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SC Court of Appeals

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Greenville County

Honorable G.D. Morgan, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LEVY ERNEST DUNN,

APPELLANT

APPELLATE CASE NO. 2024-001413

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBITS #1 (911 CALL RECORDING); #2, #3, #24, #26, #27,
#32, #33, #47, #48, #59, #60, #61, #65, #77, #78, #79, #80, #83, #84, #85, #86,
#87 (PHOTOGRAPHS) & #81 (BODY CAMERA RECORDING)**

1 that after closing and charge.

2 All right. Does that fairly and accurately
3 summarize -- is everybody clear on my ruling, State?

4 MRS. SCOTT: Yes, Your Honor.

5 THE COURT: Defense?

6 MRS. LIPINSKI: Yes, Your Honor.

7 THE COURT: All right. All right. As far as
8 those three jurors, what I want to do on that is just
9 bring them out here individually. Then I'll excuse
10 each one of them individually.

11 THE BAILIFF: Your Honor, excuse them
12 individually and take them out?

13 THE COURT: Yes.

14 Okay, Mrs. Scott, is that correct?

15 MRS. SCOTT: Yes, sir.

16 THE COURT: All right, I am going to excuse you
17 from further service in the case, so you are free to
18 go.

19 JUROR NO. 40: Yes, sir.

20 THE COURT: Mr. Preston, the gentleman here,
21 will take you on out.

22 JUROR NO. 40: Thank you.

23 THE COURT: Thank you.

24 Okay, Ms. Burger.

25 JUROR NO. 29: Yes, sir.

1 THE COURT: I'm going to excuse you from further
2 service on the case here, so you are free to go.
3 Somebody will show you down and you are free from
4 this case.

5 JUROR NO. 29: Okay, thank you.

6 THE COURT: Thanks.

7 All right, Mr. Coviak, I'm going to go ahead and
8 excuse you from the case.

9 JUROR NO. 49: Okay.

10 THE COURT: So you are excused from your service
11 in this matter and rest of the week.

12 JUROR NO. 49: Okay.

13 THE COURT: They'll show you down. Thank you.

14 Anything from The State?

15 MRS. SCOTT: No, Your Honor.

16 THE COURT: Anything from The Defense?

17 MR. HOLCOMB: No, Your Honor.

18 THE COURT: For the record, we had a discussion
19 in chambers regarding the jury charges. I had
20 previously indicated to the parties what my charges
21 would be with the exception of the domestic violence
22 charges. We discussed those at length in chambers.
23 And for the record, I will charge domestic violence
24 of a high and aggravated nature. And then will
25 charge the lesser included offense of domestic

1 violence first degree.

2 And as part of this charge, I will have, also,
3 make reference to one of the elements in domestic
4 violence first degree, which states that domestic
5 violence first degree can be found and if one of the
6 factors is met and that one factor that we are
7 discussing is in the process of admitting domestic
8 violence in the second degree, one of the following,
9 also, results. And that would be a finding that the
10 victim suffered moderate bodily injury and is the
11 result of -- by means -- as a result of The Defendant
12 impeding the victim's breathing or air flow.

13 Is that the parties' understanding of what I'm
14 charging in our discussion in chambers from the
15 State?

16 MRS. SCOTT: Yes, Your Honor. I will state that
17 when we had a conference, we, also, did talk about --
18 I think we may have gotten a little distracted with
19 the juror information. Defense counsel and I talked
20 about the DV-HAN has two prongs and I was willing to
21 remove the second prong and just use that The
22 Defendant committed the offense under circumstances
23 manifesting extreme indifference to the value of
24 human life and great bodily injury to the victim
25 resulted and not using the one where it says with or

1 without an accompanying battery where a reasonable
2 person would fear.

3 THE COURT: My intention on domestic violence of
4 a high and aggravated nature would be charging them
5 extreme indifference to the value of human life and
6 great bodily harm. And then The State, what I'm
7 understanding, you're talking about to, also, not
8 include any of the other factors with the exception
9 of knowingly and intentionally impeding the normal
10 breathing or circulation of blood of a household
11 member by applying pressure to the throat or neck or
12 by obstructing the nose or mouth of a household
13 member and thereby causing stupor or loss of
14 consciousness for any period of time.

15 MRS. SCOTT: Yes, Your Honor.

16 THE COURT: Then likewise, when I get to first
17 degree, domestic violence first degree, I will charge
18 only great bodily -- reference great bodily injury
19 again. And then the factor that we discussed and the
20 process of committing domestic violence in the second
21 degree, one of the following, also, results.

22 MRS. SCOTT: Thank you, Your Honor. I had not
23 seen your copy so I did not know you had already
24 removed that with or without accompanying battery
25 portion of the DV-HAN statute.

1 THE COURT: Yeah, I knocked out -- that was the
2 DV-HAN?

3 MRS. SCOTT: Yes, Your Honor, so DV-HAN has
4 three prongs. One, it says and great bodily injury
5 results. And the other one says with an accompanying
6 battery or without an accompanying battery where
7 great bodily injury could have resulted based upon
8 reasonable person, that language. And I wanted to
9 state that when we had our conference, we agreed to
10 have that removed. The basis of that is because the
11 indictment they presented to the grand jury did not
12 have those options there.

13 THE COURT: All right. So it would, basically,
14 end, and I'll read it, The Defendant is charged with
15 domestic violence of a high and aggravated nature.
16 The State must prove beyond a reasonable doubt that
17 The Defendant caused physical harm or injury to a
18 member of The Defendant's own household or that The
19 Defendant offered or attempted to cause physical harm
20 or injury to a member of The Defendant's own
21 household with the apparent present ability to cause
22 harm or injury under the circumstances, reasonably
23 creating a fear of imminent danger.

24 That's not the one you were talking about?

25 MRS. SCOTT: No, Your Honor. It's after -- if I

1 may approach?

2 THE COURT: Yeah.

3 MRS. SCOTT: I think we have the same document.

4 THE COURT: Yeah, I knocked that out.

5 MRS. SCOTT: Okay.

6 THE COURT: That provision is, for the record,
7 The Defendant committed the offense with or without
8 an accompanying battery and under circumstances
9 manifesting extreme indifference to the value of
10 human life that would reasonably cause a person to
11 fear immediate great bodily injury or death.

12 MRS. SCOTT: That's the one that we agreed to
13 remove.

14 THE COURT: I'm, also, removing and not charging
15 under that same indictment that The Defendant
16 violated any protection order.

17 MRS. SCOTT: Correct.

18 THE COURT: Because that's not applicable. And
19 I'm, also, not charging using physical force to
20 blocking access to cell phone, telephone, et cetera.

21 I'm, also, not charging committing the offense during
22 the commission of a robbery, burglary, kidnapping or
23 theft. I'm not charging the pregnancy element. And
24 I'm not charging the offense occurred in the presence
25 of a minor.

1 MRS. SCOTT: Yes, Your Honor.

2 THE COURT: And that goes the same when I'm
3 charging the first degree domestic violence, I'm only
4 charging the one factor there that involves the
5 domestic violence second degree. Then I'm defining
6 moderate bodily injury.

7 Okay, anything else?

8 Anything from The State?

9 MRS. SCOTT: No, Your Honor.

10 THE COURT: Anything from The Defendant?

11 MR. HOLCOMB: Nothing, Your Honor.

12 THE COURT: Okay. Let's bring them in.

13 MRS. LIPINSKI: We have final argument, Your
14 Honor?

15 THE COURT: Yes, you do.

16 THE BAILIFF: Ladies and gentlemen, make sure
17 your phones are turned off. If you're here, you need
18 to stay until the Judge's charge is complete. If you
19 need to leave before that, you need to go ahead and
20 excuse yourself.

21 (WHEREUPON, the jury entered open court at
22 approximately 3:32 p.m.)

23 THE COURT: All right, ladies and gentlemen, let
24 me explain to you why you had to be back there. We
25 just had some issues that came up. And we've had

1 some lengthy discussions with all the parties. And
2 so you may notice that there are now 11 of you. So
3 that is what we're going to go forward with, the 11
4 of you.

5 The two alternates, you are now part of the
6 regular jury.

7 So we will now go forward with the remaining 11
8 of you. So with that, it is time for closing
9 arguments.

10 And I recognize The State.

11 CLOSING STATEMENT

12 MRS. SCOTT: Thank you, Your Honor. If I can
13 have the HDMI. May it please the Court and opposing
14 counsel.

15 I'm Brittany Scott. You heard from me on Monday
16 and my cocounsel, Ms. Elterrice Westfield. And you
17 met a very important person. You all met Ms. Rita.
18 She did something today or, actually, it was
19 yesterday, that is very difficult for anyone to do.
20 Go in front of strangers, get in this green chair and
21 talk about a night that you actually want to forget.
22 And she did. I think she was in that green chair for
23 over an hour. And she was asked meticulously each
24 step that she took March of 2021. So I owe it to her
25 to tell her story one last time.

1 So she says to you all, I just wanted to cook,
2 go home, enjoy the night. She goes to the back
3 bedroom and she exposed herself. She took off her
4 wig. She said I went to that back bedroom and I
5 heard the volume of the TV go up. And this is
6 strange. And she sat on the end of bed. She didn't
7 know what was going on. Have you ever had a sixth
8 sense, something feels weird? She had that.

9 And that feeling of weirdness walked right
10 through that master bedroom. And she said he had
11 gloves on his hands. She said he came up to her and
12 he said, Give me the keys. She said before she could
13 respond, he was already on top of her on that bed and
14 he was already beating her. Beating her.

15 What did she say to y'all? She said, wait,
16 what's going on. Wait a minute. She doesn't
17 understand. She doesn't understand how I'm going to
18 make food tonight to being on this bed, having to be
19 beaten. And it didn't stop there. She told you
20 every time she tried to reason with someone she had
21 no way to reason with. She told you on this bed here
22 that as he was beating her, he pulled out a knife.
23 She doesn't understand what's happening. He begins
24 to stab her, repeatedly.

