
20 them for us again, what you observed.

21 A. She had some markings, discoloration on her arms
22 and her legs, and she had a puncture wound on her left leg,
23 above her knee.

24 Q. Did those injuries photograph very well?

25 A. No, sometimes you can see a little bit, but it's

Officer McKenzie Randall - Direct by Mr. Cooper

1 hard when an incident recently happens like that it's hard
2 for injuries to manifest that quickly.

3 Sometimes you have to wait 24 hours or longer to
4 actually see a bruise really appear.

5 Q. But you were able to see some signs of injury,
6 redness, things like that?

7 A. Yes.

8 Q. I'm showing you -- before I show you the picture,
9 did you walk upstairs to speak and take photos of the
10 victim?

11 A. Yes.

12 Q. Deputy Elliot -- or former Deputy Elliot, he was
13 the first officer on scene?

14 A. He was.

15 Q. Why did you go up and speak with the victim and
16 take photographs of the victim?

17 A. I went up and spoke to the victim and took photos
18 of her because I am a female in law enforcement, and she is
19 a female.

20 Q. I'm showing you State's 28. Describe for the jury
21 what we see in this picture.

22 A. What we are looking at is the puncture wound on
23 her left leg, above her knee.

24 (State's Exhibit No. 28 was identified.)

25 MR. COOPER: I beg the Court's indulgence just one

Officer McKenzie Randall - Direct by Mr. Cooper

1 second. Madam Clerk, if I could use the...

2 BY MR. COOPER:

3 Q. It's kind of hard to see the picture, but can you
4 see it a little bit better? Will you show us what you were
5 talking about with the injury to her leg? Again, showing
6 you State's Exhibit 28.

7 A. Yes, there's a puncture wound.

8 Q. Okay.

9 A. Right there on her left leg just above her knee.

10 Q. Okay. I'm showing you State's 29. Tell the jury
11 what you see in this picture.

12 A. On her right thigh you can see right there some
13 discoloration.

14 (State's Exhibit No. 29 was identified.)

15 BY MR. COOPER:

16 Q. And again, you mentioned in the last answer,
17 having to take pictures like these of a female victim, would
18 you agree that it's somewhat less awkward than having a male
19 deputy do that?

20 A. Yes.

21 Q. It's still awkward nonetheless, I would imagine?

22 A. It is.

23 Q. Showing you State's 30, what do we see in this
24 picture?

25 A. It's just another photo of that red marking on her

Officer McKenzie Randall - Direct by Mr. Cooper

1 thigh, a little bit closer.

2 (State's Exhibit No. 30 was identified.)

3 BY MR. COOPER:

4 Q. Okay. And then showing you State's --

5 MR. COOPER: I beg the Court's indulgence. I beg
6 the Court's indulgence.

7 (Pause in proceedings.)

8 BY MR. COOPER:

9 Q. All right. I'm going to show you what's already
10 been admitted as State's 32. Tell the jury what this is a
11 picture of.

12 A. This is going to just be more injury to her hand
13 from the wooden pieces that came off of the doorway.

14 (State's Exhibit No. 32 was identified.)

15 BY MR. COOPER:

16 Q. All right. And then although not severe, these
17 injuries appear consistent with what she told you had
18 happened that night?

19 A. Yes.

20 Q. And consistent with the damage you found in the
21 apartment?

22 A. Yes.

23 Q. Did you also have the occasion -- and you talked
24 about it in the beginning, to observe the vehicle, her
25 vehicle?

Officer McKenzie Randall - Direct by Mr. Cooper

1 A. I did get a chance to observe the vehicle.

2 Q. I'm going to show you State's Exhibit --

3 MR. COOPER: If we have could have that back on
4 the computer, Madam Clerk, please.

5 BY MR. COOPER:

6 Q. State's 22. Orient us to what we're looking at
7 here.

8 A. This is outside of her apartment. This is her
9 vehicle. This is a piece of the vehicle that was just a
10 couple of doors down from her apartment.

11 (State's Exhibit No. 22 was identified.)

12 BY MR. COOPER:

13 Q. Okay. I'm showing you State's 23. What do we see
14 in this picture?

15 A. We're looking at damages to her vehicle. Her
16 driver's side mirror. The back door was damaged.

17 (State's Exhibit No. 23 was identified.)

18 BY MR. COOPER:

19 Q. Okay. And this is her vehicle --

20 A. Yes.

21 Q. -- the white Nissan?

22 A. This is her white Nissan.

23 Q. I'm showing you State's 24. Just a different
24 angle of that same damage.

25 A. Just another angle of that driver's side mirror.

Officer McKenzie Randall - Direct by Mr. Cooper

1 (State's Exhibit No. 24 was identified.)

2 BY MR. COOPER:

3 Q. Okay. And then State's 25.

4 A. This is going to be another angle of that driver's
5 side mirror.

6 (State's Exhibit No. 25 was identified.)

7 BY MR. COOPER:

8 Q. Okay. And then moving to State's 26. Is this
9 that car park that you mentioned at the beginning of your
10 testimony that you located next door?

11 A. Yes. Yes. Yes, it is.

12 (State's Exhibit No. 26 was identified.)

13 BY MR. COOPER:

14 Q. If you'll -- perfect, and then State's 27. Is
15 that that car parked that you noticed?

16 A. This is that car parked.

17 (State's Exhibit No. 27 was identified.)

18 BY MR. COOPER:

19 Q. And that appeared to be consistent with the damage
20 to her vehicle?

21 A. Yes.

22 Q. Now, after you took pictures of her, did you also
23 have her give a written statement?

24 A. I did.

25 Q. I think you mentioned at the beginning, even

Officer McKenzie Randall - Direct by Mr. Cooper

1 though Deputy Elliott was the original officer, was it you
2 who did the report and made the charging decisions?

3 A. Yes.

4 Q. And he didn't tell the jury why it was you that
5 did that.

6 A. Even though Deputy Elliott -- Elliott showed up a
7 little bit prior to me, I'm a female responding officer.

8 Whenever we respond to these calls, we respond two
9 deputies, and I'm dealing with a female victim, so there is
10 relation.

11 Q. Okay. And you basically indicated you didn't
12 have -- did ever have the occasion to speak with the
13 defendant?

14 A. No.

15 Q. But you tried?

16 A. Yes.

17 Q. Tell the jury what you decided on any criminal
18 charges as a result of your investigation, your evaluation
19 of seeing or speaking with the victim.

20 A. We -- Deputy Elliott and I, after speaking with
21 the victim, taking photos, reading the statements -- since
22 we could not contact the defendant he was charged with
23 domestic violence first degree and unlawful conduct towards
24 a child.

25 Q. How -- with regard to the domestic violence of the

Officer McKenzie Randall - Direct by Mr. Cooper

1 first degree, how did you arrive at that charge?

2 A. We arrived at that charge because of a prior
3 conviction of domestic violence, and then there were
4 aggravating factors such as destroying her cell phone so
5 that she could not contact --

6 MR. GOODWYN: Your Honor --

7 A. -- 911.

8 MR. GOODWYN: -- we would object to the testimony
9 here, just renewing my previous objections.

10 THE COURT: Yes, sir, and for the same reasons,
11 the same ruling applies.

12 BY MR. COOPER:

13 Q. And you were in the middle of saying about the
14 aggravating factors.

15 A. The aggravating factors, the cell phone was
16 destroyed so that she could not contact 911.

17 There was a minor child involved as the -- the
18 victim was shielding the child being struck with the wooden
19 pieces from the doorframe.

20 Q. And then showing you State's Exhibit 18. Does
21 that appear to be part of her damaged cell phone?

22 A. Yes.

23 Q. And State's Exhibit 19, the other side of her
24 damaged cell phone.

25 A. Yes.

Officer McKenzie Randall - Direct by Mr. Cooper

1 Q. And the unlawful conduct regarding a child, why
2 that charge?

3 A. Because as Ms. Hopkins was being struck with the
4 wooden pieces from the doorframe, she was shielding their
5 18-month -- about 18-month common-in-law child.

6 Q. Child. And the child had no injuries; is that
7 right?

8 A. It did not appear that the child had any injuries.

9 MR. COOPER: I beg the Court's indulgence.

10 (Pause in proceedings.)

11 BY MR. COOPER:

12 Q. And you mentioned the damage to the car. Were you
13 aware of when that happened in the process of the entire
14 incident?

15 A. After the Defendant, Mr. Tollerson, left the
16 apartment he was outside and struck the vehicle several
17 times and broke the driver's side mirror.

18 Q. And that's information you learned from the
19 victim?

20 A. Yes.

21 Q. And describe for us again her demeanor when you
22 arrived and as you were talking to her.

23 A. She was very upset, very disheveled. She took
24 quite a long time writing her statement just because of how
25 upset she was in going through that traumatic experience.

McKenzie Randall - Cross by Patrick Goodwyn

1 She was trying to also remember everything.

2 Q. Officer Randall, thank you for your time. I
3 appreciate your answering questions. Please answer anything
4 the defendant may have for you.

5 THE COURT: Cross-examination?

6 MR. GOODWYN: Thank you, Judge. May it please the
7 Court?

8 THE COURT: Yes, sir.

9 CROSS-EXAMINATION by Patrick Goodwyn:

10 Q. Hello, Officer Randall.

11 A. Hi.

12 Q. So you testified earlier that you had been with
13 three different police agencies in your career in law
14 enforcement?

15 A. Yes, sir.

16 Q. One in Missouri?

17 A. One in Missouri.

18 Q. And then the sheriff's office here in Charleston?

19 A. Yes, sir.

20 Q. And then Charleston Police Department?

21 A. Yes, sir.

22 Q. And how many years have you been in the force?

23 A. Almost six.

24 Q. Almost six. And you were trained at the Police
25 Academy?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. In South Carolina, yes.

2 Q. Were you trained at the Police Academy in Missouri
3 as well?

4 A. We could challenge the test there.

5 Q. What does that mean?

6 A. So that means if you are an out-of-state law
7 enforcement officer -- so I would have been out-of-state
8 going from South Carolina to Missouri -- you could take a
9 test, and if you have a certain percent score, you don't
10 have to go through another police academy, and then
11 you're -- you were emailed your post and certified in that
12 state.

13 Q. Sure. So -- I mean, that -- that means that you
14 were an effective police officer as far as that state goes,
15 right?

16 A. Yes.

17 Q. Yeah, and if, you know, you want to put, you know,
18 a school grade on it, you made a passing school?

19 A. For Missouri, yes.

20 Q. Sure. Sure. Because you were trained well in
21 South Carolina, right?

22 A. Yeah.

23 Q. When you're trained to be an effective police
24 officer, and pardon me for the cliché, but you're trained to
25 serve the community, right?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. Yes.

2 Q. And protect the community; is that right?

3 A. Yes.

4 Q. And part of being an effective police officer is
5 that training, right?

6 A. Yes.

7 Q. Another effective tool is experience.

8 A. Yes.

9 Q. And in that experience, as far as being a patrol
10 deputy and an officer who patrols with the police department
11 now, your investigation is to gather information, right?
12 That's how you do your job, right?

13 A. That's part of it.

14 Q. Sure. Sure. When you are called out to a
15 potential crime scene that you did not witness, personally,
16 you know, you're wanting to gather the information; is that
17 right?

18 A. Yes.

19 Q. Okay. And you want to -- maybe, if somebody's
20 hurt, you want to determine if they're hurt and how bad the
21 injuries are, right?

22 A. Yes.

23 Q. Maybe if they need EMS, right?

24 A. Yes.

25 Q. Determine if someone witnessed the incident,

McKenzie Randall - Cross by Patrick Goodwyn

1 right?

2 A. Yes.

3 Q. Has anybody heard anything?

4 A. Yes.

5 Q. You want to talk to them, right?

6 A. We do our best.

7 Q. Sure.

8 A. Some -- some witnesses don't want to be contacted.

9 Q. Sure. Okay. Okay. And, you know, in talking to
10 witnesses, you want to ask those who, what, when, where, how
11 sort of questions, right?

12 A. If we can contact them, yes.

13 Q. Sure. Sure. And in this case, you were able to
14 contact a witness, and that was the complainant in this
15 case, Ms. Hopkins, right?

16 A. Ms. Hopkins would be the victim.

17 Q. Okay. Okay. Sorry. And as an effective police
18 officer, you know, you want to talk and ask questions of, as
19 you said, the victim, and you also may want to take a
20 written statement; is that correct?

21 A. Yes.

22 Q. And you want to compare that written statement to
23 what you were told verbally, right? To try and --

24 A. To make sure it's consistent.

25 Q. Yeah. Sure. Make sure you corroborate with what

McKenzie Randall - Cross by Patrick Goodwyn

1 happened. All right?

2 A. Yes.

3 Q. Okay. And like you did in this case, if someone
4 is injured, you take pictures of the injuries?

5 A. Yes.

6 Q. And if someone is injured you want to determine
7 how they were injured, right?

8 A. Yes.

9 Q. You want to determine if a weapon was used, right?

10 A. Yes.

11 Q. You want to determine what sort of injury would
12 this weapon cause, right?

13 A. Yes.

14 Q. And as we said you record what you saw, and what
15 you heard, what you were told on body camera, right?

16 A. Yes.

17 Q. And that's what you did in this case?

18 A. (No verbal response.)

19 Q. And you were able to discuss your investigation
20 with the other officers that are on the scene, right? In
21 this case, it would have been Tanner Elliott, right?

22 A. Deputy Elliott was there, yes.

23 Q. Okay. And you guys want to compare notes about
24 what you saw and what you heard?

25 A. I don't recall that we did that on that scene.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. Okay.

2 A. It's been a little while --

3 Q. Sure.

4 A. -- since that day.

5 Q. I understand, but the reason that you would do
6 that is so that you can get a complete story of what
7 happened, right?

8 A. If we had both parties there, yes.

9 Q. Sure. Let's back up a little bit to when you were
10 dispatched out to Poinsettia Drive on November the 1st.

11 A. Okay.

12 Q. As you said you were a patrol officer -- or a road
13 deputy with the Charleston County Sheriff's Office, right?

14 A. Yes, sir.

15 Q. And as a patrol officer or a road deputy, you're
16 not exactly sure what your shift will be like from
17 day-to-day, right?

18 A. Correct.

19 Q. You respond to all sorts of calls?

20 A. Yes.

21 Q. And the calls come from a dispatch operator?

22 A. Yes.

23 Q. The calls that you receive for service come from
24 the dispatch operator?

25 A. Yes.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. And dispatch is in charge of taking in the 911
2 calls?

3 A. There's call takers and then there's dispatch.

4 Q. Okay. But somebody in the dispatch department, if
5 you will, takes those 911 calls, right?

6 A. Yes.

7 Q. All right. And then dispatch sends you to that
8 location?

9 A. Yes.

10 Q. An important part of dispatch's job is to let you
11 know what kind of situation you're getting into?

12 A. It's like playing telephone, though.

13 Q. Sure. Sure. They want to prepare you what to
14 look for or who to look for, right?

15 A. If we're given descriptions, yes.

16 Q. Sure. Okay. And as you stated earlier, you were
17 dispatched to this particular location for a domestic
18 violence incident that possibly just occurred?

19 A. Yes.

20 Q. And you reviewed the 911 calls in this case,
21 right?

22 A. I reviewed what shows up on my screen.

23 Q. Okay. You're aware that there's two different 911
24 calls?

25 A. I don't recall.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. Okay. All right. Both of those calls were from
2 neighbors in the area. Do you know that?

3 A. I do know that.

4 Q. Okay. But you didn't interview, personally, any
5 of those 911 calls, did you?

6 A. I did not.

7 Q. But you didn't interview them because you don't
8 believe that they saw anything, right?

9 A. Correct.

10 Q. And none of the 911 callers was Emily Hopkins,
11 right?

12 A. Correct.

13 Q. When you arrived on scene, you learned that
14 there's a minor child that's there, 18-month-old Minor?

15 A. About 18 months at the time I believe.

16 Q. And you learned that DeShawn Tollerson had struck
17 Emily Hopkins while she was holding Minor, their shared
18 daughter; is that right?

19 A. Yes.

20 Q. And in your incident report -- you -- you did
21 write an incident report in this case, right?

22 A. I did.

23 Q. Yeah, and in your incident report, you indicated
24 that Minor was not struck.

25 A. I don't believe that the daughter was struck.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. Right. And you didn't see any injuries on the
2 daughter?

3 A. I did not.

4 Q. So nothing physically, marks or bruises, nothing
5 like that, she appeared fine?

6 A. Correct.

7 Q. Uh-huh. So you were at least from your body
8 camera -- your body camera is about an hour long; is that
9 fair?

10 A. It is.

11 Q. And that's the time that you were on scene, so the
12 time that you were on scene you were able to observe Minor
13 and how she was acting, right?

14 A. Yes.

15 Q. And we've already said that you didn't see any
16 marks, or bruises, or anything like that on Minor, right?

17 A. Correct.

18 Q. Have you ever interacted with a toddler of that
19 age before?

20 A. I have.

21 Q. So you're aware they're all different, right?
22 They all maybe act a little bit differently.

23 A. They all have their own personalities.

24 Q. Correct. They do have their own personalities.

25 And Minor 's personality that night was smiley; is that fair?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. For the most part.

2 Q. And she was giggling?

3 A. A little bit.

4 Q. You interacted with her?

5 A. I did interact with her for a little bit.

6 Q. And where you interacted with her most was
7 upstairs in the bedroom where Emily was writing her
8 statement?

9 A. Yes.

10 Q. And she was interacting back with you; is that
11 right?

12 A. She was.

13 Q. So physically, emotionally, mentally, she appeared
14 like any other 18-month-old girl at that time, right?

15 A. I guess. I guess I haven't interacted with
16 18-month-olds that much.

17 Q. Sure. But we said that she was smiling and
18 giggling.

19 A. She was. The TV was on.

20 Q. Let's go back to when you arrived at Poinsettia
21 Drive and you see that the door appears to be broken in,
22 right?

23 A. Yes.

24 Q. There's about -- if I could put up, let's see,
25 State's 6. This was the picture you took, right?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. Yes.

2 Q. This is not from the body camera? This is an
3 actual picture that you took?

4 A. I believe this might be from the body camera.

5 Q. All right.

6 A. You can tell by the fishbowl appearance.

7 Q. In this picture we see what looks like two pieces
8 that are broken, right?

9 A. There's more than two.

10 Q. No, I'm just saying, as far as -- let's put it
11 this way large pieces. What we can see I see two in this
12 picture. Am I wrong?

13 A. There's a third large piece.

14 Q. Okay. Can you point out that third one to me?

15 A. Yep, so you have one large piece here, one here,
16 and one here.

17 Q. Okay.

18 A. That makes three.

19 Q. All right. You learned that when you arrived and
20 you see this, you learned that it was DeShawn Tollerson who
21 broke the door, right?

22 A. Correct.

23 Q. Could you put that back up for me? I'm sorry.
24 When you're done? I'm sorry. And you also learned that in
25 your investigation from talking to the witness, that DeShawn

McKenzie Randall - Cross by Patrick Goodwyn

1 used one of the pieces of the broken door trim to strike
2 Emily, right?

3 A. Yes.

4 Q. He struck her across the head, right?

5 A. She had injuries consistent with being struck with
6 the wooden pieces, which also did have nails in them, on her
7 body, her legs, as well as her arms.

8 Q. Sure. Yeah, I'm just -- I'm just asking what your
9 investigation --

10 A. I don't know. I don't recall if she was struck
11 with the pieces on her head or if that was a different body
12 part that struck her.

13 Q. Okay. Well, if you recall, you were also told
14 that as DeShawn was leaving the house he had gotten his
15 to-go bag and he was leaving the house before he left, he
16 hit Emily, punched her in the head a couple times, and then
17 slapped her as he was leaving. Do you remember that?

18 A. It's been years.

19 Q. Sure. If I showed you your body cam, would
20 that -- would that help refresh your memory?

21 A. Yeah, of course.

22 (Pause in proceedings.)

23 MR. GOODWYN: I beg the Court's indulgence. I
24 know I'm taking time. I just want to make sure I can get
25 some sanitary pieces on this. These headphones...

McKenzie Randall - Cross by Patrick Goodwyn

1 (Video played.)

2 BY MR. GOODWYN:

3 Q. Officer Randall, you had a chance to review if
4 that was your body camera, correct?

5 A. Yes.

6 Q. Okay. And you learned that DeShawn had punched
7 her in the head as he was leaving and slapped her?

8 A. He slapped her, yes.

9 Q. And when you're told "a punch," to you, means a
10 closed fist?

11 A. Correct.

12 Q. And slap would mean an open hand?

13 A. Correct.

14 Q. And just -- just to back up a little bit, and we
15 can go back and review the body cam again, but what you did
16 learn from Emily, as part of your investigation, was that
17 DeShawn had hit her with a door trim on her head, and her
18 arms, and her legs; is that fair?

19 A. Hit her with a door trim on her arms and legs.

20 Q. Uh-huh.

21 A. Hit her -- struck her with his hands on her head.

22 Q. Right. Right. And that's the -- that's the --
23 that's what you just -- that's what you just watched on your
24 body camera was that, right?

25 A. Correct.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. And as you stated earlier, when you arrived, you
2 were able to -- forgive me if I'm not using the words
3 correctly of what you said, and correct me if I'm wrong,
4 that -- there were obvious signs of injury to her when you
5 arrived --

6 A. Yes.

7 Q. -- is that right? So I'm just going to go over
8 with you all of the pictures that we have consented to to be
9 allowed in that have been introduced at this point of
10 Ms. Hopkins.

11 You were showed State's 9. Do you see any
12 injuries in that picture?

13 A. The picture is poor.

14 Q. How about State's 10? Did you see any injuries in
15 that picture?

16 A. That could be red marks on her arms. It's been a
17 few years since that day, but again, the picture is poor.

18 Q. But you're the one that took the pictures, right?

19 A. Correct, on my county-issued camera.

20 Q. We're taking a look at State's 28. This was the
21 picture that Mr. Cooper showed you earlier, and you
22 testified that it looks like there's a puncture wound right
23 there on the left leg, right?

24 A. Correct.

25 Q. If there was a puncture wound on her leg -- I'm

McKenzie Randall - Cross by Patrick Goodwyn

1 assuming she had her pants on at the time of the assault,
2 then there's probably a hole in the pants, right?

3 A. Correct. Could be. Could be.

4 Q. Yeah. Okay.

5 A. She has a puncture wound in her leg.

6 Q. Sure.

7 A. As far as her pants, I probably wasn't paying
8 attention.

9 Q. Were you able to see any bleeding?

10 A. Not in this photo.

11 Q. And it's your belief on your investigation that
12 this happened from a nail?

13 A. Correct.

14 Q. But you didn't confirm that the pants actually had
15 a hole in them, too?

16 A. I didn't look. I didn't ask.

17 Q. Let's go to State's 29. This was also a picture
18 that Mr. Cooper put up, and you indicated that you see
19 some -- a red mark on the right side of the thigh, right?

20 A. Yes.

21 Q. But she had her pants on when you arrived; is that
22 right?

23 A. Yes.

24 Q. So that wouldn't have been an injury that you
25 would have been able to see when you immediately --

McKenzie Randall - Cross by Patrick Goodwyn

1 A. Correct.

2 Q. -- noticed her, right?

3 A. Correct.

4 Q. Is that 29? Let's go to 30. And this is just an
5 enhanced photo of State's 29, right?

6 A. Yes.

7 Q. Is this your body camera, or is this a -- is this
8 from your recorded body camera, or is this from your picture
9 camera?

10 A. It appears to be from the county-issued camera.

11 Q. From the actual camera?

12 A. From the county-issued camera.

13 Q. All right. That's a light, right?

14 A. That's my flashlight.

15 Q. All right. So you're holding a camera in one hand
16 and a flashlight in the other while you're taking that
17 picture?

18 A. Correct.

19 Q. Let's go to State's 32. And you pointed to what
20 looks like -- if you wouldn't mind, could you point out what
21 you believe are the injuries?

22 A. (The witness complied.)

23 Q. And you were able to immediately notice that upon
24 observing her?

25 A. Probably not.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. So every picture that I've showed you up to this
2 point is either a picture of something under her clothing or
3 something that you couldn't see?

4 A. Or just poor quality on the camera, and it's been
5 years since that night.

6 Q. Sure. All right. Can we get go to State's 7? I
7 just want to go back to -- to the broken wood from the door.
8 I'm going to show you a couple of pictures, and then, sort
9 of, tell me where you are there.

10 Let's switch to State's 8, and now State's 13, and
11 State's 14. Can you tell me which one you were able to
12 determine had the nails?

13 A. I can't tell from the photos.

14 Q. Did you ever pick up or touch any of the wood?

15 A. I don't remember.

16 Q. Would it surprise you to say that you didn't?

17 A. I probably didn't think about it at the time.

18 Q. You did talk about earlier how, you know, one of
19 the important things as an effective police officers is to
20 determine what weapon was used so that you can determine
21 what type of injury might occur, right, we talked about
22 that?

23 A. You do your best as a police officer.

24 Q. I understand that. Absolutely. And you have a
25 very, very hard job.

McKenzie Randall - Cross by Patrick Goodwyn

1 We talked about your incident report a little bit
2 earlier. There's a section -- and you've filled out many
3 incident reports as a police officer, right?

4 A. I have.

5 Q. Okay. And you know that there is a section of the
6 incident report that lists the date and time that that
7 incident report was uploaded? And when I say uploaded --
8 I'm sorry. I didn't mean to cut you off.

9 A. You didn't cut me off.

10 Q. Okay. And when I say uploaded, you have a system
11 that you use that -- that, sort of, keeps up with these
12 incident reports, right?

13 A. Yes.

14 Q. And the date and time for the incident report was
15 November 2, 2021; does that seem fair to you? I'm happy to
16 show you a report if you want to look at it to refresh.

17 A. The incident occurred November 1 --

18 Q. Yeah.

19 A. -- of 2021.

20 Q. Sure. Yeah. And I'm not -- I'm not asking about
21 when -- when it happened. I'm just asking about when you
22 uploaded your incident report.

23 A. When I started my incident report was on November
24 1st, I believe.

25 Q. Okay.

McKenzie Randall - Cross by Patrick Goodwyn

1 A. And the case status was closed November 18, 2021.

2 Q. Okay. And again, I'm happy to let you look at it,
3 but in your incident report you wrote that the defendant
4 picked up a piece of door trim and struck Emily?

5 A. Can you repeat that?

6 Q. In your incident report, you wrote that the
7 defendant picked up a piece of broken door trim and struck
8 Emily? And that is to -- I can keep that up to show it to
9 you.

10 A. I have it here.

11 Q. Okay. Is that what you wrote in your report?

12 A. I wrote that (as read:) Mr. Tollerson then picked
13 up a piece of the broken door trim from the doorway and
14 started using the trim to strike Hopkins in the arm, leg,
15 back, and side.

16 Q. Yes.

17 A. Yes.

18 Q. Okay. Good. Backing up a little bit to what we
19 talked about earlier, as far as what you -- what you charged
20 DeShawn with -- and you charged him with three crimes; is
21 that correct?

22 A. I have that written in the report.

23 Q. You charged him with domestic violence first
24 degree, right?

25 A. Unlawful conduct towards a child, and I have it

McKenzie Randall - Cross by Patrick Goodwyn

1 written down malicious injury to personal property.

2 Q. Right. Right. So three charges; the two that
3 we're dealing with today, and there's also a separate
4 malicious injury to personal property --

5 A. Correct.

6 Q. -- right? So you were the arresting officer in
7 this case, right?

8 A. I was the charging officer in this case.

9 Q. Okay. I'm sorry for missing the terminology, but
10 the charging officer.

11 What that means is, is that in order to make an
12 arrest is, you have to write an affidavit, right, about your
13 investigation that supports the crime that you want to
14 charge --

15 A. Correct.

16 Q. -- right? An affidavit is a sworn statement
17 right, kind of, just like what you did here today. And when
18 you swear that out, you can't effectuate that arrest warrant
19 and serve an -- and arrest somebody until a judge signs off
20 on it. Am I right?

21 A. Correct.

22 Q. And then you can make the arrest, right?

23 A. Correct.

24 Q. So in your affidavit in this case, the one that
25 charges DeShawn Tollerson with domestic violence first

McKenzie Randall - Cross by Patrick Goodwyn

1 degree, the date on that is November 3, 2021; is that
2 correct?

3 A. I don't have it in front of me.

4 Q. Oh, sure. I'm happy to get it.

5 MR. COOPER: Objection, Your Honor. I think this
6 line of questioning, at a certain point, it becomes a
7 question whether it's relevant.

8 MR. GOODWYN: I'm talking directly about the
9 charging document that -- why we're here today, and the
10 evidence that relates to that.

11 THE COURT: I'll allow it.

12 MR. COOPER: Thank you, sir.

13 MR. GOODWYN: Yeah. May I approach Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. GOODWYN:

16 Q. Is that the affidavit that you swore out for
17 domestic violence first degree?

18 A. It looks like I wrote it.

19 Q. Okay. Thank you. And in the affidavit that was
20 written the day after -- the day after the incident reports
21 were uploaded, you state that the defendant then grabbed a
22 piece of door trim with two nails in it, and began striking
23 the victim on her body as she attempted to shield her child;
24 is that right?

25 A. If that's what I wrote.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. Yeah. Yeah. So in your incident report, you
2 don't mention any nails, right?

3 A. I don't believe so.

4 Q. Okay.

5 A. But I can re-read it.

6 Q. But in the sworn affidavit that was a day later,
7 you mention the nails, right?

8 A. Okay.

9 Q. And if you recall, you never asked Emily which
10 piece of door trim he used, is that right?

11 A. I don't believe I did.

12 Q. Let's talk about -- I know we've talked a lot
13 about Ms. Hopkins' cell phone that was -- that was broken,
14 and you learned that before DeShawn breaks the door, as your
15 investigation goes, he assaults Emily, she uses her phone,
16 right?

17 A. I believe so.

18 Q. And you learned that Emily and DeShawn had
19 communicated through text message that night?

20 A. I believe so.

21 Q. And at the height of DeShawn's aggressive
22 behavior, she uses her phone to record DeShawn?

23 A. I don't remember.

24 Q. Okay. Good. If I showed you the body cam would
25 that help you refresh your memory?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. Yeah.

2 MR. GOODWYN: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. GOODWYN:

5 Q. So I'll just repeat the question. You -- you did
6 agree with me a while ago that -- that Ms. Hopkins used her
7 phone to report DeShawn, right?

8 A. That's what she said.

9 Q. Uh-huh. And what you learned from your body
10 camera is that after recording, DeShawn takes the phone and
11 then he smashes it, right?

12 A. And he destroys her phone.

13 Q. Yes.

14 A. And he destroys her phone.

15 Q. Right. Right. In your incident report that we've
16 been talking about, you indicate that after DeShawn breaks
17 in the door, Emily tries to call 911, and he smashes the
18 phone to prevent her from calling 911?

19 A. Okay.

20 Q. Okay. And in the body cam that you just watched,
21 you learned that he takes the phone because she's recording
22 him, right?

23 A. I don't know if that was the sole reason, but the
24 phone was destroyed after she said she was recording him.

25 Q. Did you ever try to review her phone?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. It was destroyed.

2 Q. Okay. So you don't know if -- if she told you
3 that she tried to call 911, right?

4 A. I believe she did.

5 Q. Yeah. And you're not -- you don't know if she
6 actually did because you can't look at the phone, right?

7 A. The phone was destroyed.

8 Q. Because it was destroyed. But really, the phone
9 was actually still working because while you were in there
10 the phone dinged.

11 A. I don't remember.

12 Q. Okay. Would your body camera help refresh that
13 memory?

14 A. I'm sure it would.

15 Q. Okay.

16 A. Just because a phone dings doesn't mean it works.

17 Q. Okay.

18 (Video played.)

19 BY MR. GOODWYN:

20 Q. Did you hear the phone ding?

21 A. I heard a phone ding.

22 Q. Okay. And you did hear that Ms. Hopkins, in your
23 investigation, that her phone wasn't working.

24 A. She questioned if that was her phone still
25 working.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. Well, she walked over to the table where the phone
2 that we've been looking --

3 A. He stood --

4 Q. -- at was sitting.

5 A. -- stood up and she said, "Is that my phone still
6 working?"

7 Q. As a -- as a police officer, you have the ability
8 to dump a phone? And when I say "dump a phone," you can go
9 into a phone and take anything that you want out of it.

10 A. If we get a warrant.

11 Q. If you get a warrant? Okay. But you didn't get a
12 warrant in this case, right, for the phone?

13 A. I did not get a warrant for the phone.

14 Q. So I know we've talked a little bit about how the
15 phone was used and what happened to the phone.

16 The phone was also used to make some phone calls
17 that night that you learned about, right?

18 A. I don't remember.

19 Q. Ms. Hopkins wrote a statement for you about what
20 happened, right?

21 A. She did.

22 Q. And did you review that statement as part of your
23 investigation?

24 A. I did.

25 Q. And you learned that she called DeShawn's mother

McKenzie Randall - Cross by Patrick Goodwyn

1 three times that night.

2 A. I don't remember how many times or who she called.

3 I just don't remember that part.

4 Q. Did you read the -- the witness statement?

5 A. It's been a minute.

6 Q. Okay.

7 A. I don't have it in front of me either.

8 Q. Well, I think one very important piece of
9 information. Let's say three important pieces of
10 information because there were three calls.

11 One was made early in the night when DeShawn
12 wanted to drive to his mother's house to pick up a debit
13 card; is that right?

14 A. I don't remember.

15 Q. Okay. Well, I'll tell you what, let's just -- I'm
16 going to approach.

17 MR. GOODWYN: I'm wrapping this up, Judge. I
18 promise this is -- this is my last little bit of questions
19 for Officer Randall.

20 (Pause in proceedings.)

21 BY MR. GOODWYN:

22 Q. All right. Now that you've had a chance to review
23 it, as part of your investigation, you learned that Emily
24 called DeShawn's mother three times that night?

25 A. She called his mom.

McKenzie Randall - Cross by Patrick Goodwyn

1 Q. The first time when DeShawn tells Emily that he
2 wants to go pick up his debit right, all right and she
3 didn't want him to do that because he had been drinking.

4 MR. COOPER: Objection, Judge. That would be
5 hearsay.

6 THE COURT: Sustained.

7 BY MR. GOODWYN:

8 Q. As part of your investigation, you were told that
9 Ms. Hopkins tried to call 911, right?

10 A. I believe she attempted to contact 911.

11 Q. And one of those times was while she was locked in
12 her car.

13 A. If that's what her statement says.

14 Q. It does. But she calls DeShawn's mom while she's
15 in the car, right?

16 A. I would have to re-read it.

17 Q. And then the last time you learned that DeShawn's
18 mom was on the phone with Emily at the time of the assault
19 that we were talking about?

20 A. In the statement, I believe, it says that she was
21 on the phone with his mom when she was being struck in the
22 head.

23 Q. Okay.

24 A. I don't know if that's with the door trim or not.

25 Q. DeShawn's mom showed up that night, right?

McKenzie Randall - Cross by Patrick Goodwyn

1 A. I'm not sure.

2 Q. You did not see DeShawn's mom?

3 A. I believe Deputy Elliott is the one that had
4 contact with anybody else who showed up on scene.

5 Q. Sure. Sure.

6 A. Maybe I did in passing.

7 Q. Okay.

8 A. But I was talking to the victim --

9 Q. Okay.

10 A. -- Ms. Hopkins.

11 Q. Sure. Yeah, but, you know, as a police officer,
12 if you have someone that you're being told by your victim in
13 the case another person heard it, you didn't talk to them?

14 A. Sometimes we have two deputies that show up on
15 scene, as are required to, especially for a domestic, and we
16 divvy the tasks.

17 Q. Okay. Are you aware if Deputy Elliott if he
18 talked to her about what happened?

19 A. I did not watch his body camera.

20 Q. All right. So you didn't compare notes with him
21 about any conversations that he had with DeShawn's mom?

22 A. I'm sure that we compared some notes. I'm not
23 sure about what happened with DeShawn's mom, but we did
24 attempt to get in contact with Mr. Tollerson by using
25 dispatch and the City of Charleston police officers to go to

McKenzie Randall - Cross by Patrick Goodwyn

1 his residence.

2 Q. The last couple questions, so when the assault
3 with the door trim happened, and the assault with the fist
4 happened, the phone was already smashed then, correct? It
5 was, as you said, inoperable, I think is what you said.

6 A. That's what we were -- we were told the phone was
7 destroyed.

8 Q. But now you find out that the phone worked because
9 she used it.

10 A. She used it prior to it being destroyed? Yes.

11 Q. No, what I'm saying is that you learned from this
12 witness statement that that phone was destroyed prior to the
13 last phone call with the mother.

14 A. Can you point it out in the --

15 Q. Sure.

16 A. -- in the statement?

17 Q. Absolutely. Yeah.

18 MR. COOPER: Your Honor, may we approach, please?

19 THE COURT: Yes, sir.

20 (Bench conference.)

21 MR. COOPER: I would just ask that -- the better
22 of my judgment, I think I would object to this. It's almost
23 -- confronting her with someone else's statement, that's
24 proper for confronting that witness. He's not confronting
25 this witness.

McKenzie Randall - Cross by Patrick Goodwyn

1 MR. GOODWYN: Uh-huh.

2 MR. COOPER: She's not confronting this witness,
3 only inconsistencies with somebody else. He can do that with
4 that witness. I think at a certain point, it becomes
5 inappropriate.

6 MR. GOODWYN: I can talk to her about her
7 investigation, and this is broad.

8 THE COURT: You can talk to her about her
9 investigation, yes. And you'll have the opportunity to
10 cross-examine the victim, obviously.

11 MR. GOODWYN: Sure.

12 THE COURT: But, right, you can ask her about her
13 investigation.

14 (End of bench conference.)

15 MR. GOODWYN: All right. Thank you, Judge. I
16 don't have any further questions. Let me take that back. I
17 have one more.

18 BY MR. GOODWYN:

19 Q. After you left that night, did you ever hear from
20 Emily Hopkins again?

21 A. I don't remember.

22 MR. GOODWYN: Thank you, Judge.

23 THE COURT: Redirect?

24 MR. COOPER: Yes, ma'am.

25 REDIRECT EXAMINATION by Daniel Cooper:

McKenzie Randall - Redirect by Daniel Cooper

1 Q. Officer Randall, this is going through to a
2 variety of things, but I'm going to try to get through some
3 of those as briefly as possible.

4 The first thing, I'm showing you State's Exhibit
5 18. This is the victim's phone?

6 A. I believe so.

7 Q. Does that appear to be the front or the back of
8 the victim's phone? Is it somewhat hard to tell, given it's
9 condition?

10 A. Yes, it's --

11 Q. I'm showing you -- sorry. Go ahead. I'm showing
12 you State's Exhibit 19. Does this appear to be the back of
13 the victim's phone?

14 A. I believe it's the back.

15 Q. The last little round spot we see, does that
16 appear to be the bottom of the camera, potentially?

17 A. It believes to be the camera right there.

18 Q. Okay, so you're going back to State's 18, by
19 default, that would make this the front of the phone; is
20 that right?

