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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County
Honorable Thomas A. Russo, Circuit Court Judge
Honorable Walton J. McLeod, IV, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHELLIE LAVETTE DAVIS,

APPELLANT

APPELLATE CASE NO. 2018-000366

RECORD ON APPEAL

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9/18/10 @ 5:53pm

I have a ton of these notes all over this room. I haven't written anything in over a month or so. I really hate doing this because it means I'm not getting better. I thought my wish was coming true but I can't handle the wait any longer. Mentally, it has taken over my mind, I can't think straight. I think about his adultery all the time now. Before, I could see waking up in the morning again. Now with this latest news, I can't. I thought the business for the our family, at least that's what he preached over and over again. I supported all of his business before and I'll continue with the concessions, limos, cleaning services, consulting, transportation and whatever else. As long as he starts them while we're married, I'm guaranteed half anyway. But then again with his masonry and ~~and~~ connections to Lance, Jim Chyburn, the Mayor, JP, Tony and now the State Trooper and the judges here, I really can't be sure that I'll get justice. That's alot of the reason I haven't taken him to court of abandonment & child support. He goes to all these big parties and functions with these people who help run Columbia and always reminded me of such. I did really and generally loved him as I always did before. I can't ignore his habits and now, today, I realized his commitment to me was based on how he looked to Lance.

1941

Blue black sphinx moth
collected from

[illegible]

**Lexington
Evidentiary Chain of Custody**

PR#: 53370 Bldg: WW Room: WW Bln: V001
Grp: 1 Item: 1 Case #: 10087850
LCSD
1 BLUE "STAPLES" SPIRAL NOTEBOOK W/WRIT

STAPLES

5/29/10 @ 12:19am

Another emotional rollercoaster ride. This morning he ask for 40.00 for the boys haircuts and 40.00 for skating. He was only a few minutes away. When he got here, I told him to put in writing that he'll pay me back b/c since he's been gone, he would borrow money and not pay it back. Recently added another 10.00 when he left b/c she was calling (5/18/10). I only had \$38.00 and he took it and the boys b/c I decided to make things easy and cut Sweetie's hair.

When I finished, we went to run a few errands and ate at McD's. I called him 3 times but got no answer. So I ran another and last errand and finally he called asking about her. I told him I had been calling and he yells and says I'm lying. Why would I lie since I left a message as proof? And Mario had the phone while he was asleep so why the game, who knows.

I dropped her off at his apt and he and the boys were watching Soul Man again. He said he had to go to Orangeburg and we

all began to leave. But before then, he said I looked nice which was nice. I said thanks. As he turned off the tv, he asked for the rest of the money even though he thought he might have to work and may need to drop the kids off and pick them back up late. I got a little irritated b/c I'd asked about the a/c getting fixed in my truck and I feel like he was pushing me off, so I mentioned it. He got irritated and said never mind, that's alright. So we split ways going to our vehicles w/o saying goodbye. He keeps saying he'll call someone or Joe about my truck and nothing happens. I drive around in the heat and w/ the kids and no ac. Why is he doing this?

I was just at his place Thursday. He was saying he needs to be respected and he hopes we get our act together. But then, late that night he went back to not wanting a relationship. WTF?!? Why? He's so hurtful. I hate living, I do! I remember him always saying he doesn't respect women's opinion but now, that's all it seems he listens to but

me.

When I came home for a bit, trying to figure out what to do, he called but then said he'll call back in a few. An hour went by w/o hearing from him so I left to go to the movies. It was a distraction but then he called twice during and when I called him afterwards, he was distant. "I took care of it, I handled it." I asked how the kids were and that I wanted to speak to them to say good night. He put them one by one on the phone and then I hung up. I'm alone. I miss my family. I'm tired of ~~all of this~~ this. I'm sleepy. Why can't my life end here? I love my husband. This sucks! I'll make my decision tomorrow. I know what it is but, I'll handle it in the morning unless God grants my wish and not let me open my eyes. They'll be fine w/o me. I'm the one who can't live w/o them. I need to go.