25 Now, as a domestic violence prosecutor, we look

1 at different types of way that people can be hurt.
2 But I don't have to be a domestic violence
3 prosecutor, I can be anybody to know that when you
4 stab somebody in the face, that's personal. All
5 right. We're not talking about just a jab here and
6 there because we're arguing in the streets. You're
7 stabbing somebody in the face and the neck, it's
8 personal.

9 And what does she tell y'all she said? You can
10 just go. I won't even report it. Because she's
11 thinking about her life. My cocounsel said that this
12 is about a journey of her survival. And y'all, this
13 was a journey for her.

14 Let's talk about the journey. First, she's on
15 the bed, then she's on the floor. And what I wanted
16 y'all to know about this floor -- and there's other
17 pictures here. All of this here indicates a
18 struggle. But what do you notice about this room
19 that you don't notice about this room? A
20 concentrated patch of blood here. What did she tell
21 you? That she wound up on that floor and she was
22 bleeding and she laid her head, her neck down and she
23 stayed there. That's why you see that. Only one
24 person is bleeding in that room and it's her.

25 She said those covers were pulled over her and

1 she's fighting to get them off. She said he takes
2 his hands -- remember, he's six feet, two and a half
3 pounds -- 250, and he puts it over her mouth and her
4 nose. And what's she still doing? She's surviving.
5 She's trying. And then what else does he do? He
6 puts his hands into the wounds.

7 She said -- she told you, what about my
8 children? Can I get a picture of my children?
9 There's two reasons for that. When you think you're
10 about to die, you want to see your loved ones. And
11 when you think you can reach somebody, you want to
12 bring out some loved ones. Again, trying to reason
13 with someone who cannot be reasoned with. It didn't
14 work. She didn't get to see her kids. And she said
15 she laid there, but we know that she chose to
16 survive. We know that because she realized he left
17 the room. And she decided I'm not going to lay here.

18 She, also, didn't decide to lock a door and call
19 the police. She needs to go. And she grabbed a
20 dumbbell. I think it was Sergeant Wright who said
21 she got a 3 lb dumbbell. That's all she had. She
22 was already in the bedroom. And she took off. She
23 took off because she's trying to get to this front
24 door. So we go here and we go here. There are
25 pictures of her blood, droplets of blood all the way

1 here.

2 But what do you see here? You go here and you
3 see a spread. Because what does she tell you when
4 she gets to this door? Her journey isn't over. She
5 hasn't quite made it. This spread here, think about
6 all that she had to do. Now, she's got the dumbbell.
7 She said she's moving it. She's moving it. He's
8 holding it. She said she uses it to bang the walls.
9 You can see that from this. You can see from the
10 spread of these doors and this wall and this wall and
11 this electrical panel, that she's all over the place,
12 okay, fighting for her life. I don't know how she
13 did it, but she got that door opened.

14 Now, we're on that platform. There are four
15 apartments on that platform. She made a good
16 decision, survival, and she went straight down those
17 stairs. Because you get outside, get outside and
18 maybe, maybe somebody can save me. And somebody did.

19 What did she say? We know that she went from
20 one building to another. Can you imagine being
21 stabbed in your face and neck and back with no shoes
22 on and you go from one building to another in the
23 pouring rain at eight o'clock at night and you're
24 crying and you're screaming and you collapse, you
25 collapse in the breezeway? And the way -- the world

1 we live in, you've got people concerned should we go
2 outside? Should we go outside? I think it's very
3 telling that it was two single woman who decided to
4 go ahead and go outside. Pulled this woman into
5 their house to render her aid.

6 Now, I played the body-worn camera for you all.
7 On that body-worn camera, it's important that y'all
8 saw and not heard it. Because I needed you all to
9 see all these people corralled against her and not
10 one of them was at work, right? We've got Officer
11 Pryzbylo who gets there. But before he gets there,
12 we've got Jennifer McDonald using her own towel
13 holding this woman up. We've got an off-duty medic
14 coming in, trying to help. It took ten minutes and
15 30 something seconds on that body-worn camera before
16 we saw EMS or fire. So for ten minutes if she
17 wouldn't have got out that house, I wonder what could
18 have happened to her? She made the decision. And
19 thankfully -- I mean, you talk about things lining up
20 for you. We've got neighbors. Who has an off-duty
21 medic and an off-duty officer home at the same time
22 living together? Her survival journey is real. It's
23 real.

24 Let's talk about domestic violence. I have got
25 to prove that they're household members. We know

1 that they're household members. They were married.
2 She had to be in this courtroom with her ex-husband,
3 ex-abuser today. And they were living together in
4 these Waterleaf apartments. I've got to prove that
5 he caused physical harm or injury to Ms. Rita. And
6 he did so, or that he tried to cause physical harm to
7 her. Or a reasonable person would be afraid, in fear
8 of imminent peril. This is the basic level to
9 domestic violence. But y'all heard this Judge say a
10 couple of times, we are here for domestic violence
11 high and aggravated nature. So we're up here. And I
12 need you to come up here with me.

13 What is it? It's when someone commits the acts
14 on Rita, this Defendant, not just someone, under the
15 circumstances manifesting an extreme indifference to
16 the value of human life. Extreme indifference. You
17 guys have heard and seen some things. You know what
18 that looks like, but we'll give you a definition. In
19 addition to that, they have to cause great bodily
20 injury to the person that they have indifference of
21 their life.

22 So what is manifesting extreme indifference to
23 human life? The evidence showed that she was
24 repeatedly stabbed in the face, the neck, the
25 shoulder and the back. So I'm going to start

1 applying some of the evidence here because it's not
2 all just about the story. I do understand The State
3 has to prove cases. I have to firmly convince you
4 beyond a reasonable doubt that he did these things to
5 her. So here we go.

6 We saw the injuries. We saw the wounds from the
7 hospital. We can take those back to the jury room.
8 We know she was stabbed. She named who stabbed her.
9 You saw that she was beaten. Half of her face is
10 bigger than the other. And we saw contusions on her
11 head. We heard her say that she was in fear for her
12 life and he told her, you're going to wait about five
13 minutes and you'll be dead. He covered her mouth and
14 her nose. He pressed on that wound on her neck. He
15 used a deadly weapon. He used that knife. And he
16 had no consideration for her human life. This is why
17 we're at domestic violence high and aggravated
18 nature.

19 You heard testimony from a doctor. He talked
20 about some of the injuries that she suffered.
21 Because Officer Pryzbylo said that he was going to
22 provide security. He wanted to get more from her on
23 the statement and he wanted to take some pictures,
24 but he recognized that her care was important. So he
25 took the pictures the best he could and he went

1 around and got half of her face. I got Dr. Strasberg
2 to tell us more about the injuries that we didn't see
3 because there wasn't a full circle 360. They didn't
4 ask a woman who was just stabbed in the neck, face,
5 back and shoulder and scalp to get up and move
6 around. I think we can understand why that didn't
7 happen on that night. But there was documentation of
8 her injuries. It has to be great bodily injury.
9 I've got to prove that she had substantial risk of
10 her death, serious or permit disfigurement that she
11 has or protracted loss or impairment of a function of
12 a bodily member or organ. That's a lot of stuff.
13 I'm going to break it down.

14 We heard Dr. Strasberg this morning talk about
15 her having, and please forgive me, here we go,
16 arterial injury to the left external carotid branch.
17 I say whoa, where is it? He said, that injury, you
18 can't photograph, that's internal. So if there's a
19 question that you're like well, the officers didn't
20 take enough pictures and they didn't go back and get
21 more pictures, this one is internal. And I asked him
22 what risk is there? He said death, first off the
23 bat, and then stroke, life-threatening bleeding,
24 blindness and vocal paralysis.

25 Now remember, she is a survivor. But she was a

1 substantial risk of it, but she moved on. However,
2 she suffered this great bodily injury. We, also,
3 heard from Dr. Strasberg left submandibular injury.
4 He said it has a risk of perforation of the
5 esophagus, the trachea, which gives a substantial
6 risk of death. She had that injury. Great bodily
7 injury does exist to Ms. Rita.

8 I, also, could show -- I don't have to prove all
9 of this, but I submit I've got them all, okay.
10 Serious permanent disfigurement. Now, she had
11 pictures taken of her the day of her testimony. She
12 was wearing a blue silk shirt. She has that scar to
13 her lip. You all will take this back. This is
14 permanently there for her. She referenced being
15 stabbed in the back. You will be able to take these
16 pictures back. It's still there. She referenced
17 being stabbed in the shoulder. It's still there.
18 Now what does she do? She puts a tattoo over it.
19 Because when you're surviving, you've got to keep
20 going. Now, stab wound to the neck, it's still
21 there. This is that left submandibular injury, but
22 still here. That's what we're talking about when we
23 talk permanent disfigurement.

24 Also, protracted loss of impairment or the
25 function of a bodily member or organ. She told you

1 about the constant headaches she gets and the
2 constant pain in her neck. This is from actions that
3 he did.

4 Again, there are degrees of domestic violence,
5 you're going to hear from this Judge. Yes, there are
6 lesser included. I'm telling you today this is
7 domestic violence high and aggravated nature.

8 Now, we're headed down to the testimony, if I
9 can get to the -- we know when she went to the
10 hospital that she said she started to get some calls
11 that she didn't know, she didn't know who. And there
12 was a lot about if officers helped her enough, a lot
13 of people helped her, including the officers, and
14 they were trying to find out where was this
15 Defendant. This man that lived in this apartment
16 with her, where is he? Remember, this happened
17 March 17th. Lieutenant Donnelly told you we don't
18 find him until April the 7th. Meanwhile, she's just
19 trying to survive. He's got her car. He's got her
20 driver's license. He's got her credit card. And
21 she's just trying to maintain and heal.