21 A. Right.

22 Q. And it appears to be missing its screen?

23 A. Yes.

24 Q. I think you testified earlier, completely
25 destroyed; is that right?

McKenzie Randall - Redirect by Daniel Cooper

1 A. It -- it was destroyed.

2 Q. Mr. Goodwyn talked a little bit about your report
3 and the fact that it said November 2nd.

4 MR. COOPER: May I approach, Judge?

5 THE COURT: Yes, sir.

6 BY MR. COOPER:

7 Q. Would this be part of your report? You can look
8 at the front page and see the whole thing.

9 A. All of it is mine.

10 Q. All of this is your report?

11 A. All of this is my report.

12 Q. These dates right here where it talks about
13 November 2nd, what -- what is that for?

14 A. So that just means -- that's the time that I
15 entered it. The date and the time that I entered in
16 information into the report, and the report is not just the
17 narrative the story of what happened.

18 It's everything. It's who it involved. It's what
19 vehicles involved, any evidence that we put in.

20 Q. Does it include the name of the victim?

21 A. It does.

22 Q. Does it include the address of the victim?

23 A. It should.

24 Q. And personal information?

25 A. Yes.

McKenzie Randall - Redirect by Daniel Cooper

1 Q. Does it include the name of the defendant and
2 other parties who have been involved?

3 A. Yes.

4 Q. Like you mentioned, it's a comprehensive report of
5 all the information, not just your notes from what you heard
6 from somebody?

7 A. Correct.

8 Q. And when was that information entered that date
9 and time stamp?

10 A. That was -- the victim, the people?

11 Q. The part where Ms. Goodwyn asked about the
12 November 2nd.

13 A. It was entered November 2nd at 5:37 in the
14 morning, 5:39 in the morning, and a statement at 6:03 in the
15 morning.

16 Q. And that was about, if my math is right, six,
17 seven hours after you responded at the scene?

18 A. Correct.

19 Q. Was that at the end of that same shift?

20 A. After I responded to the scene?

21 Q. Yes.

22 A. No.

23 Q. No. When you -- when you responded to the scene,
24 when you went back and wrote the report, was that still --
25 were you were still on shift at that time?

McKenzie Randall - Redirect by Daniel Cooper

1 A. I was still on shift.

2 Q. Okay. When did your shift end, the night shift?

3 A. It should have ended around 6 or 6:30 in the
4 morning.

5 Q. Okay. Do you always have the occasion to stop
6 being on patrol and finish writing a report, or do you often
7 wait towards the end of the shift to do that?

8 A. It depends on calls for service.

9 Q. Okay.

10 A. If it's a busy night, no, sometimes our reports
11 just stack, and then we have to go back and rewrite
12 everything.

13 If we do have some downtime, maybe we can knock a
14 part of the report out before getting another call for
15 service.

16 Q. But Mr. Goodwyn made this big deal about date and
17 time. That's not uncommon in your line of work?

18 A. Correct.

19 Q. Because as you mentioned, it contains a lot more
20 than just your notes from the scene.

21 A. Correct.

22 Q. And the warrant process that Mr. Goodwyn asked you
23 about November 3rd on the warrant. Describe the process for
24 getting a warrant signed and your role as a deputy.

25 A. Okay. So not only do we have the incident report,

McKenzie Randall - Redirect by Daniel Cooper

1 we have a lot of other documents that have to go into a --
2 what we would have called a warrant packet at the County, so
3 it involves comprehensive information and documentation, and
4 your affidavits all have to be typed.

5 Everything for -- a warrant request, it does not
6 have to be completed that night. It can be completed the
7 next day or the day after if you can't arrest the suspect on
8 scene, or if a crime becomes no longer fresh, then you would
9 seek out the warrant packet.

10 Once you've completed all that and your supervisor
11 looks over it and approves it, then it would go into a --
12 basically, a basket at the County where a bond hearing
13 deputy would come by, and they work normal Monday through
14 Friday, 8 to 4 or 7 to 3.

15 They would pick it up. They would take it over to
16 the bond court. They would swear it in front of a judge,
17 and then the judge would look over the affidavits, and the
18 reports to determine whether or not we have probable cause
19 for the warrant, and sign off on it or not sign off on it.

20 Q. And so again, Mr Goodwyn made a big deal about
21 November 3rd two days later. Is that uncommon in your line
22 of work?

23 A. No.

24 Q. Does it make a difference if the defendant would
25 have been on scene that night and could have been arrested

McKenzie Randall - Redirect by Daniel Cooper

1 on the scene?

2 A. It would have made a difference if the defendant
3 was there on scene and was arrested on scene.

4 Q. Okay. And I think you still continue to do a
5 little bit of investigation as you're writing the report; is
6 that right?

7 A. Correct.

8 Q. I'm showing you the end of your report, do you
9 list initially as charging him domestic violence in the
10 second degree?

11 A. Yes.

12 Q. Did -- were you aware of his prior conviction at
13 that time?

14 A. I was.

15 MR. GOODWYN: Objection, Your Honor. Outside the
16 scope of the direct -- and I'm sorry cross.

17 MR. COOPER: I think her report, he took great
18 lengths to talk about.

19 THE COURT: I'll allow it.

20 MR. COOPER: Thank you.

21 BY MR. COOPER:

22 Q. Were you aware of his prior conviction at the time
23 you wrote that report?

24 A. No.

25 Q. So you still had more investigating you were

McKenzie Randall - Redirect by Daniel Cooper

1 doing?

2 A. Correct.

3 Q. And you were talking about the victim and the
4 variety of things that she said, and you were talking to her
5 that night, describe to the jury, again, what her demeanor
6 was while you were talking with her, while she was writing
7 her statement. Tell us what you observed.

8 A. She was very upset, very just disheveled, kind of,
9 everywhere, and I believe, she didn't even want to write the
10 report that night because she was so upset, and I, kind of,
11 had to plead with her to, hey, like, please, write this
12 tonight while it's still, kind of, fresh.

13 Q. And when she told you about what happened, you
14 also observed injuries that were consistent with that; is
15 that right?

16 A. Yes.

17 Q. Some of those injuries were under her clothing?

18 A. Some of them were.

19 Q. She had to take her clothes off in your presence
20 to show you them; is that right?

21 A. Yes.

22 Q. That now the jury has gotten to see without her
23 clothes on?

24 A. Yes.

25 Q. And you pointed out the injuries that you saw?

McKenzie Randall - Redirect by Daniel Cooper

1 A. Correct.

2 Q. Did she seem -- I think you mentioned this just a
3 little bit did she seem excited to have to undress in front
4 of a foreign person, in front of an officer she didn't know?

5 A. No.

6 Q. Did she seem happy to have to take her clothes off
7 in front of police and let you observe her body?

8 A. No.

9 MR. GOODWYN: Objection, Your Honor. None of this
10 is relevant.

11 MR. COOPER: I think this --

12 THE COURT: Her state --

13 MR. COOPER: -- is all in line with --

14 THE COURT: -- her state of mind is certainly
15 relevant.

16 BY MR. COOPER:

17 Q. You mentioned -- did you try and contact the
18 defendant, or did you try to get a hold of the defendant?
19 Mr. Goodwyn had asked that.

20 A. I don't remember if I tried to get in contact with
21 the defendant, but we tried to have City of Charleston
22 police officers go to his residence to get in contact with
23 him.

24 Q. Are you aware if Deputy Elliott tried to get his
25 phone number from the defendant's mother?

McKenzie Randall - Redirect by Daniel Cooper

1 A. I believe he did.

2 Q. Are you aware if he was provided that number by
3 the defendant's mother?

4 A. I don't know if he was actually provided that
5 phone number.

6 Q. If he had, either you or him probably would have
7 tried to call him?

8 A. Correct.

9 Q. And did that happen?

10 A. I don't remember.

11 Q. If it had happened, you would have noted it in
12 your report, if you-all had been able to make contact and
13 try to make contact with him?

14 A. Yes.

15 Q. But you did want to talk to him --

16 A. Yes.

17 Q. -- is that fair to say?

18 A. Absolutely.

19 Q. You sent officers to his residence?

20 A. Yes.

21 Q. And were they able to -- were they able to make
22 contact with him?

23 A. They could not get anybody to answer his
24 residence.

25 Q. Again, the defendant fled before you arrived on

McKenzie Randall - Redirect by Daniel Cooper

1 the scene?

2 A. Correct.

3 Q. And before Deputy Elliott arrived on the scene?

4 A. Correct.

5 Q. And finally, Mr. Goodwyn asked you about the
6 baby's demeanor, the one-year-old at the time. How did you
7 describe her demeanor once you were upstairs with her?

8 A. I -- she was on the bed. She was -- the TV was
9 going, so she was watching some of the TV, looking at us.

10 I had some -- I believe they were extra victim
11 statement forms just blank ones in my hand that I gave to
12 her to let her play with, so I tried to interact with her a
13 little bit and just keep her entertained by our presence
14 while she could write her statement.

15 Q. And while you were interacting with her while she
16 was in that fun mood, if you will, was the defendant
17 present?

18 A. No.

19 Q. Was there an assault going on?

20 A. No.

21 Q. Was she being protected by her mother from the
22 defendant's blows at that time?

23 A. No.

24 Q. Thank you.

25 MR. COOPER: I have no further questions.

1 THE COURT: You may step down, ma'am. Thank you.
2 Would counsel please approach?

3 (Bench conference.)

4 THE COURT: Did you say your next witness is --
5 that's going to be --

6 MS. FRIES: It's probably a little longer than --
7 if we can, do it tomorrow.

8 THE COURT: We can do it tomorrow? Yeah, that's
9 good.

10 MS. FRIES: Yeah.

11 (End of bench conference.)

12 THE COURT: Ladies and gentlemen of the jury, it's
13 about 4:20. I understand that our next witness is, kind of,
14 lengthy, and I certainly don't want to keep you past 5:00.

15 I understand that you have your own lives to live
16 and responsibilities to do outside of your responsibilities
17 here as jurors, so we are going to adjourn for the night.

18 If you would, please return to your jury room
19 around 9:15. Once we have everyone gathered together, we
20 will resume with the trial at 9:30.

21 Again, please remember my instruction. It is very
22 important that you're not to discuss this case amongst
23 yourselves or with anyone else or do any independent
24 research.

25 Have a nice evening. We'll see you in the

1 morning.

2 (Jury exited at 4:18 p.m.)

3 THE COURT: All right. Counsel, anything before
4 we recess for the evening?

5 MS. FRIES: Nothing for the State.

6 MR. GOODWYN: No, Judge.

7 THE COURT: All right. Y'all have a good night.
8 We'll see you in the morning.

9 (An evening recess was taken at 4:19 p.m. until
10 Thursday, April 24, 2025 at 9:30 a.m.)

11 (End of Volume 2.)

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSION

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

Plaintiff,

vs.

DESHAWN RONTEA TOLLERSON,

Defendant.

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FILE NOS:

2025-GS-1000338 - 337

TRANSCRIPT, Volume 3 of 4, Pages 211 - 344

Wednesday, April 23, 2025

Monday, April 21, 2025 General Session

Honorable Maite Murphy, Judge Presiding

Criminal Trial

Julia A. Titus Emerson, CVR, RCP-M
 Official Court Reporter
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35	Jail calls on CD	270	270	270
38	D.R. Tollerson's sentencing sheet	276	276	N/A

1 (The case of the *State of South Carolina vs.*
2 *DeShawn Rontea Tollerson*, File No. 2025-GS-1000338
3 - 337, was called for hearing at 10:25 a.m. on
4 Wednesday, April 23, 2025. All parties were
5 present.)

6 THE COURT: The juror has finally made it. I
7 understand it though that she came in the wrong way and was
8 actually out in the -- in the public area, so I would
9 propose to just bring her in individually and ask and
10 confirm that she didn't talk to anybody, because apparently,
11 there were some witnesses out there.

12 So is there any objection from either the State or
13 the defense to do that?

14 MS. FRIES: No, Your Honor.

15 MR. GOODWYN: No, Judge.

16 THE COURT: All right. Let's have Juror No. 101,
17 please.

18 (Juror No. 101 entered at 10:28 a.m.)

19 THE COURT: Good morning, Ms. Graham. Ms. Graham,
20 I'm going to have the Clerk of Court to, please, swear you
21 in quickly.

22 THE CLERK: If you would, please raise your right
23 hand to be sworn.

24 (Juror No. 101 was sworn at 10:28 a.m.)

25 THE COURT: Good morning, Ms. Graham. I see

1 you've had a rough morning, and I understand you had some
2 issues with transportation; is that correct?

3 JUROR 101: Yes.

4 THE COURT: So if you don't mind, in the future,
5 what you could do -- we would be happy to provide
6 transportation for you if that's an issue so that we can
7 certainly get started on time.

8 But the question I have for you this morning is, I
9 understand you came in a different way not -- and through
10 the jury and you were outside in the hallway where there may
11 have been some witnesses out there.

12 Did you talk to anybody at there or have any
13 communication with anyone involved in this case?

14 JUROR 101: No.

15 THE COURT: Okay. And nobody talked to you; is
16 that correct? You have to answer out loud so the Court
17 Reporter can take that what you're saying.

18 JUROR 101: No.

19 THE COURT: Okay. Any further questions from
20 either side?

21 MS. FRIES: No, Your Honor.

22 MR. GOODWYN: No, Judge.

23 THE COURT: And Ms. Graham, I don't mean to single
24 you out and embarrass you in any way, shape, or form, and I
25 certainly hope you don't feel that way. We just have to

1 address matters as they come up, okay?

2 All right. Thank you, ma'am. You can --
3 actually, you can come on in because we're going to bring in
4 the rest of the jury.

5 JUROR 101: You just want me to have a seat?

6 THE COURT: Yes, ma'am. You can go ahead and just
7 have your seat. I'm sorry?

8 JUROR 101: I have to use the restroom.

9 THE COURT: All right, ma'am.

10 (Juror 101 exited at 10:29 a.m.)

11 MS. FRIES: And, Judge, just for the purposes of
12 scheduling, we are going to call the victim in this case.

13 It's going to probably take an hour, maybe an hour
14 and a half, and then we were hoping to take maybe about a
15 five- or a ten-minute break, and then call Melissa High from
16 the jail and then also the Clerk of Court, and then Alyssa
17 Rheingold, depending if that comes in, her.

18 She cannot be here. It'll take her 30 to 45
19 minutes to get here, so we were maybe thinking having her
20 come after lunch, and then depending on that, maybe doing
21 closings tomorrow morning.

22 I have talked to the defense, and they're --
23 they're good with that as well.

24 THE COURT: Sure. It really just depends after
25 the -- the victim testifies. I do have another scheduling

1 matter around lunchtime, so we may break for lunch right
2 after she testifies and then start in the afternoon. I
3 typically don't like to give the jury a case after 3:30.
4 But we'll play that by ear.

5 MS. FRIES: Okay, sounds good.

6 (Pause in proceedings.)

7 (Jury entered at 10:33 a.m.)

8 THE BAILIFF: All the jurors are present, Your
9 Honor.

10 THE COURT: Thank you, ma'am. You may have a
11 seat. Good morning, ladies and gentlemen of the jury. I
12 hope that you had a nice evening. We're ready to proceed
13 with the trial of this case. You may call your next
14 witness.

15 MS. FRIES: Thank you, Your Honor. The State
16 calls Emily Hopkins.

17 THE CLERK: Please, raise your right hand, and
18 place your left on the Bible.

19 (Witness sworn.)

20 THE CLERK: Please be seated. Please state your
21 full name, spelling your last name loudly and clearly into
22 the microphone.

23 THE WITNESS: Emily Hopkins, H-o-p-k-i-n-s.

24 THE COURT: Your witness.

25 MS. FRIES: Thank you, Judge.

Emily Hopkins - Direct by Ms. Fries

EMILY HOPKINS

having been called as a witness for the State at 10:34 a.m.
was sworn and testified as follows:

DIRECT EXAMINATION by Ms. Fries:

Q. Good morning, Emily. Can you tell the jury how
old you are?

A. 41.

Q. And where do you work?

A. For a florist. I just got a new job.

Q. Okay. Where do you currently live?

A. In West Ashley.

Q. Back in 2021, where did you live?

A. In West Ashley as well.

Q. Okay. What was -- what was your address?

A. [REDACTED] Poinsettia Road, Charleston, 21207.

Q. Did you live in an apartment complex or a
townhome?

A. Just like a set of six little townhouses.

Q. Okay. And what was your townhome number?

A. Five.

Q. Do you have any children?

A. I do.

Q. What are their names?

A. Savannah and Minor .

Q. And how old are they?

Emily Hopkins - Direct by Ms. Fries

1 A. 21 and 5.

2 Q. Okay. Do you know the defendant, DeShawn
3 Tollerson?

4 A. Yes, ma'am.

5 Q. How do you know him?

6 A. We met in 2017, and in an on-and-off-again
7 relationship for about four years.

8 Q. Okay. So on and off for four years?

9 A. Right.

10 Q. Did you or do you have any children with him?

11 A. I do.

12 Q. And who is that?

13 A. Minor . She's the five-year-old.

14 Q. Does she go by any other names?

15 A. ^{Minor} . Well, he calls her Min, the nickname, and
16 Minor is her name. I call her Minor .

17 Q. Okay. And did you two ever live together?

18 A. No, ma'am.

19 Q. Would he sometimes leave stuff at your house?

20 A. Of course, we were, you know, dating, so he would
21 leave stuff there.

22 Q. So back in November of 2021, you-all weren't
23 living together?

24 A. No, ma'am.

25 Q. And is the defendant in the courtroom today?

Emily Hopkins - Direct by Ms. Fries

1 A. Yes, ma'am.

2 Q. And can you tell us what he's wearing?

3 A. Yes, he's wearing a greenish-brown suit sitting
4 over there.

5 Q. Okay.

6 MS. FRIES: Let the record reflect that the
7 witness has pointed out the defendant?

8 THE COURT: Yes, ma'am.

9 BY MS. FRIES:

10 Q. So focusing your attention to November 1, 2021,
11 can you -- well, do you remember law enforcement responding
12 to your apartment that night?

13 A. Yes, ma'am, I do.

14 Q. Did you call them?

15 A. I did not.

16 Q. Why didn't you call them?

17 A. I was scared.

18 Q. Did you have any way of calling them?

19 A. Not -- no, ma'am. My phone was destroyed at the
20 point of -- that I would have.

21 I mean, I initially called his mother to try to
22 get him to calm down because that's typically what -- the
23 only person that he would listen to when he's in that state
24 when he's drinking, and he definitely won't listen to the
25 police so.

Emily Hopkins - Direct by Ms. Fries

1 Q. What was your state of mind when law enforcement
2 got there?

3 A. I was in just complete, like, panic and trauma. I
4 don't know. I was just very scattered. It's still
5 scattered for me. I was just very disheveled.

6 Q. So can you first, kind of, explain what happened
7 earlier in the night that night?

8 A. Yes, ma'am. We had gotten into an argument,
9 several of them. He had been drinking, and so he had, kind
10 of, been touch and go all evening, and he -- he got upset
11 because I needed milk.

12 And he left his debit card at his mother's, and so
13 I called or he -- I think he -- he called his mother from my
14 phone, or either I did, to go down there and get it, and so
15 we could go pick up some milk.

16 Q. Did you record him that night?

17 A. I did. I did earlier before that ever happened.
18 I was sitting at my table because I wanted him to see how he
19 acts because he would always, you know, accuse me of lying,
20 and "I didn't do that. I didn't say that. You're making it
21 up" type stuff, so I wanted him to see how he acted.

22 Q. And that was earlier prior to going to get his
23 debit card?

24 A. Correct, as he was -- had been drinking, yeah.

25 Q. Okay. And what happened when you got to his mom's

Emily Hopkins - Direct by Ms. Fries

1 house? Did you-all stay there? Did you leave?

2 A. We left. He went in there and got it, and then we
3 left and either went to a Publix or a gas station. I can't
4 really remember exactly as we stopped, but we got it.

5 Q. Was that to get the milk?

6 A. To get the milk, yes, ma'am.

7 Q. Okay. And then what happened after you left
8 Publix?

9 A. Just progressive -- the argument kept progressing
10 in the car, and when we got to the house, I went to put
11 Minor to bed upstairs, and he was, kind of -- he was
12 wanting me to come inside and talk with him, and lay down in
13 the bed, and, like, he was just -- I don't know, it was just
14 progressive.

15 So I went up there, I put Minor to bed, and she
16 was asleep, and then I went outside. I wanted to just chill
17 out, and smoke a cigarette, and just create some distance so
18 that things could calm down because they just kept on and
19 on.

20 And I went out to the car, and I just sat in my
21 car, which was, like, right across from my door. It was,
22 kind of, late out -- you know, I mean, it was dark, and
23 then --

24 Q. Let me -- I'm going to show you State's Exhibit

25 22. Is this -- can you point out where your car is, and you

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1 can touch the screen?

2 A. And this is my front door.

3 Q. Okay. So your front door is to the right there,
4 and then your car is right next to that cop car, correct?

5 A. Correct.

6 Q. Okay. So sorry. I interrupted you. So you go
7 inside and put Minor to sleep, and then you testified you
8 went outside to de-escalate the situation, right?

9 A. Yeah, I just needed a minute. I needed to break,
10 I mean, I just needed to breathe.

11 Q. Because of his anger and --

12 A. Yeah.

13 Q. -- and what he wanted's. Okay.

14 A. Yeah.

15 Q. And just to back up, when you were in the car and
16 y'all were arguing prior to coming to your house, was Minor
17 in the car?

18 A. She was.

19 Q. Okay. All right. So when you are outside and,
20 you know, trying to de-escalate the situation, what happens
21 next?

22 A. We were texting back and forth. He was wanting me
23 to come inside and, like I said, and -- and talk, and let's
24 just talk, let's talk, let's talk, and I was -- you could
25 just hear it in his tone of voice and his mannerisms, like,

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1 it was not going to -- it wasn't going to be a -- a calm
2 conversation, so I was just trying to keep away.

3 Q. Okay. And did he ever come outside?

4 A. He did. When I was refusing to come in, he -- he
5 kept calling saying Minor was awake, she was crying now
6 trying to, like, lure me back in the house to -- you know,
7 and I just said, "No, you know, I mean, just give me a
8 minute. Handle it. You know she's your child too."

9 And -- but he kept -- he came outside and trying
10 to get me to come out, so then he -- he goes back inside and
11 gets Minor, brings her downstairs across the parking lot.

12 I opened up the car door because I can see him
13 coming with her, so I opened up the car door, and I stand up
14 and he just tossed her to me like that, like, through the
15 door.

16 And so immediately -- I mean, that's what I was
17 worried about is how it would escalate, so I just grabbed
18 her, and I slammed the door, and I lock it -- locked us in
19 the car, and then he just proceeded to get even more mad.

20 He started kicking the car, punching my window,
21 and he hit the side view mirror.

22 Q. So when you got in the car --

23 A. I'm not sure if that -- the side view mirror part
24 happened before, like, after in the end because I think that
25 he did it again, but I'm not quite -- the events are a

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1 little run together. Sorry.

2 Q. And I'm going to show you State's 23, was it that,
3 is that your car --

4 A. Yes, ma'am.

5 Q. -- the side view mirror? And when you got in the
6 car with Minor , you said you locked your car?

7 A. Yes, ma'am.

8 Q. Why did you lock it?

9 A. Because I was scared of him.

10 Q. Did you have your keys to the car?

11 A. I honestly don't remember.

12 Q. Okay. And so you said he's banging on the door,
13 and he's -- was he -- he's kicking and using his fists or?

14 A. (Non verbal response.)

15 Q. Okay.

16 A. Yes ma'am.

17 Q. And then what happened after that?

18 A. He left. He -- he left, and it's -- it's -- I
19 don't know if you can tell, but it's really dark in that
20 parking lot, and he -- he -- he walked off, and a while -- a
21 few -- I don't know, it felt like forever.

22 I don't know how long it was. When I felt like he
23 was gone, I got out and looked to go inside, and then I
24 could see him coming back, and that's when I ran to the
25 neighbors and I just started screaming, like -- because he

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1 was just aggressively approaching me, and I'm holding our
2 daughter, and he's -- so I just started banging on my
3 neighbor's door, and screaming, and screaming like,
4 "Somebody help us. Somebody come help me."

5 I'm just banging, and banging, so I was just
6 scared.

7 Q. And I'm showing you State's 26, so is that -- it
8 looks like that is where your neighbor's --

9 A. That's the door --

10 Q. -- door is?

11 A. -- I -- I banged on, and they never -- they never
12 answered.

13 Q. Okay. And then did you see him approaching as
14 you're banging on the door?

15 A. Yeah, well, that's when I started banging --

16 Q. Yeah.

17 A. -- because I saw him approaching, and then as soon
18 as I started screaming really loud, he took off.

19 Q. And --

20 A. And I was able to get into my house, close the
21 door and lock it, and when I did that, then he started
22 banging on the door, and "Let me in. Open that effing
23 door," that kind of stuff.

24 And then he -- I could just literally -- the door
25 was, like, shaking. He was kicking it, and kicking it, and

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1 kicking it.

2 I mean, you could see the -- the trim on the door
3 just, like, coming off. Do you know what I mean? And then
4 just, pow, here he came.

5 Q. And when you -- when you say that he took off
6 after you were banging on the door, do you mean he just --
7 what do you mean by that?

8 A. Like, he must have walked off. He must have got
9 out of sight.

10 Q. Okay. And so then, you testified, you went into
11 your home, and then you locked the door; is that correct?

12 A. Yes, ma'am.

13 Q. Okay. And that's where he started banging on the
14 door saying, "Let me in"?

15 A. Right.

16 Q. Okay. And then he kicked in the door?

17 A. He did.

18 Q. Okay. And where was Minor in all of this?

19 A. I was holding her.

20 Q. Okay. So when he kicked in the door, you were
21 holding her?

22 A. Right. I mean, I hadn't even had a chance to get
23 really in the house. I mean, I still was holding her.

24 She was crying and upset, and I was screaming, you
25 know, like for help, and so, yeah, I was still holding her.

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1 Q. Okay. And what happens when you get inside?

2 A. Like, the order of the events are a little foggy
3 to me. I mean, there was, kind of, a lot going on during
4 that time, and it's just panic.

5 I don't know, but, at some point, I'm on the phone
6 with his mom. I called his mother because like I said,
7 he -- that was the only person that could calm him down, and
8 when he realized I was on the phone with her, it made him
9 even more mad.

10 And somehow, like, there was just a scuffle in --
11 in the living room, and I tried to, like, get to the couch
12 because I'm holding Minor and I can see him, and, you know,
13 he's on me.

14 And literally, I just cradled her like this, and
15 bent down on the couch, you know, just trying to put her
16 between the couch and myself just shielding her, and he
17 started beating us -- beating me, excuse me.

18 He didn't physically do it to Minor, but I was,
19 you know -- literally, he was hitting me with it, like, with
20 the trim.

21 Q. And -- and do you know how many times he hit you?

22 A. I have no idea.

23 Q. Do you know what piece of the door trim that he
24 was hitting you with?

25 A. I honestly couldn't see -- see it. I mean, I

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1 didn't see which one he was using, but I know that's -- I
2 saw him pick it up -- pick one up.

3 Q. Okay. I'm going to show you State's Exhibit 6.
4 Is that -- I mean that's -- is that the door trim from him
5 kicking in the door?

6 A. Yes, ma'am.

7 Q. Okay. And then the -- what we see on the -- the
8 floor that looks, kind of, like a phone, is that your phone
9 or is that a case?

10 A. That's my phone case.

11 Q. Okay. And how old was Minor at the time?

12 A. One.

13 Q. Okay. And I'm going to show you State's Exhibit
14 9, and again, is that you and Minor?

15 A. Yes, ma'am.

16 Q. Okay. And then that on the floor is your phone
17 case?

18 A. Yes, ma'am.

19 Q. Okay. So tell me a little bit about when you --
20 you said you called his mom.

21 What happened to the phone after you called his
22 mom and he came in and was mad that you were on the phone
23 with his mom?

24 A. Well, after he -- we were on the couch and he
25 stopped hitting me, I -- I was screaming, "I'm going to call

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1 the police. I'm going to call the police," and, "Get out of
2 here," and I -- I saw the phone, like, on the floor near the
3 couch, so I went to reach for it, and he grabbed it first,
4 and then just destroyed it.

5 I mean, he picked it up and threw it probably five
6 times. Hard as -- like, super hard. It went flying. The
7 whole screen ripped off.

8 Q. I'm going to show you State's Exhibit 18. Is that
9 your phone?

10 A. Yes, ma'am.

11 Q. Is that the front of your phone?

12 A. I believe it is the front of the phone.

13 Q. Where a screen should be --

14 A. Correct.

15 Q. -- right there, and it's not?

16 A. Right.

17 Q. And so you -- so you testified that you were
18 threatening to call law enforcement, that's when he grabbed
19 the phone, and he smashed it --

20 A. Uh-huh.

21 Q. -- and that's the result of that?

22 A. Yes, ma'am.

23 Q. Okay. How did -- did he injure you in any other
24 kind of way?

25 A. I mean, after the fact, I had, like, a cut on my

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1 head right here, and from when I was trying to leave -- when
2 I was trying to get out of the apartment and he grabbed me
3 by my hair back and hit me in the head.

4 Q. And how did he end up leaving? I mean how did
5 this all end up stopping?

6 A. I think he could hear sirens perhaps. I mean, I
7 could hear them. So he took off.

8 Q. And when law enforcement was there, did his mother
9 arrive that night?

10 A. I never saw her, but, yes, she -- she did.

11 Q. And did you want to speak with her that day?

12 A. Not at that point. I was upstairs in my room,
13 naked. There was police everywhere.

14 My daughter is upset, and at that point, what
15 could she do to help me? It was already over.

16 Q. Because he -- he had left?

17 A. Right.

18 Q. And you described a little bit about your
19 injuries, but did you have any other injuries on your body?

20 A. I mean, I had bruises develop after a time from --
21 on my legs, and my back, and I had a couple of puncture
22 wounds on my leg, and my hand.

23 I mean, it was just, kind of, random stuff that
24 got -- and then I had that cut on my head right here.

25 Q. Okay. And I'm going to show you State's Exhibit

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1 28. Can you circle on there where we see the puncture wound
2 you're representing? And do you remember there being nails
3 in the door trim?

4 A. Yeah, I felt it go in my leg.

5 Q. Okay. And then State's Exhibit 29. Can you
6 circle on there where we see the marking?

7 A. Well, you do see one right over here. Oops.
8 Sorry.

9 Q. And was that easy for you that night to have to
10 get undressed in front of law enforcement and -- and go
11 through this?

12 A. Of course not. I was shaking to death.

13 Q. Did you want to write a report that night?

14 A. No, everything -- there had just been so much
15 going on during that time.

16 I was -- everything was just starting to run
17 together, and I was -- I just wanted to make sure I wrote a
18 proper statement.

19 And she pretty much insisted that I do it right
20 then, and I even told her I'm -- you know, standing there
21 that -- do you know what I mean?

22 I can't -- couldn't remember exactly what went
23 after what -- and so you know what I mean? But all I do
24 know is that he did do that. Do you know what I mean?

25 And the -- the course of events are just, they're

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1 just all starting to run together, and then some come to you
2 later, you know, when you're -- it's been almost four years
3 now, so, like, sometimes -- some things came to me.

4 Some things I forgot, like, whenever I watch the
5 body cam stuff, so it's just...

6 Q. Because this was a traumatic night for you?

7 A. For sure.

8 Q. I'm going to show you State's 32. Can you point
9 out here where we see --

10 A. This would be the newer injury. The -- there was
11 two that were already there but.

12 Q. And, you know, you mentioned that you didn't want
13 to write your -- you know, you didn't want to do a report,
14 but you did write a statement that night?

15 A. I did.

16 Q. And just to clarify, there are some things a
17 little different now that some time has passed and that, you
18 know, that night was traumatic for you?

19 A. Yeah. Yes, ma'am.

20 Q. And have you spoken with the defendant since this
21 incident?

22 A. I have.

23 Q. And what were those conversations like?

24 A. Arguing with me about the statement and what
25 happened, and trying to tell me what happened and what

Emily Hopkins - Direct by Ms. Fries

1 didn't happen and.

2 Q. And when -- when was the last time?

3 MR. GOODWYN: Your Honor, objection for the same
4 reasons that we discussed pre-trial.

5 THE COURT: Yes, sir. Same ruling applies. You
6 may proceed.

7 BY MS. FRIES:

8 Q. And when was the last time you spoke with the
9 defendant?

10 A. September of '24.

11 Q. All right. And has he tried calling you since
12 then?

13 A. Yes.

14 Q. Have you answered?

15 A. No.

16 Q. Why did you continue to speak with him after this
17 incident?

18 A. I just wanted to see if he was sorry. You know, I
19 just wanted to see if anything changed.

20 Q. Did you want to see if he would take
21 accountability --

22 A. Right.

23 Q. -- for anything? And did you still love him?

24 A. Of course. I mean, that's my little girl's dad,
25 you know.

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1 Q. And did you gain or benefit from anything by
2 speaking to law enforcement that night?

3 A. No, ma'am.

4 Q. What happened as a result of all of this?

5 A. I had to -- DSS came. I had to move into my -- I
6 moved out of my house to my dad for, like, a month.

7 I couldn't come home until I found a new place to
8 live. Do you know what I mean? That cost a lot of money to
9 do that.

10 It was just having to leave and -- immediately,
11 you know, it's just -- it's embarrassing. It's -- it's a
12 lot having to go through all this -- this process. Do you
13 know what I mean? It's just like adding insult to injury
14 kind of.

15 Q. And were you in fear of life that day?

16 A. Definitely.

17 Q. Were you in fear of Minor's life that day?

18 A. Yeah.

19 Q. And why are you here today?

20 A. Not only for myself, but I have two daughters.
21 One is 21, and one is 5, and I don't want anything like that
22 to -- them to put up with things like that in their own
23 life, you know? I have to set an example.

24 MS. FRIES: I beg the Court's indulgence.

25 BY MS. FRIES:

Emily Hopkins - Direct by Ms. Fries

1 Q. Going back to when you went to the neighbor's door
2 and you banged on the door, did anybody come out that night?
3 Do you know if anyone was home?

4 A. It looked to be their cars were there, but they
5 didn't come out.

6 Q. Okay. If I have nothing further.

7 A. All right.

8 Q. Please, answer anything the defense may have.

9 THE COURT: Cross-examination?

10 MR. GOODWYN: I beg the Court's indulgence just
11 briefly.

12 (Pause in proceedings.)

13 MR. GOODWYN: Your Honor, may we approach briefly?

14 THE COURT: Yes, sir.

15 (Bench conference.)

16 MR. COOPER: So I've been speaking with the victim
17 several times. They had prior altercations. She was the
18 victim of the -- the conviction that's coming in, which
19 means that some of her answers about why I don't remember
20 certain things or why I said certain things is the incidents
21 run together.

22 We have cautioned her and she knows not to talk
23 about prior stuff. I just wanted to caution him and let him
24 know if he pushes her at all --

25 (Multiple people whispering simultaneously.)

Emily Hopkins - Cross by Mr. Goodwyn

1 THE COURT: Do you want me to send the jury out
2 and caution her again or is she fine?

3 MS. FRIES: No.

4 MR. COOPER: I think that's fine. I just want to
5 make Your Honor aware.

6 MR. GOODWYN: And I think we need to have a
7 discussion after this about what we need to do is maybe is
8 there a curative thing that we need to do with that or not.
9 I don't think it needs to be addressed yet.

10 THE COURT: Okay.

11 MR. COOPER: I just wanted to make you aware.

12 THE COURT: Okay. So we'll just continue.

13 MS. FRIES: Thank you.

14 MR. COOPER: It may come up again.

15 (End of bench conference.)

16 MR. COOPER: Thank you, Judge.

17 THE COURT: All right. Mr. Goodwyn, your witness.

18 MR. GOODWYN: Thank you, Your Honor, may it please
19 court?

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION by Mr. Goodwyn:

22 Q. Hey, Ms. Hopkins. Good morning.

23 A. Good morning.

24 Q. I'll just, sort of, start, sort of, slow. Can you
25 tell me where you're from?

Emily Hopkins - Cross by Mr. Goodwyn

- 1 A. I'm from Irmo.
- 2 Q. Irmo?
- 3 A. South Carolina.
- 4 Q. Okay. Did you grow up there?
- 5 A. Here and in Irmo, yes.
- 6 Q. Okay. Did you go to high school in Irmo or --
- 7 A. At Dutch Fork, yes, sir.
- 8 Q. I'm sorry?
- 9 A. At Dutch Fork High School.
- 10 Q. Okay.
- 11 A. Yes, sir, in Irmo.
- 12 Q. Okay. You said you spent some time in Charleston.
- 13 A. Yes.
- 14 Q. Was that -- who -- was that with a family member
- 15 down there?
- 16 A. My mother. I -- being new to Charleston when I
- 17 was in seventh grade, and then in the -- in high school, I
- 18 was missing my friends, so I went back and stayed with my
- 19 dad in -- in Irmo, and I went to school there.
- 20 Q. Okay. So do you have family in Irmo and in
- 21 Charleston now?
- 22 A. I do.
- 23 Q. Do you have family in Irmo and in Charleston back
- 24 in 2021?
- 25 A. I did.

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. Okay. And you said earlier that you and DeShawn
2 met and started dating in 2017?

3 A. Yes.

4 Q. And that lasted for about four years?

5 A. Off and on.

6 Q. And you guys have one daughter, who you call
7 Minor ?

8 A. Correct.

9 Q. And she's about five now, right?

10 A. Just turned five.

11 Q. Just turned five? Okay. And I'm a parent, too.
12 So I understand, you know, that kids are the absolute center
13 of your world, right? When you have a kid, it changes your
14 life.

15 A. I know.

16 Q. And you would do anything to protect that child.

17 A. Right.

18 Q. Absolutely anything, right?

19 A. Yes.

20 Q. You know, you want to make sure she's safe. And
21 for her to be safe you need to be safe as well, correct?

22 A. (No verbal response.)

23 Q. And on this date back in November of 2021, you
24 know, the date that we're -- the reason that we're here
25 today is DeShawn gave you a reason to not feel safe, right?

Emily Hopkins - Cross by Mr. Goodwyn

1 A. Many, yes.

2 Q. All right. I know you've watched the duration of
3 this trial. You were here yesterday. You've heard all the
4 testimony that's been said at this point, right?

5 A. (No verbal response.)

6 Q. You listened to the two police officers testify.

7 A. Yes.

8 Q. And those are the two police officers that arrived
9 to your house that night. And we've talked a lot about in
10 this trial about their investigation into what happened,
11 right?

12 A. Yes, sir.

13 Q. Because other than you and Minor, there's no one
14 else that personally lived that experience, right?

15 A. (No verbal response.)

16 Q. And there's no one else that witnessed it, right?

17 A. He did.

18 Q. Outside of Mr. Tollerson, you, and Minor were the
19 persons that -- that lived that experience and --

20 A. I did.

21 Q. -- witnessed it, right?

22 A. I witnessed it, yeah.

23 (The court reporter asked for clarification.)

24 BY MR. GOODWYN:

25 Q. You know, and we discussed, really, two big things

Emily Hopkins - Cross by Mr. Goodwyn

1 as far as what you told officers that night. One of those
2 things was what you said to them verbally, right?

3 A. Right.

4 Q. Right. And then one of those things is what we
5 discussed was what you put down in the written statement,
6 right?

7 A. (No verbal response.)

8 Q. So we've got the written statement and verbal
9 statements --

10 A. Right.

11 Q. -- right? And I'm not trying to trick you in any
12 way. I want to talk about both the written statements and
13 the verbal statements. Okay?