5/30/10 2:24pm

I am so confused! He had

the kids to call which was good. His roommate's daughter is going to the pool party. I wonder if the roommate is going considering he's a weedhead and smoker. Doesn't sound like company for Lance and his family. But I don't know him and have no judgement. When he came to the phone, he's all like "did you have fun with your girlfriends last night?" I mean it's ok, it's cool. I told him I wasn't with anyone. Then he goes on about Tracee but I told him she was out of town. He asked if I was home last night. I said yes. He goes into this is what I wanted if I respected him it would be like this but I told him I do and did respect him. He says he has to get ready so they can go.

I'm lonely. Again, I hate this! This is not what I want at all and he knows this. I'm left to figure out what to do by myself. I want this to be the last day. I'm going to eat. I can enjoy that. I don't want to go there but I

don't want to spend or burn gas and money
I truly don't have. I don't have it like
that. My eyes are blurry. God, why won't
you let me end this? I feel like the boys
don't even want to talk to me but then
again, I know they love me. They have
to deal with this the best way they can
too. This is not their fault.

My handwriting is getting worse.
It's hard to hold a pen. My nerves have
gotten the best of me. Everything is affected
by this. I wished I could have decorated
my house when I had. Money was always
an issue whether we made it or didn't.
Decorating was suppose to be a joint effort.
Why is he enjoying this torture. I wish I
could stay in but I certainly don't feel like
cooking anything. I want to at least say that
I saw Sex in the City and had a good meal one
last time. I want anyone who sees or reads
this that I only wanted my husband and
family back. If I can't have that then I
want nothing, nothing at all. The world
could fall but as long as I had them, I'm good.

10:18 pm.

Back home to an empty house. My phone rings and it's the kids. I tell them all to have a good night's sleep and I'll see them tomorrow. Truthfully, I want the latter not to be true. I didn't speak to him. I just hung up after speaking to Sweetie. I bought the boys underwear and/or socks except Marquis. I knew the others needed them. I bought the air fresh^{ners}~~ers~~ so the house will at least smell good.

This sucks and I hate it, hate it, hate it!!! God Why?!> I can't take it any longer. This has to end tonight I can't go another day, night or month like this ever.

I hate life!!!!

My husband left, listens to every woman but me. Only gives \$240 or \$250 every two weeks. Now he's trying to get the kids on overnight visits. He runs to another woman when she calls. I have a pending fraudulent check charge thanks to him. He says I don't respect him. Does it sound like he respects me? Taking me through this yet again! Why wasn't I good enough for him? I cooked, not ~~at~~ every night but I did. I cleaned but he put that on the kids and complained when they didn't do it or do it right. I worked AND brought my money home. I helped with bills and his lease when he had it with Blue Ribbon. I supported him in every job venture even financially. I was there for him intimately ALWAYS even in sickness. He went to jail and I told no one like he asked and held

things together until he got out.

There was a time when all he cared about was his family. He spent time with me. Things have changed. I'm miserable. I want my family back. I can't make it.

5/31/10 9:27am

I hate that God keeps waking me up!! I hate it!! I just want to sleep. I'm told he's not going to come back doing the same thing. I have to do something different but I don't know what to do. I've been peaceful, respectful, cordial and at times friendly. I want to see a lawyer. They're expensive. It cost to separate and divorce. The news was ~~disheartening~~ disheartening to say the least. Now that he works for Lance, he has it made. He barely pays child support compared to what he use to make ever. I get sick all over when I think about it! I haven't listened

to the radio since he left. I can't see or listen to married couples or weddings. How could he leave me?!