22 Now, we know that eventually he's found. And it
23 goes strange ways. She starts to get calls from him.
24 Text messages. I'm sorry. And I love you. I just
25 want to hear your voice. That's sickening. And she

1 had to keep listening to those calls because she knew
2 maybe y'all won't believe her. She has to record
3 them. She has to screen shot them. Because that's
4 what happens today, you've got to photograph in order
5 to prove what's happened to you. She does that. She
6 has to continuously stop her abuser after this
7 happened. She's wearing the scars everyday and still
8 needs to reach out and talk to her.

9 We know from the evidence that was collected in
10 these photos when Lieutenant Donnelly saw that
11 vehicle, he had been living in there. He had been
12 living in there. He was holding up in there. No
13 care in the world about her. We know that the texts
14 that she received even later on was kind of just
15 selfish to him. You know, what he wants, how he
16 feels.

17 I think it's, also, important to note that her
18 clothes were collected. These clothes, you'll see,
19 if want to touch them, have injuries in the back.
20 This woman was stabbed in her back. So we got the
21 face, we got the neck and the back. So at any point
22 in time you're concerned that the officers did not
23 memorialize what happened to her, you've got enough
24 to put the pieces together. Everybody knows that
25 hindsight is 20/20 and there are a lot of things that

1 people wish they would have done differently. I bet
2 you, though, the person who made the best choices was
3 Ms. Rita because she got out of there. She got out
4 of there and she exposed herself that day and she
5 exposed herself to you all again.

6 I had so much to share with you, but I believe
7 that my time is up. I ask that any point in time if
8 you forgot anything that you saw today, let me remind
9 you, you have audio on this USB where this Defendant,
10 Just want to hear your voice. You know I love you.
11 Let me talk to you. We've got body-worn camera
12 footage assisting her as she laid in this apartment,
13 not her own, bleeding in Jennifer McDonald's
14 apartment. If there's a question of where all this
15 blood is coming from, I want to remind you all that
16 you all saw all that blood in the apartment. You saw
17 all that blood coming down the stairs. And what did
18 y'all see, all that blood in Jennifer McDonald's
19 apartment. I stopped it. I stopped it to make sure
20 that you all saw that blood in that lady's apartment.

21 If there's a question that you have in your mind
22 about who this blood is coming from, you guys know
23 that. She never stopped bleeding. Yes, we,
24 obviously, controlled the bleeding at the hospital,
25 but the blood is, obviously, of hers. We don't need

1 testing for that for you not to be able to use your
2 common sense.

3 We, also, have that 911 call. It's been a few
4 days. I hope that y'all remember the anxiety in
5 Courtney Fuller's voice when she just found a woman
6 laying out in the breezeway. How she was
7 frantically, herself, banging on doors trying to get
8 somebody to please help. You all have that if you
9 need to be reminded of how this community corralled
10 around her.

11 We have a lot of photos. The photos are
12 important. Because I don't need you all to focus on
13 what wasn't done in this case. I have a table full,
14 two, actually, full of evidence here for you to make
15 this decision. You have enough. I believe -- what I
16 usually see is The Defense saying you don't have
17 enough. You need more. She should have done this.
18 She should have brought this. She should have gave
19 you this. You guys have enough. Thank goodness you
20 guys have common sense. I need you to use it today.
21 And I need you to find Levy Ernest Dunn, the third
22 guilty of domestic violence high and aggravated
23 nature. Thank you.

24 THE COURT: All right, Defense recognized.

25 MRS. LIPINSKI: Court's indulgence one moment.

1 I need to move some stuff, thank you.

2 CLOSING STATEMENT

3 MR. HOLCOMB: May it please the Court.

4 Counsel.

5 Good afternoon, everybody. When I began this
6 trial, I asked you to keep in mind myself and
7 Mrs. Lipinski up here representing Mr. Dunn. As he
8 sits here today, he's presumed innocent. I want
9 y'all to make sure that you know what our role is in
10 this process. We make sure that Mr. Dunn's
11 Constitutional rights are upheld and that The State
12 proves every single element of domestic violence of a
13 high and aggravated nature beyond a reasonable doubt.

14 The reason we have that standard and it's on The
15 State is because it's hard, if not impossible to
16 disprove that something happened. Think about your
17 common life experience. How hard is it to disprove
18 something didn't happen? So that is why the burden
19 is on them to prove him guilty of every element of
20 domestic violence of a high and aggravated nature.

21 So when The State has done something incorrectly
22 or they leave you with a question throughout this
23 whole trial, our Constitution ask that you resolve
24 that in Mr. Dunn's favor. I think The State has
25 failed to carry its burden in this case and I'm going

1 to go through the evidence of why.

2 I'm going to start off with law enforcement's
3 investigation or their lackluster investigation in
4 all of this. When the forensic technician arrived on
5 scene, the very first thing that she noticed was that
6 there was a Ring doorbell camera facing Mr. Dunn and
7 Ms. Dunn's apartment, okay. Nobody made any effort
8 whatsoever to collect that evidence. That video
9 evidence would provide us with a independent unbiased
10 source of what happened at their door.

11 If Mr. Dunn runs out of that door before her,
12 then that calls into question her whole testimony
13 because she testified that she left first. But we
14 don't know because they didn't collect that video
15 evidence. And by not collecting that video evidence,
16 you're left with a question. And the question is
17 reasonable doubt.

18 Now, let's get inside of the apartment. The
19 forensic technician, Investigator Donnelly, starts to
20 document the inside of their apartment. Now, we've
21 all seen that apartment. There's blood everywhere,
22 blood in the bedroom, blood in the kitchen, blood on
23 the walls, blood near the door. They took hundreds
24 of photographs. They did a video walk-through.

25 And two of the most important pieces of evidence

1 in all of this are the knife handle on the bed and
2 then the kitchen knife that Investigator Donnelly
3 pulls up in the picture that's in the kitchen. Where
4 is the knife handle from the bed? It's not here.
5 The forensic technician didn't test it for
6 fingerprints, didn't test it for DNA, didn't test it
7 for blood.

8 Well, why is that important? What if her
9 fingerprints were on that knife handle? What if his
10 blood was on that knife handle? Would that not
11 change law enforcement's entire investigation into
12 this? Does that not call into question what happened
13 that night?

14 Then we go to the knife in the kitchen. You've
15 all seen photos of it. There's clearly some sort of
16 substance on it. The forensic technician didn't test
17 it for fingerprints, didn't test it for blood, didn't
18 test it for DNA. What if her fingerprints were on
19 that? What if her blood's on that? Now, we have a
20 situation were two knives being used in whatever
21 happen that night? Does that not call into question
22 what could have potentially happened? I think it
23 does.

24 So now we don't have the Ring doorbell camera.
25 We don't have testing on the knife on the bed -- the

1 knife handle on the bed. We don't have testing on
2 the knife from the kitchen. So we have three
3 different questions in this apartment.

4 And then let's talk about the blood. They
5 collected buccal swabs, vials of blood, all sorts of
6 different evidence. And Investigator Donnelly didn't
7 send any of it out for testing. It's been sitting
8 presumably in property and evidence for three years
9 now. They didn't test any of it. What if that blood
10 came back as Mr. Dunn's blood? What if a big portion
11 of the blood in the apartment is Mr. Dunn's blood?
12 We don't know. And now we have another question.

13 We have four different questions. Knife handle,
14 knife in the kitchen, Ring doorbell, whose blood is
15 it? And those questions have to be resolved in
16 Mr. Dunn's favor.

17 All right. And now I want to move to the
18 victim's testimony. Now, we aren't saying that she
19 didn't get injured. I don't want that to come across
20 that way. We just don't believe that's how this
21 unfolded is exactly how she says it did. Her story
22 about him coming in and wanting the car keys just
23 doesn't add up to us. Their theory is that this was
24 this premeditated act out of nowhere. Over car keys,
25 that she then testified he got and left in the living

1 room with. What's his motive to do this over car
2 keys? It just doesn't really add up.

3 My cocounsel, Mrs. Lipinski, cross-examined her
4 on her injuries. I believe she said she was stabbed
5 on the bed, stabbed on the floor, stabbed near the
6 kitchen and stabbed near the door. And I believe the
7 physician testified to doing five to six sutures. So
8 her story is that Mr. Dunn stabbed her all these
9 different times, so we're stalking 20 or 30 stab
10 wounds and he's holding a knife, no handle, just in
11 his hand this whole time? Her story is just not
12 adding up. What is the motive for Mr. Dunn to do
13 that?

14 She then testified to officers on scene that she
15 hit him with a dumbbell, but when cross-examined
16 about it, she denied that she hit him. She was just
17 waving it around and she never hit him. Well, if
18 she's not being candid about her testimony now, why
19 would she be candid what about led up to the events
20 that made this altercation occur? So we're now left
21 with another question about her testimony.

22 Now, Judge Morgan will read you all a jury
23 charge that discusses what the burden of proof in a
24 criminal trial is. It will say something to the
25 effect that you, as jurors, have to be firmly

1 convinced about the facts of the case to convict
2 Mr. Dunn of domestic violence of a high and
3 aggravated nature. If something in this case gives
4 you a hesitation, you are not firmly convinced. If
5 you are not firmly convinced, you must find Mr. Dunn
6 not guilty.

7 So do the facts of this case firmly convince you
8 that he committed domestic violence of a high and
9 aggravated nature? And one of the elements of
10 domestic violence of a high and aggravated nature is
11 The State has to prove that there was some sort of
12 manifested extreme indifference to life. And while
13 we did see the injuries, it's our position that while
14 her injuries were significant, that it did not rise
15 to that level. And at best, The State should have
16 charged him with domestic violence of the first
17 degree. Any situation, any problem with how they
18 charged him, he should be given the benefit of the
19 doubt and you should resolve this in his favor.

20 I think if you combine all the missteps by law
21 enforcement, everything they didn't test, the handle,
22 the knife, blood in the apartment, didn't get the
23 Ring doorbell camera, and you combine that with the
24 fact that there was something else going on when this
25 altercation occurred, more likely something bigger

1 Defendant. It is a formal document -- or the formal
2 document that's brought before The Court as a charge
3 against The Defendant. Again, it is not evidence and
4 is not to be considered as evidence.