14 A. Okay.

15 Q. And we'll start with the verbal statements. I'm
16 going to hand you a copy of your written statement just so
17 that we can, kind of, be on the same page and walk through
18 it together, if that's okay.

19 MR. GOODWYN: May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. GOODWYN:

22 Q. Do you need to take a look at it first?

23 A. (No verbal response.)

24 Q. And that is your written statement from that night
25 that we've been discussing --

Emily Hopkins - Cross by Mr. Goodwyn

1 A. It is.

2 Q. -- through the trial?

3 A. Yes, sir, it is.

4 Q. So in your statement, the first thing that you
5 said is that DeShawn came over drunk, right?

6 A. Yes, sir.

7 Q. And then he went to get his hair done, or, cut
8 earlier that day, right?

9 A. I don't remember that happening, but yeah, I wrote
10 that.

11 Q. Yeah. Okay. And then you wrote that you were
12 upset with him, right?

13 A. Right, because he was drunk and --

14 Q. Sure.

15 A. -- being crazy.

16 Q. Yeah. I'm just -- I'm just trying to walk through
17 this to make sure that we can, kind of --

18 A. It is.

19 Q. -- kind of piece it all together so that we all
20 can understand better what happened.

21 And then you say that he argued with you over and
22 over again, right?

23 A. (No verbal response.)

24 Q. And he cussed at you, right?

25 A. (No verbal response.)

Emily Hopkins - Cross by Mr. Goodwyn

1 (The court reporter asked for clarification.)

2 BY MR. GOODWYN:

3 A. Yes, sir.

4 Q. All right. And he wanted to go get his debit card
5 in the mail that had arrived at his mom's house, right?

6 A. Yes, sir.

7 Q. Okay. And he told you this as part of a text
8 message?

9 A. I don't remember.

10 Q. Oh, okay.

11 MS. FRIES: Your Honor, may we approach?

12 THE COURT: Yes, ma'am.

13 (Bench conference.)

14 MS. FRIES: I think if he's trying cases -- to
15 refresh her recollection. That's fine, but if he's going to
16 (indiscernible whispering.)

17 MR. GOODWYN: She can say what she said or not. I
18 mean, I'm -- I'm going to ask what she said.

19 MR. COOPER: If she's going to --

20 MS. FRIES: I think she's --

21 MR. COOPER: -- I think she can answer the
22 question, Your Honor, so I don't think he needs to confront
23 her, but he's (indiscernible whispering.)

24 MR. GOODWYN: Well, I'm asking her what she wrote.

25 THE COURT: I'll allow it.

Emily Hopkins - Cross by Mr. Goodwyn

1 MR. COOPER: Okay.

2 (End of bench conference.)

3 MR. COOPER: Thank you, Judge.

4 BY MR. GOODWYN:

5 Q. Just back to the previous question about that part
6 of the text message. Is that not what you wrote down in
7 your report is that --

8 A. I did.

9 Q. Okay. And then you said that you -- that you had
10 gone -- that -- that this part occurred over text messages
11 because you had left your house to go to the store to get
12 some milk, right?

13 A. We went to go get his debit card. yeah.

14 Q. Right. But -- but -- but before then. I'm
15 talking about what you wrote in your statement is that you
16 had left your house to go get milk, and DeShawn texted you
17 about wanting to go and get his debit card from his mom's
18 house.

19 A. I wrote that. I just don't remember all of that
20 being --

21 Q. Sure. I understand. I understand. At that time,
22 he was home with Minor, right?

23 A. I mean, I guess. I don't think so. I mean, I
24 might have wrote that, but I don't think that's how it went.

25 Q. Sure. Well, and you wrote that -- and I guess how

Emily Hopkins - Cross by Mr. Goodwyn

1 we know he was home with Minor , is he told you that he
2 wanted to take Minor with him to go get the debit card,
3 right? Is that in -- is that what you wrote in your
4 statement?

5 A. That does sound a little more familiar.

6 Q. But I'm just asking.

7 A. Yeah, I wrote it. I wrote it.

8 Q. Okay.

9 A. Yes, sir.

10 Q. And you also said in the statement that part of
11 his text message that he planned to put Minor in the truck
12 without a car seat?

13 A. Yes.

14 Q. And at this point, you called his mother so she
15 would help convince him to allow you to drive.

16 A. Yes.

17 Q. And you called -- I'm sorry. You did that, and
18 DeShawn complied with that request, right?

19 A. Right.

20 Q. Okay. So you, DeShawn, and Minor drove to his
21 mother's house, right?

22 A. Yes, sir.

23 Q. Okay. And after you-all picked up the debit card,
24 DeShawn continued to call you names and talk poorly to you,
25 right?

Emily Hopkins - Cross by Mr. Goodwyn

1 A. That's right.

2 Q. And you were finally able to get to the store to
3 pick up the milk, right?

4 A. Correct.

5 Q. And when you returned home, I'm talking about your
6 statement, you say that DeShawn took Minor inside?

7 A. We both -- we were together. We walked in the
8 house together.

9 Q. Okay. Well, I mean --

10 A. He might have been holding her, but, yeah, we --

11 Q. Sure.

12 A. -- both were there.

13 Q. Okay. Okay. And in your statement you say -- the
14 next part is you stayed in the car and smoked a cigarette so
15 you could calm down?

16 A. Right. I did put her to bed. I wanted him to
17 watch her. I said, please watch her so I can go outside and
18 get a breath of air, and he stayed upstairs with her.

19 Q. But in your statement -- I'm just -- I'm just
20 talking about what you -- what you wrote that night.

21 I understand what you've said as far as not
22 remembering, but I'm really just trying to understand what
23 the course of events as far as what you wrote in your
24 statement.

25 A. Okay.

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. (As read:) After stopping by the store to finally
2 get to the milk, we went to my house and he took the baby
3 inside. That's what you wrote.

4 A. I wrote that.

5 Q. Okay. All right. And then you write that you
6 stayed in the car to smoke a cigarette so you could calm
7 down, right?

8 A. Yes, sir.

9 Q. Okay. And that's when DeShawn started texting you
10 again for help with Minor because she was crying?

11 A. And calling, yes.

12 Q. Okay. I'm -- I'm just talking about the
13 statement.

14 A. I am aware.

15 Q. Is that what's in the statement?

16 A. Yes, sir, it is.

17 Q. Okay. And you told DeShawn to handle it?

18 A. Yes.

19 Q. And then, at that point, he came -- came outside
20 to make you come inside?

21 A. Right.

22 Q. He was starting to get more aggressive at this
23 point, right?

24 A. Yes, sir.

25 Q. So you locked your car door?

Emily Hopkins - Cross by Mr. Goodwyn

- 1 A. Yes, sir.
- 2 Q. And you called his mom for the second time?
- 3 A. I believe so.
- 4 Q. Again, I'm just -- I'm --
- 5 A. Yes.
- 6 Q. -- I'm just coming --
- 7 A. Yes.
- 8 Q. -- from the statement.
- 9 A. Yes, I wrote that.
- 10 Q. That's what it says in the statement, right?
- 11 A. Yes, sir, it does.
- 12 Q. And then you said that DeShawn walks back inside
- 13 and then comes back outside with Minor in his arms?
- 14 A. Correct.
- 15 Q. So when you see Minor, you open the car door and
- 16 then DeShawn tosses --
- 17 A. Threw Minor.
- 18 Q. -- her in the car to you?
- 19 A. Yeah.
- 20 Q. Then you go on to say, and tell me if I'm wrong,
- 21 he takes your phone, and somehow you wound up in your living
- 22 room after you took your phone at the car?
- 23 A. I did write that.
- 24 Q. Yes. Okay. And at that point, you went knocking
- 25 and yelling for neighbors to call the cops?

Emily Hopkins - Cross by Mr. Goodwyn

1 A. I did write that.

2 Q. And DeShawn started throwing your belongings
3 across the living room, right?

4 A. I did write that.

5 Q. Okay. And that was your phone?

6 A. I mean, definitely. I would imagine, yeah. I
7 mean, he definitely --

8 Q. Okay. Yeah.

9 A. -- broke my phone in a million pieces, so, yeah.

10 Q. Okay. And the purse and the baby bag?

11 A. I don't remember that, but if I wrote it, I wrote
12 it.

13 Q. Okay. But it is what you wrote, right?

14 A. It is what I wrote.

15 Q. Okay. And then you go on to say that he pulled
16 you by the hair through the doors of the house?

17 A. Yeah. I was trying to -- when I was trying to
18 leave, yeah.

19 Q. Okay. All right. So at that point, what your --
20 what you -- the statement that you give is you get to the
21 couch and you're shielding yourself and Minor, right?

22 A. I'm shielding Minor. I can't really shield
23 myself.

24 Q. Right.

25 MR. GOODWYN: Well, your Honor, may I ask if I can

Emily Hopkins - Cross by Mr. Goodwyn

1 pull a chair up for her so she can just maybe show the jury
2 how she was during the assault?

3 THE COURT: She can do it in that chair right
4 there.

5 MR. GOODWYN: Okay. All right.

6 BY MR. GOODWYN:

7 Q. Can you just maybe show?

8 A. I was holding her like this, like, literally
9 holding her like -- like this, and I turned around on the
10 couch, and I bent over the couch like this trying to be
11 between like that.

12 Q. Okay. You were sitting down?

13 A. I was crouching. This is the couch. I'm standing
14 up. I have her -- holding her right here, and I go under
15 the couch, and the only way I could protect her was to put
16 her between the couch and myself.

17 Q. Okay. All right. So as far as your statement
18 goes, that's when you got ahold of your phone, again, and
19 called his mother for the third time?

20 A. I had already been on the phone. If I wrote that,
21 yes, I wrote that.

22 Q. But is that -- is that what you wrote in your
23 statement?

24 A. That's what I wrote in my statement.

25 Q. And you also wrote in your statement that she was

Emily Hopkins - Cross by Mr. Goodwyn

1 on the phone when DeShawn started beating you in the head
2 with a broken piece of wood from the door?

3 A. I did write that. -- --

4 Q. And that's the entirety of your written statement,
5 right?

6 A. Uh-huh.

7 THE COURT: Is that a "yes"?

8 THE WITNESS: Yes, sir. I mean, yes, ma'am.

9 THE COURT: It's okay.

10 BY MR. GOODWYN:

11 Q. And what we did was we just walked through
12 chronologically how you wrote the statement and what you
13 said --

14 A. Yeah.

15 Q. -- right? Now, let's talk about what you verbally
16 told police officers, and again, I'm -- I'm not trying to
17 trick.

18 I'm just trying to make sure that we understand,
19 so I'm going to jump around a little bit in this one. Okay?
20 Because we just want to fill in some of the gaps of what
21 happened.

22 So you told officers that he came to your house
23 that night with an overnight bag because he was going to
24 stay the night, right?

25 A. (No verbal response.)

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. .And he's going to stay at your -- I'm sorry he's
2 going to stay at your house, and Minor is also there --

3 A. Correct.

4 Q. -- right? And you could tell that he had been
5 drinking, right?

6 A. Yes.

7 Q. And while you were in the car trying to calm down
8 from the day's events what we talked about, right, DeShawn's
9 growing more agitated?

10 A. Correct.

11 Q. And you said that he was beating on your car
12 window to get out?

13 A. He wanted me to get out.

14 Q. Right. And you told officers, at this point, that
15 you tried to call 911?

16 A. Okay.

17 Q. Is that -- is that accurate?

18 A. I mean, I threatened it. I threatened to call
19 911. That's when I was trying to get him -- to scare him to
20 not -- you know, to stop.

21 Q. Sure. Okay. But I mean, you told officers that
22 you tried to call 911, right, is that a fair statement?

23 A. Probably.

24 Q. Okay.

25 A. I mean, I would have.

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. Sure. Sure. And this part happened while you
2 were locked in the car. And at this point, you start
3 recording him on your phone?

4 A. No. I recorded him earlier in the night.

5 Q. All right. Well, do you remember telling officers
6 that he took your phone and smashed it because you were
7 recording him?

8 A. I might have threatened that I was recording it --
9 recording him right then, but I wasn't recording him then.
10 His mother was on the phone --

11 Q. So --

12 A. -- and that's what made him mad.

13 Q. I understand. But I'm asking you what you told
14 police officers.

15 A. I don't remember what I told the police officers.

16 Q. Sure. Well, can I -- I can refresh your memory.
17 What you say that that would help?

18 A. I mean, I believe you. I mean, I'm sure that
19 those events were super -- they all ran together. I don't
20 know. I was confused about how it all happened anyway.

21 Q. Sure. And I'm not -- I'm just asking, would it --
22 would it help, as far as my question goes, to watch what you
23 said if that --

24 A. I mean, I believe you. If I told him that; I told
25 him that.

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. Okay. So you agree with me that you told police
2 officers that when you were locked in the car, you tried to
3 call 911 --

4 A. Right?

5 Q. -- right?

6 A. Right.

7 Q. And when DeShawn took your phone when you were
8 recording him, right?

9 A. Yes. Yeah.

10 Q. And that's when he smashed it?

11 A. That's not when he smashed it.

12 Q. Okay. But that's what you told police officers?

13 A. Okay.

14 Q. Would it refresh your memory to -- for me to show
15 you what you told police officers?

16 A. I mean, you can.

17 Q. Okay.

18 MR. GOODWYN: I beg the Court's indulgence.

19 A. I mean, it doesn't change anything.

20 (Pause in proceedings.)

21 MR. GOODWYN: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. GOODWYN:

24 Q. Okay. So what I'm going to refresh your memory on
25 for the first time is your statement to police officers

Emily Hopkins - Cross by Mr. Goodwyn

1 about when you tried to call 911.

2 (Video played for witness only.)

3 BY MR. GOODWYN:

4 A. Yeah, that would be right.

5 Q. Okay. And I'm going to show you one more since
6 we've talked about both the 911 call and the smashing of the
7 phone while Mr. Tollerson was being recorded. Okay? So I'm
8 going to refresh your memory on that one, too.

9 (Video played for witness only.)

10 BY MR. GOODWYN:

11 A. Yes, I do say that, but you can also see that I
12 say it -- the -- I don't say it immediately happened after
13 that.

14 Q. But what you do say is that --

15 A. He broke my phone inside the house.

16 Q. -- you said that he smashed your phone as you were
17 recording him?

18 A. Yes, I said that.

19 Q. And you told officers that you tried to call 911
20 while you were in the car?

21 A. I mean, there was no opportunity to. He came out
22 with Minor, but, yes, I told them I was trying to call --

23 Q. Sure. Yeah. I'm -- I'm literally just asking
24 what --

25 A. Yeah.

Emily Hopkins - Cross by Mr. Goodwyn

1 Q. -- you told the police officers.

2 A. Yeah.

3 Q. You said that you tried to call 911 while you were
4 in the car, right?

5 A. Correct.

6 Q. So moving on just a little bit, you were able to
7 get inside the house, and you locked the door, right?

8 A. Yes.

9 Q. And you know, you testified that he kicked it in,
10 he pushed in. Either way, he broke in the door --

11 A. He kicked it in.

12 Q. -- right? And obviously, we've seen there's
13 pieces of wood from the door that break --

14 A. Correct.

15 Q. -- right? And you tell us that you were able to
16 get to the couch, and you're holding Minor?

17 A. Absolutely.

18 Q. All right. And do you remember telling police
19 officers that you were sitting down while you were holding
20 Minor?

21 A. No, I do not remember saying that.

22 Q. Okay. Would it --

23 A. That wouldn't make any sense because that's not
24 what happened.

25 Q. All right. Well, but that is what you told police

Emily Hopkins - Cross by Mr. Goodwyn

1 officers?

2 A. Well, I would like to hear how I said it to them
3 because --

4 Q. Sure.

5 A. -- certainly, that's not how it went down. I was
6 not -- there was no -- no way I could have sat.

7 I mean, maybe on my side, but literally, I was
8 holding her like this, crouched over the couch, and he's
9 hitting me with the trim, and I mean, I could have gone to
10 the side.

11 I don't know, but I wound up sitting back up
12 afterwards, after he stopped, so I was sitting afterwards.

13 Q. Okay. So but are you -- would you disagree with
14 me that that's what you told police officers?

15 A. No.

16 Q. You would not disagree with me?

17 A. Correct.

18 Q. Okay. And as you told the police officers, he
19 started beating you with a broken piece of wood?

20 A. Correct.

21 Q. Across the head?

22 A. I don't remember him hitting me in the head with
23 it, but I do remember it being on my arms, on the backs of
24 my legs.

25 When he hit me in the head, was when I was trying

Emily Hopkins - Cross by Mr. Goodwyn

1 to leave as I was walking out the door.

2 Q. Okay. Okay.

3 A. Trying to leave out the door.

4 Q. We'll talk about that, too. And you tell us that
5 you crossed the arms, the hands, legs, right?

6 A. Yeah.

7 Q. Okay. After this happens, DeShawn goes to get the
8 overnight bag and leaves.

9 Before he leaves, I think what you were talking
10 about just a minute ago he starts punching you and slapping
11 you in the head?

12 A. Yeah, because he was fighting me for the phone.
13 He was trying to get the phone because I said I was calling
14 the cops. After he beat us. Me, excuse me.

15 Q. Okay. But you did testify earlier that what you
16 wrote down is he took your phone in the car.

17 A. Well, what I wrote down, and what I said verbally
18 to the police officers, and what I'm saying now is all
19 cumulative.

20 It's been a really long time, and after you have
21 some time to sit there and think about things, things
22 change.

23 There were so many things that occurred, and it --
24 so many -- they all, kind of, run together, so I apologize
25 if my order of events aren't correct.

Emily Hopkins - Cross by Mr. Goodwyn

1 I'm a human being, and I'm just doing the best I
2 could with what I had at that moment.

3 Q. Absolutely, and that's all you can do. I
4 completely understand that.

5 Again, all I want to do is try to understand what
6 happened the best that we possibly can. Okay?

7 And you talk about how you learned that DeShawn's
8 mother had come to the house to check on you and Minor?

9 A. I think she was just -- well, I guess so. I guess
10 she was coming with her and the brother.

11 Q. Yeah, and you told Officer Tanner Elliott, who
12 testified yesterday, that, yeah, she heard the last part of
13 what was going on.

14 A. Yeah, because I was on the phone with her. I was
15 calling her to get him to calm down.

16 Q. And you tell Officer Tanner, "Tell them I can't
17 talk right now"?

18 A. Right.

19 Q. All right. And say whatever you need to say.
20 Right?

21 A. (No verbal response.)

22 Q. And you tell him -- I'm sorry, was that a "yes"?

23 A. Yes. Yes.

24 Q. Okay. All right. And tell him, you know, "I
25 don't want to provoke him"?

Emily Hopkins - Redirect by Ms. Fries

1 A. Right.

2 Q. And you tell him, right now -- you're giving him
3 advice as to how to do this. Right now, during the -- and
4 during this investigation, just tell him the best that you
5 know, right, is that fair?

6 A. That's fair.

7 Q. Okay. And then you say, "If you could shield me,
8 that would be helpful"?

9 A. Yeah, shield me from them.

10 Q. Okay. And just tell them it's best that they go,
11 right?

12 A. Correct.

13 Q. Okay. All right. Just two more questions. I'm
14 almost -- I'm almost finished.

15 MR. GOODWYN: I beg the Court's indulgence
16 briefly.

17 (Pause in proceedings.)

18 MR. GOODWYN: No further questions, Your Honor.

19 THE COURT: Any redirect?

20 MS. FRIES: Yes, Your Honor.

21 REDIRECT EXAMINATION by Ms. Fries:

22 Q. Will you tell the jury again what your state of
23 mind was, and what your mental state was when you were
24 writing that written statement?

25 A. I honestly, I don't even remember sitting there

Emily Hopkins - Redirect by Ms. Fries

1 and talking. I remember them trying to get me to -- I was
2 just very disheveled, and confused, and upset, and
3 emotional, and I was scared.

4 Q. So in -- and in looking at your written statement,
5 there's, you know, a lot of grammatical errors, so is it
6 fair to say that you were nervous?

7 A. Totally. Yeah, definitely.

8 Q. And there were, law enforcement was in your home?

9 A. Yes. Yes, ma'am.

10 Q. You had just had to get undressed for them?

11 A. (No verbal response.)

12 Q. Were you shaking?

13 A. Yes, ma'am.

14 Q. Were you upset?

15 A. Yes, ma'am.

16 Q. And, again, did you even want to write a report
17 that night?

18 A. I didn't.

19 Q. And in your written statement, and I have it -- I
20 have it if you need to refresh, but did you write that he
21 punched your driver's side door?

22 A. Yes.

23 Q. And that he ripped off the mirror?

24 A. Yes.

25 Q. And did he write -- did you write that he threw

Emily Hopkins - Redirect by Ms. Fries

1 Minor at you?

2 A. Yes.

3 Q. And did you write that he beat you in the head
4 with the door?

5 A. Yes.

6 Q. And did you write that he smashed your phone?

7 A. Yes, ma'am.

8 Q. And when he was beating you with this door trim,
9 would you have wanted to call police at that point?

10 A. Definitely.

11 Q. And is that when you threatened to call law
12 enforcement?

13 A. Yes, ma'am.

14 Q. But that's when he took your phone, correct?

15 A. Yes, ma'am.

16 Q. And that's when he smashed it on the ground?

17 A. Yes, ma'am.

18 Q. Repeatedly?

19 A. Yes, ma'am.

20 Q. And when the defendant's mother arrived, I believe
21 you testified that you just -- the reason you called her was
22 because you wanted her to calm him down?

23 MR. GOODWYN: Objection, Your Honor.

24 BY MS. FRIES:

25 A. Yes, ma'am.

Emily Hopkins - Redirect by Ms. Fries

1 MR. GOODWYN: We're getting into leading -- fairly
2 leading conversation here.

3 BY MS. FRIES:

4 Q. Why did you call the defendant's mother?

5 A. To have her calm him down because she's really the
6 only one that he'll listen to when he's in that state.

7 Q. Okay. And when she arrived, was he there?

8 A. No, ma'am.

9 Q. Did you need to speak with her at all at that
10 point?

11 A. Not at that point. It was late, and there was
12 cops everywhere, and I'm upstairs with my baby just to let
13 her calm down.

14 Q. And I believe Mr. Goodwyn, kind of, went into when
15 you were crouching and, you know, if you were standing or
16 sitting, and when -- when did you start taking cover? Was
17 that...

18 A. Just after he kicked the door in.

19 Q. And was he -- did he already have the door trim
20 and was beating you?

21 A. Honestly, I don't -- I don't remember. I just --
22 I don't remember that part.

23 Q. Okay.

24 A. I remember seeing him kneel down and pick it up,
25 so I guess not, but I don't know if that was before he was,

Emily Hopkins - Redirect by Ms. Fries

1 or I saw that as I was, you know, going on my way to the
2 couch, like, trying to just, I knew he was coming for me,
3 you know.

4 Q. And were you trying to protect your daughter?

5 A. Of course.

6 Q. And were you fearful --

7 A. Yes, ma'am.

8 Q. -- for your safety?

9 A. Yes, ma'am.

10 Q. And were you fearful for Minor 's safety?

11 A. Yes, ma'am.

12 MS. FRIES: I beg the Court's indulgence. I have
13 nothing further. Thank you.

14 THE COURT: You may step down, ma'am. Thank you.
15 You may call your next witness.

16 MR. COOPER: Your Honor, we would ask if we can
17 have a 10-minute break.

18 THE COURT: Can you-all approach?

19 MR. COOPER: Just so that --

20 THE COURT: Would you approach, please?

21 (Bench conference.)

22 MS. FRIES: This is the jail call custodian that
23 we were just going to talk to for five to ten minutes.

24 THE COURT: Do you need that long to talk to her?

25 MR. COOPER: Five minutes.

1 MS. FRIES: Five.

2 MR. COOPER: We modified it a little bit based on
3 some conversations with the defense. I want to show her
4 that and make sure they're good with it, too.

5 THE COURT: All right. Well, just...

6 MR. GOODWYN: Can we talk to --

7 MR. COOPER: Yeah.

8 (Indiscernible whispering.)

9 MR. COOPER: With that date.

10 (Indiscernible whispering.)

11 MR. COOPER: We agree it's about five-minutes.
12 She's here just to make sure she's good on that and we've
13 done it that way.

14 THE COURT: All right.

15 (End of bench conference.)

16 THE COURT: All right. Ladies and gentlemen,
17 we're going to take a five-minute recess. If you would,
18 please go to your jury room. Please, remember not to
19 discuss this matter amongst yourselves. We'll be right back
20 with you.

21 (Jury exited at 11:26 a.m.)

22 THE COURT: All right. Counsel, five-minutes.

23 (A recess was taken at 11:27 a.m. until 11:37
24 a.m.)

25 THE COURT: All right. Are the party's ready for

1 the jury?

2 MS. FRIES: Judge, we're just waiting on
3 Mr. Cooper. I believe the investigator is going to get him
4 now.

5 THE COURT: Okay.

6 (Pause in proceedings.)

7 MR. COOPER: Sorry about that, Judge.

8 THE COURT: That's all right. All right. Let's
9 have our jury, please.

10 (Jury entered at 11:40 a.m.)

11 THE BAILIFF: All the jurors are present, Your
12 Honor.

13 THE COURT: Thank you, ma'am. You may have a
14 seat. You may call your next witness.

15 MR. COOPER: Thank you, Judge. May it please the
16 Court? The State would call Melissa High.

17 THE CLERK: Please, raise your right hand, and
18 place your left on the Bible.

19 (Witness sworn.)

20 THE CLERK: Please, be seated. Please, state your
21 full name, spelling your last name loudly and clearly into
22 the microphone.

23 THE WITNESS: Melissa High. H-i-g-h.

24 THE COURT: Your witness.

25 MR. COOPER: Thank you, Judge.

Melissa High - Direct by Mr. Cooper

1 MELISSA HIGH

2 having been called as a witness for the State at 11:41 a.m.
3 was sworn and testified as follows:

4 DIRECT EXAMINATION by Mr. Cooper:

5 Q. Ms. High, will you tell the jury where you're
6 currently employed?

7 A. I work at the Sheriff Al Cannon Detention Center.

8 Q. Is that also sometimes referred to as the
9 Charleston County Jail?

10 A. It is.

11 Q. What is your capacity, or what position do you
12 work at the jail?

13 A. I'm the records custodian.

14 Q. When people want copies of -- let me ask you this
15 first: Does the jail record conversations when
16 defendants -- or inmates call out to speak to other people?

17 A. Yes.

18 Q. When those calls are being made, does the call
19 notify the inmate that the calls are being recorded?

20 A. Yes.

21 Q. How does an inmate go about making a call from the
22 jail?

23 A. They are given a PIN number when they first come,
24 and that's what they use to call out.

25 Q. There's a -- and they each have their own

Melissa High - Direct by Mr. Cooper

1 individual PIN number?

2 A. Correct.

3 Q. At some point with the jail, is there also a voice
4 authentication aspect to it?

5 A. Yes.

6 Q. And how -- what does -- how does that work?

7 A. It has to match the -- the name that they give --

8 Q. Okay.

9 A. -- so that they -- it verifies who they are.

10 Q. And if entities such as my office were to request
11 jail calls or certified copies of jail calls, we would do
12 that through you?

13 A. Correct.

14 Q. I'm going to show you --

15 MR. GOODWYN: Your Honor, I would just renew my
16 previous objection.

17 THE COURT: Yes, sir, and the same rulings apply
18 as previously articulated.

19 MR. COOPER: May I approach the witness?

20 THE COURT: Yes, sir.

21 MR. COOPER: Thank you, Judge.

22 BY MR. COOPER:

23 Q. I'm showing you what's been marked for ID purposes
24 as State's 35. Do you recognize this?

25 A. Yes.

Melissa High - Direct by Mr. Cooper

1 Q. What does it appear to be?

2 A. It's jail calls on a disc.

3 (State's Exhibit No. 35 was marked and
4 identified.)

5 BY MR. COOPER:

6 Q. And how do you know what they are?

7 A. I have authenticated it with my initials.

8 Q. Okay. And these are two calls that come from
9 DeShawn Tollerson?

10 A. Yes.

11 MR. COOPER: Your Honor, at this time, the State
12 would offer what's been marked for ID purposes only, State's
13 35 into evidence.

14 THE COURT: Yes, your -- subject to your
15 objection.

16 MR. GOODWYN: Thank you, Judge.

17 (State's Exhibit No. 35 was admitted.)

18 MR. COOPER: Madam Clerk, if you could, if you'll
19 play call 1 for us, please. I'm going to make sure the
20 volume is good.

21 (Audio played.)

22 MR. COOPER: We're going to pause. These are
23 portions of the call.

24 (Audio played.)

25 BY MR. COOPER:

Melissa High - Direct by Mr. Cooper

1 Q. And while the jury will have the benefit of having
2 this in the back when they deliberate, but did you hear the
3 defendant say she couldn't call the police because I broke
4 her phone?

5 A. Yes.

6 MR. COOPER: Continue, please.

7 (Audio played.)

8 MR. COOPER: Pause on that there for me.

9 BY MR. COOPER:

10 Q. And it sounded like that he said in there, "I
11 ain't answering no damn questions"?

12 A. Correct.

13 MR. COOPER: Continue please.

14 (Audio played.)

15 BY MR. COOPER:

16 Q. Did it appear he said it would have been damn near
17 impossible for that, his language, motherfucker to call the
18 police, damn near?

19 A. Yes.

20 MR. COOPER: Continue, please.

21 (Audio played.)

22 MR. GOODWYN: Your Honor, I have a new objection.
23 May we approach?

24 THE COURT: Yes, sir.

25 (Bench conference.)

Melissa High - Direct by Mr. Cooper

1 MR. GOODWYN: You need to tell Mr. Goodwyn to
2 pause. He -- he asked her a question about what she heard.
3 He's asking her to speculate about what happens.

4 We've already agreed -- we've already stated that
5 the jail calls are coming in. Him asking her what she
6 thinks she heard is not relevant. It's speculative.

7 THE COURT: I'll sustain that. You can -- because
8 the jury will have the opportunity to hear it.

9 MR. GOODWYN: So we would ask move to strike the
10 last three words.

11 MR. COOPER: Judge, I will say, I do think it is
12 an item that is in evidence. That I think the witness has
13 the ability to say what she heard.

14 If he wants to cross-examine him, and you say,
15 "I'm not really sure," I think he gets to do that, but as
16 with a picture, as with a body cam, if he can -- if she can
17 say, as the custodian, I know what they're saying, she's not
18 speculating about what happened.

19 She doesn't know the facts of the case, but she
20 can say what she heard of an item that is already in
21 evidence. I do believe that's proper.

22 THE COURT: I'm not going to allow it. Just --
23 just don't ask her what she heard because the jury will have
24 the benefit of it.

25 MR. COOPER: All right.

Melissa High - Direct by Mr. Cooper

1 THE COURT: And you can -- you can basically tell
2 the jury to listen. You can do that in your closing.

3 MR. COOPER: Okay. Yes, ma'am, I have one more
4 call, and I'll abide by the Court's ruling with that.

5 THE COURT: Thank you.

6 (End of bench conference.)

7 MR. COOPER: Thank you, Judge. If you'll play the
8 second call for us, please.

9 (Audio played.)

10 BY MR. COOPER:

11 Q. And as of the first call, there were some pauses.
12 These were clips of the full call; is that right?

13 A. Correct.

14 MR. COOPER: Your Honor, I have no further
15 questions. Ms. High, thank you for your time.

16 THE COURT: Cross-examination?

17 MR. GOODWYN: I don't have any questions for this
18 witness.

19 THE COURT: All right. Thank you. You may step
20 down, ma'am. Thank you.

21 THE WITNESS: Thank you.

22 THE COURT: Counsel, would you-all approach one
23 second?

24 (Bench conference.)

25 THE COURT: Who did you say the next witness?

Sarah DeBosh - Direct by Ms. Fries

1 MS. FRIES: So it's just the Clerk of Court. It
2 should be five minutes.

3 THE COURT: Okay. Thank you.

4 MR. GOODWYN: Who is it?

5 MS. FRIES: The Clerk of Court.

6 MR. GOODWYN: Okay.

7 (End of bench conference.)

8 THE COURT: You may call your next witness.

9 MS. FRIES: Thank you, Judge. The State called
10 Sarah DeBosh.

11 THE CLERK: Would you please, raise your right
12 hand, and place your left on the Bible?

13 (Witness sworn.)

14 THE CLERK: Please, be seated. Please, state your
15 full name spelling your last name loudly and clearly into
16 the microphone.

17 THE WITNESS: Sarah DeBosh, D-e-B-o-s-h.

18 THE COURT: Your witness.

19 MS. FRIES: Thank you, Judge.

20 SARAH DEBOSH

21 having been called as a witness for the State at 11:51 a.m.
22 was sworn and testified as follows:

23 DIRECT EXAMINATION by Ms. Fries:

24 Q. Ms. DeBosh, where do you work?

25 A. I work for the Clerk of Court.

Sarah DeBosh - Direct by Ms. Fries

1 Q. And how long have you worked there?

2 A. It'll be 17 years next month in May.

3 Q. Okay. And can you tell us what a sentencing sheet
4 is?

5 A. It's a document that's filed with our office.
6 It's used to record details of a conviction.

7 Q. Okay. And do you handle those in your regular
8 course of work?

9 A. I do.

10 Q. Would you recognize a sentencing sheet?

11 A. Yes.

12 Q. And was your office asked to pull a sentencing
13 sheet in regards to DeShawn Tollerson, the defendant, in
14 this case?

15 A. Yes.

16 Q. And would you recognize that if I showed it to
17 you?

18 A. Yes.

19 MR. GOODWYN: Your Honor, we just renew our
20 previous objections.

21 THE COURT: Yes, sir, the same ruling applies.
22 You may proceed.

23 BY MS. FRIES:

24 Q. I'm going to show you what's been marked as for --
25 sorry -- for identification purposes as State's 38. Can you

Sarah DeBosh - Direct by Ms. Fries

1 tell us what -- what that is?

2 A. Yes. This is a sentencing sheet.

3 (State's Exhibit No. 38 was marked and
4 identified.)

5 BY MS. FRIES:

6 Q. And do you know that based on your regular course
7 of work?

8 A. Yes.

9 Q. Okay. And can you read the person's name on the
10 sentencing sheet?

11 A. Yes, DeShawn Tollerson.

12 Q. And have you had an occasion to review the
13 indictments in this case?

14 A. I have.

15 Q. And does the name and date of birth on the
16 indictments match the name that's on the sentencing sheet?

17 A. It does.

18 Q. Okay. And is that the defendant in this case?

19 A. Yes.

20 Q. And the conviction listed, is that a conviction
21 for domestic violence?

22 A. It is.

23 Q. And what was the date of that conviction?

24 A. September 13, 2021

25 MS. FRIES: I beg the Court's indulgence. I have

Melissa High - Cross by Mr. Goodwyn

1 nothing further.

2 THE COURT: Cross-examination?

3 MR. GOODWYN: Yes, please.

4 CROSS-EXAMINATION by Mr. Goodwyn:

5 MR. GOODWYN: May I approach you, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. GOODWYN:

8 Q. Is it okay if I take the sentencing sheet from
9 you?

10 A. Sure.

11 Q. As the Clerk of Court, you're familiar with how
12 the setup of the sentencing sheet is, right?

13 A. I am.

14 Q. And there's a box. I'll -- I'll bring it back up
15 to you so that you can see it. There's a box for "convicted
16 of," right?

17 A. Yes.

18 Q. And there's a box for pleas?

19 A. Yes.

20 Q. And this box was pleas, right?

21 A. That's correct.

22 Q. Which means that he pled guilty to that charge?

23 A. That's correct.

24 Q. Okay. Thank you.

25 MR. GOODWYN: No further questions.

1 THE COURT: Any redirect?

2 MS. FRIES: No, Your Honor.

3 THE COURT: You may sit down, ma'am. Thank you.
4 And counsel, one more time, if you-all would approach just
5 for scheduling purposes.

6 (Bench conference.)

7 THE COURT: This is the next one?

8 MS. FRIES: Yes, and she's going to take like 30
9 to 45 minutes to get here.

10 THE COURT: Okay. And we still have to prep for
11 her?

12 MS. FRIES: Right.

13 THE COURT: So that would probably take about 20?

14 MR. COOPER: It may take her testimony on direct
15 20, 25 minutes. I imagine cross doing, like -- it would be
16 the same length as her regular testimony, so it would
17 probably be the least amount of time.

18 THE COURT: I mean, if we can keep it to what's
19 relevant as far as, you know --

20 MR. COOPER: Yes.

21 THE COURT: -- the admissibility of whatever has
22 now come in.

23 MR. COOPER: Yes, ma'am.

24 THE COURT: So I'm going to tell the jury to be
25 back at 2.

1 MR. COOPER: Perfect.

2 THE COURT: Okay.

3 MR. COOPER: Thank you.

4 MR. GOODWYN: Thank you.

5 (End of bench conference.)

6 THE COURT: Ladies and gentlemen of the jury, it's
7 about lunchtime, and we do have some other matters to take
8 care of in between that do not require your presence, so I
9 don't want you sitting in your jury room, so I'm going to
10 ask you to be back in your jury room right before 2:00.

11 It gives you a nice long lunch break. You can
12 walk around and enjoy downtown, but again, please, be
13 mindful to be -- be timely in your return so that we can
14 start the trial back at 2:00.

15 Have a nice lunch. Please, remember not to
16 discuss the case amongst anyone or amongst yourselves.

17 (Jury exited at 11:56 a.m.)

18 THE COURT: All right. Counsel, we'll be at
19 recess until about 1:15. I would think that should give us
20 sufficient time.

21 MR. COOPER: Thank you, Judge.

22 MR. GOODWYN: Thank you, Judge.

23 (A lunch recess was taken at 11:56 a.m. until 1:48
24 p.m.)

25 THE COURT: Are the party's ready to proceed?

Argument to the Court by Mr. Cooper

1 MR. COOPER: Judge, before we take Dr. Rheingold's
2 testimony in-camera, and reflecting on it during the lunch
3 break, Mr. Goodwyn in cross-examination asked the clerk
4 about whether it was a plea or a conviction at trial.

5 THE COURT: Uh-huh.

6 MR. COOPER: And my assumption is that in closing
7 arguments, that Mr. Goodwyn will make the argument that
8 because he plead guilty before and accepted responsibility
9 and hasn't done that here; therefore, he's innocent.

10 I think that is highly inappropriate. I think
11 that is -- under 403, that would mislead the jury. As we
12 all know, there are a variety of factors about why somebody
13 may or may not plead guilty.

14 When it comes to domestic violence, you have
15 cooperativeness of the victim. He was placed on probation
16 as a result of that conviction, and; therefore, a violation
17 of his probation, and the jury likely won't get to hear
18 about.

19 And so I think it's highly, highly inappropriate
20 and almost makes a trial within a trial. The jury should be
21 told that if he was guilty, he would have pled. I think
22 that's highly inappropriate.

23 I think that we were confined to very strict --
24 especially, to their request and our working with them -- on
25 what evidence we could get from that conviction, which was

Argument to the Court by Mr. Cooper

1 the type and the date.

2 We are, in closing arguments, only going to
3 mention that -- that a conviction is appropriate for their
4 consideration as part of the statute and that it happened 50
5 days before this incident.

6 But we are not going through a part of a closing
7 where it's "because he did it then he did it here," and if
8 that is inappropriate, the opposite, likewise, is
9 appropriate -- or inappropriate.