6/8/10 9:53pm

The last letter to write

As usual, I'm tired!! The game of life, marriage and family is too difficult for me to bare. I read blogs / messages / updates / emails and it doesn't filter through for me like it does others. This has been a devastating blow. I can't seem to recover from. Somehow, that thing that takes others through is missing from me. I don't know. Maybe if I was back home, under the covering of my family, parents, friends or church there, I just don't know. It's hard because everyone tells me to stay encouraged, you'll be alright. It's been almost 3 months now, I feel like it just happened yesterday! The consistent back e

forth dance with Jermaine, me day in I
 want my family to the rest I ain't coming
 back, I don't go backwards in life. Really?!?
 Mr. Considering going back to hauling cars.

Over the last week alone, the
 constant calls for the pure pleasure of
 bagging me with the unspoken keeping tabs.
 The continued confusion of marriage &
 family to high in single life, living with
 roommates & being in the limelight of
 one of Columbia's wealthy black elite.
 Every 2 days of sexually intensity ac-
 companied by words of missing and loving
 you to the very next day of thinking this
 separation is for the best. Only to go back
 to the constant calls when I don't answer,
 trying to pick up the pieces of heartache,
 not understanding why he's not coming back
 and how he can treat me this way. If
~~alcohol~~ alcohol is the true test of
 character, why do his confessions of love, me
 & marriage come out then? Or is it really
 all a part of the game to keep me around?

My poor kids. I'm dealing with the choice of a father for them. In turn, they suffer for my lack of focus & depression from his spells and the confusion it's caused me in trying to figure out what to do with the family now. Family, not the way I knew it. I do more crying than anything and the least, eating. I'm so angry at the mess & destruction this has caused on my health. No appetite has gotten me roughly 10-13 pounds lighter and it shows so drastically. Geez, why me. All the whispers behind my back from co-workers, friends, colleagues and him! Sleeping comes in spurts. The bags show that. What has my life become?

Let's review; my husband left me & our five kids, with a house not only in foreclosure but in desperate need of repairs from plumbing to replacement of dishwasher & garbage disposal, from electrical to window replacements to a new front & screen door to painting, pressure washing and yes the dreaded yard & the torn wires to the expensive sprinkler system to finally

the broken HVAC & compressor

4/29/10

Sharon Anderson
cell 743-5092

teacher @ RCE
referred to Rodney Rains

9800 Bonny Ridge Road } Brainwood
Columbia, SC 29223

\$661.00 every 2 weeks, possible lease w/option
30 year fix

2 kids 16, 14 & mom

1661

x2

1322

1661

\$1983.00

> \$1322.00

home in Windsor across
Alpine

1-story, all brick, 2400 sq. ft. formal, 4/2.5
den, yard, eat in kitchen ↓

2,000 - 2400 sq. ft.

payments \$1,000.00 monthly

Spring Valley West

Palmetto Concessions

\$3,000 in CD — borrow to make payments on trailer
EIN

Bank acct

get Cheerwine to partner; sell; promote
— provide 2 trailers
up account with Sysco

Vendor's Credit (on Smokey D's)

25 %

75 %

Me?

Jermaine & Mr Myers

Meetings Accordingly

= Dawson / Polo Board

- Cheerwine

5000
15000
50000
65000

↓
20,000

2500 per day

X 13 per week

7500

2500

\$32,500

A Palmetto Concessions

8/4/10 @ 7:11am

Another month, week, day, hour, minute and second dealing with this absurd foolishness from him. Almost 5 months separate and almost 5 months of I'm coming back, I'm not, I'm focusing on finances, You need a permanent full-time job, You only need to make 20,000 a year, You can stay in real estate and ride it out, Go in business with me so we can take our family to the next level, Support me in my business, Help me in the business, With us having 2 stable jobs, real estate, Smokey D's, concession stand, limo, there's no way we can't make it, Do you and I'm going to do me, let's be great friends, I love you. I still love you, My job makes it impossible for us to work, Family is important, I want my family back and the list goes on w/ I'm faithful to you, We're separated, Talking to someone is not a crime, There's nothing there, I'm no longer dealing with her, I was wrong for bringing her in our marriage, I was wrong for talking to her, I have to make

you look like the bad guy, It's too much like right to admit I was wrong, I blame myself, I don't want to be married, I'm coming back, You don't respect me, You need to meet me @ the 50 yard line, You have been meeting me @ the 50 yard line I've been falling short, I've only cheated on you once and never again, I'd never hurt you again, You're the only one for me, You're a great person, I'd never see you with anyone else, I always make a wise decision, I know I need to come back, This is where I belong, etc, etc, etc.