5 As I told you when we first started that during
6 the trial, you and I have had certain duties to
7 perform in this case. As the trial Judge, it has
8 been my responsibility to preside over the trial of
9 the case and I have, also, had the duty to rule on
10 the admissibility of the evidence which has been
11 offered during this trial. You are to consider only
12 the competent evidence before you. If there was any
13 testimony ordered stricken from the record in this
14 case, you must disregard it. I don't believe there
15 was any testimony that I instructed you to disregard,
16 but if you recall there was, then you are to
17 disregard that.

18 I, also, have the additional duty to charge you
19 the law that's applicable to this case. I am the
20 sole judge of the law and it is your duty, as jurors,
21 to accept and apply the law as I now state it to you.
22 If you already have any idea as to what the law is or
23 what the law should be, and it does not agree with
24 what I now tell you the law is, then you must abandon
25 this idea because you are sworn to accept the law and

1 apply the law exactly as I tell you this afternoon.

2 In every case in this court before a jury, the
3 jury becomes the sole and exclusive judge of the
4 facts. A trial Judge, like myself, cannot state,
5 comment or make any statement to the jury about facts
6 in this case. Since you, the jury, are the sole
7 judges of the facts in this case, you are not to
8 infer from what I may have said in this case, how I
9 may have ruled or done anything in this case.
10 Because I have nothing to do with finding the facts
11 in this case. I'm not allowed to find the facts in
12 the case. You, the jury, are the sole finders of the
13 fact's in this case.

14 Now, The Defendant has pled not guilty. And
15 because The Defendant has pled not guilty, that plea
16 puts the burden of proof on The State to prove The
17 Defendant guilty. A person charged with committing a
18 criminal offense is never required to prove himself
19 innocent. I charge you that it is an important rule
20 of law that The Defendant in a criminal trial, no
21 matter what the seriousness of the charge may be,
22 will always be presumed to be innocent of the crime
23 for which the indictment was issued unless guilt
24 beyond a reasonable doubt has been proven by the
25 evidence.

1 This presumption of innocence does not end when
2 you begin deliberations. But it accompanies The
3 Defendant throughout the trial until you reach a
4 verdict of guilt based on the evidence satisfying you
5 of that guilt beyond a reasonable doubt. The
6 presumption of innocence is like a robe of
7 righteousness placed about the shoulders of The
8 Defendant, which remains with The Defendant until it
9 has been stripped from The Defendant by the evidence
10 satisfying you of The Defendant's guilt beyond a
11 reasonable doubt.

12 The presumption of innocence is not a mere legal
13 theory. It is just not a legal phrase. It is a
14 substantial right to which every defendant is
15 entitled unless you, the jury, are satisfied from the
16 evidence of The Defendant's guilt beyond a reasonable
17 doubt.

18 Now, some of you may have served as jurors in a
19 civil case where you were told that the burden of
20 proof is the greater weight of the evidence or the
21 preponderance of the evidence. That is not the case
22 in a criminal case. The case here is a criminal case
23 and, therefore, the burden of proof is beyond a
24 reasonable doubt. Proof beyond a reasonable doubt is
25 proof that leaves you firmly convinced of the

1 Defendant's guilt.

2 There are very few things in this world that we
3 know with absolute certainty. In criminal cases, the
4 law does not require proof that overcomes every
5 possible doubt. If based on your consideration of
6 the evidence, you are firmly convinced that the
7 Defendant is guilty of the crime charged, you must
8 find the Defendant guilty. If on the other hand, you
9 think there is a real possibility that The Defendant
10 is not guilty, you must give The Defendant the
11 benefit of the doubt and find him not guilty.

12 Now, let me tell you a couple of things that are
13 not evidence. That's the arguments and statements of
14 the lawyers and any objections or questions they may
15 have asked. That is not evidence. The only evidence
16 that you are to consider is the testimony that came
17 from that witness stand right there or any documents
18 or other exhibits which may have been admitted into
19 evidence.

20 Now, there are two types of evidence in a case.
21 Direct evidence and circumstantial evidence. Direct
22 evidence is evidence that simply proves the existence
23 of a fact and doesn't require any deduction.
24 Circumstantial evidence is proof of a chain of facts
25 and circumstances that indicates the existence of a

1 fact.

2 Now, crimes may be proven by circumstantial
3 evidence. The law makes no distinction between the
4 weight or value to be given to either direct or
5 circumstantial evidence. However, to the extent The
6 State relies on circumstantial evidence, all of the
7 circumstances must be consistent with each other and
8 when taken together point conclusively to the guilt
9 of The Defendant beyond a reasonable doubt. If these
10 circumstances merely portray The Defendant's behavior
11 as suspicious, the proof has failed. The State has
12 that burden of proof. And they can rely on the
13 evidence, whether it's direct evidence,
14 circumstantial evidence or some combination of the
15 two.

16 Now, necessarily in determining the facts in
17 this case, you must determine the credibility of the
18 witnesses who have testified in this trial.

19 Credibility simply means believability. It becomes
20 your duty as jurors to analyze and to evaluate the
21 evidence. In determining the believability of the
22 witnesses who have testified in this trial, you may
23 believe one witness over several witnesses or several
24 witnesses over one witness. You may believe a part
25 of the testimony of a witness and reject the

1 remaining part of the testimony of that same witness.
2 You may believe the testimony of a witness in its
3 entirety or reject the testimony of a witness in its
4 entirety. You may consider whether any witness has
5 exhibited to you any interest, bias, prejudice or any
6 other motive in the case. You may, also, consider
7 the appearance and manner of a witness while on the
8 witness stand.

9 As you know, we had an expert witness here today
10 testify. I gave you a little bit of a background on
11 what the opinion -- or how this witness testifies and
12 how he was allowed to give an opinion. The rules of
13 evidence do not ordinarily permit witnesses to
14 testify to opinions or conclusions. An exception to
15 this -- exception to this rule exists for those
16 witnesses we call expert witnesses. It's a witness
17 who by education and experience has become an expert
18 in some profession and that witness may testify as to
19 an opinion as to any relevant or material matter in
20 which that witness claims to be an expert. And he or
21 she may, also, state the reasons for that opinion.

22 You should consider any expert opinion received
23 in this trial like any other evidence, give it the
24 weight you think it deserves. If you decide the
25 opinion of the expert witness is not based on

1 sufficient education and experience, or if you
2 conclude that the reasons given in support of the
3 opinion are not sound or that the opinion is
4 outweighed by other evidence, you may disregard the
5 opinion entirely. A witness -- an expert witness,
6 their testimony is to be given no greater weight than
7 that of other witnesses simply because the witness is
8 an expert. You are not required to accept an
9 expert's opinion even though it's not contradicted.

10 Now, I instruct you and I emphasize that the
11 fact that The Defendant did not testify in this case
12 is not a factor to be considered by you in any way in
13 your deliberations and in your consideration on the
14 question of the guilt or innocence of The Defendant.
15 It must not be considered by you in any manner
16 whatsoever. The Defendant has the Constitutional
17 right to remain silent. And the assertion of this
18 must not be considered by you in your deliberations.
19 I repeat, under your oath, you are to draw no
20 conclusion whatsoever from the fact that The
21 Defendant did not testify in this case. The fact
22 that he did not testify should not even be discussed
23 in the jury room. The burden of proof, as I have
24 stated to you, is on The State to prove The Defendant
25 guilty beyond a reasonable doubt. The Defendant is

1 not required to prove his innocence.

2 Now, in order to establish criminal liability in
3 the State of South Carolina, criminal intent is
4 required. For example, the mental state required to
5 be proven by The State for a particular crime might
6 be purpose, intent, knowledge, reckless or criminal
7 negligence. Criminal intent must be proven by The
8 State beyond a reasonable doubt. It is always a
9 matter that must be determined by the jury from the
10 circumstances surrounding the situation.

11 There is no way to prove intent to a
12 mathematical certainty. There's no way medical
13 science can dissect a person's brain and determine
14 what a person had in mind. So the law says that
15 criminal intent may be inferred from the
16 circumstances shown to have existed. This is how you
17 make a determination of whether or not the element
18 requiring intent was present. It is not necessary to
19 establish intent by direct and positive evidence, but
20 intent may be established by inference in the same
21 way as any other fact, by taking into consideration,
22 the acts of the parties and all the facts and
23 circumstances of this case.

24 Criminal intent is a mental state, a conscious
25 wrongdoing. It is up to you to determine what the

1 Defendant intended to do based on the circumstances
2 shown to have existed at the time. Criminal intent
3 can arise from action or a failure to act. It may
4 arise from reckless or an indifference to duty or to
5 consequences that is considered by the law to be the
6 equivalent of criminal intent.

7 Now, The Defendant is charged with criminal
8 domestic violence. The State must prove beyond a
9 reasonable doubt that the criminal -- that The
10 Defendant caused physical harm or injury to a member
11 of The Defendant's own household. Or that The
12 Defendant offered or attempted to cause physical harm
13 or injury to a member of the Defendant's own
14 household with the apparent present ability to cause
15 harm or injury under the circumstances, reasonably
16 creating a fear or imminent danger. A household
17 member is a spouse, a former spouse, a person with
18 whom The Defendant has a child in common or a person
19 of the opposite sex with whom The Defendant is living
20 or has lived with in the past.

21 Now, The Defendant is charged, as I have told
22 you, in the indictment with domestic violence of a
23 high and aggravated nature. The State must prove
24 beyond a reasonable doubt that The Defendant caused
25 physical harm or injury to a member of The

1 Defendant's own household. Or that The Defendant
2 offered or attempted to cause physical harm or injury
3 to a member of The Defendant's own household with the
4 apparent present ability to cause harm or injury
5 under circumstances reasonably creating a fear of
6 imminent danger.