10 In addition, as part of one of the jury charges
11 that we provided -- the State proposed, and I think the
12 defense was in agreement with, a charge that talks about the
13 appropriateness of what they should consider his convictions
14 before.

15 And at the end it says, (as read:) You must not
16 consider evidence of the -- of a commission of another
17 offense or the conviction there as proof of the defendant's
18 guilt on the charges we are trying today.

19 The opposite must also be true. I just think it's
20 highly inappropriate for them to get up and say, "He pled
21 guilty when he does something wrong; when he doesn't he's
22 innocent."

23 And I think that's where this is heading, and I
24 would ask Your Honor to prohibit him from doing that in
25 closing argument.

Argument to the Court by Mr. Goodwyn

1 THE COURT: Mr. Goodwyn?

2 MR. GOODWYN: Sure, Judge. Well, a few things.
3 One, as far as what Mr. Cooper said about the restrictions
4 on him about, specifically, what they could and couldn't do
5 with that conviction, it's strictly about statute.

6 The statute says is you've been convicted of
7 domestic violence. Not what type of domestic violence, and
8 it was within the last ten years.

9 No one has restricted them to anything. They're
10 restricted by the elements of statute, which, Your Honor, as
11 we made clear in the Motion for Bifurcation that that's an
12 element of the crime.

13 We understand that it's appropriate, but we
14 undoubtedly believe it's unduly prejudicial, much more than
15 it is probative. Judge, we've -- Ms. Luthringer brought
16 this up in her motion as far as Ms. Rheingold.

17 The door doesn't swing both ways. They've got to
18 get into this. We at least get to explain it. We're here
19 in a trial today, absolutely.

20 The jury should absolutely know that there's two
21 different ways that somebody can be convicted. You can
22 plead or you can be found guilty in trial.

23 I mean, I'm not going to make -- I'm not making
24 this a trial in a trial just to make that statement. What
25 they would suggest if, Your Honor, lets it in, is that we're

Argument to the Court by Mr. Cooper

1 going to have to speak about probation.

2 We're going to have to explain to the jury the
3 entire criminal justice system. The fact is, is he pled
4 guilty to that. The jury should be able to know that.

5 THE COURT: Well, it really depends on how much
6 further you plan on saying anything in your closing.

7 MR. GOODWYN: Past that, Judge, no. We explain
8 that it's a guilty plea versus a not guilty plea, and we're
9 right here in a not guilty plea.

10 THE COURT: I think that's fair. I don't think
11 you can go into anything else, though.

12 MR. COOPER: So just to be clear, you are not
13 going to make the assumption that the Court is prohibiting
14 him from you saying anything along the lines of, he accepted
15 responsibility when he's guilty; he did not do that in this
16 case?

17 That's what I'm seeking here. Because part of the
18 concern, too, Judge, is I have no recourse at that point.

19 If he wants to get into that, we can potentially
20 talk about and I'll call on probation, and go into the
21 depths of the justice system, which I don't want to do.

22 I don't think it's appropriate, but if they open
23 that door. On closing, there is no recourse for the State
24 at that point. That bell has been wrong, and the State
25 can't unring it.

Court's Ruling

1 So if he wants to say that's a guilty plea this is
2 a trial, but any insinuation that somehow they should place
3 any emphasis on the fact that he pled guilty once and didn't
4 in this case, and that somehow makes him more not guilty or
5 more innocent, I think is inappropriate, and that's why I
6 would ask you to rule.

COURT'S RULING

7
8 THE COURT: And also the closings need to stick to
9 what evidence was presented. Obviously, if there's no
10 evidence that comes in as to what the circumstances
11 regarding the plea or not plead guilty, so you can't get
12 into that.

13 MR. GOODWYN: Sure I --

14 THE COURT: Obviously, you can get into, he pled
15 guilty and that's it.

16 MR. GOODWYN: Absolutely.

17 THE COURT: Okay.

18 MR. GOODWYN: And just briefly, I mean, he is not
19 guilty until he's been proven guilty, so I don't understand
20 why this is -- this is that big of an issue.

21 What Mr. Cooper suggested is that we need to get
22 into a completely different trial and suggest, "Well, he may
23 have pled down, from something as well" is just completely
24 confusing to the jury.

25 THE COURT: Well, I think as trial attorneys, we

Court's Ruling

1 all try to look into that crystal ball and anticipate --

2 MR. GOODWYN: Sure.

3 THE COURT: -- what these arguments are going to
4 be.

5 MR. COOPER: Yes, that's -- I don't want to get
6 any more than that, but if that's what they want, that's
7 what I'm trying to prevent.

8 THE COURT: Sure.

9 MR. GOODWYN: I won't get into any more than
10 what's already come out that that's the guilty plea versus
11 being convicted at the trial.

12 THE COURT: Easy enough.

13 MR. COOPER: Thank you.

14 THE COURT: All right. So are we ready to call
15 the doctor then?

16 MR. COOPER: Yes, ma'am.

17 THE COURT: All right. The State call Dr. Alyssa
18 Rheingold.

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

21 (Witness sworn.)

22 THE CLERK: Please be seated. Please state your
23 full name spelling your last name loudly and clearly to the
24 microphone.

25 THE WITNESS: Alyssa Ann Rheingold.

Alyssa Rheingold - Voir dire by Mr. Cooper

1 R-h-e-i-n-g-o-l-d.

2 THE COURT: Your witness.

3 ALYSSA RHEINGOLD

4 having been called as a witness for the State at 1:54 p.m.
5 was sworn and testified as follows:

6 VOIR DIRE EXAMINATION by Mr. Cooper:

7 Q. Dr. Rheingold, what is your occupation?

8 A. I'm a clinical psychologist and professor at the
9 Medical University of South Carolina.

10 Q. Are you also a director involved in any kind of
11 national crime research or treatment center?

12 A. Yes, so I'm the associate director for the
13 National Crime Victims Research and Treatment Center, which
14 is a division in the Department of Psychiatry and Behavioral
15 Sciences at the Medical University of South Carolina.

16 Q. And how long have you been involved in that
17 capacity?

18 A. I've been a faculty member at the National Crime
19 Victims Center since 2003.

20 Q. And how long have you been at the medical
21 university altogether?

22 A. I started -- I was there finishing up my training
23 in 2000, and then joined 22 years ago as a faculty member.

24 Q. And if you would, describe a little bit, what is
25 the National Crime Victims Research and Treatment Center?

Alyssa Rheingold - Voir dire by Mr. Cooper

1 A. We are a division in the Department of Psychiatry
2 and Behavioral Sciences. We do a combination of research,
3 clinical work, and teaching in the area of trauma and
4 victimization.

5 We have an outpatient clinic where we see adults
6 and children who have experienced traumatic events, and we
7 provide evidence-based trauma-focused treatments.

8 I, for a number of years, directed the clinical
9 operations for the National Crime Victims Center. We also
10 do training.

11 We do education and teaching of medical students,
12 psychiatry residents, clinical psychology interns, clinical
13 psychology post-doctoral fellows.

14 We do trainings nationally as well, and we do
15 research in the area of trauma and victimization and have a
16 number of external service grants.

17 Q. All right. And I know in the previous interview,
18 you mentioned "we" several times. That also includes
19 specifically your job responsibilities.

20 A. Correct. Yes.

21 Q. And tell the Judge a little bit about your
22 educational background as well.

23 A. I graduated cum laude majoring in psychology,
24 minoring in religious studies from the University of
25 Pennsylvania, and then I received my master's in clinical

Alyssa Rheingold - Voir dire by Mr. Cooper

1 psychology at Hahnemann University, which is now part of
2 Drexel University, and continued at -- completed my PhD in
3 clinical psychology at Hahnemann University, which is now
4 Drexel University.

5 I then came here to the Medical University of
6 South Carolina to complete my -- my fifth year of training.
7 It's an internship, it's part of my PhD at the Medical
8 University of South Carolina, at Charleston VA Consortium,
9 and then I stayed on at the National Crime Victims Center
10 for a two-year post-doctoral fellowship in trauma research.

11 Q. What licenses -- licenses, if any, do you hold?

12 A. I hold a license in clinical psychology in South
13 Carolina.

14 Q. And how long have you been licensed in that field?

15 A. Since 2003, 22 years.

16 Q. Are you a member of any professional organizations
17 or associations?

18 A. I'm a member of the International Society for
19 Traumatic Stress Studies, which is an international
20 organization that looks at research and the science of
21 trauma.

22 And I'm also part of the Association for
23 Behavioral and Cognitive Therapies, which is an association
24 of mental health professionals both doing work both in
25 advancing science and clinical work in the area of clinical

Alyssa Rheingold - Voir dire by Mr. Cooper

1 psychology.

2 Q. What, if any, leadership positions do you or have
3 you held in those associations or organizations?

4 A. In the International Society for Traumatic Stress
5 Studies, or ISTSS. I was on the board for a number of
6 years, and I also served as treasurer.

7 I served -- I currently serve on some other
8 committees, and then for the Association for Behavioral and
9 Cognitive Therapies, I served on some of their national
10 committees.

11 Q. Do you have any teaching experience?

12 A. I teach at the Medical University of South
13 Carolina. I've been the fundamentals and patient care
14 curriculum director for first-year medical students for a
15 number of years, which is teaching med students about
16 bedside manner and a number of behavioral health-related
17 issues.

18 I currently provide some lectures for medical
19 students on intimate partner violence grief. I used to do
20 some teaching on substance use.

21 Currently, I run -- conduct some seminars with
22 clinical psychology interns within our internship program,
23 as well as some specific seminar topics at the National
24 Crime Victim Center.

25 And then I also supervise psychology interns and

Alyssa Rheingold - Voir dire by Mr. Cooper

1 postdoctoral fellows at the National Crime Victim Center.

2 Q. You mentioned in that answer a term, intimate
3 partner violence. Is that also sometimes referred to as
4 domestic violence?

5 A. Yes. Often people use them interchangeably.
6 Intimate partner violence includes anybody in a
7 relationship, so you don't necessarily have to cohabit, so
8 so domestic violence, sometimes people use that just to
9 describe cohabitating relationships, but intimate partner
10 violence is a little bit broader.

11 Q. All right. Have you published any articles in
12 this field?

13 A. I've published over 80 peer-reviewed articles in
14 the area of trauma mainly about -- about a third of those in
15 interpersonal violence as well as some additional. About
16 20-plus book chapters for other types of writings.

17 Q. Is interpersonal violence a similar term to
18 intimate partner violence, or is that different?

19 A. Interpersonal violence includes intimate partner
20 violence. It also includes sexual violence, or any violence
21 actually that -- between two individuals. It can also
22 include homicide as well.

23 Q. Okay. Has your work been peer-reviewed?

24 A. Yes. So I've had a number of articles. As I
25 mentioned, I've been peer-reviewed. I have a number of

Alyssa Rheingold - Voir dire by Mr. Cooper

1 different grants.

2 The majority are federally funded grants. Those
3 are all peer-reviewed as part of that process. And
4 clinically, I have an annual credentialing peer-review
5 process for my clinical activities.

6 Q. And what is meant by the term "peer-reviewed"?

7 A. Other colleagues within my field review those that
8 are also experts in the given content.

9 Q. Have you received any awards?

10 A. I've received several awards through MUSC. So
11 most recently, I received the MUSC Impact Award, and I've
12 received an MUSC Clinician -- Outstanding Clinicians Award
13 from the MUSC Foundation.

14 I've received an award from Liza's Lifeline, and
15 an award from InStyle Magazine as a 50 Badass Women in the
16 United States.

17 Q. Have you given any local, regional, or national
18 trainings?

19 A. Yes, I've given over 300 local, regional,
20 national, and international trainings. The majority in the
21 area of trauma.

22 Q. Do you typically see or supervise the care of
23 patients who report being in domestic violence or intimate
24 partner violence relationships?

25 A. Yes, I do carry a small caseload myself, and then

Alyssa Rheingold - Voir dire by Mr. Cooper

1 I also supervise some interns and postdoctoral fellows in
2 their treatment of victims reporting problems related to
3 intimate partner violence.

4 Q. And what kind of work do you do with your clients
5 who are victims of domestic violence or, as you term it,
6 intimate partner violence?

7 A. We do evidence-based mental health treatment on
8 the impact of that type of violence, so typically, people
9 that are reporting experiencing post-traumatic stress,
10 anxiety, or depression related to their victimization.

11 Q. Okay. Have you previously been qualified as an
12 expert for either the areas of intimate partner violence
13 victim behavior in trauma?

14 A. Yes.

15 Q. How many times have you been qualified, if you
16 know the topic you're in?

17 A. I've been qualified as an expert a total of 13
18 times in trauma intimate partner violence, sexual violence
19 post-traumatic stress disorder. About nine here in circuit
20 court, two in military court, and two in civil court cases.

21 Q. Okay. Now, would you give it -- or did you ask
22 for the name of the victim in this case?

23 A. Yes.

24 Q. Why did you ask for that?

25 A. Just to ensure I don't have any conflict of

Alyssa Rheingold - Voir dire by Mr. Cooper

1 interest.

2 Q. And why is that important?

3 A. Because my testimony is -- I don't know anything
4 about the facts of the case, so I didn't want any facts. If
5 I knew either the victim or the perpetrator, then I would be
6 biased in providing my testimony.

7 Q. And you didn't know the victim in this case?

8 A. Correct.

9 Q. And you are not aware of the facts of this case?

10 A. Correct.

11 Q. And you're what we call a blind expert?

12 A. Correct.

13 Q. And you're here now, but you haven't heard any of
14 the testimony in this trial before?

15 A. I'm sorry?

16 Q. Have you heard any of the testimony in the trial
17 before now?

18 A. No.

19 Q. And in talking about blind testimony, is that
20 something you have offered previously in your capacity as an
21 expert?

22 A. Yes.

23 Q. And so tell us, without knowing the facts to the
24 victim, what are you basing your answers to -- the questions
25 we'll get into, what are you basing those answers on?

Alyssa Rheingold - Voir dire by Mr. Cooper

1 A. A combination of review of the literature on
2 intimate partner violence and trauma response as well as my
3 work clinically with victims and supervision of other folks
4 in clinical work.

5 Q. Okay.

6 MR. COOPER: And Your Honor, as we move this --
7 this -- Dr. Rheingold in front of the jury, this would be
8 the point we would seek to offer her as an expert in those
9 two areas, and I can continue going through the substantive
10 questions, but this would be the point I would seek to offer
11 her as an expert.

12 THE COURT: Yes, sir. Any voir dire, Mr. Goodwyn?

13 MR. GOODWYN: No.

14 THE COURT: I'm sorry. Well, she, kind of, had me
15 at badass woman awards, so I'll go with that.

16 THE WITNESS: I wasn't sure if that was allowable
17 to say in Court.

18 THE COURT: No, of course, I do find that she's
19 qualified pursuant to 702.

20 MR. COOPER: Okay.

21 BY MR. COOPER:

22 Q. And now, Doctor, will you explain for us what it
23 means -- you may have touched on this briefly, but what it
24 means to -- when you refer to someone as a victim of either
25 domestic violence or intimate partner violence?

Alyssa Rheingold - Voir dire by Mr. Cooper

1 A. So it means violence occurring in a current or
2 prior relationship between two individuals, and that could
3 include physical violence, like hitting, slapping, punching,
4 or use of a weapon.

5 It can include sexual violence. It can include
6 stalking behaviors, and it can also include psychological
7 aggression, which is controlling behaviors, threatening
8 behaviors, name-calling, cursing at them, that sort of
9 thing.

10 Q. How common is it for female domestic violence or
11 intimate partner violence victims to report the abuse to law
12 enforcement?

13 A. It is not very common for victims to report --
14 female victims to report, to law enforcement. More often
15 than not, folks do not report it.

16 Q. Tell the -- tell the Judge why that is that --
17 that a number of female victims may not report or be scared
18 or hesitant to report.

19 A. There's a lot of reasons. It can be, A, they may
20 be afraid of reporting and the implications that that might
21 have on them. They may be fearful of not being believed.

22 They often have very mixed feelings about the --
23 their partner, so they may still love their partner and
24 don't necessarily want them to be punished, but also don't
25 necessarily want the abuse to continue. So there's just a

Alyssa Rheingold - Voir dire by Mr. Cooper

1 host of reasons why somebody might not want to report.

2 Q. You mentioned mixed feelings for your partner.
3 Will you tell us what the research tells us about why female
4 victims of domestic or intimate partner violence would stay
5 in these relationships?

6 A. There's not one reason why somebody might stay in
7 a relationship, so they may stay -- the majority stay
8 because they have positive feelings for the person.

9 Again, this is not between two strangers, so it's
10 between somebody that they have history.

11 So although they might not like that the abuse is
12 happening or a violent event happened, they may still love
13 the person, and they may believe that they're going to get
14 help or not do it again.

15 They may fear leaving at the same time. Fear
16 either of being injured or -- or harmed in the future, fear
17 of the unknown if all they know is abuse in relationships.

18 They may stay because of children. If they're
19 married they may have religious beliefs that might keep them
20 there.

21 They may stay because they feel they don't have
22 the resources to do different. They may have financial
23 barriers to -- to leave, so there's just a whole host of
24 reasons why women may stay.

25 Q. Is there sometimes a cycle of violence that

Alyssa Rheingold - Voir dire by Mr. Cooper

1 victims may experience?

2 A. Yes, in some relationships where there's violence,
3 some victims report that initially there's, sort of, a
4 walking on eggshells type of phase where they're doing all
5 they can to, kind of, maintain the calm in the relationship
6 and that might then escalate to an actual -- actual incident
7 in violence, and then it might go to sort of a honeymoon
8 phase where the victim believes maybe that their partner
9 isn't going to do it again.

10 They sort of make up, and kind of, you know,
11 things may be good and loving, and then it shifts back to
12 the walking on eggshells, so that can cycle within a single
13 day. It can cycle over the course of months and even years.

14 Q. Can you explain for us the typical demeanor, if
15 you would, of a domestic or an intimate partner violence
16 victim during an assault?

17 A. During an assault, there is not really one type of
18 behavior during an assault, so some victims have, sort of, a
19 fight, flight, or freeze response, and where they either are
20 real scared and might try to fight back.

21 They might try to flee leave. They might freeze
22 and not do anything at all so, but there really isn't a
23 specific one demeanor of -- of a domestic violence victim.

24 Q. What about the demeanor or typical demeanor of a
25 victim after an assault has taken place?

Alyssa Rheingold - Voir dire by Mr. Cooper

1 A. Again, there isn't really one designated demeanor,
2 so victims can have an array of different types of reactions
3 or impact. Some may go on to have more long-term
4 difficulties like post-traumatic stress, depression,
5 substance use, so it just really depends.

6 Q. Is there -- either during an assault or after an
7 assault, is there a correct or right way for a victim to
8 respond or not respond?

9 A. There really isn't. I wouldn't say a correct way.
10 There -- there -- there just isn't a single way a victim
11 might respond that would indicate necessarily whether they
12 were or not a victim.

13 Q. It just depends on the victim, the relationship,
14 the dynamic, things of that nature.

15 A. Correct.

16 Q. Can you explain to the jury -- or to the Judge,
17 excuse me, how a traumatic event like a domestic assault or
18 intimate partner violence assault may impact a victim's
19 memory?

20 A. So trauma can impact memory, memory consolidation.
21 They -- victims may -- may experience or report not being
22 able to remember all aspects of an incident or trauma. It
23 might be spotty or blurry.

24 So they might focus and remember -- often can
25 remember things that are tied to senses, so smells, perhaps

Alyssa Rheingold - Voir dire by Mr. Cooper

1 things they hear or see, but it's not necessarily always in
2 a linear fashion.

3 So I can give an example. Like, if I were to
4 experience a car accident, I might remember the smell of
5 tires.

6 I might remember, maybe, seeing a blue car, but I
7 might not be able to tell you exactly where and when that
8 car swerved, and the make and model of the car for instance.

9 So I have some specific memories, but not
10 necessarily a linear memory of all the facts of all the
11 details.

12 Q. Okay. I think you mixed up a little bit in your
13 example, but can you tell us what research talks about with
14 intimate partner violence or domestic violence, how an
15 assault can impact the victim's memory in terms of what they
16 may remember and what they may not remember or the order in
17 which of what they remember?

18 A. Well, sort of -- I guess as I, sort of, mentioned,
19 so to the trauma, the traumatic nature of the experience,
20 that may impact their ability to remember all things so,
21 and -- and we don't typically remember like a tape recorder
22 and, sort of, a -- or a video camera, just all the facts
23 linearly.

24 So folks that experience a potentially traumatic
25 event like intimate partner violence, they may remember some

Alyssa Rheingold - Voir dire by Mr. Cooper

1 details but not all.

2 Q. Okay. And you talked about the linear or the
3 videotape kind of example. Is it common or uncommon for a
4 victim that has gone through something like this to have a
5 memory that is linear or sometimes non-linear?

6 A. It really just depends on the individual.

7 Q. Is there anything in the research that talks about
8 whether they remember bigger details versus peripheral
9 details?

10 A. Typically, in a traumatic incident, we tend to
11 focus on the more salient memories that is tied to danger,
12 and so those are usually what people tend to encode or
13 remember from trauma, so they tend not to, sort of, remember
14 or recall some peripheral details in a situation.

15 Q. It may seem somewhat obvious, but when you're
16 talking about victims who have gone through a traumatic
17 situation much like the rest of us, is it common for them or
18 is it possible for them to forget details as time evolves or
19 as time goes on?

20 A. Yes.

21 Q. And you mentioned this, kind of, at the beginning,
22 but is it unusual for a victim of domestic violence and
23 intimate partner violence to have conflicting emotions about
24 their abuser?

25 A. No, it's actually very common for intimate partner

Alyssa Rheingold - Voir dire by Mr. Cooper

1 violence victims to have conflicting emotions.

2 Q. How would this be psychologically different from
3 an assailant who would be a stranger?

4 A. So a stranger assault and an assault in an
5 intimate partner violence relationship both could be
6 potentially traumatic, so both can experience that fight or
7 flight response.

8 They both can have ongoing struggles thereafter,
9 like post-traumatic stress, so there's some similarities
10 there, but some of the differences is in the dynamics.

11 So for an intimate partner violence relationship,
12 you have history with that individual. You have a
13 relationship with that individual.

14 So you can also have a lot more feelings of
15 ambivalence, conflict, struggles emotionally because you
16 have an ongoing relationship with that individual.

17 So you may still have loving feelings for them, or
18 if it was a stranger incident, you don't have really any
19 feelings about that individual beforehand.

20 Q. What would be some of the short-term or long-term
21 effects of domestic or intimate partner violence on a
22 victim?

23 A. Short-term effects could be -- so if it's
24 short-term, like, there right after it would be potentially
25 fear, perhaps anger, shame, guilt.

Alyssa Rheingold - Voir dire by Ms. Luthringer

1 Long-term effects could still be some of those
2 same feelings, and they could develop into more long-term
3 mental health difficulties like post-traumatic stress or
4 depression, self-esteem issues, those different things.

5 MR. COOPER: I beg the Court's indulgence just one
6 second. Your Honor, that would be the extent of questions
7 that I would like to ask Dr. Rheingold in front of the jury.

8 THE COURT: Any cross-examination?

9 MS. LUTHRINGER: Can I ask just a few?

10 THE COURT: Yes, ma'am.

11 VOIR DIRE by Ms. Luthringer:

12 Q. Good afternoon, Doctor.

13 A. Good afternoon.

14 Q. I know we talked a lot about your experience, but
15 I just want to recap a little bit. You don't just work with
16 domestic violence victims?

17 A. Correct.

18 Q. You work with victims of other trauma?

19 A. Correct.

20 Q. Victims that have suffered homicide in their
21 family?

22 A. Correct.

23 Q. Children?

24 A. I used to work with children, but not so much
25 anymore. I mainly focus on adults.

Alyssa Rheingold - Voir dire by Ms. Luthringer

1 Q. Sexual assault victims?

2 A. Yes.

3 Q. And so for the clinic you're at now, how do
4 patients get referred to your -- to you?

5 A. They can get referred through a number of ways.
6 They can get referred by the Solicitor's Office. They can
7 get referred by our local child advocacy center. They can
8 get referred by their physician.

9 More often than not, people tend to self-refer as
10 well, so we don't have a policy on how one needs to get into
11 treatment with us.

12 Q. And is everyone that's referred accepted?

13 A. Not necessarily, so we do evidence-based treatment
14 that's trauma-focused, so we do screen for individuals that
15 their symptomatology might not necessarily if they're
16 reporting the -- either directly related to their trauma, or
17 they may have other mental health issues that might need to
18 get addressed before they can engage in trauma-focused
19 treatments.

20 Q. Who, technically, is determining if they are a
21 victim? Is it through that vetting process, the Solicitor's
22 Office, or is everyone who applies treated as a victim?

23 A. So we provide confidential treatment at our
24 clinic. We do not determine -- we don't do forensic
25 interviews to determine whether someone, you know, may or

Alyssa Rheingold - Voir dire by Ms. Luthringer

1 may not have experienced victimization.

2 So the majority of the victims that we see
3 typically, are not engaged in any other systems. They're
4 just seeking services related to their victimization, and so
5 if they're -- if they're experiencing post-traumatic stress,
6 which is the majority of the cases that we see, they're
7 experiencing -- reporting experiencing symptoms and
8 avoidance related to trauma memories, and so our focus is
9 really on helping them decrease their symptomatology.

10 Q. And for this case, have you seen the discovery?

11 A. No, I have not.

12 Q. You don't know anything about the allegations in
13 this case?

14 A. I do not.

15 Q. You don't know about anyone's mental health
16 issues?

17 A. I do not.

18 Q. Or anyone's behavior?

19 A. I do not.

20 Q. And I think you said all victims act in a variety
21 of different ways?

22 A. That's correct.

23 Q. There's not one correct way to act?

24 A. Correct.

25 Q. That's why there's many different studies?

Argument to the Court by Mr. Cooper

1 There's different studies?

2 A. There are different studies, yes. I'm not sure if
3 that's why there's different studies, but there are various
4 different studies.

5 Q. Okay.

6 MS. LUTHRINGER: No further questions, Judge.

7 THE COURT: All right. Thank you. All right.
8 Counsel, I'll be happy to hear your arguments.

9 MR. COOPER: Your Honor, as I mentioned yesterday,
10 I think it should be 702, I think it is -- it is certainly
11 clear, and I think the defense even agrees with this part,
12 that Dr. Rheingold is an -- an expert in the area of
13 intimate partner violence-based behavior and trauma.

14 I think that -- well, I said -- I remember *State*
15 *v. Brown* yesterday, and I think that cite, if I remember,
16 was 442 S.C. 311. With that case, I know they talk about
17 child sex abuse and I think they -- and child sex abuse.

18 What I think is important from that is what the
19 Court looks at is an expert can be someone that has any kind
20 of scientific, technical, or specialized training that would
21 not be within the ordinary purview of the jury.

22 That's the whole point. It's helping the jury to
23 understand something that is foreign to them.

24 In this case, in voir dire, we took great lengths,
25 the Court excused a variety of people that seemed to have

Argument to the Court by Mr. Cooper

1 too close an understanding of domestic violence, and that's
2 not what we want in a jury because we want a jury that can
3 make their decisions based on the facts.

4 But the very nature of doing that ensures that a
5 jury, and this jury does not have an intimate understanding
6 of domestic violence, an intimate understanding of victim
7 behavior, an intimate understanding of how people respond to
8 trauma.

9 And I think certainly, one of the things that the
10 doctor touched on is why people may not report or may not
11 want to report.

12 That came up an issue in the case. I think it's
13 interesting -- I think it's important that, in terms of
14 believability and cross-examination of the victim, is this
15 case, is going to come down to credibility of the victim,
16 and explaining things about memory, and details, and things
17 of that nature.

18 I think that is all very important. I think
19 Dr. Rheingold's testimony can aid the jury or give them more
20 tools to understand in whichever way they decide about the
21 credibility of the witness and how people in these dynamics
22 may act or may not act.

23 So I think the whole point of having an expert is
24 to help the jury understand something that is not ordinarily
25 in their purview or that is foreign to them.

Argument to the Court by Ms. Luthringer

1 By design, domestic violence intimate partner
2 violence is foreign to this jury, and we think Dr. Rheingold
3 has been qualified as an expert a number of times in this
4 circuit and other courts in this area for this exact reason
5 and.

6 So pursuant to the authority of *State v Brown*,
7 pursuant to the rule, the text, and the spirit of 702, we
8 think she is supremely qualified, and it is absolutely
9 relevant that the jury hear her testimony and be able to
10 evaluate that in their making a decision in this case, so I
11 would ask you to let her testify in front of the jury.

12 THE COURT: Okay. Counselor, your response?

13 MS. LUTHRINGER: Thank you, Judge. As I stated
14 the other day, I'm not contesting that she's very qualified.
15 Her testimony is reliable. I just don't believe it goes to
16 any material fact at issue in this trial.

17 I think the victim did an excellent job. She's
18 educated. She's articulate. She explained the testimony.
19 She said, I don't remember certain things because it was
20 traumatic to me.

21 She didn't get up there and say, "I don't know why
22 I don't remember this." She was able to tell the jury. I
23 don't think we need an expert there to explain that anymore.

24 I think this expert would just come in as vouching
25 for this -- vouching for that witness as bolstering her

Court's Ruling

1 testimony.

2 You know, I popped back up the other day about
3 *State v. Brown*. I asked you to read it. It's a CSC case,
4 and it really talks about children there.

5 Ms. Hopkins here is not a child. She did a great
6 job on the stand. She didn't recant. We're not alleging
7 that she recanted. We're not alleging that she went back to
8 him and; therefore, this didn't happen.

9 You know, I think, kind of, the cycle of violence
10 is dynamite for this Court to step on, especially with this
11 prior domestic violence conviction in there.

12 I think allowing her to testify about a cycle
13 would just imply that he committed a previous domestic
14 violence. It's a cycle. He must have committed this one.

15 I just don't think her testimony is needed. I
16 don't think it's relevant. I don't think it goes to any
17 material fact in the case.

18 THE COURT: Thank you, Counselor.

19 MR. COOPER: I'll respond briefly, if you don't
20 mind?

21 THE COURT: You can, but you don't need to.

22 MR. COOPER: Okay. Perfect.

23 COURT'S RULING

24 THE COURT: All right. So Counsel, pursuant to
25 702, certainly, she is well qualified, and certainly, there

Court's Ruling

1 have been issues which have been brought out through
2 cross-examination, which are -- which would make her
3 testimony relevant, which and -- would -- would include the
4 mixed feelings for her partner.

5 In cross-examination, she talked about she still
6 loved him, and there were certain issues with that. Also,
7 the issues with not reporting.

8 How she -- you cross-examined her on not calling
9 the police initially but calling his mother initially to
10 stop the process, so that's certainly a question and issue.

11 And also the memory, and then talking to the
12 defendant after the fact with a jail phone call.

13 So certainly there are relevant factors at issue
14 for the Court -- for the jury to consider, and her
15 scientific, technical, and specialized knowledge will help
16 the trier of fact to understand and determine those facts
17 and issues, and her testimony will be allowed.

18 All right. Anything further before we bring the
19 jury out?

20 MR. COOPER: No, ma'am, thank you.

21 THE COURT: All right. Let's have our jury,
22 please.

23 MR. COOPER: Would you like the doctor to be off
24 the stand and let's call her and swear her, or do you not?

25 THE COURT: We can do that. That way the jury

Court's Ruling

1 sees you come in and -- and be sworn.

2 THE COURT: And Counsel, the Court Reporter has
3 asked if everybody to slow down a little bit when you talk
4 too, and certainly would appreciate that.

5 (Pause in proceedings.)

6 MR. GOODWYN: Your Honor?

7 THE COURT: Yes, sir?

8 MR. GOODWYN: I would like a quick comfort break?

9 THE COURT: Sure.

10 (Pause in proceedings.)

11 MR. COOPER: If I may, Your Honor, I --

12 THE COURT: Yes, sir.

13 MR. COOPER: -- just for all intents and purposes,
14 I think the State intends to rest after this witness.

15 (Jury entered at 2:35 p.m.)

16 THE BAILIFF: All of the jurors are present, Your
17 Honor.

18 THE COURT: Thank you. Please, have a seat.
19 Welcome back, ladies and gentlemen. Thank you so much for
20 your patience. We are now ready to proceed. You may call
21 your next witness.

22 MR. COOPER: Thank you, Judge. The State calls
23 Dr. Alyssa Rheingold.

24 MS. LUTHRINGER: And Judge, we just ask to renew
25 our pretrial objection.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 THE COURT: Yes, ma'am.

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

4 (Witness sworn.)

5 THE CLERK: Please be seated. Please state your
6 full name spell your last name loudly and clearly into the
7 microphone.

8 THE WITNESS: Alyssa Ann Rheingold.
9 R-h-e-i-n-g-o-l-d.

10 THE COURT: Your witness.

11 MR. COOPER: Thank you, Judge.

12 DR. ALYSSA RHEINGOLD

13 having been called as a witness for the State at 2:36 p.m.
14 was sworn in front of the jury, and testified as follows:
15 DIRECT EXAMINATION by Mr. Cooper:

16 Q. Dr. Rheingold, will you tell the jury where you
17 currently work?

18 A. I currently am a clinical psychologist and
19 professor at the Medical University of South Carolina.

20 I work in a division called the National Crime
21 Victims Research and Treatment Center, which is a division
22 in the Department of Psychiatry and Behavioral Sciences.

23 Q. And tell the jury a little bit about what the
24 National Crime Violence Research and Treatment Center is,
25 does, things of that nature.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. So the National Crime Victims Research and
2 Treatment Center is a division within MUSC. We do a
3 combination of research, clinical work, and teaching in the
4 area of trauma and victimization.

5 We have an outpatient clinic where we see adults
6 and kids who have experienced a traumatic event where we do
7 provide evidence-based trauma-focused treatment.

8 We do a lot of training and education of medical
9 students and clinicians that are training to be clinical
10 psychologists.

11 We also do a lot of national and international
12 training as well, and we do research and -- that are funded
13 by federal funds and some service-oriented types of grants
14 as well.

15 Q. A lot of those things that you just mentioned, are
16 those the same as your specific job duties and
17 responsibilities with the center?

18 A. Yes, so I am the Associate Director for the
19 National Crime Victims Center, so I oversee, kind of, the
20 administrative operations of our center.

21 I used to, for a number of years, direct the
22 clinical operations of our clinics, and I engaged in my own
23 research, clinical work, and teaching myself.

24 Q. How long have you been with the center?

25 A. I have been a faculty member at our center for 22

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 years, so 2003.

2 Q. Okay. Can you tell the jury a bit about your
3 educational background, please?

4 A. Sure, so I received my bachelor's in clinical --
5 not clinical psychology in psychology with a minor in
6 religious studies graduating cum laude and with honors in
7 psychology from the University of Pennsylvania.

8 I then completed my master's degree in clinical
9 psychology from Hahnemann University, which is now part of
10 Drexel University in Philadelphia, and went on and completed
11 my clinical psychology PhD also at Hahnemann University now
12 Drexel.

13 As part of your final year of your clinical
14 psychology degree, you do an internship, which is, kind of,
15 like a residency, and I came here to the Medical University
16 of South Carolina to do a clinical internship both here at
17 the MUSC and at the VA, and then continued and did a
18 two-year postdoctoral fellowship in trauma research at the
19 National Crime Victims Center.

20 Q. What year would it have been when you first came
21 to the Medical University of South Carolina?

22 A. I came to MUSC as my clinical internship in 2000,
23 stayed for two years to do my postdoctoral fellowship. In
24 2003, I started my faculty position.

25 Q. Okay. What, if any, licenses do you hold?

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. I have a license in clinical psychology from -- in
2 the State of South Carolina, so it's just --

3 Q. Since -- Sorry.

4 A. I was going to say, since 2003, when I started my
5 faculty position.

6 Q. And that license is what effectively allows you to
7 be a clinical psychologist?

8 A. Correct, and practice clinical psychology in South
9 Carolina.

10 Q. Are you a member of any professional associations
11 or organizations?

12 A. Yes, I stay involved in -- as a member in the
13 International Society for Traumatic Stress Studies, or
14 ISTSS. It's an international organization of researchers
15 and scientists in the area of trauma.

16 I'm also a member of the Association for
17 Behavioral and Cognitive Therapies, so that is mainly a
18 national organization of folks that are -- are typically
19 mental health professionals that practice cognitive
20 behavioral therapy.

21 Q. Have you held any leadership positions in those
22 associations or organizations?

23 A. Yes, in the International Society for Traumatic
24 Stress Studies, I was on the board for a number of years,
25 and I also served as treasurer for that organization and

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 still currently serve on some committees, and then for the
2 Association for Behavioral and Cognitive Therapies, I have
3 served on committees in the past.

4 Q. Any teaching experience?

5 A. Yes, I currently -- and I've taught at MUSC
6 throughout my faculty career.

7 I was the fundamentals of patient care curriculum
8 director for our first year medical students, where I
9 organized them in -- in charge of the curriculum to teach
10 them about bedside manner, how to talk to patients, talk to
11 them about behavioral medicine, behavioral health
12 principles.

13 I did a number of different lectures. I still
14 lecture for medical students on intimate partner violence,
15 on grief, and working with distressed patients.

16 I also teach seminar series within our clinical
17 psychology internship program at MUSC, as well as within the
18 National Crime Victim Center.

19 We have our own seminar series for our trainees,
20 and then I also supervise clinical psychologists, clinical
21 psychology interns, and postdoctoral fellows and some
22 psychiatry residents in the past in their clinical work
23 mainly doing trauma treatment.

24 Q. You mentioned that answer, a term intimate partner
25 violence. What does that mean?

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. Intimate partner violence is a means -- violence
2 between two individuals that are either currently in a
3 relationship or have been in a relationship. It often
4 includes physical violence like hitting, slapping, punching,
5 use of a weapon, choking, or strangulation.

6 It can include sexual violence unwanted sexual
7 contact. It can include stalking behaviors.

8 It can also include psychological aggression such
9 as controlling behaviors, or threatening behaviors, or name
10 calling, cursing at, you know.

11 Q. Is intimate partner violence also sometimes
12 referred to and known as domestic violence?

13 A. Yes, so often in the field you can use those
14 interchangeably. Some of the differences is that intimate
15 partner violence sometimes is a little bit more broader,
16 because it can include non-cohabitating relationships.

17 So domestic violence often sometimes is referred
18 to when people are cohabitating together, but intimate
19 partner violence is a little bit broader with relationships
20 where you're not necessarily cohabitating, but most people
21 use them interchangeably.

22 Q. Have you published any articles?

23 A. Yes.

24 Q. Can you tell us about how many articles you've
25 published?

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. I've published peer -- about over 80 peer-reviewed
2 journal articles typically in the area of trauma, and I've
3 also published about 20 or so book chapters and other types
4 of writings as well.

5 Q. And you mentioned in that that your -- most
6 articles or all of them were peer-reviewed. What is
7 peer-reviewed?

8 A. It means that they're reviewed by other experts in
9 the field in that same content area.

10 Q. Have you received any awards?

11 A. Yes, I've received, recently, the MUSC Values in
12 Action Impact Award, which is given to any faculty or staff.
13 It's given only every few years, and then I've received the
14 MUSC Foundation Outstanding Clinician Award.

15 I've received Liza's Lifeline Award for my work in
16 domestic violence, and I received the InStyle Magazine, Top
17 50 Badass Women, for my work during the pandemic.