7 The State must prove -- also, prove one of the
8 following: One, that The Defendant committed the
9 offense under the circumstances manifesting extreme
10 indifference to the value of human life and great
11 bodily injury to the victim results.

12 Now, as far as extreme indifference to the value
13 of human life. That can include, but it's not
14 limited to using a deadly weapon. A deadly weapon
15 could mean any kind of pistol, slingshot, metal
16 knuckles, knife, razor or any other instrument which
17 can be used to inflict deadly force.

18 The State must, also, prove or -- that was an
19 or, so The State can prove -- or must, also, prove
20 one of these things, and that was extreme

21 indifference to the value of human life and great
22 bodily injury or -- that's one of the things. And as
23 I said extreme indifference to the value of human
24 life can include use of a deadly weapon or knowingly
25 and intentionally impeding the normal breathing or

1 circulation of the blood of a household member by
2 applying pressure to the throat or neck or by
3 obstructing the nose or mouth of a household member,
4 and thereby causing stupor or a loss of consciousness
5 for any period of time.

6 Now, ladies and gentlemen, great bodily injury
7 means bodily injury which causes a substantial risk
8 of death or which causes serious permanent
9 disfigurement or protracted loss or impairment of the
10 function of a bodily member or organ.

11 Now, if you find that The State has failed to
12 prove beyond a reasonable doubt that The Defendant
13 committed domestic violence of a high and aggravated
14 nature, you may consider whether The State has proved
15 beyond a reasonable doubt that The Defendant
16 committed domestic violence in the first degree. The
17 State must prove beyond a reasonable doubt that The
18 Defendant caused physical harm or injury to a member
19 of The Defendant's own household. Or that the
20 Defendant offered or attempted to cause physical harm
21 or injury to a member of The Defendant's own
22 household with the apparent present ability to cause
23 harm or injury under circumstances reasonably
24 creating a fear of imminent danger. I have already
25 defined for you what a member of the household is.

1 Now, The State must, also, prove one of the
2 following. Again, domestic violence first degree is
3 a lesser included offense of domestic violence of a
4 high and aggravated nature. Now, under domestic
5 violence in the first degree, the State must, also,
6 prove one of the following, great bodily injury to
7 The Defendant's own household member that results or
8 the act is accomplished by means likely to result in
9 great bodily injury to The Defendant's own household
10 member. Or -- and again, The State must prove under
11 domestic violence first degree one of the following.
12 Again, I said great bodily injury or in the process
13 of committing domestic violence in the second degree,
14 the victim suffered moderate bodily injury by means
15 of The Defendant impeding the victim's breathing or
16 air flow.

17 Now, moderate bodily injury means physical
18 injury that involves prolonged loss of consciousness
19 or that causes temporary or moderate disfigurement or
20 temporary loss of the function of a bodily member or
21 organ or injury that requires medical treatment when
22 the treatment requires the use of regional or general
23 anesthesia or injury that results in a fracture or
24 dislocation. Moderate bodily injury does not include
25 one-time treatment and subsequent observations of

1 scratches, cuts, abrasions, bruises, burns, splinters
2 or any other minor injuries that do not ordinarily
3 require extensive medical care.

4 Now, ladies and gentlemen, the verdict in this
5 case must be unanimous. If you are able to reach a
6 verdict, it must be unanimous. But it cannot be
7 based upon sympathy, passion, prejudice or emotion or
8 some other consideration not found in the evidence.
9 It must be based solely on the testimony that you
10 heard from this witness chair or any of the exhibits
11 which have been admitted into evidence.

12 Now, let me say something about deliberations.
13 It is your duty to deliberate. Deliberation has
14 often been defined as the act of thinking about or
15 discussing something and deciding it carefully. The
16 genius of our jury system is that it allows 12 good
17 people like yourselves, men and women from 12
18 different backgrounds, life experiences and
19 perspectives to consider the evidence, talk about it
20 and, ultimately, attempt to reach a verdict. We call
21 them deliberations for a reason. You are to consider
22 the evidence in this case carefully and deliberately
23 and discuss it in a calm, thorough and courteous
24 manner. Remember, you are not partisans or advocates
25 for either side, favor one side or the other. You

1 are the judges of the facts. Listen to the views of
2 all of your fellow jurors. Consider other people's
3 points and points of view and talk through and
4 discuss the evidence. Remember, if you're doing
5 something deliberately, you are not in a big hurry.
6 You should not be in big hurry here because this case
7 is very important to both sides and this is their
8 only day in court.

9 When you retire to the jury room, you should
10 discuss it again thoughtfully and courteously with
11 each other and reach an agreement, if you can do so.
12 again, your verdict must be unanimous. You must
13 decide the case, each of you, for yourself. But you
14 should do so only after impartially considering all
15 of the evidence, discussed it fully with your fellow
16 jurors and listen to the views of your fellow jurors.
17 Do not be afraid to change your opinion if the
18 discussion persuades you that you should, but do not
19 come to a decision simply because other jurors think
20 it is right.

21 Now, ladies and gentlemen, there are two
22 possible verdicts which you may find in this case.
23 And that is guilty or not guilty. As I said, if you
24 reach a verdict, that verdict must be unanimous.

25 Now, you will have a verdict form back there

1 that has guilty and not guilty. It will have two
2 questions.

3 And it will be self-explanatory, Mr. Foreman,
4 when you get back there and all of you will be able
5 to see and have this verdict form. In fact, I've got
6 an extra copy.

7 Mr. Preston, you can go ahead and give it to
8 Mr. Foreman.

9 All right, Mr. Foreman, you see question number
10 one, as to the charge of domestic violence of a high
11 and aggravated nature, we, the jury, unanimously find
12 The Defendant, Levy Dunn, then it has check one, a
13 place for guilty, a place for not guilty. Now, the
14 order of that has no significance. I have to put one
15 or the other, guilty or not guilty, and I just -- G
16 comes before N. So do not take any -- do not
17 consider any order in the way that it is set forth on
18 the verdict form. So that is the first question.

19 As you can see, it's, also, typed if you find
20 that The State has failed to prove beyond a
21 reasonable doubt that The Defendant committed
22 domestic violence of a high and aggravated nature,
23 you may consider whether The State has proven beyond
24 a reasonable doubt whether The Defendant committed
25 the lesser included offense of domestic violence in

1 the first degree. And you will see question number
2 two, if you get there, as to the charge of domestic
3 violence in the first degree, we, the jury,
4 unanimously find The Defendant, Levy Dunn, again
5 check one of those places.

6 Once you, if you have reached a verdict, please
7 knock on the door and let the bailiffs know that you
8 have. Also, Mr. Foreman, you will sign it and put
9 your juror number in that place on the verdict form.

10 Now, if you have any questions whatsoever or if
11 you want to hear some replay of the testimony,
12 whatever, any kind of question that you may have, if
13 you would write it -- there's a note pad, write it on
14 a piece of paper, hit the button and let the bailiff
15 know that you have a question. What the bailiff will
16 do is he will bring that to my attention. He will
17 give it to me. I will let the lawyers know what the
18 question is. I may just simply write my answer on
19 that question on that paper and send it back to you
20 or I may need to bring you out and explain in a

21 little bit more detail the answer to that question.
22 So again, if you've got a question, please write it
23 down, let the bailiff know and they will bring it to
24 me attention.

25 All right. So I'm going to excuse you right

1 now. Don't start deliberating yet. I have to find
2 out from the lawyers whether or not I gave you the
3 appropriate charge. They will let me know if I have
4 not done so. If I need to bring you back in to
5 correct something, I will do that. Otherwise, if
6 not, I will have the bailiffs gather the evidence,
7 they bring it in there to you and tell you to start
8 deliberating.

9 So with that, I'm going to excuse you and I may
10 or may not need to bring you back out.

11 (WHEREUPON, the jury left open court at
12 approximately 4:33 p.m.)

13 THE COURT: All right, any exception from The
14 State?

15 MRS. SCOTT: No, Your Honor.

16 THE COURT: Any exception from The Defendant?

17 MRS. LIPINSKI: None from The Defendant, Your
18 Honor.

19 THE COURT: All right, if y'all would just
20 gather the evidence up and look at it and make sure
21 everything is there.

22 (WHEREUPON, Deliberations began at approximately
23 4:38 p.m. and court was in recess awaiting a
24 verdict.)

25 THE COURT: Looks like we've got a question

1 already.

2 MR. HOLCOMB: I'm going to go grab cocounsel,
3 Your Honor.

4 THE COURT: All right.

5 MRS. WESTFIELD: We're going to grab cocounsel,
6 Your Honor.

7 THE COURT: All right.

8 (WHEREUPON, Court's Exhibit No. 1 was marked for
9 identification only.)

10 THE COURT: Y'all come up and look. I'm not
11 surprised, but it was kind of quick.

12 (WHEREUPON, an off-the-record bench conference
13 was held.)

14 THE COURT: All right, question from the jury
15 is, Can we get written definition of both domestic
16 violence of a high and aggravated nature and domestic
17 violence in the first degree?

18 Now, Mrs. Lipinski just asked can we send a
19 written part of the charge back to them. One, I've
20 got -- because of the complicated nature of charging
21 domestic violence of a high and aggravated nature
22 with domestic violence first a lesser included, it's
23 a matter of having to flip back and forth. And I
24 have a lot of notes and X's and deletions so that
25 would not work. Plus, there is a case out there that

1 discourages The Court from sending any written
2 instructions back. But it says that if written
3 instructions are sent back, you have to send the
4 whole instruction back to them.

5 And so again, it discourages us to send anything
6 back to them, so I'm going to follow that
7 instruction. Unfortunately, I think I just have to
8 bring them back out and recharge them on that area.
9 Because again, my charge is -- because of the
10 intricacy between domestic violence of a high and
11 aggravated nature and domestic violence first
12 offense, it's a lot of going back and forth. I had a
13 lot of X's and deletions in order to do that.

14 Any response from The State?

15 MRS. WESTFIELD: Your Honor, we're in agreement
16 just to bring them back in and explain those two
17 charges again.

18 THE COURT: Anything from The Defendant?

19 MRS. LIPINSKI: Nothing from The Defendant.

20 THE COURT: All right, let's bring them back in.

21 (WHEREUPON, the jury entered open court at
22 approximately 4:50 p.m.)

23 THE COURT: All right, Mr. Foreman, I received
24 the question and it reads, Can we get written
25 definitions of both domestic violence of a high and

1 aggravated nature and domestic violence in the first
2 degree?

3 What I can do -- I can't give you the written
4 instructions, but what I can do is just go over it
5 again and recharge it and define it. I will not
6 charge you the whole thing, I'm just going to charge
7 you just on domestic violence of a high and
8 aggravated nature and domestic violence first degree.

9 All right. The Defendant is charged with
10 domestic violence of a high and aggravated nature.
11 The State must prove beyond a reasonable doubt that
12 The Defendant caused physical harm or injury to a
13 member of The Defendant's own household or that The
14 Defendant offered or attempted to cause physical harm
15 or injury to a member of The Defendant's own
16 household with the apparent present ability to cause
17 harm or injury under circumstances reasonably
18 creating a fear or imminent danger.

19 And as I've told you, a household member is a
20 spouse, a former spouse, a person with whom The
21 Defendant has a child in common or a person of the
22 opposite sex with whom The Defendant is living or has
23 lived with in the past.

24 Now, under domestic violence of high and
25 aggravated nature, The State must, also, prove one of

1 the following, The Defendant committed the offense --
2 this is number one, The Defendant committed the
3 offense under circumstances manifesting extreme
4 indifference to the value of human life and great
5 bodily injury to the victim.

6 So they must prove one of -- one of the things
7 they must prove is extreme indifference to the value
8 of human life and great bodily injury. That's the
9 first thing. And so circumstances which can show
10 extreme indifference to the value of human life
11 include, but not limited to using a deadly weapon,
12 which could be a pistol, slingshot, metal knuckles,
13 knife, razor or any other instrument can be used to
14 inflict deadly force. Or knowingly and intentionally
15 impeding the normal breathing or circulation of the
16 blood of a household member by applying pressure to
17 the throat or neck or by obstructing the nose or
18 mouth of a household member and thereby, causing
19 stupor or loss of consciousness for any period of
20 time.

21 Now, as part of that -- so you have extreme
22 indifference and great bodily injury. Great bodily
23 injury is defined as bodily injury which causes a
24 substantial risk of death or which causes serious
25 permanent disfigurement or protracted loss or

1 impairment of the function of a bodily member or
2 organ.

3 So that's one of the potential things that The
4 State must, also, prove under the statute. Again,
5 extreme indifference to the value of human life and
6 great bodily injury to the victim.

7 Now, if you find that The State has failed to
8 prove beyond a reasonable doubt that The Defendant
9 committed domestic violence of a high and aggravated
10 nature, you may consider whether The State has proved
11 beyond a reasonable doubt that The Defendant
12 committed domestic violence in the first degree.
13 This is what we call a lesser included offense.

14 The State must prove beyond a reasonable doubt
15 that The Defendant caused physical harm or injury to
16 a member of The Defendant's own household or that The
17 Defendant offered or attempted to cause physical harm
18 or injury to a member of The Defendant's own
19 household with the apparent present ability to cause
20 harm or injury under circumstances reasonably
21 creating a fear of imminent danger.

22 Now, under that one, The State must, also, prove
23 one of the following, great bodily injury to the
24 Defendant's own household member, results or the act
25 is accomplished by means likely to result in great

1 bodily injury to The Defendant's own household
2 member. Or in the process of committing domestic
3 violence in the second degree, one of the following
4 results, and that is that the victim suffered
5 moderate bodily injury by means of The Defendant
6 impeding the victim's breathing or air flow.

7 Now, moderate bodily injury is defined as
8 physical injury that involves prolonged loss of
9 consciousness or that causes temporary or moderate
10 disfigurement, or temporary loss of the function of a
11 bodily member or organ, or injury that requires
12 medical treatment and the treatment requires the use
13 of regional or general anesthesia, or injury that
14 results in a fracture or dislocation. Moderate
15 bodily injury does not include one-time treatment and
16 subsequent observation of scratches, cuts, abrasions,
17 bruises, burns, splinters or any other minor injuries
18 that do not ordinarily require extensive medical
19 care.

20 So Mr. Foreman, ladies and gentlemen, that again
21 is the instruction as to the definitions of domestic
22 violence of a high and aggravated nature and domestic
23 violence in the first degree. So I'm going to excuse
24 you back. Again, if you have anymore questions about
25 that or any other question, need any charge to be

1 read again, you just let me know. Write it just like
2 you did and let the bailiffs know.

3 THE FOREMAN: Thank you.

4 THE COURT: Thank you.

5 (WHEREUPON, the jury left open court at
6 approximately 4:58 p.m. and continued
7 deliberations.)

8 THE COURT: All right, any exception from The
9 State?

10 MRS. WESTFIELD: No, sir, Your Honor.

11 THE COURT: Anything from The Defendant?

12 MRS. LIPINSKI: Nothing from The Defendant,
13 Judge.

14 THE COURT: All right, we'll be in recess.

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

17 THE COURT: All right, I understand we have a
18 verdict. I did want to bring to your attention, the
19 verdict form has State of South Carolina vs. Levy
20 Dunn, it doesn't have the third in the caption. It's
21 just Levy Dunn without the third.

22 First of all, is there any response or anything
23 in regards to that?

24 Anything from The State?

25 I mean, it's clearly The Defendant, but just on

1 the verdict form, it didn't have the third.

2 As to the indictment, is there any issue with it
3 from The Defendant?

4 MRS. LIPINSKI: No, Your Honor.

5 THE COURT: Okay. All right, also, let the
6 record reflect the Rule 14 agreement has been signed
7 by the parties.

8 MRS. LIPINSKI: It said with the approval of The
9 Court, so I added a spot for your signature.

10 THE COURT: All right, for the record, I'll read
11 it out. During the trial of the above-referenced
12 matter, the parties agreed to the removal of three
13 jurors, placing both alternates on the jury and
14 proceeding with 11 jurors pursuant to Rule 14 of the
15 South Carolina Rules of Criminal Procedure. Counsel
16 for The Defendant and The State signed it. I have
17 now signed it and approved it. It will be made part
18 of the record.

19 I understand we have a verdict, let's bring them
20 in.

21 (WHEREUPON, Court's Exhibit No. 2 was marked for
22 identification only.)

23 VERDICT

24 (WHEREUPON, the jury came into open court at
25 approximately 5:12 p.m.)

1 THE COURT: All right, Mr. Foreman, I understand
2 the jury has reached a verdict; is that correct?

3 THE FOREMAN: Yes.

4 THE COURT: If you will hand it to Mr. Preston
5 right here.

6 THE BAILIFF: Thank you, sir.

7 THE COURT: All right, Madam Clerk, if you
8 would, please publish the verdict.

9 THE CLERK: Your Honor, this is case number
10 2021-GS-23-8129, The State of South Carolina vs. Levy
11 Dunn. As to the charge of domestic violence of a
12 high and aggravated nature, we, the jury, unanimously
13 find The Defendant, Levy Dunn, guilty. Signed by our
14 Foreperson.

15 Ladies and gentlemen, if this is the verdict you
16 reached in your deliberation room and this is still
17 your verdict now, please raise your right hand.

18 (WHEREUPON, all members of the jury raised their
19 right hand.)

20 THE COURT: All right, before I excuse the jury,
21 anything from The State?

22 MRS. SCOTT: No, Your Honor.

23 THE COURT: Anything from The Defendant?

24 MRS. LIPINSKI: Nothing from The Defendant.

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

1 are hereby excused from this trial and from jury
2 service today. I want to thank you in front of
3 everybody for your participation here. I know that
4 it's not voluntary, I know you had to be here, but I
5 want to thank you on behalf of The State of South
6 Carolina and the County of Greenville, our 13th
7 circuit for your service. I'm going to excuse you.
8 I'm going to step out and speak with you just for a
9 few minutes and then I'm going to let you go. Then
10 you are excused for the week. Thank you.

11 (WHEREUPON, the jury left open court at
12 approximately 5:34 p.m.)

13 THE COURT: All right, I'm going to go speak to
14 them, that will give y'all time. I'm going to go
15 ahead and sentence him.

16 MRS. LIPINSKI: Thank you, Your Honor.

17 (WHEREUPON, a short break was taken.)

18 SENTENCING

19 THE COURT: All right, we now are at the stage
20 of sentencing. The Defendant has been found guilty.
21 I'll hear from The State.

22 MRS. SCOTT: Thank you, Your Honor.

23 MRS. LIPINSKI: Your Honor, can we make some
24 post-trial motions?

25 THE COURT: Yes -- well, no, it's really after

1 sentencing, isn't it?

2 MRS. LIPINSKI: I'll leave it up to you.

3 THE COURT: You got the opportunity to make
4 post-trial motions before the jury is excused for
5 jury issues. You didn't make those, but that's not
6 to the case. I think post-trial motions really are
7 after sentencing, isn't it?

8 MRS. LIPINSKI: That's fine.

9 THE COURT: I'll allow you to do that.

10 Let me hear from The State.

11 MRS. SCOTT: Thank you, Your Honor. I believe
12 you heard the facts of this case and you've seen the
13 photographs. If I could just tell The Court the
14 criminal history or would you prefer that I do put a
15 recitation of the facts on the record at this time?

16 THE COURT: On the record from The State.

17 MRS. SCOTT: Thank you, Your Honor.

18 At trial, it was presented this occurred
19 March 17th, 2021. The State had to present to you
20 that this Defendant manifested extreme indifference
21 to human life. We heard testimony today, Your Honor,
22 that the victim was stabbed multiple times in her
23 face, her neck, her head, her shoulder and her back.
24 There was, also, testimony there was lacerations to
25 her scalp.