18 Q. Have you given any local, regional, or national
19 trainings?

20 A. Yes, I've given about -- over the course of my
21 career, about 300 local, regional, national, and
22 international trainings. Most in the area of trauma and
23 victimization.

24 Q. Do you personally either see patients or supervise
25 those that do see patients in this field?

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. Yes, I do see patients. I carry a small caseload,
2 and then I also supervise several clinical psychology
3 interns and postdoctoral fellows in their treatment.

4 Q. Are the majority of your patients those that have
5 been exposed or victims of intimate partner violence or
6 domestic violence, or is it more broad than that?

7 A. It is all types of drama -- trauma. Although the
8 majority of the patients seen at our clinic experience some
9 type of interpersonal violence or victimization, so that
10 includes intimate partner violence, sexual assault,
11 homicide, other types of gun violence. Probably about a
12 third are intimate partner violence victims.

13 Q. Okay. And what kind of work do you do with
14 victims of intimate partner violence or domestic violence?

15 A. What kind of work do I do? I do clinical work. I
16 train others in doing clinical work. I do trainings on
17 intimate partner violence and teaching.

18 I have some research grants and service-related
19 grants to provide resources and services to domestic
20 violence victims, and then also looking at best screening
21 practices in primary care settings.

22 Q. Have you previously been qualified and testified
23 as an expert in court before?

24 A. Yes, I have.

25 Q. Tell us how many times.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 A. I've been qualified as an expert witness 13 times.
2 Nine in -- here in Ninth Circuit Court, twice in military
3 court, and twice in civil court.

4 Q. And when you say Ninth Circuit Court, do you mean
5 the adult criminal court like this in either Charleston or
6 Berkeley County?

7 A. Correct.

8 Q. And what would be the field or fields that you've
9 been qualified as an expert in previously?

10 A. I've been qualified as an expert in trauma, trauma
11 response, post-traumatic stress disorder, sexual violence,
12 domestic violence, and intimate partner violence dynamics.

13 Q. Now in this case, were you given it as you asked
14 the name of the victim?

15 A. Yes.

16 Q. Why?

17 A. To make sure that I don't have any conflict of
18 interest with the victim or the perpetrator.

19 Q. And do you have a conflict of interest with the
20 victim or the defendant?

21 A. I do not.

22 Q. And why is that important in regards to your
23 testimony today?

24 A. Because I'm providing blind testimony, basically
25 meaning I have no information about the facts. I didn't

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 want to be biased in any way. If I knew either the
2 defendant or the victim, then I potentially could be biased.

3 Q. And you mentioned blind testimony. Is that
4 generally how you testified the previous time that you've
5 been an expert as a blind expert what we call it?

6 A. The majority of the cases have been blind
7 testimony, yes.

8 Q. And so what are you basing -- if you haven't had
9 an experience to be involved with the victim or the
10 defendant, on what are you basing your answers to the
11 questions during your testimony?

12 A. I'm basing them on a review of the research
13 literature in the field of trauma and victimization, as well
14 as my clinical experience in working directly with victims
15 and supervising others that work directly with victims.

16 Q. All right. And so you don't, by design, know any
17 of the facts or specific circumstances in this case?

18 A. I do not.

19 Q. The only thing you know about this case is the
20 name of the victim and the defendant?

21 A. Correct.

22 MR. COOPER: Your Honor, at this time, the State
23 would offer Dr. Rheingold as an expert in the field of
24 intimate partner violence victim behavior and trauma.

25 THE COURT: Any further?

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 MS. LUTHRINGER: I would just -- no. I would just
2 renew my objection.

3 THE COURT: Yes, ma'am. The same ruling applies
4 that the Court finds she's qualified pursuant to 702.

5 MR. COOPER: Thank you, Judge.

6 BY MR. COOPER:

7 Q. Dr. Rheingold, will you explain to the jury what
8 it means when you refer to someone as a victim intimate
9 partner violence or domestic violence?

10 A. So somebody who's a victim of intimate partner
11 violence or domestic violence is somebody who is in -- is
12 either currently in or has been in a relationship with
13 another individual and has experienced either physical
14 violence, like hitting, slapping, kicking, threatening with
15 a weapon, or sexual violence, or stalking behavior, or
16 psychological aggression, including controlling behaviors,
17 threatening behavior, or abuse.

18 Q. How common is it, in your experience and in your
19 research, for female victims of domestic or intimate partner
20 violence, how common is everybody going to report the abuse
21 to law enforcement?

22 A. Most female victims do not report their domestic
23 violence that they may have experienced to law enforcement.

24 Q. Tell us why.

25 A. A number of reasons. So there isn't one reason.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 So some victims might be afraid. So, you know, some might
2 have loving feelings towards the individual their partner,
3 so they may have very mixed emotions.

4 They may want the -- want the abuse to stop or the
5 incidents to stop, but they, you know, also still have
6 loving feelings for that individual, so they have a lot
7 of -- they might not want the individual to have any sort of
8 punishment.

9 They may also feel like they're not going to be
10 believed by authorities as well, so there's just a lot of
11 different reasons why some victims might not report to
12 authorities.

13 Q. And those variety of reasons that would extend --
14 would that extend to people who don't report and also people
15 who are just scared or reluctant to report?

16 A. Can you repeat that?

17 Q. With the reasons that you just mentioned, I think
18 the question before that was about why female victims might
19 not report?

20 A. Correct.

21 Q. Would that also to apply to why they may be scared
22 or hesitant to report?

23 A. Yes, correct.

24 Q. What does the research tell us about why female
25 victims of domestic violence or intimate partner violence

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 stay in these relationships?

2 A. The majority of victims in domestic violence
3 relationships stay, so it's actually counterintuitive, I
4 think, for common people to think that if they've
5 experienced violence in a relationship they're going to
6 immediately get out.

7 So the majority of victims typically stay in
8 relationships after the first incident of physical violence,
9 and they stay for a lot of very similar reasons why they may
10 not report, so probably one of the biggest reasons is they
11 stay because they have loving feelings for that individual.

12 They've had a relationship with them. They
13 believe that their partner isn't going to do it again, and
14 they want to make amends and work on their relationship.

15 At the same time, they may also, depending on the
16 relationship, may fear -- the fear of future harm, so fear
17 of harm even if they leave.

18 They may have -- have children together. If they
19 are married, they may have -- they may have religious
20 beliefs about leaving. They may be afraid of not only just
21 future violence.

22 They may be afraid of the unknown, so some victims
23 violence might be all they know in relationships, so they
24 may stay for financial reasons. There's financial barriers,
25 so there's just a lot of reasons why victims may stay.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 Q. Is there a cycle of violence in the female victim
2 of domestic violence or intimate partner violence they
3 experience?

4 A. Some victims report a cycle of violence. So some
5 will report, kind of, sort of, a phase where they're, sort
6 of, walking on eggshells, trying to, kind of, see some
7 tension building, sort of, the tension building phase where
8 they, kind of, anticipate that tension's building and try to
9 do what they can, kind of, to keep peace.

10 It may escalate into a violent interaction, and
11 then it might shift into what's called a honeymoon phase
12 where their partner might, you know, say that they're sorry,
13 flowers, say they're going to not do it again, and want to
14 work on the relationship, and it might be really good for a
15 while, and then it might cycle into that tension phase.

16 In that cycle, some victims can report can occur
17 within a day. It can occur over weeks, or over months, and
18 sometimes even years.

19 Q. Is there any kind of comment or typical demeanor
20 that a female victim of domestic or intimate partner
21 violence may exhibit during an assault?

22 A. There isn't one common indicator of behavior
23 during an assault. Some victims --

24 Q. Yeah.

25 A. -- will report, sort of, a trauma response, which

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 is, kind of, in a threatening situation, they may report,
2 kind of, fight, flight, or freeze reaction or response of --
3 of either, kind of, trying to fight to protect oneself.

4 Trying to flee, trying to get out, or freeze, not
5 really do anything at all, so they may, kind of, report or
6 display those types of behaviors during an incident.

7 It just depends. There's not, kind of, one exact
8 behavior during an incident.

9 Q. So a simpler question: Is there a typical or
10 common demeanor that victims female victims of domestic or
11 intimate partner violence may exhibit after an assault?

12 A. There isn't one set behavior afterwards, so you
13 know, there are -- victims can -- can behave all sorts of
14 different ways afterwards, so there's not one set behavior.

15 Some may report ongoing struggles or difficulties
16 afterwards, but there's not one given behavior.

17 Q. Can you explain to the jury what effect a
18 traumatic event like an assault in a domestic violence or
19 intimate partner violence relationship may have on the
20 victim's memory?

21 A. Sure. So domestic violence incident can be
22 perceived as a potentially traumatic event, and trauma can
23 impact our memory and our memory consolidation in different
24 ways, so it can impact how we recall things and code memory
25 so that we might not recall all the details.

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 So in someone's experience of trauma, they
2 typically do have a memory of it existing, but they might
3 not necessarily remember all of the details, and it's not
4 necessarily remembered in a cohesive or linear fashion after
5 an incident.

6 Q. You touched on your answer, but is there anything
7 in the research that talks about what they may remember,
8 what they may not, big details versus small details? What
9 does the research tell us about that?

10 A. Sure. So trauma can impact our memory in that --
11 as I, sort of, mentioned, you can remember different, sort
12 of, things.

13 After trauma, we tend to remember salient aspects
14 of the incident, so things that are typically more
15 associated with our feelings and fear, so things that are
16 associated with our senses a little bit more, things we
17 smell, perhaps, things that sound or appear, but we don't
18 necessarily remember peripheral aspects that might not be
19 salient in the moment.

20 So for instance, if I were in a car accident, I
21 might remember or recall the smell of burning tires, the
22 sound of the crash.

23 I might have -- I have -- might recall the color
24 of the car, but I might not necessarily be able to remember
25 the exact, I was here, they were there, and that car turned

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 this way and then that way, or I might not recall the make
2 and model of the car, or the street signs going by.

3 So you don't necessarily remember in a videotape
4 linear fashion all details as you watch a video. It's
5 usually, you know, specific aspects.

6 Q. And so I think you mentioned that, would you --
7 would you agree that it's not uncommon for a victim to
8 potentially have a memory that may not be a perfectly linear
9 memory but still have details of the event?

10 A. Yes, correct.

11 Q. And it may seem like a bit of an obvious question,
12 but would victims of domestic violence or intimate violence
13 that experience a traumatic event, much like the rest of us,
14 their memory not remember everything as time goes on, as
15 time moves on?

16 A. Correct. So our -- we don't necessarily always
17 remember all of the details, and our memory gets spottier as
18 time goes on.

19 Q. Is it -- you may have mentioned this towards the
20 beginning, but is it unusual for a female victim of domestic
21 violence or intimate partner violence to have conflicting
22 emotions about their abuser?

23 A. It is not unusual, and it's actually more common
24 that many victims do have very conflicting emotions.

25 They -- as I mentioned, have loving feelings for

Dr. Alyssa Rheingold - Direct by Mr. Cooper

1 that individual at the same time they don't necessarily want
2 the abuse to continue.

3 Q. How is that dynamic different from, say, an
4 assailant who's a stranger?

5 A. So with an assailant -- with a stranger, you don't
6 have a prior relationship with, so there isn't necessarily
7 that conflict in emotions.

8 You might still experience a traumatic response
9 just both might experience traumatic response. They might
10 still have the fight or flight response.

11 They might still go on to have long-term -- maybe
12 struggle with difficulties, but it's much more complex with
13 somebody that you have an ongoing relationship with just
14 because of the dynamics that you -- you know that
15 individual.

16 You have very mixed emotions towards them. With a
17 stranger, you have no prior feelings towards that
18 individual.

19 Q. Will you tell us a little bit about what some of
20 the short-term and long-term effects may be of being a
21 victim of domestic or intimate partner violence?

22 A. Short-term effects might be, kind of, an emotional
23 response, so feelings of fear, anger, shock, disbelief,
24 shame, guilt feelings.

25 Long-term impacts might be also those same

Dr. Alyssa Rheingold - Cross by Ms. Luthringer

1 feelings. They might shift and change over time, and some
2 people might go on to actually have some long-term
3 difficulties like post-traumatic stress disorder, or
4 depression, or substance use difficulties, or self-esteem
5 difficulties, things like that.

6 Q. Thank you, Doctor. I have a number of questions
7 for you. If you'll answer any the defense may have.

8 THE COURT: Cross-examination?

9 MS. LUTHRINGER: Thank you, Judge.

10 CROSS-EXAMINATION by Ms. Luthringer:

11 Q. Good afternoon, Doctor.

12 A. Good afternoon.

13 Q. Just looking at your resume a little bit, I just
14 want to ask you a few questions about your work.

15 A. Uh-huh.

16 Q. You don't just focus on domestic violence?

17 A. Correct.

18 Q. You're currently at MUSC?

19 A. Correct.

20 Q. And that's the MUSC National Crime Victims
21 Research Center?

22 A. National Crime Victims Research and Treatment
23 Center.

24 Q. And Treatment Center?

25 A. Yes.

Dr. Alyssa Rheingold - Cross by Ms. Luthringer

1 Q. Where you work with all types of victims there?

2 A. Correct.

3 Q. Family members of homicide victims?

4 A. Yes.

5 Q. Sexual assault victims?

6 A. Yes.

7 Q. You've done some work with children?

8 A. I've done some work early on in my career, yes.

9 Q. And you're also the director at the Health
10 Mindfulness Center?

11 A. I direct the mindfulness program at the Health and
12 Wellness Institute at MUSC, yes.

13 Q. And are you a director for Specialized Services
14 for Survivors of Homicide?

15 A. Yes.

16 Q. And a consultant for mass violence, mental health,
17 and behavioral health?

18 A. I -- not for mass violence. I direct the
19 Response, Resilience, and Recovery Division for the National
20 Mass Violence Center, which is a center that's internally a
21 part of the National Crime Victims Center where I work.

22 Q. And you also treat anxiety disorders?

23 A. Not so much anymore. I used to treat, but I don't
24 have as much time to do that.

25 Q. But you used to?

Dr. Alyssa Rheingold - Cross by Ms. Luthringer

1 A. Yes.

2 Q. And trauma-related mental health issues, did you
3 treat those?

4 A. Right now, mainly my focus is on treating
5 trauma-related issues, typically, related to victimization.

6 Q. And you've done some research with sleep studies?

7 A. I used to do mainly more research in -- not as
8 much sleep, mainly anxiety and the intersection of sleep and
9 anxiety.

10 I am a -- have a secondary appointment in our
11 sleep and anxiety program at MUSC where I help more
12 administrative -- help the current faculty with more of
13 their administrative oversight.

14 So I mainly provide mentorship, but I used to do
15 more work in that space.

16 Q. So I guess it's safe to say you've done a bunch of
17 research or treated victims in many fields?

18 A. Yes. Predominantly trauma, but, yes.

19 Q. And sometimes you do a bunch of research because
20 there's not always concrete answers in these fields?

21 A. Correct, yes.

22 Q. Because variables change?

23 A. We just continue to learn.

24 Q. And every alleged victim is different?

25 A. Yes.

Dr. Alyssa Rheingold - Cross by Ms. Luthringer

1 Q. People are all different?

2 A. Yes.

3 Q. And research shows that victims behave in
4 different ways?

5 A. Yes.

6 Q. Some react to trauma incidents more vividly than
7 others?

8 A. Yes.

9 Q. Some don't remember as well?

10 A. Yes.

11 Q. Sometimes there's reasons why people don't
12 remember details?

13 A. Yes.

14 Q. Substance abuse problems?

15 A. Yes.

16 Q. Mental health issues?

17 A. Yes.

18 Q. Loss of consciousness?

19 A. Yes.

20 Q. So there's no one formula way for how a victim
21 should behave in any case?

22 A. Correct.

23 Q. And as you testified, you know nothing about these
24 allegations?

25 A. Correct.

Dr. Alyssa Rheingold - Cross by Ms. Luthringer

1 Q. You haven't seen the discovery?

2 A. Correct.

3 Q. You haven't treated Ms. Hopkins in this case?

4 A. Correct.

5 Q. You haven't spoken to Ms. Hopkins in this case?

6 A. Correct.

7 Q. You also haven't spoken to Mr. Tollerson?

8 A. Correct.

9 Q. You know nothing about what happened within the
10 four walls of that home?

11 A. Correct.

12 Q. You don't know if he hit her?

13 A. Correct.

14 Q. You don't know about anyone's behavior in this
15 case?

16 A. Correct.

17 Q. Or anyone's mental health issues?

18 A. Correct.

19 Q. Or why anyone behaved a certain way in this case?

20 A. Correct.

21 Q. You're just here as a blind expert for the State?

22 A. Correct. I'm mainly here just to educate the
23 Court about common reactions of domestic violence victims
24 that often are counterintuitive to how we might think about
25 these type of relationships.

Dr. Alyssa Rheingold - Redirect by Mr. Cooper

1 Q. And I think you said you've done that nine times
2 before in Circuit Court?

3 A. I've testified nine times in Circuit Court. A
4 couple of those were in sexual assault behaviors.

5 Q. And were those all for the State?

6 A. Correct.

7 Q. And you're being paid for your testimony here
8 today?

9 A. No, I'm being paid for my time.

10 Q. For your time?

11 A. Yes.

12 Q. Which your testimony is your time?

13 A. Correct.

14 Q. Okay. Thank you. I have no further questions.

15 THE COURT: Any redirect?

16 MR. COOPER: Briefly.

17 REDIRECT EXAMINATION by Mr. Cooper:

18 Q. Just a few questions, Doctor. Ms. Luthringer
19 asked about us paying you. Did we pay you or tell you what
20 to say?

21 A. No.

22 Q. Is often the interaction with you and myself in
23 charge of our office educational for us?

24 A. Yes.

25 Q. And then two things I want to ask. One of the

Dr. Alyssa Rheingold - Redirect by Mr. Cooper

1 things you mentioned when it comes to reasons that victims
2 may not report or female victims of domestic violence or
3 intimate partner violence may not report, or may be scared
4 to report, or resistant to reporting because they may not be
5 believed?

6 A. Correct.

7 Q. Is one of the things that goes into that concern
8 about being believed what you talked about earlier with
9 memory with --

10 MS. LUTHRINGER: Judge, I object. This is outside
11 the scope of my cross.

12 MR. COOPER: I think she talked about memory
13 behavior. I think this is relevant.

14 THE COURT: Just briefly. You can go into it
15 briefly.

16 MR. COOPER: Yes, ma'am.

17 BY MR. COOPER:

18 Q. With regards to being fearful about not being
19 believed, would not having the best memory not having a
20 cohesive or linear memory like you talked about, play a role
21 in that?

22 A. I -- it might. Some victims might report being
23 afraid because they don't have necessarily a memory about
24 being believed. That's possible.

25 Q. All right. I have no further questions.

1 MR. COOPER: Thank you, Judge.

2 THE COURT: You may step down, Doctor. Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: You may call your next witness.

5 MS. FRIES: Your Honor, at this time the State
6 rests.

7 THE COURT: All right. Thank you, Solicitor.
8 Would counsel please approach?

9 (Bench conference.)

10 MR. GOODWYN: I think with as much as has been
11 talked about, I think we need time to talk with him about
12 that to figure out if he wants to testify.

13 (Indiscernible whispering.)

14 MR. GOODWYN: Say again?

15 (Indiscernible whispering.)

16 MR. GOODWYN: No. No, I would like to see if we
17 can break for the day because of where we're at, and then
18 have time to have a conversation about what he wants to do.

19 THE COURT: Okay.

20 (End of bench conference.)

21 THE COURT: All right. Ladies and gentlemen of
22 the jury, the State has rested their case. We must take up
23 with some matters outside of your presence, and again, I
24 don't want you waiting unnecessarily back in that room, so
25 I'm going to excuse you for the remainder of the afternoon.

Argument to the Court by Mr. Goodwyn

1 Again, if you would report in the morning at 9:15.
2 Once we have everyone together, we will resume with the
3 trial of this case. Again, it is very important, even
4 though the State has rested, you still have not -- you're
5 not in a position to receive the case; therefore, again, do
6 not discuss the case amongst yourselves or with anyone else.

7 And again, if anyone needs transportation or
8 anything of that -- those issues, we'll be happy to provide
9 that.

10 The bailiffs will be discussing that with you so
11 that we make sure we have everyone here on time, and we will
12 see y'all in the morning. Have a nice evening.

13 (Jury exited at 3:07 p.m.)

14 THE COURT: All right. Counsel, any motions?

15 MR. GOODWYN: Yes, Judge. We would make a Motion
16 for a Directed Verdict for lack of evidence to present to
17 the jury.

18 Generally, more specifically, I want to make a
19 Motion for a Directed Verdict as to the elements of the
20 domestic violence charge.

21 I know we've -- we've talked about in the
22 beginning of trial of how the State seeks to get from the
23 base element DV third to a DV first that their assertion is
24 that the statute allows them to automatically require any
25 domestic violence that would normally be a third degree a

Argument to the Court by Mr. Goodwyn

1 second degree, because he has a prior conviction.

2 And then they use the aggravated factors of the
3 allegation that a minor was present and that a phone was
4 either taken away or smashed to prevent the other person
5 from calling 911.

6 Judge, the State is relying on a case *State v.*
7 *Workman*, which came out in August of 2024, as the case law
8 that allows them to construct the statute this way.

9 I think the State would agree, and I think Your
10 Honor would agree, the DV Statute is a pretty convoluted
11 statute.

12 It's, and I think even in the *State v. Workman*,
13 Justice James talks about this -- how the way the statute
14 was written was meant for lawyers and judges to read, not
15 necessarily for the jury.

16 What the State wants to do, and -- and what I'm
17 asking you, as far as to direct a verdict, and I understand
18 we've talked about the verdict forms later on, but what I'm
19 asking you to consider is that the fact that the legislature
20 uses words like "or" and "and" to construct exclusive and
21 inclusive types of behavior that enhance the types of
22 domestic violence behavior.

23 16-25-20(b) and (c), which is DV first and second
24 sections of that statute, use the base element, right.
25 That's the -- and that's the -- in any domestic violence

Argument to the Court by Mr. Goodwyn

1 situation, you have the base element either threatened to or
2 did cause physical harm to a household member.

3 In both statutes (b) and (c), 16-25-20 they list
4 five factors. Judge, let me just back up a little bit.
5 After the base element that's mentioned in all parts of that
6 DV statute, it starts with "and."

7 The base element "and" one of the following
8 factors, but in 16-25-20(b) and (c), like I said the DV
9 first and DV second code section, it lists five factors that
10 are each separated by the word "or."

11 We're talked about great bodily injury versus
12 moderate bodily injury.

13 Violating the protection of the order of the law
14 process can mean the lesser for the defense; prior
15 convictions for domestic violence, which I know that's where
16 we are today, victim being pregnant and the offender knew
17 that, choking, minor present, participated during the
18 commission of robbery, burglary, all these things are
19 aggravating factors.

20 The State is seeking to prosecute Mr. Tollerson
21 under 16-25(b)(5), under the theory that a DV second has
22 been committed, and they're using other aggravating factors.

23 I believe that based on the language of the
24 statute, the fact that the legislature has used the word
25 "or," it is not inclusive language. It's exclusive

Argument to the Court by Ms. Fries

1 language.

2 If you had a situation where this was a domestic
3 violence in the third degree, we don't have a prior domestic
4 violence condition where a minor was present or the phone
5 was broken to try to prevent from calling 911, the State
6 doesn't get to jump up two spaces.

7 They only get to jump up one. And the fact -- the
8 fact that this legislature used those words "or" between all
9 of those five separate factors, is instructive for us to
10 think that State should not be allowed to, in essence, play
11 checkers and jump to the point of a kinging.

12 I think that's the way the legislature intended it
13 and *State v. Workman*, which the State is relying on as the
14 precedent to be able to do this. That's not the holding of
15 that case.

16 The holding of that case is -- the judge -- the
17 Trial Court Judge should have instructed the jury on what
18 the modern bodily injury is, but because that jury found
19 that particular defendant guilty of beating DV hand, it was
20 a harmless error.

21 So I think the State is in the property of the law
22 in this case as precedent when the holding of that case has
23 nothing to do with constructing the statute. That's it.

24 THE COURT: Response?

25 MS. FRIES: Thank you, Your Honor. We -- this

Argument to the Court by Ms. Fries

1 case -- he is charged with domestic violence first degree.

2 The way we get there is that he has a prior conviction.

3 We get to automatically rise to domestic violence
4 second degree. He caused her harm. We saw it in the
5 photos. We saw it the testimony by Emily Hopkins.

6 He has a prior conviction. We're automatically at
7 domestic violence second degree. Then he has those two
8 enhancing factors that gets us to domestic violence first
9 degree.

10 That's the way the statute was written. It was
11 written to deter repeat offenders to prevent them from
12 committing these crimes again.

13 In the *State versus Workman*, it discusses moderate
14 bodily injury because there are multiple ways to commit
15 domestic violence second degree; moderate bodily injury, a
16 prior conviction, committing domestic violence third degree,
17 one of the aggravating factors.

18 *Workman* is just putting that into place, and it
19 deals with moderate bodily injury, but here we're dealing
20 with a prior conviction. That's how we get to domestic
21 violence second degree, and then we get to domestic violence
22 first because of those aggravating factors along with that
23 prior conviction.

24 And you heard from the Clerk of Court. He has the
25 prior conviction. It's within the -- within a 10-year time

Court's Ruling

1 frame. The phone -- the photos show that the phone is
2 completely damaged.

3 You heard testimony from Emily Hopkins that she
4 was threatening to call 911. He took the phone and smashed
5 it. Also, on the jail calls, he does say, "She couldn't
6 call the police because I broke that phone up and shit."

7 He's admitting that he broke the phone, and she
8 couldn't call the police because of that. It's clear the
9 child was present. We have those two aggravating factors.

10 We have the prior conviction, and we also have the
11 injury that was caused, and the -- the statute is that
12 caused or offered to cause.

13 It's clear he caused her harm, but also the damage
14 to the door. He wasn't just going in there. I mean, he --
15 he caused her harm. So we believe that we have met -- we've
16 satisfied the elements of domestic violence first degree.
17 We would ask that the motion be denied.

18 **COURT'S RULING**

19 **THE COURT:** In considering the evidence that has
20 been presented before the Court, there is direct and
21 circumstantial evidence tending to establish each of the
22 elements of the statutory language in the -- in the statute.
23 Your motion is respectfully, denied.

24 **MR. GOODWYN:** And just to make sure, as to both
25 parts of the motion?

Court's Ruling

1 THE COURT: Yes, sir.

2 MR. GOODWYN: Okay. Thank you.

3 MS. FRIES: Judge, just so I can put on the
4 record, unlawful conduct as well. We have met those
5 elements.

6 Minor was there, and he put her at unreasonable
7 risk of harm by hitting Emily with the board while she was
8 holding Minor .

9 THE COURT: I was waiting for you to make that
10 motion, but were -- were you going to make a motion on that
11 one as well?

12 MR. GOODWYN: I am -- I am grateful that Ms. Fries
13 brought that up. Yes, Judge, my directed verdict motion is
14 on both charges of domestic violence first, and unlawful
15 conduct towards a child for the sake of the statutory
16 language.

17 THE COURT: Yes, sir, and again, the evidence that
18 has been presented to the Court does establish direct and
19 circumstantial evidence of each of the elements for both
20 charges, so your motion is respectfully, denied.

21 All right. So do you'll need time to talk to your
22 client in the morning. Can -- can you be here a little bit
23 early since we told the jury 9:15 so we can go either way?

24 MR. GOODWYN: Sure, we can be here at 9?

25 THE COURT: All right.

1 MR. GOODWYN: Does -- does -- does 9 work for The
2 court?

3 THE COURT: Yes. Well, I'm saying just so that
4 you have sufficient time. That way I can question him,
5 like, at 9:30 and we --

6 MR. GOODWYN: We will --

7 THE COURT: -- can get started at --

8 MR. GOODWYN: -- I will see him for a while today.

9 THE COURT: All right. And then proposed jury
10 instructions. I'm not sure if everybody's gone through
11 those yet.

12 All right. So we'll email you proposed jury
13 instructions. If there's any questions or concerns, we can
14 have a charge conference in the morning before we get
15 started.

16 MR. GOODWYN: Thank you, Judge.

17 MS. FRIES: Thank you, Judge.

18 THE COURT: Thank you. You-all have a good night.

19 (An evening recess was taken at 3:17 p.m. until
20 Thursday, April 24, 2025 at 9:00 a.m.)

21 (End of Volume 3.)
22
23
24
25

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSION

COUNTY OF CHARLESTON

NINTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA

)

Plaintiff,

)

) FILE NOS:

vs.

)

) 2025-GS-1000338 - 337

DESHAWN RONTEA TOLLERSON,

)

Defendant.

)

TRANSCRIPT, Volume 4 of 4, Pages 345 - 464

Thursday, April 24, 2025

Monday, April 21, 2025 General Session

Honorable Maite Murphy, Judge Presiding

Criminal Trial

Julia A. Titus Emerson, CVR, RCP-M
 Official Court Reporter
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W I T N E S S E SON BEHALF OF THE DEFENDANT:

DeShawn Tollerson

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E X H I B I T SON BEHALF OF THE COURT:

<u>No.</u>	<u>Description</u>	<u>ID'd</u>	<u>Admit</u>
1	Jury note question	438	438
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1 (The case of State of SC vs DeShawn Rontea
2 Tollerson, File No. 2025-GS-10-00338 - 337, was
3 called for hearing at 9:39 a.m. on Thursday, April
4 24, 2025. All parties were present.)

5 THE COURT: So Counsel for the defense, is your
6 client ready to be questioned regarding whether or not he
7 wishes to testify?

8 MS. LUTHRINGER: Yes.

9 THE COURT: All right. Mr. Tollerson, if you
10 would, please stand. Madam Clerk, if you'd please swear in
11 the defendant.

12 THE CLERK: Yes, Your Honor. Please, raise your
13 right hand to be sworn.

14 (The defendant was sworn.)

15 THE CLERK: Thank you.

16 THE COURT: Mr. Tollerson, at this time, I'm going
17 to explain to you certain of your rights. If you do not
18 understand anything that I say, please let me know, and if
19 you want me to explain anything in further detail please,
20 let me know.

21 We have now reached the stage of the trial where
22 you may present your defense. You have the right to claim
23 the protections given to you by the Fifth Amendment of the
24 Constitution of the United States, which states in part that
25 no person shall be compelled in any criminal case to be a

1 witness against himself.

2 This means that you cannot be required to testify
3 in this case. You have the right to testify on your own
4 behalf; however, no one can make you testify. This is a
5 personal right, and no one can waive this right except for
6 you.

7 If you decide to testify you will be subject to
8 the same rules that govern the other witnesses and you may
9 be examined and cross-examined on any relevant issue in this
10 case.

11 In addition, if you have any convictions involving
12 dishonesty, or for false statement, or for crimes punishable
13 by imprisonment for more than one year, and I determine that
14 the probative value of admitting this evidence outweighs its
15 prejudicial effect to you, the Solicitor will be able to
16 introduce your record and attack your credibility.

17 If you decide to testify, this decision on your
18 part must be made freely, voluntarily, and intelligently
19 with the knowledge of the protections given to you by the
20 Fifth Amendment.

21 If you decide not to testify, I will instruct the
22 jury they cannot give the fact that you did not testify any
23 consideration whatsoever and that there is to be absolutely
24 no prejudice to you whether or not because you did not
25 testify.

1 This decision is left entirely up to you. You can
2 talk to your attorneys, your family; however, this decision
3 must be made by you. Have you had an opportunity to discuss
4 this with your attorney?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you wish to testify?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Do you need any more time to talk to
9 them?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: All right, sir, thank you. Are we
12 ready for the jury?

13 MR. GOODWYN: Just quickly, Judge, if me may just,
14 sort of, talk about the prior record, you know, he does have
15 an armed robbery conviction from -- I believe, it's 2009.

16 That's not a crime of dishonesty as far as
17 anything the State should be able to get into. I just want
18 to make that clear, that that shouldn't be brought up on
19 cross-examination.

20 THE COURT: Solicitor?

21 MS. FRIES: Your Honor, we're -- we agree with
22 that as long as he doesn't make it an issue on the stand.

23 THE COURT: So then don't open the door.

24 MR. GOODWYN: All right.

25 THE COURT: All right. Are we ready for the jury

1 now? Everybody ready for the jury?

2 MR. GOODWYN: Yes, Judge.

3 MS. FRIES: Yes, Judge.

4 THE COURT: All right. Let's have our jury,
5 please.

6 (Jury entered at 9:44 a.m.)

7 THE BAILIFF: All of the jurors are present, Your
8 Honor.

9 THE COURT: Thank you. Good morning. Please,
10 have a seat. Good morning, ladies and gentlemen of the
11 jury. We're now ready to proceed with the trial of this
12 case. Does the defense intend on introducing any evidence?

13 MS. LUTHRINGER: Yes, Judge.

14 THE COURT: You may call your first witness.

15 MS. LUTHRINGER: Defense calls DeShawn Tollerson.

16 THE CLERK: Please raise your right hand, and
17 place your left on the Bible.

18 (The witness was sworn)

19 THE CLERK: Please be seated. Please state your
20 full name spelling your last name loudly and clearly into
21 the microphone.

22 THE WITNESS: DeShawn Tollerson.

23 T-o-l-l-e-r-s-o-n.

24 THE COURT: Your witness.

25 DESHAWN TOLLERSON

DeShawn Tollerson - Direct by Ms. Luthringer

1 having been called as a witness for the Defendant at 9:45
2 a.m. was sworn and testified as follows:

3 DIRECT EXAMINATION by Ms. Luthringer:

4 Q. Hi, DeShawn.

5 A. How you doing?

6 Q. How you doing this morning?

7 A. I'm alright.

8 Q. I want you to tell the jury a little bit about
9 yourself. How old are you?

10 A. I'm 40 years old.

11 Q. Where are you from originally?

12 A. Downtown Charleston area in South Carolina.

13 Q. Who raised you here?

14 A. My mom and my daddy, but mainly my mom.

15 Q. What do you like to do for work?

16 A. Mainly, any type of hands-on job, but mostly a lot
17 of kitchen work. I work in the kitchens?

18 Q. Do you cook.

19 A. Yes, ma'am, I cook.

20 Q. Who taught you to cook?

21 A. Mainly my mom.

22 Q. We've heard a little bit of testimony about your
23 mom this week. Are you close with her?

24 A. Yeah, we're very close.

25 Q. What about kids? Do you have any?

DeShawn Tollerson - Direct by Ms. Luthringer

- 1 A. Yes, ma'am, just one.
- 2 Q. Is it a boy or a girl?
- 3 A. A girl.
- 4 Q. What's her name?
- 5 A. Her name's Minor
- 6 Q. Does she go by any other names?
- 7 A. If I don't call her Minor I call her Big Head.
- 8 Q. Is that a special nickname you have for her?
- 9 A. Yeah, that's only because I got a big head.
- 10 Q. How old is she?
- 11 A. She's five, just turned five on [REDACTED].
- 12 Q. Do you like being a father?
- 13 A. Yeah, I like it. It's new.
- 14 Q. So speaking about Minor, I want to clarify a few
- 15 things. Did you sit right here with Patrick and I all week?
- 16 A. Yes, ma'am.
- 17 Q. Did you see Melissa High take that stand?
- 18 A. Yes, ma'am.
- 19 Q. And did you see Mr. Cooper play some jail calls
- 20 for her?
- 21 A. Yes, ma'am.
- 22 Q. Did you know the jail calls were recorded?
- 23 A. Yes, ma'am.
- 24 Q. Did you hear him ask Ms. High to interpret some of
- 25 your calls?

DeShawn Tollerson - Direct by Ms. Luthringer

1 A. Yes, ma'am.

2 Q. Setting the speculation aside, can I just ask you
3 about the calls?

4 A. Yes, ma'am, you can.

5 Q. Do you remember the call where you were speaking
6 with Ms. Hopkins?

7 A. Yes, ma'am, I do.

8 Q. Are you two arguing in that call?

9 A. No ma'am, we're not.

10 Q. Were you upset about something in that call?

11 A. Yes, ma'am.

12 Q. Explain that to me.

13 A. I was upset about what I read in her -- in the
14 police report about me throwing ^{Minor} into the car door and
15 hitting her with a board with -- with nails in it. That's
16 what I was upset about.

17 Q. Why were you upset about that?

18 A. Because that's something I would never do. I
19 never want to harm my daughter, and she knows that.

20 Q. Were you upset because you thought she was saying
21 something else?

22 A. Yes, ma'am.

23 Q. What did you think she was saying?

24 A. I thought she was saying that I was literally --
25 like, I literally threw her into the car door.

DeShawn Tollerson - Direct by Ms. Luthringer

1 Q. Into the metal?

2 A. Into the metal part of the car, yeah.

3 Q. And at some point in that call that the State
4 played, did you say I understand?

5 A. Yes, ma'am.

6 Q. What does that mean?

7 A. Because she gave me clarification that I didn't.

8 Q. Also in the call, did you say, I'm not taking that
9 charge?

10 A. Yes, ma'am, I did.

11 Q. What does that mean to you?

12 A. I'm not taking the charge that I did not commit
13 because I did not commit a crime of harming her or my
14 daughter.

15 Q. Have you pled to domestic violence before?

16 A. Yes, ma'am.

17 Q. Aside from that call, there was a second call that
18 you heard the State play?

19 A. Yes, ma'am.

20 Q. Who were you talking to in that call?

21 A. Nadia Youngblood.

22 Q. Who is she to you?

23 A. She's my ex-girlfriend.

24 Q. Were you seeing her and Emily?

25 A. Yes, ma'am.

DeShawn Tollerson - Direct by Ms. Luthringer

1 Q. Were you seeing them at the same time?

2 A. Yes, ma'am.

3 Q. Was that going on back in 2021?

4 A. Yes, ma'am, it was.

5 Q. Did Emily know?

6 A. She found out.

7 Q. How did Emily feel about that?

8 A. She didn't like it at all.

9 MS. FRIES: Objection. Speculation.

10 THE COURT: If he knows. She could have certainly
11 conveyed it to him.

12 BY MS. LUTHRINGER:

13 Q. Did that affair continue after the incident we're
14 here for today?

15 A. Yes, ma'am.

16 Q. Now that we've clarified that, can I address the
17 elephant in the room?

18 A. Yes, ma'am.

19 Q. Did you hit Ms. Hopkins?

20 A. No ma'am, I didn't.

21 Q. Did you beat her with the door trim?

22 A. I did not at all.

23 Q. Did you cause nails to puncture through her skin?

24 A. No ma'am, I didn't.

25 Q. Did you pull her by the hair?

DeShawn Tollerson - Direct by Ms. Luthringer

- 1 A. I did not.
- 2 Q. Did you throw ^{Minor} at her?
- 3 A. No, ma'am.
- 4 Q. Did you do anything to harm ^{Minor}?
- 5 A. No, ma'am.
- 6 Q. Did you try to put ^{Minor} in the car without a car
- 7 seat?
- 8 A. No, ma'am.
- 9 Q. Did you make some mistakes that night?
- 10 A. Yes, ma'am, I did.
- 11 Q. Were you mad that night?
- 12 A. Yes, ma'am.
- 13 Q. Were you two arguing?
- 14 A. Yes, we were.
- 15 Q. Did you break the door?
- 16 A. Yes, ma'am, I did.
- 17 Q. Did you cause the door trim to fall?
- 18 A. Yes, ma'am, I did.
- 19 Q. Why?
- 20 A. I was upset because she wouldn't let me come
- 21 inside and get my things so I could leave.
- 22 Q. Did you damage her car?
- 23 A. It's only the mirror.
- 24 Q. What about her -- go ahead.
- 25 A. It was only the mirror.