1 Your Honor, the doctor testified the substantial
2 risk of death that she suffered from that, both
3 internal injury and external injury. We, also, had
4 placed into evidence, Your Honor, that she was in
5 fear for her life and this Defendant told her that he
6 would wait for her to die.

7 We, also, presented, Your Honor, in the trial
8 that he continued to try to contact her, although not
9 allowed to contact her throughout this process of her
10 healing.

11 Your Honor, at this time, The State would, also,
12 submit that the victim would like to present a victim
13 impact statement and we would be requesting a
14 Permanent Restraining Order.

15 THE COURT: All right. The victim does want to
16 give a statement?

17 MRS. SCOTT: Yes, Your Honor.

18 THE COURT: All right, I'll hear from her.

19 MRS. SCOTT: Yes, ma'am.

20 THE COURT: Yes, ma'am.

21 MS. OKEKE: My name is Rita Okeke. I am
22 grateful to get this opportunity to testify what
23 happened to me March 17th, 2021. I am a survivor of
24 domestic violence. If was not by the grace of God
25 and the help of the neighbors and the police

1 officers, I wouldn't have been here today. I still
2 suffer with pain, trauma and disgust that I have seen
3 and feel every day in my life. I'm still surviving.

4 Your Honor, I ask that you, please, give Levy
5 Dunn the maximum of prison time and, also, grant me a
6 Permanent Restraining Order against Levy Dunn. No
7 man or anybody should suffered by the lay of hands of
8 Levy Dunn.

9 Again, I thank The Court, the jury, the police
10 officers and my neighbors. I thank Mrs. Brittany
11 Scott and her team for prosecuting this case. I
12 thank them for their support. Like I said, justice
13 can be delayed, but cannot be denied. Thank you.

14 THE COURT: Thank you, ma'am.

15 All right, anything else from The State,
16 Mrs. Scott?

17 MRS. SCOTT: Your Honor, at the appropriate
18 time, I'd like to put his criminal history on the
19 record.

20 THE COURT: All right, let's go ahead and do
21 that.

22 MRS. SCOTT: Beginning in 2005, Your Honor, a
23 misdemeanor larceny and a common law forgery. In
24 2006, an assault to inflict serious bodily injury. I
25 apologize, in 2002, possession of marijuana. In

1 2015, an assault on a female. And per the statute of
2 South Carolina Code, although that assault was on a
3 female in North Carolina, it does fall under the
4 domestic violence statute that we have, 16-25-10(5),
5 where a prior domestic violence in another state
6 doesn't meet the qualifications that we have in South
7 Carolina, it can be treated as a prior conviction for
8 domestic violence. And that woman for the assault on
9 a female was a former wife of this Defendant. Then
10 in 2020, a domestic violence third degree, which is
11 with this victim here, Your Honor. Then in 2022, a
12 DUI and a malicious injury to personal property.

13 THE COURT: All right. Anything else from The
14 State?

15 MRS. SCOTT: No, Your Honor.

16 THE COURT: All right, let me hear from The
17 Defendant.

18 MRS. LIPINSKI: Just briefly, Your Honor, in
19 terms of post-trial motions, I think the Defense is
20 obligated to make a motion notwithstanding the
21 verdict that it wasn't supported by the weight of the
22 evidence, to renew all pretrial motions and motions
23 made during the pendency of the trial for the
24 exclusion of evidence, specifically, evidence
25 admitted in violation of my client's Fourth Amendment

1 rights in terms of irregularities of the search
2 warrant that we raised pretrial, that The Court
3 deprived him of the opportunity to present what we
4 considered to be a full and adequate defense, mainly
5 going into whether or not this prior relationship
6 existed in Nigeria. And that being deprived of those
7 rights, The Court should set aside the verdict and
8 grant him a new trial accordingly. And that The
9 Court should have granted a mistrial based on the
10 irregularities with the three jurors that were
11 removed.

12 I just feel I have to renew those motions at
13 this time in order to preserve his rights on appeal.
14 So we would make those motions at this time, but I
15 would still ask to speak on his behalf.

16 THE COURT: All right, motions are noted.
17 Motions are denied. I think the evidence submitted
18 to the jury was sufficient to go to the jury. And I,
19 also, as far as evidentiary issues, my rulings remain
20 the same. So the motions are denied.

21 MRS. LIPINSKI: May it please the Court, Your
22 Honor. Mr. Holcomb and I have had the privilege to
23 represent Mr. Dunn. I will tell you that I have been
24 involved in this case now a little over six months.
25 I was not -- obviously, I haven't been with the

1 public defender's office here in Greenville County
2 for -- since the pendency of the charges, but I did
3 come into involvement at some point.

4 I can tell you that in all my discussions with
5 Mr. Dunn, he has been completely respectful to me,
6 courteous at all times. We've had some disagreements
7 about how to view things. He's never raised his
8 voice at me. I've had a lot of clients that I'm not
9 comfortable being around, but I can tell you that
10 Mr. Dunn not one of those. We have always gotten
11 along even though we've disagreed. His demeanor with
12 me has always been different.

13 I know he regrets that day. Some of the things
14 you even saw was that he apologized for that. One
15 thing I would like to speak in mitigation is is this
16 wasn't some kind of callous, premeditated version of
17 events. There was kind of this brewing issue between
18 the two of them about whether or not she had been
19 forthright and honest in their marriage. I think
20 really what you saw was a lovesick man that committed
21 these crimes.

22 I would ask The Court to take that into
23 consideration and sentence him to somewhere in the
24 neighborhood of the ten to 15 range. We think that
25 would be appropriate. He's still already -- as you

1 can see, a middle-aged man. That is still a
2 significant sentence. I would ask The Court to
3 consider it in terms of other sentences we've seen
4 handed down in this courthouse on this week that did
5 involve death where a 20-year sentence or just north
6 of a 20-year sentence was appropriate. And I think
7 in keeping with that guise that the judiciary should
8 be proportional on how they view those sentences. A
9 sentence in the ten to 15-year range would be
10 appropriate. And I would ask, respectfully, for The
11 Court to consider that sentence as you do so today.
12 Thank you, Your Honor.

13 THE COURT: All right, anything else from the
14 State?

15 MRS. SCOTT: No, Your Honor.

16 THE COURT: Okay, Mr. Dunn, having been found
17 guilty, the sentence of The Court under
18 2021-GS-23-08129, that you be sentenced to the South
19 Carolina Department of Corrections for a period of 18
20 years. Also, as part of the sentence, a Permanent
21 Restraining Order will be issued. And I have in
22 front of me, I'm executing that Permanent Restraining
23 Order that you are not to have any involvement, be
24 anywhere near or have any contact with the victim in
25 this case. That will be the sentence of The Court.

1 You have 10 days to appeal that.

2 MRS. LIPINSKI: We ask for credit for time
3 served. I believe it's 23 months.

4 THE COURT: Yeah, that was going be my next
5 question.

6 MRS. LIPINSKI: I apologize. He was in and out,
7 so we don't have --

8 MRS. SCOTT: We do, Your Honor. He was first in
9 51 days where he was released. The State did submit
10 to The Court he was never on monitoring at that time.
11 We have a total jail days of 653 days when he was
12 brought back to the detention center in December.

13 MRS. LIPINSKI: I believe that would put him at
14 704.

15 MRS. SCOTT: I've got 653, 597 plus 51 equals
16 648, and then I added a few more days, so
17 August 21st.

18 THE COURT: All right.

19 MRS. LIPINSKI: Your Honor, we'll double check
20 that and if it is an issue, we'll bring it back
21 before the Court probably on a consent motion. We've
22 usually been able to hash that out.

23 THE COURT: All right, the number is 653?

24 MRS. SCOTT: Yes, Your Honor.

25 THE COURT: All right. That will be the

1 sentence of The Court. Thank you.

2 MRS. SCOTT: Thank you, Your Honor.

3 MRS. LIPINSKI: Thank you.

4 (WHEREUPON, the proceedings were concluded.

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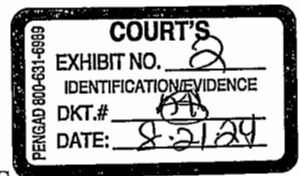
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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
The State of South Carolina)
Vs.)
Levy Dunn,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
2021-GS23-8129

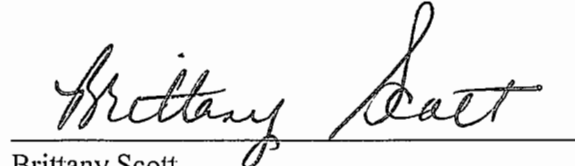
RULE 14 AGREEMENT.

During the trial of the above referenced matter, the parties agreed to the removal of three jurors, placing both alternates on the jury and proceeding with eleven (11) jurors pursuant to Rule 14 of the S.C. Rules of Criminal Procedure.

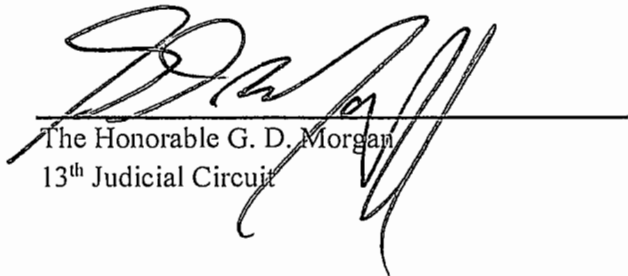
I so consent:


Mindy Hervey Lipinski
13th Circuit Public Defender
On behalf of the Defendant.

I so consent:


Brittany Scott
Solicitor
On behalf of the State of South Carolina

I so approve.


The Honorable G. D. Morgan
13th Judicial Circuit

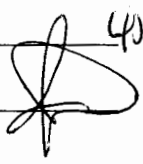
August 21, 2024
Greenville, South Carolina

WITNESSES

J Donnelly

Simpsonville Police Dept

4/7/2021

436
1163


DOCKET NO. 2021-GS-23-

BDS

The State of South Carolina

008129

County of Greenville

COURT OF GENERAL SESSIONS

May

TERM 2021

2022

THE STATE

vs.