DeShawn Tollerson - Direct by Ms. Luthringer

1 Q. What about her phone?

2 A. I did.

3 Q. Did you smash it?

4 A. Yes, ma'am.

5 Q. Why?

6 A. Because she constantly kept calling my mother when
7 it was late last -- it was actually late that night, and
8 she's an elderly woman who was actually sick and dealing
9 with a cancer problem, and, like, she really needs her rest,
10 like, to get through the chemo therapy and stuff like that,
11 like, to constantly keep bothering her, like, with that
12 issue was a problem.

13 Q. Did you smash her phone so she couldn't call 911?

14 A. No, ma'am, I didn't.

15 Q. Did you then leave?

16 A. Yes, ma'am.

17 Q. Why?

18 A. Because I didn't want the problem to keep --
19 anything else to continue.

20 Q. Did you know the police were looking for you?

21 A. No, ma'am, I didn't.

22 Q. What would you have done if you knew the police
23 were looking for you?

24 A. I would have turned myself in.

25 Q. Is there anything else you want to say about this

DeShawn Tollerson - Cross by Mr. Cooper

1 night?

2 A. Respect that I would never harm my daughter. I
3 never did harm my daughter or ^{Minor} at all that night. I did
4 make a mistake by doing some damage to her property, but
5 that's exactly all it was.

6 MS. LUTHRINGER: I beg the Court's indulgence.

7 BY MS. LUTHRINGER:

8 Q. DeShawn, are you under oath today?

9 A. Yes, ma'am, I am.

10 Q. Are you guilty of domestic violence?

11 A. No, ma'am, I'm not.

12 Q. Are you guilty of unlawful conduct towards a
13 child?

14 A. No, ma'am.

15 Q. Thank you, DeShawn. Please, answer any questions
16 that the Government has for you, okay?

17 A. Yes, ma'am.

18 THE COURT: Cross-examination?

19 MR. COOPER: Yes, ma'am.

20 CROSS-EXAMINATION by Mr. Cooper:

21 Q. Good morning, Mr. Tollerson.

22 A. Good morning.

23 Q. So I want to talk about that night as well. You
24 told your lawyer that you were angry that night.

25 A. Yes.

DeShawn Tollerson - Cross by Mr. Cooper

1 Q. You were angry at the victim?

2 A. Yes, sir.

3 Q. She's just taking down what you say, so just make
4 sure you say "yes" or "no," okay?

5 A. Yes, sir.

6 Q. But you were angry at the victim because she
7 wouldn't let you in her house?

8 A. Yes.

9 Q. And so you kicked in her door.

10 A. To get my properties, my -- my belongings so I
11 could leave.

12 Q. You were mad at her at the car?

13 A. Say that again?

14 Q. While she was in the car. You were angry at her
15 while she was in the car?

16 A. We wasn't arguing in the car.

17 Q. Say it again?

18 A. We didn't argue in the car.

19 Q. But were you angry at her while she was in the
20 car?

21 A. No, I wasn't.

22 Q. Why did you damage the mirror?

23 A. I honestly don't know.

24 Q. You don't know?

25 A. I honestly don't know.

DeShawn Tollerson - Cross by Mr. Cooper

1 Q. Did you not practice an answer for that, too?

2 A. I did not practice no answer.

3 MS. LUTHRINGER: Objection, Judge.

4 MR. COOPER: The defendant -- can we approach --

5 THE COURT: Yes, sir.

6 MR. COOPER: -- please?

7 (Bench conference.)

8 THE COURT: It's cross-examination. He can ask if
9 he practiced answers or not.

10 MR. COOPER: And for the record, he was not
11 Mirandized; therefore, under Doyle, I'm allowed to ask about
12 all post-arrest silence.

13 He was not Mirandized when he was arrested, so
14 pursuant to the United State's Supreme Court case law and
15 the case law in our State, I can ask about all post-arrest
16 silence.

17 THE COURT: No, we're going to let the jury out
18 for that. No sir.

19 MR. COOPER: Okay.

20 THE COURT: Do not go there.

21 MR. COOPER: Okay. Do you want to --

22 THE COURT: Just post-arrest silence.

23 MR. COOPER: Do you want to handle -- can we
24 handle that?

25 THE COURT: We'll handle that outside the presence

Argument to the Court by Mr. Cooper

1 of the jury, if you want.

2 MR. COOPER: I would. I would like to, please.

3 (End of bench conference.)

4 THE COURT: All right. Ladies and gentlemen of
5 the jury, we're going to take a very brief recess. If you
6 would, please go to your jury room. We'll be right back
7 with you. Please, remember not to discuss the case amongst
8 yourselves.

9 (Jury exited at 9:53 a.m.)

10 THE COURT: All right. Regarding the first
11 objection where the Solicitor asked, "Did you practice that
12 answer?" it's cross-examination, and that's certainly a
13 proper question to ask, so that objection is overruled.

14 Solicitor, tell me what type of post-arrest
15 silence testimony you're intending on getting into.

16 MR. COOPER: Judge, I anticipate, and that's what
17 I wanted to bring it up at this point, is I anticipate
18 questioning him about some of his jail calls where he talked
19 about didn't want to answer questions, but also, I think it
20 is proper for me to be able to go into, you know, he didn't
21 say anything about this incident the day he was arrested
22 until today.

23 He didn't call police. When he was -- or when he
24 was arrested, he didn't say you got it wrong; I need to talk
25 to somebody. He didn't do that at any point between now and

Argument to the Court by Ms. Luthringer

1 November 2021, and I think pursuant to *United States versus*
2 *Doyle* -- and I don't have -- I can find the State case.

3 I think it's *State v. Brown*, the citation. But
4 our State has incorporated *Doyle*, and what *Doyle* stands for
5 is, it's pretty much three scenarios.

6 If they were provided *Miranda* and waived, the
7 State can ask about post-arrest silence on the stand. If
8 they were provided -- provided *Miranda*, and they invoked, it
9 would not be proper.

10 If they were never provided *Miranda*, it would be
11 proper for me to ask those questions. This defendant was
12 arrested by the United State's Marshals Fugitive Task Force.
13 They don't *Mirandize*.

14 They did not *Mirandize* in this case, and he was
15 not given *Miranda*; therefore, any post-arrest silence is
16 proper for the State to inquire of him on the stand.

17 THE COURT: Defense counsel?

18 MS. LUTHRINGER: Thank you, Judge. I don't think
19 we get to say because the police inappropriately did their
20 job and didn't *Mirandize* him that we get to question him
21 about that.

22 I actually think Mr. Cooper is also burden
23 shifting. He has a right to remain silent. I don't think
24 he should be questioned on those issues.

25 MR. COOPER: And I appreciate that, Judge, and I

Argument to the Court by Mr. Cooper

1 can -- I can have someone find the case briefly, but the law
2 of our state is -- is not unclear.

3 It is unequivocal. When a defendant has not been
4 Mirandized, it is proper for the State to inquire about
5 post-arrest silence, and it's not so much police not doing
6 their jobs properly.

7 He wasn't arrested by law enforcement that night.
8 He wasn't on scene. The Marshal's Task Force, their job is
9 to find people with warrants and get them to jail.

10 They don't investigate. They don't ask questions.
11 There's no reason for them to Mirandize, and that's why they
12 don't.

13 But it is unequivocal in this State that if a
14 defendant was not Mirandized, it is proper for the State on
15 cross-examination to inquire of him about any post-arrest
16 silence from that day or any time until he takes the stand.

17 THE COURT: Bring me that case, but I think you're
18 going down a very slippery slope there, Solicitor, as far as
19 we don't know if the U.S. Marshal's Mirandized him or not.
20 Do you have anybody here that can testify that he was not
21 Mirandized?

22 MR. COOPER: I can get someone here.

23 THE COURT: Well, we're in trial right now, sir.
24 We're not waiting for an afternoon for you to get a U.S.
25 marshal to come here, so either we have a U.S. Marshal that

Argument to the Court by Mr. Cooper

1 testifies that he was not Mirandized, or not -- you're not
2 going to be able to get into that post-arrest silence.

3 MR. COOPER: Can I inquire the defendant while
4 he's under oath if he was Mirandized?

5 THE COURT: Well, I would still have to find that
6 it's a free and voluntary waiver, and there has to be
7 testimony from the person that gave the Miranda before I
8 could make that finding as far as any type of voluntariness
9 of statements.

10 MR. COOPER: All right. I mean, I can call -- I
11 spoke to the deputy on -- wanting to testify who advised
12 that indeed did not Mirandize. I can call if I can see and
13 get him here, but it --

14 THE COURT: Solicitor, you've rested your case.

15 MR. COOPER: Yes, ma'am, but I think until the
16 defendant takes the stand, it's not relevant of whether he
17 was Mirandized or not.

18 I don't think I've been allowed to put that
19 evidence in front of the jury before knowing he was
20 Mirandized.

21 THE COURT: Tell me the specific questions that
22 you're going to ask him.

23 MR. COOPER: I just think it's important, Judge --
24 and I can keep it very brief of this defendant that night
25 didn't stay on scene to say I didn't assault her.

Court's Ruling

1 This defendant upon being arrested days later, did
2 not say, "I need to talk to someone. You-all got this
3 wrong."

4 It wasn't until this point now, three and a half
5 years later that he's given his story. That would be the
6 extent.

7 I think that's what's proper under Doyle and the
8 progeny both in the United State's Supreme Court and the
9 State Supreme Court to be that very limited set of
10 questions.

11 COURT'S RULING

12 THE COURT: You can get into that he wasn't on
13 scene certainly. I would just stay away from post-arrest
14 silence though because we don't know for sure whether or not
15 he was Mirandized or not.

16 You've rested your case. If you can bring
17 somebody up after the fact, then, in your reply, maybe so,
18 but --

19 MR. COOPER: Okay.

20 THE COURT: -- at this juncture, it's not fair
21 game because you did not submit that in your case-in-chief.

22 MR. COOPER: Okay. And then I -- just while we've
23 got the jury out, one of the jail calls, not one of the ones
24 I read yesterday, I don't know if I read it yesterday or
25 not, but one of the jail calls the jury has to consider, he

Court's Ruling

1 does say in there that they were looking for me to ask
2 questions. I'm not answering any damn questions.

3 THE COURT: That's fine.

4 MR. COOPER: And I certainly think I can --

5 THE COURT: Absolutely.

6 MR. COOPER: -- cross-examine him --

7 THE COURT: You can ask him about that.

8 MR. COOPER: All right.

9 THE COURT: Because that's a recorded conversation
10 that's admissible as part of evidence. You can certainly
11 ask him about that.

12 MR. COOPER: Okay. Perfect. I understand. I'll
13 abide by the Court's ruling. Thank you.

14 THE COURT: All right. Thank you. Anything
15 further before we bring the jury back out?

16 MS. LUTHRINGER: No, sir. No, Your Honor.

17 THE COURT: All right. Let's have our jury,
18 please.

19 (Jury entered at 10:00 a.m.)

20 THE BAILIFF: All of the jurors are present, Your
21 Honor.

22 THE COURT: Thank you. Please, have a seat. All
23 right. Solicitor, you may proceed.

24 MR. COOPER: Thank you, Judge.

25 BY MR. COOPER:

DeShawn Tollerson - Cross by Mr. Cooper

1 Q. So Mr. Tollerson, I want to talk about when you
2 left the scene that night. Okay? So you damaged the car,
3 correct?

4 A. Yes.

5 Q. You kicked in her front door, right?

6 A. Yes.

7 Q. You damaged -- you destroyed her phone --

8 A. Yes.

9 Q. -- right? You assaulted her with a wood trimmer.

10 A. No.

11 Q. And then you left?

12 A. No.

13 Q. You didn't wait for police to show up?

14 A. I grabbed my belongings, and I left.

15 Q. Say again.

16 A. I grabbed my belongings, and I left. I didn't
17 assault her.

18 Q. You didn't wait for the police to show up?

19 A. No.

20 Q. You didn't want to answer any questions that
21 night?

22 A. No, I grabbed my stuff, and I left.

23 Q. But you didn't want to answer any questions?

24 A. To who?

25 Q. To law enforcement.

DeShawn Tollerson - Cross by Mr. Cooper

1 A. They weren't there.

2 Q. Okay. Do you remember having a jail call where
3 you talked about your mother?

4 A. Yes.

5 Q. Okay. And you -- you said earlier today, that you
6 and your mother were very close?

7 A. Yes.

8 Q. So close that you tell -- what was the other
9 woman's name?

10 A. Nadia.

11 Q. Nadia. So close that you tell Nadia that your mom
12 told you that the police were supposed to be looking for
13 you; was that right?

14 A. Yes.

15 Q. Okay. But they had the wrong description --
16 description of the truck that you were driving?

17 A. Yes.

18 Q. Okay. And you were telling Nadia that your mom
19 told you they want you for some questioning; is that right?

20 A. Yes.

21 Q. And you told Nadia, "I ain't answering no damn
22 questions"?

23 A. Yes.

24 Q. All right. I want to talk about Minor -- or I
25 think you gave her the name Minor?

DeShawn Tollerson - Cross by Mr. Cooper

1 A. Yes. That's her name.

2 Q. Okay. When was she born?

3 A. [REDACTED] 2020.

4 Q. Okay. And I think you may have testified on
5 direct, do you enjoy being a father?

6 A. Yes.

7 Q. Would you agree that you were not a great father
8 that night?

9 A. No, I was wrong that night.

10 Q. You were, what?

11 A. I was wrong that night for what I did, yes.

12 Q. You were wrong for throwing her to Emily in the
13 car?

14 A. I did not throw her.

15 Q. What did you do?

16 A. I handed her to Emily.

17 Q. You didn't shove her to her Emily? You didn't
18 throw her to Emily?

19 A. No, I did not.

20 Q. So she's lying.

21 A. Yes, she is.

22 Q. Okay. You weren't a great father when you kicked
23 in that door to the apartment that night, right?

24 A. No, I was wrong.

25 Q. You weren't a great father when you took a trim

DeShawn Tollerson - Cross by Mr. Cooper

1 and hit Emily while she held your child?

2 A. I didn't hit nobody with no trim.

3 Q. Okay. I'm going to talk about another one of your
4 jail calls. You agree, and I think we talked about it, that
5 you destroyed her phone that night?

6 A. Yes.

7 Q. You told this jury that you did that because she
8 was recording you?

9 A. No, I did not. She constantly kept calling my
10 mother.

11 Q. You were mad she called your mother?

12 A. Yes.

13 Q. Why were you mad that she called your mother?

14 A. Because it was late that night and my mother
15 needed her rest. She was --

16 Q. Oh, so you were -- you were being considerate of
17 your mother?

18 A. Yes.

19 Q. Not the mother of your child when you kicked in
20 her door and beat her with the wood?

21 A. No, I was wrong.

22 Q. You were wrong. You remember on a jail call -- I
23 think this is also still with Nadia. Nadia asked you about,
24 did you call -- did -- did Emily call the police?

25 A. No, she didn't.

DeShawn Tollerson - Cross by Mr. Cooper

1 Q. But you remember her asking you about that?

2 A. Yes.

3 Q. And your response was, "No, she couldn't call the
4 police because I had broke that phone and shit."

5 A. That's right. She wasn't able to call because I
6 broke the phone. I didn't break the phone to stop her from
7 calling the police.

8 Q. And then, you also said, it had been impossible
9 for, your language, that motherfucker to call the police;
10 isn't that right?

11 A. That's because her phone was broke.

12 Q. And who broke it?

13 A. Me.

14 Q. But "motherfucker," that's the term you used to
15 describe the mother of your children.

16 A. Yes, because I still was angry about the whole
17 situation.

18 Q. You were still angry on the jail call?

19 A. Yes.

20 Q. Do you get angry often?

21 A. No, I don't.

22 Q. And I think that at the end of that call, we hear
23 at least Nadia I think you laughing; is that fair to say?

24 A. Yes.

25 Q. Is this a joke to you?

DeShawn Tollerson - Cross by Mr. Cooper

1 A. No, it's not a joke.

2 Q. We talked about that you were angry that night,
3 and I think we talked about this, that you agreed that Emily
4 was telling the truth when she said you damaged her car?

5 A. Yes.

6 Q. We -- you agree that Emily was telling the truth
7 when she said you kicked in her door to her apartment?

8 A. Yes.

9 Q. You picked up the wood trim and hit her with it
10 while she held your child?

11 A. I never did, and I never said that.

12 Q. Okay. So that's what I want to ask about.

13 A. So we agree you damaged her car, we agree that you
14 destroyed her phone, and we agree that you kicked in the
15 front door?

16 A. Yes.

17 Q. We agree on that?

18 A. Yes.

19 Q. You want this jury to believe that once you got
20 inside, you didn't hit her you were, "Have a good night. I
21 just needed my stuff," and left?

22 A. I went --

23 Q. That's what you're telling this jury.

24 A. -- I went upstairs. I packed --

25 MS. LUTHRINGER: Judge, I would just ask that you

DeShawn Tollerson - Cross by Mr. Cooper

1 let the client finish before he interrupts.

2 THE COURT: All right. Yes, sir, let him answer
3 the question, and you can go on to the next one.

4 BY MR. COOPER:

5 A. I went upstairs, packed my belongings, and I left.

6 Q. What did you have in your belongings that was so
7 important to kick down a woman's front door?

8 A. It was my clothes and my shoes, and, like, that's
9 it.

10 Q. That was --

11 A. It was my clothes. It was my clothes and my
12 shoes.

13 Q. -- that was worth destroying her front door?

14 A. No, it was not worth destroying her front door,
15 but it was the heat of the moment at the time.

16 Q. You would agree that kicking in and destroying
17 that front door may make it harder and possible to lock the
18 door, is that right?

19 A. Yes.

20 Q. That can put the mother of your child, or this
21 daughter that you love, at risk, right?

22 A. Right.

23 Q. Anybody can walk in at that point?

24 A. Right.

25 Q. That risk was more important -- your clothes were

DeShawn Tollerson - Cross by Mr. Cooper

1 more important than that risk as well?

2 A. No, it was not.

3 Q. And Ms. Luthringer asked me -- you were here
4 yesterday when I read part of the jail calls. She asked you
5 about the conversation you had with Ms. Hopkins on jail
6 calls. Do you remember that conversation?

7 A. I do.

8 Q. And you were upset that you thought that the
9 reports, the documents, something in your discovery said
10 that you assaulted ^{Minor}; is that right?

11 A. Right.

12 Q. That's what you were upset about?

13 A. That's what my focus was on that -- on that
14 statement, yes, it was.

15 Q. But that's what you were worried about. You
16 didn't want someone to think that you would beat your child?

17 A. Right.

18 Q. And when she said, "No you didn't beat her, you
19 beat me," your response was, "I understand"?

20 A. That was not my response to what she said about me
21 beating her. That's what she said about me not harming ^{Minor}.
22 I didn't pay that part no attention.

23 Q. Her saying to you, no, you didn't hit her you hit
24 me with the board I -- she was in my arms. Your response,
25 "I understand." But in the statement --

DeShawn Tollerson - Cross by Mr. Cooper

1 A. She said --

2 Q. -- it doesn't say that?

3 A. -- she said, "no, you did not do that. You did
4 not do that." That's in the recorded call.

5 MR. COOPER: I beg the Court's indulgence.

6 BY MR. COOPER:

7 Q. And we've got it right here for you.

8 A. I know.

9 (Audio played.)

10 MR. COOPER: Pause it right there.

11 BY MR. COOPER:

12 Q. And so you heard her say, "No, you didn't hit her,
13 you hit me with the board, I -- she was in my arms." That's
14 what you heard?

15 A. I mean, yeah, that's going to be in there, yeah.

16 Q. All right.

17 MR. COOPER: Add on a couple of seconds and then
18 play it.

19 BY MR. COOPER:

20 Q. Because what we're going to hear is your response
21 is, "I understand, but in the statement it doesn't say
22 that."

23 MR. COOPER: Play it.

24 BY MR. COOPER:

25 A. As you see, I'm -- I'm asking her right before she

DeShawn Tollerson - Cross by Mr. Cooper

1 even -- at the time, we started talking.

2 Q. You weren't worried at all about the allegation
3 that you would hit the mother of your child in your report?

4 A. She's still answering at the same time I'm
5 speaking.

6 Q. You were worried about --

7 A. She is answering at the same time I'm speaking.

8 Q. Say it again.

9 A. She started answering at the same time before I
10 even finished my sentence.

11 Q. Oh, so you had more to say?

12 A. You heard it yourself. I was still speaking when
13 she started answering.

14 Q. Your concern that night was about ^{Minor}. Your
15 concern on the jail call was about ^{Minor}, right?

16 A. It was about whatever it is.

17 Q. I think even your own lawyer in your opening
18 statement said you weren't a great parent that night; is
19 that right?

20 A. That's right.

21 Q. I think your own lawyer in the case said that you
22 gave Emily a reason to not feel safe that night; is that
23 right?

24 A. I can agree.

25 Q. That you gave your own daughter a reason to not

DeShawn Tollerson - Cross by Mr. Cooper

1 feel safe that night.

2 A. It's possible.

3 Q. But again, we can agree that you destroyed her
4 car. She's telling the truth?

5 A. About the car?

6 Q. Uh-huh.

7 A. The mirror?

8 Q. The mirror.

9 A. Yeah, the mirror.

10 Q. Okay. And then because you were angry because she
11 locked you out and you couldn't get your clothes or your
12 shoes, you kicked in her front door. We can agree?

13 A. Yes.

14 Q. And then you went in and you assaulted her with
15 that wood.

16 A. No, I did not.

17 MR. COOPER: Can you can pull up the PowerPoint
18 please?

19 (Pause in proceedings.)

20 MR. COOPER: I beg the Court's indulgence.

21 (Pause in proceedings.)

22 MR. COOPER: Madam Clerk, if we could have the
23 PowerPoint, please.

24 (Pause in proceedings.)

25 MR. COOPER: Here, we'll do it this way because

DeShawn Tollerson - Cross by Mr. Cooper

1 then there's -- it can make it a little easier to see. Can
2 I have the other one, please? I'm sorry.

3 (Pause in proceedings.)

4 BY MR. COOPER:

5 Q. I'm showing you State's 28. You can see on the
6 screen that you were in here when the officers testified
7 about what appeared to be a puncture wound right there. You
8 didn't cause that?

9 A. No, I did not.

10 Q. Did she do it to herself?

11 A. I don't know.

12 Q. I'm showing you State's 29. You were here when
13 the officers testified about the bruise. You were here when
14 they testified. You're telling this jury you didn't cause
15 that?

16 A. I did not.

17 Q. She did that to herself, too?

18 A. Possibly.

19 MS. LUTHRINGER: Your Honor, I would object for
20 speculation.

21 THE COURT: It's proper cross-examination.

22 MR. COOPER: Thank you, Judge.

23 BY MR. COOPER:

24 Q. I'm showing you State's 30. You were here when
25 the officer and Ms. Hopkins testified about I think she

DeShawn Tollerson - Cross by Mr. Cooper

1 mentioned two things down there. You're telling the jury
2 you didn't do that?

3 A. No, I did not.

4 Q. She did it to herself?

5 A. It's possible.

6 Q. And then you were here when the officer and
7 Ms. Hopkins testified about the injury to her hand. You're
8 telling this jury you didn't cause that?

9 A. No, I did not.

10 Q. You want this jury to believe that Ms. Hopkins
11 somehow got these injuries either herself or somebody else,
12 and is blaming you?

13 A. That's possible.

14 Q. That she willingly, in an elaborate ruse,
15 undressed in front of law enforcement to frame you?

16 A. That's possible.

17 Q. That she's going to sit here and have 14 strangers
18 see her half naked all in an effort to frame you?

19 A. Possibly.

20 Q. That she got on the stand and was questioned
21 extensively by Mr. Goodwyn in an effort to frame you?

22 A. Possibly.

23 Q. But it was you that were angry that night?

24 A. Yes.

25 Q. It was you that were so angry you destroyed part

DeShawn Tollerson - Cross by Mr. Cooper

1 of her car?

2 A. Just the mirror.

3 Q. Just the mirror. It was you that was so angry
4 that night, and because of your mother, that you kicked in
5 that door, right?

6 A. No, that's why I damaged the phone.

7 Q. Oh, sorry. Sorry. Sorry. You were angry about
8 something -- you were angry because you couldn't get your
9 clothes and your shoes --

10 A. Correct.

11 Q. -- which is why you destroyed the door?

12 A. Correct. I need to get my stuff so I can leave.

13 Q. If that was your daughter and someone that was
14 dating your daughter, would you want him to behave like
15 that?

16 A. No, I would not.

17 Q. Would you want someone to assault her?

18 A. No, I would not.

19 Q. And then about the phone, it wasn't to stop her
20 from calling 911. You weren't worried about the police,
21 were you?

22 A. There was no discussion of the police. I was not
23 thinking about the police. I wasn't even doing logical
24 thinking at the time.

25 Q. You were just so mad that how dare she call your

DeShawn Tollerson - Redirect by Ms. Luthringer

1 mother that you destroyed her phone?

2 A. She constantly keeps calling my mother and
3 bothering my mother, yes.

4 Q. And she knows that pisses you off, right?

5 A. I was already upset. We was already upset from
6 arguing. That was a heated-at-the-moment situation.

7 Q. But as I've said, we agree on all that, but you
8 want this jury to believe that after kicking in her door,
9 the door frame shattered, the phone shattered, you stopped.

10 I just need my clothes and my shoes. Let me go
11 get them, and then you left. That's what you want this jury
12 to believe?

13 A. That's all I do.

14 Q. And that everything else is just an elaborate ruse
15 by Ms. Hopkins to frame you?

16 A. That's possible.

17 Q. That's possible? I have no further questions.

18 Thank you.

19 THE COURT: Any redirect?

20 MS. LUTHRINGER: Yes, Judge. Just briefly.

21 REDIRECT EXAMINATION by Ms. Luthringer:

22 Q. Just briefly, DeShawn. The -- do you remember the
23 conversation with Nadia that Mr. Cooper just referenced?

24 A. Yes, ma'am.

25 Q. Was that when you were in jail?

DeShawn Tollerson - Redirect by Ms. Luthringer

1 A. Yes, ma'am.

2 Q. Was that when the police had already arrested you?

3 A. Yes, ma'am.

4 Q. Do people talk over each other on the phone?

5 A. Talk over each other? It's possible, yes.

6 Q. Do people talk over each other when they're
7 cross-examining them?

8 A. Yes, ma'am.

9 Q. Is that a natural thing to do?

10 A. No, but it's common.

11 Q. Tell me how Emily felt about Nadia.

12 A. She didn't like her.

13 Q. Do you own up to your mistakes?

14 A. Yes, ma'am.

15 MR. COOPER: Objection. We talked about this
16 yesterday, Judge. We can approach if need to.

17 THE COURT: Let's just move on, Counsel. Strike
18 that.

19 BY MS. LUTHRINGER:

20 Q. Did you damage the car that night?

21 A. Yes, ma'am, just the mirror.

22 Q. Do you remember the photo that Mr. Cooper just
23 showed you, State's Exhibit 32?

24 A. Yes, ma'am.

25 Q. Do you remember he asked you to speculate how that

DeShawn Tollerson - Redirect by Ms. Luthringer

1 cut got on her hand?

2 A. Yes, ma'am.

3 Q. Can you tell me how it got on her hand?

4 A. No, ma'am.

5 Q. Is Emily a drug user?

6 MR. COOPER: Objection.

7 THE COURT: Sustained.

8 MS. LUTHRINGER: I have no further questions for
9 Mr. Tollerson.

10 THE COURT: Ladies and gentlemen, that will be
11 struck from the record. That was not a proper question.

12 MR. COOPER: Thank you. Just briefly?

13 THE COURT: No, sir. You may step down,
14 Mr. Tollerson. You may call your next witness.

15 MR. GOODWYN: The defense rests, Your Honor.

16 THE COURT: Pardon me, I didn't hear you. I'm
17 sorry. I didn't hear you.

18 MR. GOODWYN: Oh, I'm sorry, Judge. I said that
19 the defense rests.

20 THE COURT: All right. Thank you, sir. Ladies
21 and gentlemen of the jury, both sides have rested their
22 case. If you would, please go to your jury room momentarily
23 we'll be right back with you.

24 Again, although both sides have rested their case
25 please remember not to discuss the case amongst yourselves.

Argument to the Court by Mr. Goodwyn
Court's Ruling

1 (Jury exited 10:00 a.m.)

2 THE COURT: All right. Any motions?

3 MR. COOPER: None from the State. We're ready to
4 close.

5 THE COURT: All right. And the parties have had a
6 chance to review the proposed jury instructions?

7 MR. GOODWYN: Judge, with that, I just will renew
8 my previous directive motion.

9 COURT'S RULING

10 THE COURT: All right. So for the same reasons,
11 the State has presented evidence on each element of each
12 charge, and your motions are respectfully denied.

13 And again, both sides have reviewed the proposed
14 jury instructions? No objections to the jury instructions
15 or the verdict forms; is that correct?

16 MR. GOODWYN: Judge, I just mention, you know --
17 and I know Your Honor has already ruled against it, but my
18 objection to the domestic violence language about offering
19 to cause harm or attempting to cause harm.

20 THE COURT: And clearly that's the statutory
21 language that's contained in the statute, and there's
22 evidence in the record to support that, so that objection
23 was overruled.

24 Any other issues?

25 MR. GOODWYN: The only issue that I would suggest

Argument to the Court by Mr. Goodwyn
Court's Ruling

1 that we discuss is, is that as far as since we put up the
2 case, we understand that the State is to have a rebuttal
3 response that -- we just ask that whichever attorney is
4 giving the initial closing statement also is the one that
5 does the rebuttal statement.

6 THE COURT: Solicitor?

7 MR. GOODWYN: I think it's proper for the same
8 person to do it because you don't get two chances at
9 closing.

10 One attorney that's giving their theory of the
11 case then have the second one come up with a -- the rebuttal
12 I think is improper.

13 This happened here just a few weeks ago. I think
14 it's an improper way to conduct a closing argument.

15 MS. FRIES: We're fine with that.

16 THE COURT: All right. All right. Are we ready
17 for the jury then?

18 MR. GOODWYN: Yes, Judge.

19 (Jury entered at 10:23 a.m.)

20 THE BAILIFF: All of the jurors are present, Your
21 Honor.

22 THE COURT: Thank you. Please have a seat. Thank
23 you, ladies and gentlemen of the jury. It is now time for
24 the closing arguments of counsel. Please pay close
25 attention. Solicitor.

Closing argument by Ms. Fries

1 MS. FRIES: Thank you, Your Honor. May it please
2 the Court?

3 THE COURT: Yes, ma'am.

4 MS. FRIES: Imagine being so afraid of the person
5 that you once loved that you locked yourself in your car,
6 hoping that that's enough to keep you safe, but it's not.

7 Then you run to your house with your child in your
8 arms, lock yourself in your house, hoping that that's enough
9 to keep you safe, but it's not.

10 It wasn't enough for Emily that night, and it
11 wasn't enough for Minor. You heard what happened that
12 night. You heard it from Emily herself.

13 You heard it from the 911 caller, Emily Maute.
14 You heard from law enforcement. You heard it from the
15 defendant himself, and you saw it in the photos.

16 You heard from Emily that it started with an
17 argument in the car. They're arguing. They were at -- come
18 to his mom's house, argue in the car.

19 They get to her house. He goes upstairs to try to
20 put Minor to sleep, and he gets mad because she won't go to
21 sleep. She's crying. He's angry.

22 She's in the car trying to de-escalate the
23 situation, and then he comes out. He's angry. He comes
24 out. He throws Minor out, and she catches her.

25 She gets in her car, and she locks her doors

Closing argument by Ms. Fries

1 because she's scared. She told you she was scared, so she
2 locked her door.

3 And then the defendant breaks off the side view
4 mirror, like he told you, and beats on her door, and then
5 when she thinks he is gone, she goes inside. She walks off.
6 She thinks he's gone.

7 She runs and bangs on her neighbor's door because
8 she sees him re-approaching her. She's screaming, "Someone
9 help us. someone help us."

10 And you heard from Emily Maute that she could hear
11 her a street over. While she was sitting in her living room
12 watching TV, she could hear her screaming, "Someone help us.
13 Someone help us."

14 And then Emily runs into her house locks her door
15 with Minor in her arms, and within seconds the defendant is
16 banging on her door and kicks it in.

17 When he gets in, he realizes she's on the phone
18 with his mom, and that makes him even angrier.

19 He then picks up the broken door trim, and he
20 beats her with it while she's holding and shielding her
21 daughter, and then when she threatens to call 911 because
22 she sees her phone, and she -- she tells him, "I'm calling
23 911," he then, picks up the phone and smashes it to pieces.

24 He destroys the phone so she can't call 911, and
25 then he flees.

Closing argument by Ms. Fries

1 She got up there, and she told you the truth about
2 what happened that night, and then Mr. Goodwyn got up here,
3 and he critiqued every word choice that she used that night.

4 Every word choice that she wrote in a statement
5 that she gave to law enforcement, that she said on the
6 stand, and you wonder why domestic violence victims are
7 scared to report.

8 They're scared that when they get up there, they
9 won't be believed, and that's what you saw yesterday.

10 And if she had gotten up there and she had said
11 every word, sentence by sentence of what she wrote in the
12 statement and what she told law enforcement if it was just
13 perfect, they would have said -- they would have flipped the
14 script, and they would have said she rehearsed that.

15 It's too perfect. Don't believe her. We've also
16 heard that Dr. Rheingold, she, testified that traumatic
17 events impact memory, and not all memory is linear, so it
18 may not be all in chronological order, but that victims
19 remember the big events, the main events.

20 Emily told you that he ripped off the side of your
21 mirror, that he kicked in the door, that he beat her with
22 the door trim while she was shielding Minor, and that he
23 took the phone when she threatened to call 911, and he
24 smashed it into pieces, and then he left.

25 She remembered the main events of that night, and

Closing argument by Ms. Fries

1 she told you that. Now, I want to break down how we get to
2 domestic violence in the first degree.

3 Mr. Cooper got up here at the beginning of the
4 trial and told you that domestic violence is a tiered
5 system. What we start with is domestic violence third
6 degree.

7 This is basically, the base offense that we have.
8 First, a defendant must cause physical harm or injury to a
9 person's own household member, or offer or attempt to cause
10 physical harm or injury to a person's own household member
11 with apparent present ability under circumstances reasonably
12 creating fear of imminent peril.

13 What that means is that he caused Emily harm or he
14 tried, he offered, or attempted to cause her harm. And a
15 household member -- the judge will go into this with you in
16 depth, but a household member can be spouses, they can be
17 people that are cohabitating.

18 But in this case, it's because Emily and the
19 defendant share a child, and that's what makes them
20 household members.

21 And what we -- what we first went over is the fact
22 that there was damage to the car, and that's where all this
23 rage started.

24 He told you -- the defendant himself said he
25 ripped off that side view mirror, and then you have the

Closing argument by Ms. Fries

1 damage to the door. You're going to have all the photos
2 back there with you, but you can tell that the door was
3 kicked in.

4 He doesn't deny that. Nobody breaks down a door
5 to get to someone unless they plan to cause that person
6 harm.

7 You really want to believe that he kicked in that
8 door to go get his clothes and shoes. He didn't kick in the
9 door to do that.

10 He kicked in the door to pick up -- to -- to harm
11 Minor -- to harm Minor and Emily, and he did. He picked up
12 the door trim and he beat Emily while she was holding Minor,
13 and you also saw the injuries.

14 But for domestic violence, we don't need severe
15 injuries. We don't need broken bones. We don't need severe
16 bleeding, and here we are lucky that Emily did not suffer
17 those kind of injuries that night.

18 We are lucky. She is lucky. All we must prove is
19 that the defendant tried to cause her harm. And the defense
20 wants you to believe that he didn't harm her that night.

21 He wants you to believe he didn't harm her that
22 night, but he did. She didn't -- she didn't give herself
23 these injuries. He harmed her that night.

24 Now, we've talked a little bit about the jail
25 calls. I'm going to just read them to you and then just

Closing argument by Ms. Fries

1 play them again because I know they're hard to hear, and
2 that way, you can follow them on the screen, but the
3 defendant is talking to this female, Nadia.

4 So she says, "So you ain't talked to her since
5 then?" The defendant says, "Hell, yeah, I did." She says,
6 "So you talked to her since then?"

7 He says, "Yeah, I did. She had talked to my mama
8 since then. My mama over there telling me what's up. She
9 been, like, they're supposed to be looking for you in that
10 truck, but I guess they had the wrong description of the
11 truck, so I thought like, Mama was like, "Yeah, they want
12 you for some questioning." I ain't answering no damn
13 questions." Will you please play clip three?

14 (Audio played.)

15 MS. FRIES: So he -- he told you that he's close
16 with his mom. His mom came over that night because Emily
17 called her so she can calm him down, and he told her -- on
18 those jail calls he's saying his mom is -- is looking and
19 they're looking for you, and he says, "I ain't answering no
20 damn questions."

21 Those are not the words of an innocent man. He
22 left that night because he knows he broke off the mirror, he
23 kicked in the door, he beat her with the door trim, and then
24 he smashed her phone.

25 MR. GOODWYN: Your Honor, may we approach?

Closing argument by Ms. Fries

1 THE COURT: Yes, sir.

2 (Bench conference.)

3 MR. GOODWYN: Your Honor, she's beginning to
4 comment on his silence, which is wrong. We've already
5 talked about that.

6 MS. FRIES: I just read that I ain't answering no
7 damn questions.

8 THE COURT: All right. Don't go there with that.

9 MS. FRIES: Okay.

10 MR. GOODWYN: All right.

11 (End of bench conference.)

12 THE COURT: You may proceed.

13 MS. FRIES: So then, we have -- will you please
14 play jail clip -- or sorry. Jail clip one.

15 So this other jail clip we have, the defendant is
16 talking about Emily's statement, and he says, "Hitting ^{Minor}
17 in the head with a board, and throwing her into the car
18 door."

19 Emily says, "You did. You did that night. You
20 did toss her at me into the car." The defendant says, "No.
21 It said I threw her into the car door, and hit her head with
22 the boards with the nails in it."

23 Emily says, "No, you didn't hit her, You hit me
24 with the board. I -- she was in my arms," and the defendant
25 says, "I understand, but in the statement, it doesn't say

Closing argument by Ms. Fries

1 that." Can you please play clip one?

2 (Audio played.)

3 MS. FRIES: The defendant is saying, "I
4 understand." She's saying, "You hit me with the board. She
5 was in my arms." The defendant is saying, "I understand."
6 He's not denying that that happened.

7 Emily told you the version of events. She told
8 you they broke the mirror off, and they agree with that.
9 She told you they kicked in the door.

10 They agree with that, and she told you that he
11 broke the phone, and they agree with that, but the one thing
12 they don't agree with is that he harmed her.

13 They don't agree with the fact that he picked up
14 the board, and that he beat her while she was holding Minor ,
15 and that's the one thing that would make him guilty of
16 domestic violence.

17 That's the one thing they don't agree with, and I
18 wonder why. So the way we get to domestic violence second
19 degree is that a person commits domestic violence second
20 degree, the person commits the base offense, which we just
21 went over, to harm, or offer to cause harm, and the person
22 has a prior conviction for domestic violence in the past ten
23 years from the current offense.