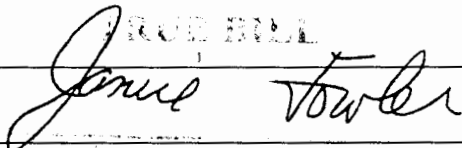
LEVY ERNEST DUNN III

ARREST WARRANT NUMBER

2021A2320400131

ACTION OF GRAND JURY

ROE HILL



Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

3814

DOMESTIC VIOLENCE OF A HIGH AND
AGGRAVATED NATURE

VIOLATION § 16-25-0065

FILED

NOV 29 2021

Clerk of Court
Greenville County

ENTERED ROOT

GW

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED
NATURE

At a Court of General Sessions, convened on **MAY 17 2022** the Grand Jurors of Greenville

County present upon their oath:

That LEVY ERNEST DUNN III did in Greenville County on or about the 17th day of March, 2021, did unlawfully cause physical harm or injury to NNEKA DUNN, a household member or did unlawfully offer or attempt to cause physical harm or injury to NNEKA DUNN, a household member, with apparent present ability under circumstances reasonably creating fear of imminent peril and LEVY ERNEST DUNN III committed the offense under circumstances manifesting extreme indifference to the value of human life and the offense resulted in great bodily injury to NNEKA DUNN. This is in violation of § 16-25-0065 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.

[Handwritten Signature]

SOLICITOR BAR # 78989

STATE VS. Levy Ernest Dunn III

INDICTMENT/CASE#: 2021 - GS - 23 - 08129

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE)

IN THE COURT OF GENERAL SESSIONS

VS.)
Levy Ernest Dunn III)

INDICTMENT/CASE#: 2021 - GS - 23 - 08129

AKA:)
Race: BLACK Sex: M Age: 49)
DOB: [REDACTED] SS#:)
Address: [REDACTED] Drive)
City, State, Zip: Rocky Mount, NC 27803)
DL#: [REDACTED] SID#:)

A/W#: 2021A2320400131
Date of Offense: 3/17/2021
S.C. Code § 16-25-0065
CDR Code #: 3814

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

Defendant Pro Se

In disposition of the above indictment comes now the Defendant who WAS CONVICTED OF or PLEADS

TO: Domestic / Domestic Violence Of A High And Aggravated Nature

in violation of § 16-25-0065 of the S.C. Code of Laws, bearing CDR Code # 3814

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

The State's Position is:

- None
- Negotiated and Agreed Upon Sentence _____ Years, _____ Months, Probation for _____ Years, _____ Months
- Negotiated and Agreed as to Charges Only
- Recommended and Agreed Upon Sentence: _____ Years, _____ Months, Probation for _____ Years, _____ Months

ATTEST:

Brittany Scott 78989
Scott, Brittany SC Bar #

Seth Holcomb 104908
HOLCOMB, SETH SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Correction, County Detention Center,
for a determinate term of 18 Hours/ Days/ Months (Years) Time Served

- Home Detention Program(HIP) MH Evaluation and Compliance Batterer's Treatment
- Domestic Abuse Counseling Drug Court Drug Program Alcohol Program Inpatient Facility
- Hold Until Bed Space Available Mental Health Court Balance Suspended with Drug Court
- Other:

Judicial Review _____ Days/Months

Youthful Offender Act not to exceed _____ Days/Months/Years

And/ Or to pay a fine of \$ _____ ;

STATE VS. Levy Ernest Dunn III INDICTMENT/CASE#: 2021 - GS - 23 - 08129
provided that upon the service of _____ Hours/ Days/ Months/ Years Time Served

- Home Detention Program(HIP) MH Evaluation and Compliance Batterer's Treatment
- Domestic Abuse Counseling Drug Court Drug Program Alcohol Program Inpatient Facility
- Hold Until Bed Space Available Mental Health Court Balance Suspended with Drug Court
- Suspended To Batterer's Treatment
- Other: _____

And/ Or a payment of \$ _____ ; plus costs and assessments as applicable*

- the balance is suspended with **probation** for _____ Months/ Years
- Suspended During Probation Suspended During Drug Court Suspended During Batterer's Treatment
- Other: _____

and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run

- CONCURRENT or CONSECUTIVE to sentence on: _____

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 653 days/months

- To include time spent on monitored house arrest prior to trial and sentencing.

The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. Section 922 and §16-25-30 it is unlawful for a person convicted of a violation of Section §16-25-20 or §16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Defendant has 10 days to apply for Home Detention Program or this will convert to an active sentence.

SPECIAL CONDITIONS:

- PTUP** after _____ months/years

And Other Terms Listed Below:

- Conditional Discharge
- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

STATE VS. Levy Ernest Dunn III INDICTMENT/CASE#: 2021 - GS - 23 - 08129

RESTITUTION: Deferred Def. Waives Hearing Ordered

See Attached Restitution Order

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of	\$ _____	Beginning	_____	\$ _____
§14-1-206 (Assessments 107.5 %)				\$ _____
§14-1-211(A)(1) (Conv. Surcharge)		\$100		\$ <u>100.00</u>
§14-1-211(A)(2) (DUI Surcharge)		\$100		\$ _____
§56-5-2995 (DUI Assessment)		\$12		\$ _____
§56-1-286 (DUI Breath Test)		\$25		\$ _____
§14-1-212 (Law Enforce. Funding)		\$25		\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)		\$150		\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)		\$41		\$ _____
§50-21-114(BUI Breath Test Fee)		\$50		\$ _____
§56-5-2942(J) (Vehicle Assessment)		\$40/ea		\$ _____
3% to County (if paid in installments)		TBD		\$ <u>3.75</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.		\$500		\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund		TBD		\$ _____
TOTAL				\$ <u>128.75</u>

Clerk of Court/ Deputy Clerk:
Court Reporter:

Brian Costello
Herron

Presiding Judge:
Judge Code:
Sentence Date:

[Signature] GW
2713
8-21-24

Specify Other Costs*

Cost Code	Cost Description	Amount
<input type="checkbox"/> _____	_____	_____
<input type="checkbox"/> _____	_____	_____
<input type="checkbox"/> _____	_____	_____
<input type="checkbox"/> _____	_____	_____
<input type="checkbox"/> _____	_____	_____

BAIL set by

Judge Ashley Clark

on 4/7/21

Type and Amount: CS 20,000

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

RECORDED BY: BBA

ENTERED
MAR 18 2021
BY: AG

RECEIVED
APR 14 2021
Clerk of Court
Greenville County

ARREST WARRANT
2021A2320400131

STATE OF SOUTH CAROLINA
 County/ Municipality of
SIMPSONVILLE

THE STATE
against

LEVY ERNEST DUNN III
Address: [REDACTED]
SIMPSONVILLE SC 29680
Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 6-0 Weight: 265
DL State: SC DL#: [REDACTED]
DOB: [REDACTED] Agency ORI#: SC0230500
Prosecuting Agency: SIMPSONVILLE POLICE
Prosecuting Officer: INV J DONNELLY
Offense: DOMESTIC VIOLENCE HIGH AND
AGGRAVATED Offense Code: 3814
Code/Ordinance Sec. 16-25-0065 (A)

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

The accused
is to be arrested and brought before me to be
dealt with according to law.

Signature of Judge (L.S.)
Date: _____ Time: _____

RETURN
A copy of this arrest warrant was delivered to
defendant LEVY ERNEST DUNN III
on 4/7/21
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
SIMPSONVILLE MUNICIPAL COURT
118 NE MAIN STREET
SIMPSONVILLE, SC 29681

8338
4-14-2021

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
SIMPSONVILLE)

AFFIDAVIT
Personally appeared before me the affiant J. DONNELLY who
being duly sworn deposes and says that defendant LEVY ERNEST DUNN III
did within this county and state on 03/17/2021 to 03/17/2021 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of SIMPSONVILLE)
in the following particulars:
DESCRIPTION OF OFFENSE: 16-25-0065 (A) / DOMESTIC VIOLENCE HIGH AND AGGRAVATED

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:
THE DEFENDANT, LEVY E. DUNN III, IDENTIFIED AS THE HUSBAND OF THE VICTIM, NNEKA R. DUNN, DID COMMIT THE OFFENSE OF DOMESTIC
VIOLENCE HIGH AND AGGRAVATED NATURE UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE VALUE OF HUMAN
LIFE AND GREAT BODILY INJURY TO THE VICTIM BY STABBING THE VICTIM IN THE NECK AND FACE WITH A KNIFE. THE VICTIM WAS REQUIRED
TO BE TRANSPORTED BY EMS TO A HOSPITAL FOR EMERGENCY SURGERY. THIS OFFENSE DID OCCUR WITHIN THE CITY LIMITS OF
SIMPSONVILLE, GREENVILLE COUNTY, SC.

THE AFFIANT'S BELIEF IS BASED ON VERBAL STATEMENTS FROM THE VICTIM, POLICE INVESTIGATION AND WITNESS STATEMENTS.

Signature of Affiant: *J. Donnelly* 406/163
Affiant's Address: 405 E CURTIS ST
SIMPSONVILLE SC 29681
Affiant's Telephone: 864-967-9536

ARREST WARRANT
TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on 03/17/2021 defendant LEVY ERNEST DUNN III
did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of SIMPSONVILLE) as set forth below:
DESCRIPTION OF OFFENSE: DOMESTIC / DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered
to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me)
on 03/18/2021 9:09am)
Date Time (L.S.))
ASHLEY CLARK

Judge Code: 8338

Judge's Address: 118 NE MAIN STREET
SIMPSONVILLE SC 29681
Judge's Telephone: 864-967-9526
Issuing Court: Magistrate Municipal Circuit


ORIGINAL

573

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,



Kathrine H. Hudgins
Senior Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 3rd day of March, 2026.

RECEIVED

Mar 03 2026

SC Court of Appeals