24 You've heard from the Clerk of Court that the
25 defendant has a prior conviction from September 13, 2021,

Closing argument by Ms. Fries

1 dated prior to this incident, so we have that.

2 And what gets us to domestic violence first
3 degree, which is what he's charged with, is that a person
4 commits domestic violence first degree if the person commits
5 the base offense, and in the process of committing domestic
6 violence in the second degree, one of the following also
7 results.

8 So there's a bunch of aggravating factors we can
9 have. We only need one, but in this case, we have two. The
10 first one, is that the offense was committed in the presence
11 of or while being perceived by a minor.

12 That's clear. Minor was there. You heard from
13 the defendant himself. You saw it in the body cam. You see
14 it here, so we have that one checked.

15 The other one is that -- this is, kind of, wordy.
16 (As read:) The offense is committed using physical force or
17 the threatened use of force against another to block that
18 person's access to any cell phone, telephone, or electronic
19 communication device with the purpose of preventing,
20 obstructing, or interfering with a report to law enforcement
21 or a request for medical assistance.

22 All that means is that the offense is committed
23 with force or a threatened use of force to break her phone
24 to prevent her from calling for help to law enforcement or
25 for medical assistance.

Closing argument by Ms. Fries

1 And you saw these two photos. The one on the left
2 is the back of her phone with the camera, and then the one
3 on the right is what's supposed to be the front of her
4 phone.

5 A regular eye witness is supposed to see the
6 screen of the phone. Here you see the battery. He broke
7 that phone so good that you can't even tell it's a phone.

8 And you can also see that he broke the phone while
9 he was inside of the house while she was threatening to call
10 law enforcement. He broke it because that's her phone case
11 right there by the door, and then you also have it on jail
12 call saying he broke the phone up.

13 So this jail call says, (as read:) You should
14 have left that white girl alone when she did that. When you
15 saw her or called her the first time that's her problem.
16 You should have left that girl alone. You put yourself in
17 this situation and now look at this shit. Ain't I say --
18 ain't I tell you that last night? You think it's gonna be
19 okay, but it's gonna get worse. Didn't I say that? And he
20 says, "Yeah, I know."

21 (Audio played.)

22 MS. FRIES: And then the defendant goes on to
23 say...

24 (Audio played.)

25 MS. FRIES: "Oh my God, so when you did all this

Closing argument by Ms. Fries

1 stuff, did she call the police that night, or did -- or did
2 she just go and put out a report the next day?" And the
3 defendant says, "No, she couldn't call the police because I
4 would break the phone up and shit, too. Damn, ummm, the
5 neighbors did."

6 (Audio played.)

7 MS. FRIES: He's saying she couldn't call the
8 police because he had broken the phone. He broke the phone
9 the moment she threatened to call law enforcement.

10 And we have this other jail clip where the
11 defendant, in his words, says, (as read:) It'd been
12 impossible for that motherfucker to call the police, damn
13 near 'cuz. And Nadia says, How is it impossible because she
14 could go next door to call the police.

15 The defendant says, She ain't never get there I
16 been outside the whole time, like, for real though in front
17 of the door. This shit was going down right outside, but
18 yeah.

19 And then Nadia says, Oh, Lord, and the defendant
20 says, They got bullshit here because I knew she was talking
21 about some -- I shoved the baby into her van. Shut the fuck
22 up.

23 MS. FRIES: Can you, please play the clip?

24 (Audio played.)

25 MS. FRIES: There's a lot going on in this call.

Closing argument by Ms. Fries

1 First, he's, again, agreeing it had been impossible for her
2 to call the police. It was impossible for her to call the
3 police because he broke the phone when she tried to call
4 911.

5 He then said she could never get to the neighbors
6 because he prevented her from getting there, and then he
7 says, "This shit was going down right outside." The defense
8 wants you to, you know, believe that he was drunk, and
9 intoxicated, and -- he knew what he was doing.

10 He said, "This shit was going down right outside."
11 He know -- he knew what he was doing that night, and he --
12 and, you know, the defense wants to say that he was
13 drinking.

14 He knew. He knew what he was doing, and then at
15 the end of the call, they're laughing about it. They think
16 this is a joke, and this isn't a joke.

17 So the way we've met the elements of domestic
18 violence first degree, he caused Emily harm. She's a
19 household member because they have a child together.

20 He was in the process of committing domestic
21 violence second degree because he has a prior conviction
22 within the past 10 years and at least one aggravating factor
23 is present.

24 We have two here; the minor child, and that he
25 used force to prevent her from calling for help. So we have

Closing argument by Ms. Fries

1 proven domestic violence first degree.

2 And, now we have unlawful conduct towards a child.
3 This statute says it's unlawful for a person who has custody
4 of a child or who is a parent of a child to place the child
5 at an unreasonable risk of harm affecting the child's life,
6 physical, or mental health, or safety.

7 The defendant that night put his daughter Minor in
8 an unreasonable risk of harm the moment he threw Minor to
9 Emily, and he continued to place her in an unreasonable risk
10 of harm when he followed them to the house, kicked down that
11 door, and then beat Emily with the door while she was
12 holding Minor .

13 He told you that he wasn't a great parent. Mr.
14 Goodwyn came up here that beginning of openings and told you
15 he wasn't a good parent, and he wasn't because he placed her
16 at an unreasonable risk of harm that entire night, and --
17 and thank God that she wasn't injured and that I'm not up
18 here showing you photos of an injured one-year-old little
19 girl.

20 Now, Mr. Goodwyn also came up here and told you
21 that common sense is important. It's important when you sat
22 in those chairs to bring your common sense and that the
23 defendant was counting on it.

24 Emily is counting on you using your common sense,
25 and Minor is counting on you to use your common sense. He

Closing argument by Ms. Fries

1 also mentioned that reasonable doubt is this nagging
2 feeling, you know, I don't know if they believe, or I don't
3 know if they're telling me the truth.

4 Emily had nothing to gain by giving her testimony.
5 She actually had a lot to lose. She told you that she had
6 to move, you know, it was embarrassing for her as well
7 because she had to take her clothes off in front of law
8 enforcement.

9 Y'all had to see the photos. She had nothing to
10 gain by this, and Emily told you the truth. He did all of
11 these things.

12 He was dismissive about it on the jail calls. He
13 thought it was a joke. He was proud of it.

14 And reasonable doubt, the law does not require
15 proof beyond all doubt. If it did, I would have called one
16 of you up here, and you would witness the whole thing.

17 It simply means that you are firmly convinced of
18 the defendant's guilt. And also Mr. Goodwyn mentioned that
19 the defendant was drinking that night. He was intoxicated.

20 The Judge will instruct you that intoxication is
21 not a defense, and even if he was, you know, drinking that
22 night, you're still responsible for what you did, but it's
23 not a defense.

24 This case is not a complicated case. That night,
25 the defendant had every chance to walk away, and he chose

Closing argument by Mr. Goodwyn

1 violence. He chose to rip off that side view mirror while
2 she was locked in her car. He chose to kick down her door.

3 He chose to pick up that broken door trim that had
4 nails in it and to beat Emily while she was shielding and
5 protecting their daughter, and he chose to smash her phone
6 when she was trying to call for help.

7 Every possible turn, he made the wrong choice, but
8 today, the choice is yours. It's a chance to make the right
9 choice. Hold him accountable for his actions.

10 Find him guilty of domestic violence on the first
11 degree and unlawful conduct of a child. Thank you.

12 THE COURT: Counsel?

13 MR. GOODWYN: Thank you, Your Honor. May it
14 please the Court?

15 THE COURT: Yes, sir.

16 MR. GOODWYN: I know it's been a few days, and you
17 probably didn't expect to be here this long, but I really do
18 appreciate you guys sitting here and, sort of, working
19 through this with all of us.

20 My -- my previous job before I was a public
21 defender was actually sitting at this table where Ms. Fries
22 and Mr. Cooper sit.

23 I was an assistant solicitor, and I enjoyed it. I
24 really enjoyed it because I got to serve the community. I
25 got to serve people. I got to stand up for victims that

Closing argument by Mr. Goodwyn

1 have been wronged.

2 I got to stand up for law enforcement that have
3 done everything that they can to make sure they're doing the
4 right thing. In doing that job, I was empowered to get
5 justice.

6 I had the power to do that, and that power, the
7 gift, and the burden is the ability to make decisions about
8 what happens in a particular case.

9 Now, I fully believe that Ms. Fries and
10 Mr. Cooper -- you heard from Officer Randall and Officer
11 Elliott -- they fully believe that they are doing the right
12 thing by prosecuting Mr. Tollerson for domestic violence,
13 unlawful conduct, and he's also charged with malicious
14 injury to personal property.

15 That one is before you guys today, but the other
16 two are. I believe they believe that it's right because,
17 what's there to understand?

18 Officer Elliott, and Officer Randall showed up to
19 a house, a townhouse, observed a door broken with all of the
20 wood laying on the ground. They saw a woman come downstairs
21 with her baby.

22 Obviously, as he testified, believed that he was
23 there. Absolutely. My door was just kicked in. That was
24 scary.

25 Ladies and gentlemen, what they believe, it's not

Closing argument by Mr. Goodwyn

1 above the law, and in certain ways doesn't meet their burden
2 of proof, which is reasonable doubt, beyond a reasonable
3 doubt. Ms. Fries, you want to make this, sort of, point
4 about by -- by mention of a nagging feeling.

5 Well, ladies and gentlemen, that is what
6 reasonable doubt is. It absolutely is. I know when I
7 started -- I've met you guys, obviously, in the jury
8 qualifications and when we were picking the jury, and, you
9 know, we -- the State and I both had the opportunity to pick
10 you guys individually.

11 Because we thought that you guys would be a good
12 group of people, a collective group of people, sitting here
13 today. And I told you in my opening statement about the
14 snowball effect, right?

15 The slow build, it gets bigger, it's coming down a
16 hill, it's getting faster, and bigger, and bigger. And what
17 our brains do is make an assumption that it's going to make
18 it all the way to the bottom of the hill.

19 And our brain makes assumptions every day about
20 decisions because it's hardwired to conserve energy -- to
21 conserve energy. All right. Let me just give you a sort of
22 a trivial example.

23 If somebody walks through the courtroom door,
24 wearing clothes that are soaking wet. What's your
25 assumption?

Closing argument by Mr. Goodwyn

1 There's no windows in this courtroom. Your
2 assumption is it's raining outside. Your assumption is not
3 that person just took a swim in the pool because our brain
4 doesn't entertain those assumptions.

5 We've got stuff to do. We've got jobs. We've got
6 things outside of our jobs our personal lives. All right?
7 Decisions every day. Our brains make assumptions about what
8 we should do next.

9 That's what happened in this case. I want you
10 to -- and I'll say this because Ms. Fries brought it up, and
11 I understand that it may have been hard for you during some
12 of my questions of the witnesses that had to go back and
13 forth and show clips, you know, to make sure that I -- that
14 the witness on the stand remembered what they said that
15 night when it was fresh in their mind. All right?

16 There's nothing more fresh in your mind than what
17 just happened. I understand traumatic events.
18 Dr. Rheingold testified to that as to behaviors, as to
19 behaviors for people that experienced traumatic events.

20 No different than a car accident. Details can get
21 fuzzy, but the big things matter. All right. I wanted to
22 try to pull out some details not because I was trying to
23 play gotcha, but because I wanted us all to understand that
24 time is important.

25 The details are absolutely important, and when the

Closing argument by Mr. Goodwyn

1 details are built on flimsy foundation (untranslatable
2 physical gesture.) I want you to think back to -- and I'm
3 not being critical of the witnesses personally because, I
4 mean, I understand.

5 If you have a story you want to stick to the
6 story, but I want you to pay attention to the demeanors.
7 Elliot, Rheingold, and Ms. Hopkins.

8 Now, I'll give you this, Lieutenant Elliot is
9 not -- not in law enforcement anymore. He's been out --
10 like he said, he's been out for two years. I'm not sure if
11 he cared less about being here that day to testify, or if he
12 cared less about the investigation.

13 All right? And I'm not saying that in a critical
14 way, but I am saying that in a way that is important for you
15 to understand because when your job is to figure out what
16 happened, your attention needs to be focused.

17 What happened? What's going on? Now, Officer
18 Randall and Ms. Hopkins, I was trying to pull the details
19 out. I was talking about what she said about what Officer
20 Randall did.

21 That was it. He seemed defensive and angry. When
22 Mr. Cooper questioned Officer Randall, she seemed to
23 remember everything. She said she did. When I asked her,
24 she was guarded and defensive. She forgot.

25 One important thing she forgot, and the State

Closing argument by Mr. Goodwyn

1 hasn't really brought up at all, because it's a separate
2 incident, as far as the allegation goes, of what Ms. Hopkins
3 told the police that night, is that as DeShawn Tollerson was
4 leaving, he punched her in the head.

5 Why did I have to bring that out? Why did that
6 come from me? Why didn't that come from the State? All
7 right? Okay.

8 There's a theory. We've been talking about
9 assumptions, and, you know, I gave you the example about a
10 person walking in the door in covered in -- you know, wet,
11 and it's raining.

12 Well, I understand that's a pretty trivial
13 example, but most of our decisions work on -- it's a little
14 more complicated. It's a little bit more complex.

15 And there's a theory that we tend -- we tend to
16 seek out evidence that's in line with our current personal
17 beliefs. All right. It's called confirmation bias.

18 I told you about when Officer Everham and Officer
19 Randall walked in the door they saw the broken door. They
20 saw the door trim. They saw the broken mirror. They saw
21 the phone, and her story.

22 Yeah, I believe it. Everham talked about she's
23 busy. She has a big job. She has a lot of different calls.
24 We all do. This is -- this is -- this is a difficult job,
25 but when you do that job enough, you start to -- your

Closing argument by Mr. Goodwyn

1 feelings start to deepen about what you do.

2 You make some assumptions about what you see, and
3 assumptions can be deadly. I'll talk about the story and
4 really while we're here because the State has, sort of,
5 downplayed the injuries, right?

6 They may admit that they're not that significant.
7 They've made a focus on around, sort of, what happened the
8 entire night, right? The argument in the car, the broken
9 mirror as Emily stated throwing ^{Minor} -- DeShawn throwing ^{Minor}
10 the broken door.

11 These are periphery sort of things. All right.
12 There's been no testimony what the law is that DeShawn
13 offered, that he tried or attempted to cause harm. All
14 right.

15 The State wants to distract you with this fear
16 concept about because he broke in the door because he
17 smashed the mirror because he threw the phone because she
18 was scared.

19 All right. Ladies and gentlemen of the jury, we
20 would not be in this situation today, we would not be here
21 if the State did not believe that an assault happened.
22 That's what Emily testified to.

23 She was beat with wood with nails in them. She
24 was beat with his fist. Don't get mistaken, that's why
25 we're here. We're not here about the periphery of those

Closing argument by Mr. Goodwyn

1 things. We're here because she told law enforcement she was
2 beaten.

3 Ladies and gentlemen, that's where the snowball
4 stops. DeShawn admitted what he did. He told you that he
5 wasn't a great parent that night. All right. We got into
6 an argument.

7 I did some things I should not do. He told you
8 that from the stand. All right? What did he do repeatedly?
9 He did not hit her. The State wanted to make a big idea
10 about him fleeing, and because he fled he must be guilty.

11 All right. They want you to do these assumptions.
12 All right. How he's speaking, but what did he say to you?
13 He didn't tell you.

14 I beg the Court's indulgence. Now, I did ask the
15 officers and Emily about the wood. Why they didn't pick it
16 up. Why they didn't touch it. All right.

17 And, you know, because we don't have it here
18 today, I went to Lowe's and I got some wooden door trim.
19 Now, I realize that this is not broken. Clearly, it should
20 be.

21 I'm just showing you a picture of State's 6.
22 Well, I'm trying to show you a picture of State's 7. This
23 is zoomed in to State's 6, but we'll leave that one there.

24 That wood if we're using our -- our brains about,
25 sort of, how maybe that would fall. That looks like it fell

Closing argument by Mr. Goodwyn

1 as the door was broken. It looks like it's sitting in the
2 same place that it would had it just fallen.

3 All right. Had it just broken from the door. Not
4 that it was picked up and put back down to that place, but
5 it looks like it's in the same place that it would have been
6 if it were just broken and fallen down.

7 Look at the wood. The floor -- the floor is wood.
8 It looks like that sliding type of wood, right? It slides.
9 Nobody ever tell you which one it was used. All right.

10 So here's -- here's what I'm going to show you.
11 Now, granted, there's no nails on this one either or this
12 one. This one's a little heavier. Even a broken piece of
13 this could beat somebody up. That's going to cause harm.

14 That's going to cause more than harm. That's
15 going to cause more than what you've seen appear to this
16 point. This it's a little cheap piece of wood, plywood.
17 It's going to beat somebody up.

18 That's it. For me -- go to -- I'm going to try to
19 make it worth it, but if you don't mind I can ask you to go
20 to one particular picture for me. Go to State's 29, please.

21 Okay. Now, what we're seeing is this red mark,
22 and I'm not speaking that there is something there. I'm not
23 telling you that all so.

24 But what I am telling you is that that looks --
25 that looks like a pressure point like sleeping on your face

Closing argument by Mr. Goodwyn

1 for too long on your arm or your watch is too tight.
2 Sitting on that side of your head for too long. That's not
3 from a piece of wood.

4 That's not from a piece of wood. Right? Do we
5 see where the assumptions are going here? The question is
6 more than that. She said that she was hit with a piece of
7 wood to the point she felt a nail go into her leg. Her hand
8 as well.

9 Before we get to the -- the other leg picture, can
10 we go to State's 32? Now, I want you to remember back to
11 when Officer Randall testified of how -- she testified to
12 this just yesterday that I immediately noticed injuries on
13 her hands and arms, and she said, "You're right, I probably
14 couldn't see it in that one."

15 There's no other picture of her arms or her hands
16 that you're going to see anything. What does that look
17 like? Is it a scab that sort of open up? Is it an old
18 mole? I don't know, but that's not fresh. That did not
19 just happen.

20 It certainly didn't look like it was caused by a
21 board or a nail that she feels going into her skin, but
22 that's what the State wants you to -- that's what they're
23 insinuating.

24 Look, that's all I'm asking is to look. That's
25 all I was asking during testimony was to look. Let me go to

Closing argument by Mr. Goodwyn

1 State's 28. Okay.

2 Well, there's a zoomed in picture too that I know
3 you guys are going to be able to have back in your jury
4 room, but this will suffice because I think you get the
5 picture.

6 She said she felt the nail going into her as she
7 was being beat. I don't see any blood. It looks like a
8 paper cut, and this is one that Ms. Hopkins had pointed
9 around about.

10 All right. I want to show you one more thing
11 because I asked Officer Randall this on cross, and for the
12 same reason that I have these pieces of wood here today,
13 because I don't have them here from the State because nobody
14 touched them, nobody figured out which one it was, so we
15 don't know what kind of injuries they would have caused, but
16 for the same reason, I asked Officer Randall about the
17 pants -- look at the pants.

18 Could you confirm there's a hole in the pants? Is
19 there any blood on the pants? The State entered a body
20 camera of Officer Randall and Ms. Hopkins coming down the
21 steps. You can see she's right there.

22 I want to show you that, and when you go back to
23 the jury room, you can see it in about 50 seconds.

24 MS. FRIES: Your Honor, may we approach?

25 THE COURT: Yes, ma'am. You don't need to

Closing argument by Mr. Goodwyn

1 approach?

2 MS. FRIES: No, ma'am. No, ma'am.

3 (Video played.)

4 MR. GOODWYN: Do you guys see anything? She said
5 she was beat. I mean, a picture is worth a thousand words
6 guys. They didn't look. They didn't look because they
7 believed the story.

8 The truth is, guys, the State doesn't trust the
9 case. They don't trust it. They didn't bring Dr. Rheingold
10 here yesterday because they would help you understand
11 something better about this case.

12 They didn't bring her in for an education simply
13 all about victim violence, so they brought it in to bolster
14 their witness' story because they want you to believe that
15 if we pay for an expert to come you have to believe this.

16 They don't trust their case. They're trying to
17 distract you from the gaping holes in this case. Now,
18 another big issue and very big reason, why I also say they
19 didn't trust the case, is the prior domestic violence
20 conviction.

21 All right. The prior domestic violence
22 conviction, which you saw as I talked to the Clerk of Court
23 yesterday is a conviction where there's a box that says
24 "plea" where you're convicted.

25 And what she says that means is that, you know,

Closing argument by Mr. Goodwyn

1 you were convicted in a trial, or you plead guilty, and the
2 box was checked "pled guilty." Okay. The State doesn't
3 want to get that in because it's an element of the crime.

4 Yes, they told you that. Sure, it is an element
5 of the crime. As Ms. Luthringer said the other day it's a
6 tiered system for domestic violence. Repeated offenders,
7 yes, they get more severe punishments.

8 Absolutely, I understand that. It's not a bad
9 thing, but what is a bad thing a deadly thing for you, is
10 another distraction point. They don't want to get into the
11 elements.

12 They want to get included in your mind that if he
13 did it last time, he did it this time. The State also wants
14 you to believe that he fled and that he didn't want to say
15 anything that he had the opportunity.

16 In these jail calls, he admitted to doing
17 something she said. No. He said, I understand. The
18 conversation we had with him was about what she wrote in her
19 statement, and as we went through it yesterday, which albeit
20 was very difficult just asking about what she wrote in her
21 statement.

22 It was difficult to read. It was difficult to
23 interpret. That's all he was doing. I understand now you
24 have told me what you meant by what you said. He's not
25 admitting that he hit Emily that Emily was holding Minor

Closing argument by Mr. Goodwyn

1 while he was doing that.

2 No. Distraction. The conversation with Nadia,
3 who as DeShawn testified, he was seeing at the time. She
4 was an ex-girlfriend he was having relations with and having
5 relations with at the time he and Emily were together.

6 All right. I feel for Emily. I feel for Minor .
7 I told you that in the opening that night. DeShawn told you
8 that night, he made those mistakes. The State wants you to
9 believe that he tried to evade those.

10 That somehow he tried to evade law enforcement.
11 He didn't speak. He told you the whole time. We've told
12 you. The story has not changed. I admit to what I did. If
13 we wanted to somehow do a farce here.

14 He wasn't there at the time. She could have said
15 he was there, but we could have made a great argument that,
16 no, he was not because he wasn't there.

17 There's no fingerprints. There's no DNA. There's
18 nothing that proves he was there. I'll have you know we
19 didn't do that. All right. Because the truth is what
20 matters.

21 He told you the truth. He told me the truth. We
22 told you the truth. The truth has been the same the whole
23 time. Don't let them distract you. That's -- that's what
24 it's about.

25 That's the reason you're here today. They want to

Closing argument by Mr. Goodwyn

1 distract you with all the things that are going on around
2 you. All right. And say that that's why you should find
3 him guilty of domestic violence.

4 That's why you should find him guilty -- guilty of
5 unlawful conduct toward a child. He -- DeShawn told you, I
6 never threw ^{Minor}. He said that on the jail call.

7 All right. They want the -- the -- the
8 insinuation because he was laughing about it that somehow it
9 was a joke. He was laughing about it because it's
10 ridiculous.

11 He loves his daughter. He wouldn't do that.
12 That's why he was concerned because the statement she wrote.
13 He wouldn't hurt his daughter. They're distracting you.
14 They want you to make assumptions.

15 And at this point, the State is trying to
16 kerfuffle. That's why we're here today. You wouldn't be
17 here if that's not it. That's why he was arrested.

18 That's why Officer Randall swore out an arrest
19 warrant. He was (indiscernible.) He was also charged with
20 malicious injury to personal property. That's not before
21 you today, but that's what he did. He told you that.

22 Ladies and gentlemen, I'm -- I'm wrapping up right
23 now. I'm not -- this is the last time I'll get to talk to
24 you. I really do appreciate it. I appreciate the system,
25 the process that we go through.

Closing argument by Mr. Goodwyn

1 It's hard. It's hard work. What they do is hard
2 work. What we do is hard work. What these gentlemen sit in
3 these chairs do at the badge on, it's hard work. The
4 officers, that's hard work.

5 All right. I'm not discounting that. It's all
6 hard. But when your job requires you to do that hard work
7 well, that means somebody's liberty is at stake. You've got
8 to look.

9 DeShawn didn't do that. I'm not saying she
10 doesn't have something on him. It's not fresh. It's
11 definitely not caused by fluid, nails, fists. You didn't
12 see that.

13 Don't be distracted, guys. He didn't hit her. He
14 didn't beat her with wood, with nails, wood without nails
15 with his fists. You have to find him not guilty of both the
16 domestic violence and of unlawful conduct towards a child.

17 You have to because that's what this is about.
18 Absolutely, if a child was in my arms and my (indiscernible
19 whispering,) yeah, that probably would cause some harm.

20 If you remember, Officer Randall testified and --
21 and -- and Tamara Elliott as well about little Minor. She's
22 18 months old. She's a toddler.

23 No physical injuries. No marks. No bruises. You
24 have to -- she giggled. She interacted. She wasn't in her
25 mom's arms all the time. She was walking around. Officer

Rebuttal closing argument by Ms. Fries

1 Randall talked about playing with a piece of paper.

2 Now, she sort of deflected that again with, a TV
3 that was on, and sure, the TV was on. The State wants you
4 to believe that the way the unlawful conduct statute is
5 written, somehow there's some mental or emotion damage to
6 this child.

7 Okay. Ladies and gentlemen, look. When you go
8 back to your jury deliberation room you remember that.
9 Remember the assumptions. Don't be distracted.

10 DeShawn would never hit Emily with a board, or
11 with nails, or his fist, or his hand. He never threw Minor
12 at Emily. He was out of the car, and he told you that.

13 This story was exaggerated. And all the tragic,
14 and all the scary, that is not the law. You have to find
15 him not guilty. Thank you.

16 THE COURT: Solicitor?

17 MS. FRIES: Thank you, Judge. So Mr. Goodwyn came
18 up here and said a lot of things. First, I just want to
19 start with the wood that he brought up here.

20 I believe, when he was talking with Deputy Everham
21 he asked her, are there all sorts of different types of
22 wood, maybe cedar, mahogany, you know, and then he comes up
23 here with wood that he bought from Lowe's.

24 This wasn't the exact door trim from Emily's
25 apartment. He wants to speculate that maybe the door trim

Rebuttal closing argument by Ms. Fries

1 fell when he kicked in the door. There's -- and you're
2 going to have photos back there.

3 There's several other pieces of door trim
4 throughout the house. Emily doesn't know which piece of
5 door trim he was beating her with. She wasn't focused on
6 that.

7 She was focusing on protecting her child,
8 shielding her from the blows that he's giving her, and her
9 injuries are consistent with being beaten with that door
10 trim, that had -- that had nails in it, and law enforcement
11 told you the injuries that they observed on her.

12 Do you think they're lying? Is law enforcement up
13 here lying to try to frame him? Why would she be up here
14 lying? To frame him? She had nothing to gain from this.
15 Nothing.

16 And Dr. Rheingold, why would she be up here? She
17 has no involvement in this case. She doesn't know what
18 happened. She's a blind expert, and if we had had the pants
19 from Emily that night, if we had had the exact wood from
20 that night, the defense would be making an issue with that.

21 They're trying to distract you from the bigger
22 picture, which is what their client did that night. He did
23 harm her. He did pick up that door trim. He did beat her,
24 and all we have to do is prove that he tried to do it, that
25 he offered or attempted to cause her harm, and it is clear

Rebuttal closing argument by Ms. Fries

1 from that night that he did.

2 And listen to the jail calls when you have them
3 back there with you. He knew -- when you're on a jail call
4 he knew that law enforcement was looking for him that night.
5 His mom told him.

6 On the jail call he said, "I ain't answering no
7 damn questions." Not the words of an innocent man, and also
8 going back to the injuries on Emily, you know, she has a red
9 mark and -- and Deputy Everham explains all those injuries.

10 Where else would that red mark come from? Do you
11 think she did that that night? Why would she be lying about
12 that? It doesn't make sense. It doesn't make sense for him
13 to get so angry and to in this heat of rage, rip off her
14 mirror, break in her house, smash her phone, and then just
15 leave.

16 It doesn't make sense, and Mr. Goodwyn brought up
17 how Minor didn't have injuries. She didn't have injuries,
18 one, because Emily was shielding and protecting her, and
19 also thank goodness, she didn't have any injuries.

20 And when she was upstairs with law enforcement she
21 had the TV on. She's a one-year-old little girl. You know,
22 she may not have known what was going on, and thank goodness
23 she didn't.

24 Also, Mr. Goodwyn brought up this malicious injury
25 charge. That's handled in the lower court. That's why it's

Rebuttal closing argument by Ms. Fries

1 not before you today. And again, like Dr. Rheingold
2 testified to the victims that experience a traumatic event
3 may not remember every single detail.

4 This was a traumatic event for Emily, and again,
5 she told you the main events. Some of those, half of those,
6 they don't dispute. They don't dispute that he ripped off
7 the side of the mirror, that he kicked down the door, and
8 then smashed the phone.

9 They don't dispute that, and in order for the
10 defendant to not be guilty in order for Mr. Goodwyn to
11 believe -- believe to be right she would have had to --
12 Emily would have had to lie that night, lie in her written
13 statement, lie always since then, and then lie on the stand
14 today.

15 And again, she had nothing to benefit from doing
16 that. We would not be here today if it wasn't for the
17 defendant's actions that night.

18 And Mr. Goodwyn also talked about, you know, what
19 we believe. It's not what we believe, it's what we can
20 prove. We have proven that he is guilty of domestic
21 violence first degree.

22 We have proven that he is guilty of unlawful
23 conduct towards a child. They may believe that their client
24 didn't do these things, or, you know, they may want to
25 believe that, but the evidence and the common sense says

Jury Charge

1 otherwise.

2 Find him guilty of domestic violence first degree,
3 Find him guilty of unlawful conduct towards a child because
4 he is. Thank you.

5 **JURY CHARGE**

6 THE COURT: Ladies and gentlemen of the jury, it's
7 now time for me to charge you the law in this case. I
8 remind you that during this trial, you and I have certain
9 duties to perform.

10 As the Trial Judge, it's my responsibility to
11 preside over the trial, and I also have the duty to rule on
12 the admissibility of the evidence. You are to consider only
13 the competent evidence before you.

14 You are to consider only the testimony which has
15 been presented from the witness stand, any exhibits which
16 have been made part of the record, and any stipulations of
17 counsel.

18 I have the additional duty to charge you the law.
19 As the presiding judge, I am the sole judge of the law, and
20 it is your duty as jurors to accept and apply the law as I
21 now state it to you.

22 If you already have an idea as to what the law is
23 or what the law ought to be and it does not agree with what
24 I now tell you the law is, you must abandon this idea
25 because you are sworn to accept the law and apply the law

Jury Charge

1 exactly as I state it to you.

2 In every case tried before a jury, the jury
3 becomes the sole and exclusive judge of the facts. A Trial
4 Judge cannot intimate, state, comment on, or make any
5 statement to a trial jury about the facts.

6 Since you the jury are the sole judges of the
7 facts you are not to infer from what I have said during the
8 progress of this trial in ruling upon the admissibility of
9 evidence or, otherwise, or anything that I say now during
10 the course of this instruction to you that I have any
11 opinion about the facts.

12 The law does not allow me to have an opinion about
13 the facts. This is a matter solely for you the jury to
14 determine. As jurors, it is your duty to determine the
15 effect, value, weight, and truth of the evidence.

16 The indictments charge the defendant with unlawful
17 conduct towards a child and domestic violence in the first
18 degree.

19 I remind you that the fact that the defendant was
20 arrested, charged, and indicted is not evidence and cannot
21 be considered by you as evidence of guilt nor does it create
22 any presumption or inference of guilt.

23 These documents are simply the formal written
24 instruments which contain the charges made against the
25 defendant. They are the formal documents by which this case

Jury Charge

1 is brought into trial.

2 The defendant has pled not guilty to these
3 indictments and that plea puts the burden on the State to
4 prove the defendant guilty. A person charged with
5 committing a crime or criminal offense in South Carolina is
6 never required to prove himself innocent.

7 I charge you that it is an important rule of the
8 law that the defendant in a criminal trial no matter what
9 the seriousness of the charge may be will always be presumed
10 innocent of the crime for which the indictments were issued
11 unless guilt has been proven by evidence satisfying you of
12 that guilt beyond a reasonable doubt.

13 The presumption of innocence does not end when you
14 begin your deliberations, but it accompanies the defendant
15 throughout the trial until you reach a verdict of guilt
16 based on evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 The presumption of innocence is not just a mere
19 legal theory. It's not just a legal phrase. It is a
20 substantial right to which every defendant is entitled to
21 unless you, the jury, are satisfied from the evidence of the
22 defendant's guilt beyond a reasonable doubt.

23 A reasonable doubt is the kind of doubt that would
24 cause a reasonable person to hesitate to act. The State has
25 the burden of proving the defendant guilty beyond a

Jury Charge

1 reasonable doubt.

2 Some of you may have served as jurors in civil
3 cases where you were told that it is only necessary to prove
4 that a fact is more likely true than not true, such as by
5 the greater weight or preponderance of the evidence.

6 In criminal cases the State's proof must be more
7 powerful than that. It must be beyond a reasonable doubt.
8 Proof beyond a reasonable doubt is proof that leaves you
9 firmly convinced of the defendant's guilt.

10 There are very few things in this world that we
11 know with absolute certainty, and in criminal cases the law
12 does not require proof that overcomes every possible doubt.

13 If based on your consideration of the evidence,
14 you are firmly convinced that the defendant is guilty of the
15 crime charged, you must find the defendant guilty.

16 If on the other hand you think there is a real
17 possibility that the defendant is not guilty, you must give
18 the defendant the benefit of the doubt and find him not
19 guilty.

20 There are two types of evidence which are
21 generally presented during a trial; direct evidence and
22 circumstantial evidence. Direct evidence is the testimony
23 of a person who claims to have actual knowledge of a fact
24 such as an eyewitness.

25 Circumstantial evidence is proof of the chain of

Jury Charge

1 facts and circumstances indicating the existence of a fact.
2 The law makes absolutely no distinction between the weight
3 or the value to be given either to direct or circumstantial
4 evidence, nor is a greater degree of certainty required of
5 circumstantial evidence than of direct evidence.

6 You should weigh all of the evidence in this case.
7 After weighing all of the evidence, if you're not convinced
8 of the guilt of the defendant beyond a reasonable doubt, you
9 must find the defendant not guilty.

10 The State, again, has the burden of proving the
11 defendant guilty beyond a reasonable doubt. This burden
12 rests with the State regardless of whether -- whether the
13 State relies on direct evidence, circumstantial evidence, or
14 some combination of the two.

15 Necessarily, you must determine the credibility of
16 witnesses who have testified. Credibility simply means
17 believability. It becomes your duty as jurors to analyze
18 and to evaluate the evidence and determine which evidence
19 convinces you of its truth.

20 In determining the believability of witnesses who
21 have testified, you may believe one witness over several
22 witnesses, or several witnesses over one witness. You may
23 believe a part of the testimony of a witness and reject the
24 remaining part of the testimony of that same witness.

25 You may believe the testimony of a witness in its

Jury Charge

1 entirety or reject the testimony of a witness in its
2 entirety. You may consider whether the witness has
3 exhibited to you any interest, bias, prejudice, or other
4 motive.

5 You may also consider the appearance and the
6 manner of a witness while on the witness stand. The rules
7 of evidence ordinarily do not permit witnesses to testify as
8 to opinions or conclusions.

9 An exception to this rule exists for witnesses
10 that we call expert witnesses. A witness who by education
11 and experience has become an expert in some art, science,
12 profession, or calling may state an opinion as to any
13 relevant and material matter in which the witness claims to
14 be an expert and may also state the reasons for that
15 opinion.

16 You should consider any expert opinion received in
17 evidence and like any other evidence give it the weight that
18 you think it deserves.

19 If you decide that the opinion of the expert
20 witness is not based on sufficient education and -- and
21 experience or if you conclude that the reasons given in
22 support of the opinion are not sound or that the opinion is
23 outweighed by other evidence you may disregard the opinion
24 entirely.

25 An expert witness's testimony is to be given no

Jury Charge

1 greater weight than that of other witnesses simply because
2 the witness is an expert. Further, you're not required to
3 accept an expert's opinion even though it's not
4 contradicted.

5 There has been evidence presented that witnesses
6 have made prior statements which are not consistent with the
7 witness's present testimony. You may use this evidence to
8 decide whether or not to believe the witness.

9 You may also use evidence of the earlier
10 contradictory statements to determine the truth of those
11 statements. It is up to you to decide whether to believe
12 the earlier statements or the testimony given at trial.

13 If a witness is shown to have knowingly testified
14 untruthfully concerning any material matter, you may
15 consider this in determining whether to trust the witness's
16 testimony as to other matters.

17 You may reject the testimony of that witness or
18 give all or part of the testimony the weight that you think
19 it deserves.

20 You have heard evidence that the defendant was
21 previously convicted of domestic violence not related to the
22 charges for which the defendant is now on trial.

23 This testimony if you conclude is true may only be
24 considered by you in regard to whether the State has proven
25 the statutory elements of domestic violence in the first

Jury Charge

1 degree and for no other reason and no other purpose.

2 You must not consider evidence of the commission
3 of another offense or the conviction thereof as proof of the
4 defendant's guilt of the crimes we are trying here today.

5 In order to satisfy established criminal
6 liability, criminal intent is required. For example, the
7 mental state required to be proven by the State for a
8 particular crime might be purpose, intent, knowledge,
9 recklessness, or criminal negligence.

10 Criminal intent must be proven by the State beyond
11 a reasonable doubt. Criminal intent is always a matter that
12 must be determined by the jury from the circumstances
13 surrounding the situation.

14 There is no way to prove criminal intent to a
15 mathematical certainty. There is no way medical science can
16 dissect a person's brain and determine what the person had
17 in mind, so the law says that criminal intent may be
18 inferred from the circumstances shown to have existed.

19 This is how you make a determination of whether or
20 not the element requiring intent was present. It is not
21 necessary to establish intent by direct and positive
22 evidence, but intent may be established by inference in the
23 same way as any other fact by taking into consideration the
24 acts of the parties and all of the facts and circumstances
25 of the case.

Jury Charge

1 Criminal intent is a mental state, a conscious
2 wrongdoing. It is up to you to determine what the defendant
3 intended to do based upon the circumstances shown to have
4 existed.

5 Criminal intent can arise from action or a failure
6 to act. It may arise from negligence, recklessness, or an
7 indifference to duty or consequences. That is considered by
8 the law to be the equivalent of -- of criminal intent.

9 The indictments in this case allege two different
10 offenses against the defendant. The charges are; unlawful
11 conduct towards a child, and domestic violence in the first
12 degree.

13 Each indictment charges a separate and distinct
14 offense. You must decide each indictment separately on the
15 evidence in the law applicable to it uninfluenced by your
16 decision as to any other indictment.

17 The defendant may be convicted or acquitted on any
18 or all of the offenses charged. You will be asked to write
19 a separate verdict of guilty or not guilty for each
20 indictment.

21 The defendant is charged with unlawful conduct
22 towards a child. The State must prove beyond a reasonable
23 doubt that the defendant had charge or custody of the child,
24 was the parent or guardian of the child, or was responsible
25 for the care and support of the child.

Jury Charge

1 A person responsible for a child's welfare
2 includes the child's parent, guardian, or foster parent, an
3 operator, employee, or caregiver of a public or private
4 residential home, institution, agency, or child day care
5 center facility, or an adult who has assumed the role and or
6 responsibility of a parent or guardian for the child but
7 does not necessarily have legal custody of the child.

8 This does not include a person whose only role is
9 as a caregiver and whose contact is only incidental with a
10 child such as a babysitter.

11 The State must also prove beyond a reasonable
12 doubt that the defendant placed the child at unreasonable
13 risk of harm affecting the child's life, physical or mental
14 health, or safety. A child means a person under the age of
15 18.

16 The defendant is charged with first-degree
17 domestic violence. The State must prove beyond a reasonable
18 doubt that the defendant caused physical harm or injury to a
19 household member or that the defendant offered attempted to
20 cause physical harm or injury to a household member with the
21 apparent present ability to cause harm or injury under
22 circumstances reasonably creating a fear of imminent danger.

23 A household member is a spouse, a former spouse, a
24 person with whom the defendant has a child in common or a
25 person of the opposite sex with whom the defendant is living

Jury Charge

1 or has lived with in the past.

2 The State must also prove that in the process of
3 committing domestic violence in the second degree one of the
4 following also results:

5 A, offense is committed in the presence of or
6 while being perceived by a minor, or the offense is
7 committed using physical force or the threatened use of
8 force against another to block that person's access to any
9 cell phone, telephone, or electronic communication device
10 with the purpose of preventing, obstructing, or interfering
11 with the report of any criminal offense, bodily injury, or
12 property damage to a law enforcement agency, or a request
13 for an ambulance or an emergency medical assistance to any
14 law enforcement agency or emergency medical provider.

15 Second degree domestic violence results when the
16 State proves beyond a reasonable doubt that the defendant
17 caused physical harm or injury to a household member or the
18 defendant offered or attempted to cause physical harm or
19 injury to a household member with the apparent present
20 ability to cause harm or injure under circumstances
21 reasonably creating a fear of imminent danger.

22 The State must also prove that the defendant has
23 one prior conviction for domestic violence in the past ten
24 years from the current offense.

25 Insanity caused by the use of drugs or alcohol may

Jury Charge

1 be a defense if the insanity is permanent and destroys the
2 defendant's ability to know right from wrong; however, when
3 voluntary intoxication was not -- has not produced permanent
4 insanity it is not a defense to a crime.

5 A person who voluntarily becomes intoxicated is
6 just as responsible for the acts committed while intoxicated
7 as when the person is not intoxicated.

8 Ladies and gentlemen of the jury, your verdict
9 must be a unanimous verdict, which, of course, means that
10 all twelve of you must agree on the verdict.

11 When you retire to your jury room, you will have
12 these verdict forms -- and the gentlemen there on the end in
13 the gray shirt, what's your name, sir?

14 THE FOREPERSON: Scott Mcelhaney.

15 THE COURT: Mr. Mcelhaney, I'm going to appoint
16 you as the foreperson of the jury, so it will be your duty
17 to write the verdict on the verdict form, and you have, of
18 course, two verdict forms.

19 One is for the charge of unlawful conduct towards
20 a child, and it states, (as read:) We, the jury,
21 unanimously find the defendant, and you check the
22 appropriate verdict whether it's not guilty or guilty, and
23 then date it and sign it as the foreperson.

24 You, of course, will then also have the verdict
25 form for the charge of domestic violence in the first

Jury Charge

1 degree, and it states that, (as read:) We, the jury,
2 unanimously find the defendant, and check the appropriate
3 verdict, and sign, and date it.

4 When you come to your verdict, if you would,
5 please knock on the door. We will receive you back in the
6 courtroom to receive your verdict.

7 Please, do not begin your deliberations until you
8 have received all of the exhibits from the trial in the jury
9 room and the verdict forms. When you receive those then,
10 you may begin your deliberations. You may return to your
11 jury room.

12 (Jury exited at 11:36 a.m.)

13 THE COURT: Any exceptions or objections to the
14 charge on the law from either the State or from the defense?

15 MS. FRIES: No, Your Honor.

16 MR. GOODWYN: No, Your Honor.

17 THE COURT: All right. Thank you. If you-all
18 would try not to go too far in case we get a verdict so, and
19 if you would get the exhibits together and here are the
20 verdict forms.

21 (At ease at 11:36 a.m. until 12:35 p.m.)

22 THE COURT: Thank you, everyone. Please, have a
23 seat. So we have a note from the jury with three separate
24 questions. The first question states, (as read:)
25 Definitions of first, second, and third degree domestic

1 violence.

2 The second just says, (as read:) transcript of
3 jail calls, and the third item says, (as read:) Emily's
4 written statement.

5 I would propose, absent any objections from either
6 side, that I could bring the jury back out and just read
7 them the definitions of the domestic violence.

8 Obviously, I can let them know that they have the
9 actual jail calls that were introduced into evidence, and as
10 far as Emily's written statement, I can basically, just put
11 in there that they have all the competent evidence before
12 them to make their determination of the facts. Any
13 objection to -- to that?

14 MR. GOODWYN: My only question is that I think we
15 explained DV third in the jury charge, and they're asking
16 for a definition of DV third. Is that?

17 THE COURT: I think the only reason is because the
18 State put it up on their -- during their closing.

19 MS. FRIES: Yeah, and that was a mistake in the
20 PowerPoint, but I don't know if it's -- if you're able to
21 instruct them that there's not a lesser included charge,
22 that it's just DV first.

23 MR. GOODWYN: DV third is the base element.

24 MS. FRIES: Or that DV third is the base element,
25 the base offense, which is referenced in domestic violence

1 first degree.

2 THE COURT: Which is an accurate statement of the
3 law. I mean, I'm happy to do it that way.

4 MR. GOODWYN: Yeah, and -- and I think just
5 reading the law is, I think is the -- the only middle of the
6 road way to do it.

7 THE COURT: Right, so you-all are okay if I tell
8 them the domestic violence is the base element for which the
9 domestic violence in the first degree for which he is
10 charged, and then just read the domestic violence in the
11 first degree?

12 MR. GOODWYN: Yes.

13 THE COURT: You-all good with that?

14 MS. FRIES: Yes.

15 THE COURT: Okay. You-all good with the other
16 portions as well?

17 MS. FRIES: Yes, Judge.

18 MR. GOODWYN: Yes, Judge.

19 THE COURT: Okay. Let's have our jury. Wait.
20 Well, let me find the jury instructions. All right. Let's
21 have our jury, please.

22 THE CLERK: Yes, Your Honor.

23 (Jury entered at 12:40 p.m.)

24 THE BAILIFF: They're all here, Your Honor.

25 THE COURT: Thank you. Please, have a seat.

1 Members of the jury, I'm in receipt of your note, which has
2 three different items on it. The first item states, (as
3 read:) definitions of first, second, and third degree
4 domestic violence.

5 The third degree domestic violence is basically
6 just the base charge upon which the first degree domestic
7 violence is based upon, and I will read that definition to
8 you for the first degree domestic violence.

9 It's not -- you're not looking for a lesser
10 included, so the first degree domestic violence is what you
11 must consider as the matter before you, and the definition
12 is as follows:

13 (As read:) The defendant is charged with first
14 degree domestic violence. The State must prove beyond a
15 reasonable doubt that the defendant caused physical harm or
16 injury to a household member or that the defendant offered
17 or attempted to cause physical harm or injury to a household
18 member with the apparent present ability to cause harm or
19 injury under circumstances reasonably creating a fear of
20 imminent danger.

21 A household member is a spouse, a former spouse, a
22 person with whom the defendant has a child in common, or a
23 person of the opposite sex with whom the defendant is living
24 or has lived with in the past.

25 The State must also prove that in the process of

1 committing domestic violence in the second degree one of the
2 following also results:

3 One, the offense is committed in the presence of
4 or while being perceived by a minor, or the offense is
5 committed using physical force or threatened use of force
6 against another to block that person's access to any cell
7 phone, telephone, or electronic communication device with
8 the purpose of preventing, obstructing, or interfering with
9 the report of any criminal offense, bodily injury, or
10 property damage to a law enforcement agency, or request for
11 an ambulance, or emergency medical assistance to any law
12 enforcement agency or emergency medical provider.

13 Second degree domestic violence results when the
14 State proves beyond a reasonable doubt that the defendant
15 caused physical harm or injury to a household member or that
16 the defendant offered or attempted to cause physical harm or
17 injury to a household member with the apparent present
18 ability to cause harm or injury under circumstances
19 reasonably creating a fear of imminent danger.

20 The State must also prove that the defendant has
21 one prior conviction for domestic violence in the past 10
22 years from the current offense. So that would be the
23 definition of the domestic violence.

24 Your next item on your note states, (as read:)
25 transcript of jail calls. Transcripts were not introduced

1 into evidence. You have the actual jail calls in the jury
2 room for you to listen to should you need to do so, and then
3 the last item is Emily's written statement.

4 Again, that's not in evidence. You must make your
5 determination of the facts of the competent evidence that is
6 before you in the jury room. Does that answer your
7 questions?

8 UNIDENTIFIED FEMALE JUROR: Yes, ma'am.

9 THE COURT: All right. Thank you. You may return
10 to your jury room.

11 (Jury exited at 12:44 p.m.)

12 THE COURT: Are there any exceptions or objections
13 to the charge from either the State or the defense?

14 MS. FRIES: No, Your Honor.

15 MR. GOODWYN: No, Your Honor.

16 THE COURT: All right. We'll mark this as the
17 Court's exhibit.

18 (Court's Exhibit No. 1 was identified and
19 admitted.)

20 (At ease at 12:45 p.m. until 1:04 p.m.)

21 THE COURT: All right. So we have one more
22 question from the jury, knock on wood. Basically, they want
23 the domestic violence charge in writing, which, obviously,
24 we need to put the entirety of the charge in writing and add
25 the -- the paragraph that they must consider the

1 instructions as a whole and not pick them apart. Any
2 objection to doing that?

3 MR. GOODWYN: Sorry, Judge, I was trying to talk
4 about what they find out. You said that --

5 THE COURT: Oh, I'm sorry.

6 MR. GOODWYN: -- you want to give --

7 THE COURT: I should have --

8 MR. GOODWYN: -- you want to give the whole jury
9 charge?

10 THE COURT: Correct.

11 MR. GOODWYN: Yes, I'm okay with that.

12 THE COURT: And I have to add the -- the paragraph
13 that basically they must consider it as a whole.

14 I didn't instruct them on that, but there's case
15 law that says that they can't just pick and choose parts of
16 it, but they must consider the entire jury charge as a
17 whole.

18 MR. GOODWYN: Correct. Yeah, we're -- we're fine
19 with that.

20 THE COURT: Okay.

21 MS. FRIES: And the State has no objection.

22 THE COURT: All right. And, of course, we took
23 out all the citations and.

24 (Pause in proceedings.)

25 THE COURT: Madam Clerk, I want to mark this as a

1 Court's Exhibit.

2 THE CLERK: Yes, Your Honor.

3 MR. GOODWYN: Judge, are you bringing the jury
4 back in?

5 THE COURT: No, no.

6 MR. GOODWYN: Okay.

7 THE COURT: I was just gonna have the bailiff hand
8 it to him, if that's okay. Any objection to that?

9 MR. GOODWYN: No, Judge.

10 THE COURT: Are y'all okay with them having help
11 with technology to, then, turn on the disc from the bailiff,
12 or do you want?

13 MR. GOODWYN: Yes.

14 THE COURT: Are y'all okay with that?

15 MS. FRIES: That's fine, Your Honor.

16 THE COURT: Okay.

17 (Pause in proceedings.)

18 (Court's Exhibit No. 2 was identified and
19 admitted.)

20 (At ease at 1:08 p.m. until 4:12 p.m.)

21 THE COURT: All right. Counsel, we have a note
22 from the jury, and it says, (as read:) Update, we have come
23 to a unanimous decision on one charge and then it says, we
24 are 10 to 12 on the other charge with no end in sight with
25 breaking this deadlock, and it says, we could all use a

1 break with some fresh air if amendable.

2 Then it says, per the definition on page 13 of
3 first degree domestic violence is simply creating a fear of
4 imminent danger only sufficient for a guilty verdict, and
5 then it says, is imminent fear subjective.

6 So I guess, we'll take these one at a time. So
7 obviously, they can -- they have the jury instruction
8 whether they can acquit or convict on one or both. I think
9 we need to do an Allen charge regarding the second one.

10 I'm going ask them to not take a break at this
11 point and continue with their deliberations. I don't want
12 them being escorted outside. They would have to be all
13 together and watched by security, which I'm not really
14 comfortable with at this juncture.

15 And then the definition as far as the imminent
16 danger whether or not imminent danger or imminent fear is
17 subjective, I would propose that basically, it would be if
18 they unanimously find that the victim was in imminent fear.

19 MR. GOODWYN: Judge, do you mind repeating what
20 the question was again that the jury had?

21 THE COURT: Which part, all of it?

22 MR. GOODWYN: No. No. No. The first question.
23 I -- I -- the part about the imminent fear. Can you read
24 that part of the question?

25 THE COURT: Sure, it says, (as read:) per the

1 definition on page 13 of first degree domestic violence is
2 simply creating a fear of imminent danger, and it's in
3 quotations, only sufficient for a guilty verdict.

4 And then it says, is -- is imminent fear
5 subjective? So really the first part of that question is
6 they must find the elements, not just that element, but also
7 the previous conviction or the -- the phone issue, or I can
8 just tell them they must read that as a whole.

9 MR. GOODWYN: Yeah, Judge, we would ask that just
10 read the charge as a whole again. That's what I think is...

11 MS. FRIES: As far as the subjectiveness as it, I
12 do believe that helping them understand that it is the
13 victim who feels the imminent danger.

14 THE COURT: Right, I think that's --

15 MR. GOODWYN: Well, that's -- that's pretty
16 self-explanatory I think.

17 THE COURT: Well, that's what they're asking.

18 MR. GOODWYN: I'm sorry. The subjective part of
19 it is to --

20 THE COURT: The victim.

21 MR. GOODWYN: -- the victim is what you're saying.
22 Okay.

23 THE COURT: Right.

24 MR. GOODWYN: I understand.

25 THE COURT: Yeah. Basically, the State would

1 prove that the victim felt imminent fear. Are you-all good
2 with -- with that?

3 MR. COOPER: Your Honor, I believe what you saying
4 before about the -- if they managed to find that the victim
5 was in imminent fear, I think how you were saying at the
6 beginning, I think that is appropriate, that's for sure.

7 THE COURT: So it's been a long day. Tell me how
8 I changed it.

9 MR. COOPER: Well, I think that's right. I was
10 just making sure that's what you were -- you were still
11 going to say that.

12 THE COURT: Right, that -- because that's their
13 last question: Is imminent fear subjective? And so
14 basically I would say, imminent fear would be as to the
15 victim, whether or not you find that the victim felt
16 imminent fear would be what you're required to find.

17 MR. GOODWYN: As -- as long as that's part of the
18 reading the entire charge, again, I think.

19 THE COURT: Right. So that's the very last
20 question. The first where they're asking, is that just the
21 one thing I'll tell them -- and I'll read the -- the whole
22 statute --

23 MR. GOODWYN: Right.

24 THE COURT: -- and look at the elements, and make
25 your determination, but imminent fear would be, was the

1 victim in imminent fear of danger?

2 MR. GOODWYN: Yeah, I understand.

3 THE COURT: Does that make --

4 MR. GOODWYN: Yeah. I'm -- I'm sort of -- just
5 the Court's indulgence real quick?

6 (Pause in proceedings.)

7 MR. GOODWYN: Judge, sorry, I'm just trying to
8 wrap my head around the question as far as what that -- what
9 that means. I think answering that question in the form of,
10 yes, it is as to the victim --

11 THE COURT: Right.

12 MR. GOODWYN: -- in this case. I think it's
13 commenting on facts in the case would be, sort of,
14 inappropriate if we don't just read -- because with the
15 charge -- the entire charge, they're supposed to interpret
16 it themselves.

17 If we're answering that question in isolation, I
18 think we're giving -- we're commenting on the facts
19 inappropriately.

20 THE COURT: It's not saying anything about the
21 facts. It's basically saying, was the victim -- you
22 determine beyond a reasonable doubt whether the victim was
23 in imminent fear.

24 MR. GOODWYN: Right. But it also talks about a
25 reasonable person's standards, who I believe in the -- in

1 the -- in the statute, and I think commenting on that --
2 that specific question -- answering that specific question
3 that way, I don't think would be appropriate.

4 MS. FRIES: Judge, if I may? The statute says
5 "offers, or causes harm, or offers to cause harm to a
6 household member," and that would be the victim.

7 MR. GOODWYN: Right. And I --

8 THE COURT: And it just says, (as read:) with the
9 apparent presentability to cause harm or injury under
10 circumstances reasonably creating a fear of imminent danger.
11 So reasonably creating a fear of imminent danger.

12 They must determine that the victim or the
13 household member was in imminent danger. I'm not saying
14 anything about the facts. It's just what they have to find.
15 Whether or not they do or not is up to them.

16 MR. GOODWYN: Okay. I guess my issue is, is
17 that -- again, in answering that question in isolation,
18 we're talking -- we're suggesting then, that that's what
19 they have to answer as far as coming to an answer on the
20 statute.

21 Was the elements of the statute met? And if we
22 don't just read the entire thing and allow them to interpret
23 it, that's -- that's up to -- to them to, then, interpret
24 what it means.

25 THE COURT: Right. I'm not saying anything

1 different.

2 MR. GOODWYN: Sure. Sure. But I think answering
3 that question in isolation is suggesting something different
4 to them.

5 THE COURT: Well, that's the question they asked.
6 I mean, I can't just make up questions to answer.

7 MR. GOODWYN: I understand.

8 THE COURT: All right.

9 MS. FRIES: Judge, we would go along with what
10 you're saying. Saying that it is the victim who would fear.

11 THE COURT: So Mr. Goodwyn, what -- what would
12 your proposal then be, just not answer the question?

13 MR. GOODWYN: That -- that we just reread the
14 whole charge.

15 THE COURT: Well, they have the whole charge, and
16 I'll ask them, "You must consider the whole charge," but
17 specifically to your question as to is eminent fear
18 subjective, "You must make a determination of defining a
19 fact based beyond a reasonable doubt that the victim, the
20 household member, was in eminent fear."

21 I don't think that's a misstatement of the law
22 or -- or commenting on the facts. That's their
23 determination.

24 MR. GOODWYN: I understand.

25 THE COURT: Okay. Let's have our jury, please.

1 MR. GOODWYN: Well, I just ask that, when we're
2 talking about a victim, I just ask that you call her a
3 household member and not a victim because I don't know that
4 the statute says "victim." I think it just says "household
5 member."

6 THE COURT: Okay. All right. Let's have our
7 jury, please. And you-all are okay with Allan charge?

8 MR. GOODWYN: Yes, Judge.

9 THE BAILIFF: You said you want the jury?

10 THE COURT: Yes, ma'am.

11 (Jury entered at 4:25 p.m.)

12 THE BAILIFF: All of the jurors are present, Your
13 Honor.

14 THE COURT: Thank you. Please be seated. Members
15 of the jury, I'm in receipt of your questions, and we'll go
16 through them one at a time.

17 I understand you've reached a verdict on one of
18 the indictments, so that -- that matter is fine. That's
19 nothing really for the Court to answer on that.

20 The second portion, you ask that -- you state that
21 there are 10 to 12 on the other charge with no end in sight,
22 breaking this deadlock. I must now give you what we call an
23 Allen charge, which I will come back to in just a moment.

24 I understand that you could all use a break with
25 some fresh air, if amenable. The problem with that, ladies

1 and gentlemen of the jury, I understand you've had a long
2 day, everyone has; however, in order to go outside, you
3 would have to be escorted by security, all be in one group.

4 The bailiffs would have to make sure nobody talked
5 to you, so that's really, kind of, not really feasible at
6 this juncture.

7 So I'm going to give you this one charge, but
8 before we go into that, I will answer your last two
9 questions where it says, (as read:) per the definition on
10 page 13 a first degree domestic violence is simply you put
11 in there creating a fear of imminent danger only sufficient
12 for a guilty verdict.

13 So what I will just read to you, I will read to
14 you the definition again, and then you asked if imminent
15 fear is subjective.

16 The household member -- for you to find imminent
17 fear -- you must find beyond a reasonable doubt that the
18 household member was in imminent fear, so that the household
19 member was based upon the evidence as you heard it.

20 So you find whatever your determination is whether
21 or not the household member was in imminent fear, and I'll
22 read to you again the definition.

23 The defendant is charged with first degree
24 domestic violence. The State must prove beyond a reasonable
25 doubt that the defendant caused physical harm or injury to a

Allen Charge

1 household member or that the defendant offered or attempted
2 to cause physical harm or injury to a household member with
3 the apparent present ability to cause harm or injury under
4 circumstances reasonably creating a fear of imminent danger.

5 And the charge I will now address with you
6 regarding your deadlock is:

7 Ladies and gentlemen, you have stated that you
8 have been unable to agree on a verdict on one indictment.
9 As I instructed you earlier, the verdict of the jury must be
10 unanimous.

11 When a matter is in dispute it isn't always easy
12 for two people to agree, so when 12 people must agree it
13 becomes even more difficult.

14 In most cases, absolute certainty cannot be
15 reached or expected; however, you have a duty to make every
16 reasonable effort to reach a unanimous verdict. In doing
17 this, you should consult with one another, express your own
18 views, and listen to the opinion of your fellow jurors.

19 Tell each other how you feel and why you feel that
20 way. Discuss your differences with open minds. Although
21 the verdict of the jury must be unanimous, every one of you
22 has the right to your own opinion.

23 The verdict you agree to must be your own verdict,
24 the result of your own convictions, and you should not give
25 up your firmly held beliefs merely to be in agreement with

Allen Charge

1 your fellow jurors.

2 The majority should consider the minority's
3 position, and the minority should consider the majority's
4 position.

5 You should carefully consider and respect the
6 opinions of each other and re-evaluate your position for
7 reasonableness, correctness, and impartiality.

8 You must lay aside all outside matters and
9 re-examine the questions before you based on the law and
10 evidence in this case.

11 If you do not agree on a verdict in this case, I
12 must declare a mistrial. In that case, it does not mean
13 anybody wins.

14 It just means that at some future time, another
15 judge or I will try this case with some other jury sitting
16 here where you are, and the same participants will come, and
17 the same lawyers will ask basically the same questions and
18 get basically the same answers, and we will go through this
19 whole process again.

20 You were selected in the same manner and from the
21 same sources any future jury will be, and there is no reason
22 for me to suppose that the case will ever be submitted to 12
23 more intelligent, impartial, conscientious and competent
24 jurors than you or that more clearer evidence will be
25 produced for one side or the other.

Allen Charge

1 I, therefore, ask that you return to your
2 deliberations with the hope that you can return with a
3 verdict within a reasonable time. You may return to your
4 jury room.

5 (Jury exited at 4:30 p.m.)

6 THE COURT: Any exceptions or objections from
7 either the State or from the defense?

8 MR. GOODWYN: No, Your Honor.

9 MS. FRIES: No, Your Honor.

10 THE COURT: And, Madam Clerk, we'll mark this as a
11 Court's Exhibit.

12 (Court's Exhibit No. 3 was identified and
13 admitted.)

14 (At ease at 4:31 p.m. until 6:05 p.m.)

15 (The defendant entered the courtroom at 6:07 p.m.)

16 THE COURT: All right. We -- I have received a
17 note from the jury. It states that they are still
18 deadlocked two hours later.

19 Obviously, this being the second time the Court
20 must declare a mistrial as to that charge, so I will bring
21 in the jury and ask them to bring in the verdict forms as to
22 the first charge to see what that verdict is and declare
23 mistrial as to the, I would assume the domestic violence
24 charge. Anything before I bring the jury out?

25 MS. FRIES: No, Your Honor.

Verdict

1 MR. GOODWYN: No, Judge.

2 (Court's Exhibit No. 4 was identified and
3 admitted.)

4 THE COURT: Let's have our jury, please.

5 (Jury entered at 6:09 p.m.)

6 THE BAILIFF: All of the jurors are present, Your
7 Honor.

8 THE COURT: You may have a seat. Mr. Foreman, I'm
9 in receipt of your note that states that you're still
10 deadlocked two hours later; is that correct?

11 THE FOREPERSON: Yes, Your Honor.

12 THE COURT: The jury's reached a verdict on one of
13 the indictments; is that correct?

14 THE FOREPERSON: Correct.

15 THE COURT: Did you bring the verdict forms in the
16 courtroom with you?

17 THE FOREPERSON: I did not.

18 THE COURT: Madam Bailiff, do you mind grabbing
19 those from the jury room, please?

20 (Pause in proceedings.)

21 **VERDICT**

22 THE COURT: Would you please hand them to the
23 bailiff to pass to the Court?

24 So the jury has reached a verdict on the unlawful
25 conduct towards a child, and no verdict on the domestic

Polling of the Jury

1 violence charge, so I will declare a mistrial on the
2 domestic violence charge and have the Clerk of Court please,
3 publish the verdict as to the unlawful conduct charge.

4 THE CLERK: Yes, ma'am.

5 THE COURT: Thank you.

6 THE CLERK: If the defendant would, please stand.
7 (The defendant stood.)

8 THE CLERK: In case number 2025-GS10-00337, the
9 *State of South Carolina versus DeShawn R Tollerson*. As to
10 the charge of unlawful conduct towards a child, we, the
11 jury, unanimously find the defendant guilty.

12 Signed by the foreperson of the jury. Dated April
13 24, 2025. Mr. Foreperson, ladies and gentlemen of the jury,
14 if this is your verdict, please raise your right hand.

15 (The jury pool complied.)

16 THE CLERK: Thank you.

17 THE COURT: Does defense require individual
18 polling?

19 MR. GOODWYN: We do, Judge.

20 POLLING OF THE JURY

21 THE COURT: All right. Yes, ma'am.

22 THE CLERK: Yes, Your Honor. Ladies and gentlemen
23 of the jury, I will call out your juror number and when I
24 do, please raise your hand.

25 I will then ask you each two questions. Please

Polling of the Jury

1 answer yes or no. Juror No. 11, is this your verdict?

2 JUROR 11: Yes.

3 THE CLERK: Is this still your verdict?

4 JUROR 11: Yes.

5 THE CLERK: Juror No. 16, is this your verdict?

6 JUROR 16: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR 16: Yes.

9 THE CLERK: Juror No. 60, is this your verdict.

10 JUROR 60: Yes.

11 THE CLERK: Is this still your verdict?

12 JUROR 60: Yes.

13 THE CLERK: Juror No. 85, is this your verdict?

14 JUROR 85: Yes.

15 THE CLERK: Is this still your verdict?

16 JUROR 85: Yes.

17 THE CLERK: Juror No. 101, is this your verdict?

18 JUROR 101: Yes.

19 THE CLERK: Is this still your verdict?

20 JUROR 101: Yes.

21 THE CLERK: Juror No. 190, is this your verdict?

22 JUROR 190: Yes.

23 THE CLERK: Is this still your verdict?

24 JUROR 190: Yes.

25 THE CLERK: Juror No. 122, is this your verdict?

Polling of the Jury

1 JUROR 122: Yes.
2 THE CLERK: Is this still your verdict?
3 JUROR 122: Yes.
4 THE CLERK: Juror No. 188, is this your verdict?
5 JUROR 188: Yes.
6 THE CLERK: Is this still your verdict?
7 JUROR 188: Yes.
8 THE CLERK: Juror No. 199, is this your verdict?
9 JUROR 199: Yes.
10 THE CLERK: Is this still your verdict?
11 JUROR 199: Yes.
12 THE CLERK: Juror No. 216, is this your verdict?
13 JUROR 216: Yes.
14 THE CLERK: Is this still your verdict?
15 JUROR 216: Yes.
16 THE CLERK: Juror No. 248, is this your verdict?
17 JUROR 248: Yes.
18 THE CLERK: Is this still your verdict?
19 JUROR 248: Yes.
20 THE CLERK: Juror No. 259, is this your verdict?
21 JUROR 259: Yes.
22 THE CLERK: Is this still your verdict?
23 JUROR 259: Yes.
24 THE CLERK: Your Honor, the jury has been
25 polled -- been polled and the verdict stands.

Argument to the Court by Ms. Fries

1 THE COURT: Thank you, Madam Clerk. Ladies and
2 gentlemen of the jury, if you would, return to your jury
3 room one last time, I'll be in there momentarily to release
4 you.

5 (Jury exited at 6:14 p.m.)

6 THE COURT: Anything from either party before I
7 release the jury?

8 MS. FRIES: No, Your Honor.

9 MR. GOODWYN: No, Your Honor.

10 THE COURT: All right. If you would, please
11 prepare the sentencing sheet.

12 THE CLERK: Yes.

13 THE COURT: I'll mark this as a Court's Exhibit,
14 and I'll be right back.

15 (Court's Exhibit No. 5 was identified and
16 admitted.)

17 (At ease at 6:14 p.m. until 6:19 p.m.)

18 THE COURT: All right. Counsel, are we ready to
19 proceed?

20 MR. GOODWYN: Yes, Judge.

21 MS. FRIES: Yes, Judge.

22 THE COURT: All right. Solicitor, I'll be happy
23 to hear from you.

24 MS. FRIES: Thank you, Your Honor. First, I think
25 it's important for me to read into the record the

Argument to the Court by Ms. Fries

1 defendant's prior history. He has a 2006 possession of meth
2 or cocaine-based first offense.

3 He's got a 2006 unlawful carrying of a weapon.
4 Then he has an armed robbery with a deadly weapon from 2009,
5 which he received 10 years for that charge, and then that
6 domestic violence first degree, which he received September
7 of 2021, just 50 days prior to this incident.

8 We understand, you know, the jury came back with a
9 guilty verdict for this unlawful conduct towards a child
10 because he did place this child in an unreasonable risk of
11 harm that night, you know, the domestic violence charge that
12 obviously, was a hung -- you know, a hung charge, but we do
13 believe that he placed Emily and Minor in great danger that
14 night.

15 Emily was scared for her life, and we do believe,
16 you know, that there may have been some issues with two
17 people and believe that she was injured, you know, but we do
18 believe that he placed them in an unreasonable risk of
19 danger for Emily she does wish to address the Court at the
20 appropriate time.

21 He also received that 10-year sentence for armed
22 robbery, and then goes and commits this domestic violence
23 against Emily, and then 50 days later he's doing the same
24 thing to her, and he's placing his child in an unreasonable
25 risk of harm. He could have easily endangered her that

Victim Impact Statement

1 night.

2 THE COURT: What was the sentence on the other
3 domestic violence?

4 MS. FRIES: So that was he received 10 years
5 suspended to 94 days. He got credit for, and then probation
6 for three years. So we are asking for the full 10 years,
7 you know, this should have never occurred, and we -- we do
8 believe that it is deserving of that. And Emily would like
9 to address Your Honor at the appropriate time.

10 THE COURT: Yes, ma'am, I'll be happy to hear from
11 her.

12 MS. HOPKINS: Is it okay if I address DeShawn?

13 THE COURT: No, ma'am, you can address the Court.

14 MS. HOPKINS: Yes, ma'am. All I want to say is
15 that I told you after the very first time, the very first
16 time that you did this when you drug me out of my bathtub by
17 my hair, and I helped you.

18 I helped you get over the first degree. The
19 second -- the second time with the second degree, and now --
20 okay, all of the unreported incidents that have happened.
21 All of the unreported ones, and you know that.

22 I feel like a fool, and I told you that one day --
23 I told you on that jail call, after the first incident, I
24 told you that one day I wasn't going to care. I told you
25 that.

Victim Impact Statement

1 I told you I wasn't going to care, and I was going
2 to follow through with the police, and I wasn't going to
3 help you so. And the one thing I've -- I've thought about
4 so many things that I want to say in this moment.

5 There are so many things I could say, but the one
6 thing that keeps dragging back to me, the one thing is each
7 and every time you have done that to me, even after the
8 incident of what -- what this is about, there was multiple
9 incidents afterwards where you held me by my neck and you
10 said "Oh, oh, you're going to cry now? Oh."

11 You know what I feel? I feel like saying that
12 back to you right now, but I'm not that kind of person. I
13 hope that you get the help that you need, and I hope that
14 you can live a life after this or whatever happens to you.
15 I hope that you can.

16 I really do. I hope that you can get the help
17 that you need because nobody deserves to go through
18 something like this, and to be put up there and made a fool
19 of in front of everybody knowing that you're guilty, knowing
20 that.

21 It is insulting, and having your own team thinking
22 that you didn't do that is insulting. I'm sorry. But I
23 love you. I do. I love you, and you are my child's father.

24 I don't wish anything bad for you, but I do hope
25 that you decide to live a violence-free life, and -- and one

Victim Impact Statement

1 that's not incarcerated like you have been since you were 19
2 year old -- since you were 19 years old for violent crimes.
3 That's all. Thank you all for all your support on both
4 sides.

5 THE COURT: Well, ma'am, I hope that you don't
6 feel like you were made a fool of because certainly, it
7 takes a lot of bravery to -- to come forward and to testify,
8 and I hope that you did listen to the expert --

9 MS. HOPKINS: I did.

10 THE COURT: -- that explained the behaviors and
11 the issues that -- that you have faced. And I certainly
12 hope that you continue to, maybe, get some counseling to
13 help --

14 MS. HOPKINS: Yes, ma'am.

15 THE COURT: -- you go through this, and the
16 Victim's Advocate Office can certainly help you arrange that
17 as a victim of a crime, and you're certainly entitled to
18 that. Just because there's a mistrial on that charge
19 doesn't mean it's not going forward again.

20 He can still be prosecuted for that charge. It
21 just means that the jury didn't come to a decision on that
22 charge.

23 MS. HOPKINS: I know. I just -- thank you.

24 THE COURT: Okay. Anything further from the
25 State?

Argument to the Court by Mr. Goodwyn

1 MS. FRIES: Judge, I just want to emphasize that
2 he was given a chance September 13, 2021. He was put on
3 probation. He received -- he received 10 years suspended to
4 four years probation, and then just a few days later, he's
5 doing this again. That's why we're asking for 10 years.

6 THE COURT: Yes, ma'am. Defense?

7 MR. GOODWYN: Judge, it's been -- it's been a long
8 week for everybody. It's tough. The jury hung on the
9 charge for domestic violence.

10 I'm asking you to sentence him to the conduct of a
11 child. Let him have his day in court for the domestic
12 violence charge.

13 What the conversation was, was about -- DeShawn
14 about what happened, about what he couldn't get past. It
15 wasn't about the boards in the head, and the jury sees that
16 there's an issue with that.

17 I ask you to take into consideration everything
18 that you've heard this week. What DeShawn said, what you've
19 heard from DeShawn. Punish him for the conduct towards the
20 child, what he's found guilty of.

21 This incident happened in 2021. Mr. Fries is
22 right. He was found guilty of domestic violence. He was
23 out on bond in 2021 -- I'm sorry, in 2021, and he was out.

24 He was not rearrested, and no new conduct he's
25 been charged with. My understanding with my client he's on

Sentencing

1 probation, is that he had nearly completed his battery's
2 treatment program with probation.

3 In 2024, until last year, which he's been in since
4 then, he was picked up on public disorderly charge. His
5 bondsman took him off his bond. He's been in since.

6 I ask you to take that into consideration as well.
7 I've never gotten anything from DeShawn that he does not
8 love his daughter.

9 I've listen to a lot of jail calls not just those
10 two a lot. A lot of messages. That man loves his daughter.
11 I'm ashamed of the conduct that he was found guilty of and
12 the facts that came out of this trial.

13 He's got credit for 383 days. I ask that you are
14 going to be sentencing him to active time, which I
15 understand that you -- you likely will be. I just ask that
16 you do not max him out. I ask that you sentence him
17 appropriately. That's all.

18 **SENTENCING**

19 **THE COURT:** All right. Mr. Tollerson, please
20 stand.

21 (The defendant stood.)

22 **THE COURT:** Mr. Tollerson, considering your prior
23 record and your attorney's asking me to sentence you for
24 what you did to your child, I really can't imagine a father
25 that loves their child to beat their mother and do what you

Sentencing

1 did and put her in danger, your child's danger, in front
2 of -- in front of her.

3 She may have been a year old, but that's certainly
4 conduct that she witnessed. What you did to unlawful
5 conduct towards a child while you're on probation for
6 domestic violence with the same victim, quite frankly, I'm
7 not sure why the State didn't charge you with Berg first,
8 considering the facts and elements of this case.

9 Considering your prior record on indictment
10 2025-GS-10-00337 and what you did to your child, you're
11 hereby committed to the State Department of Corrections for
12 a period of 10 years.

13 You get credit for the time you have served for
14 this charge. Good luck. Anything further from anyone?

15 MR. GOODWYN: No, Judge.

16 MS. FRIES: No, Your Honor.

17 THE COURT: We are adjourned.

18 (These proceedings were concluded at 6:29 p.m.)

19 (End of transcript.)
20
21
22
23
24
25

CERTIFICATION OF TRANSCRIPT

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

This is to certify that the foregoing transcript of the proceedings taken at the Monday, April 21, 2025 General Session of Charleston County is a true and accurate transcript of the proceedings recorded by the office of the Charleston County Clerk of Court and transcribed by me to the best of my ability.

I further certify that I am not related to any party or attorney, nor do I have any interest whatsoever in the outcome of this action.

This 21st day of July, 2025.


Julia A. Titus Emerson, CVR, RCP-M
SC Official Court Reporter, Circuit 3
Jemerson@sccourts.org

CGF/0384704
WITNESSES

Charleston County Sheriff Office

Mark H. H. H. Jr

AGENCY CASE NUMBER

2021-014054

ARREST WARRANT NUMBER

2021A1010205904

DATE OF ARREST

11/18/2021

ACTION OF GRAND JURY

TRUE BILL

Laura Lloyd JAN 07 2025
Foreperson of Grand Jury Date:

VERDICT

Guilty

Sworn
Foreperson of Petit Jury

Date:

4/24/2025

DOCKET NO. 2025-GS-10-00337

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

JANUARY TERM 2025

THE STATE

VS.

DESHAWN R TOLLERSON
B/M DOB [REDACTED]-1985

Indictment for

**CHILDREN / UNLAWFULLY PLACE A
CHILD AT RISK OF OR CAUSE HARM
OR WILLFULLY ABANDON THE CHILD**

SC Code: § 63-05-0070
CDR Code: 2481

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened January 2025, the Grand Jurors of Charleston County present upon their oath:

Children / Unlawfully place a child at risk of or cause harm or willfully abandon the child

That in Charleston County, South Carolina, on or about on or about November 1, 2021, the Defendant, Deshawn R Tollerson, while having charge or custody, or being the parent or guardian, or being responsible for the welfare of the minor child, **Minor**

, did (1) unlawfully place the minor victim at unreasonable risk of harm affecting the child's life, physical or mental health or safety; or (2) unlawfully and maliciously do, or cause to be done, bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered; or (3) willfully abandon the child. This is in violation of Section 63-5-70 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

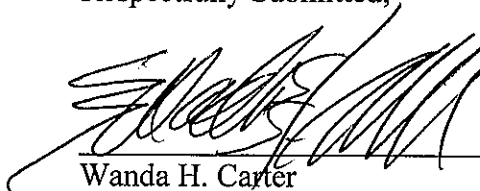


CATHERINE FRIES
ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

This 5th day of February, 2026.

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SC Court of Appeals