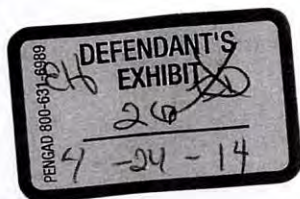
I'm so tired to the point I don't want to wake up any more. I'm even tired of writing that's why it's been a while. Don't want to relive those moments of devastation to put it on this paper. I don't want to be tormented any more. Can't take it any more at all. Lose way too much weight, become a light sleeper, no longer listen to radio, can't focus and the kids suffer from it all. Can't do it any more.

Please God find a good person or family to raise my beautiful kids together. They have been through enough. I would love my aunt Cathy to raise them. She was always listed a beneficiary in life policies.

Dont have me now but her number is 202-285-7288 or home, 202-583-9602.

They deserve way more than they are getting. Please look after and care for them.

#	Number	Name	Date & Time	SMSC	Status	Folder	Storage	Type	Text
1	8033091143	N/A	04/12/10 09:15:51 (GMT-5)		N/A	Inbox	Phone	Incoming	Good morning I have been trying to call u all morning and no answer thanks for being u</3
2	8033091143	N/A	04/12/10 14:11:11 (GMT-5)		N/A	Inbox	Phone	Incoming	I am loading up to go out of town I will text u when I get there. I will not bother calling because u don't answer your phone
3	8033091143	N/A	04/17/10 10:56:02 (GMT-5)		N/A	Inbox	Phone	Incoming	Trying to call u so I can give u some money but u want answer the phone u need to call before I get busy
4	8033091143	N/A	04/22/10 13:37:08 (GMT-5)		N/A	Inbox	Phone	Incoming	I just want to say hello to u
5	8033091143	N/A	04/24/10 17:42:18 (GMT-5)		N/A	Inbox	Phone	Incoming	Hello I have been calling the house for 3 days and no 1 will answer nor will u answer ur phone that's cool I am not mad because the day will come when u will be
6	8033091143	N/A	04/24/10 17:44:41 (GMT-5)		N/A	Inbox	Phone	Incoming	With out a choice time will tell. U continue not to answer I am fine with that. U have a blessed day please tell the kids I said hell o.
7	8033091143	N/A	04/24/10 21:45:22 (GMT-5)		N/A	Inbox	Phone	Incoming	I know your pretty ass hear me damit I am mad as hell at u I am drinking because of u that ant right u r the most non answering phone person I have ever met
8	8033091143	N/A	04/24/10 21:47:00 (GMT-5)		N/A	Inbox	Phone	Incoming	I love u and u know it but u refuse to help me cora grabe the wheel grabe the wheel core:)
9	8033091143	N/A	04/24/10 21:47:57 (GMT-5)		N/A	Inbox	Phone	Incoming	Just send something I mean dam send a fuck u or something
10	8033091143	N/A	04/24/10 21:48:47 (GMT-5)		N/A	Inbox	Phone	Incoming	Eat the cake ana may eat the dam cake:)
11	8033091143	N/A	04/24/10 21:49:30 (GMT-5)		N/A	Inbox	Phone	Incoming	I am not gong to stopo until u speak now or for ever hold ur peace
12	8033091143	N/A	04/24/10 21:49:59 (GMT-5)		N/A	Inbox	Phone	Incoming	U know my ass can type so u need to answer me
13	8033091143	N/A	04/24/10 21:51:23 (GMT-5)		N/A	Inbox	Phone	Incoming	Please answer me I tune has changed now I am begging u
14	8033091143	N/A	04/24/10 21:52:14 (GMT-5)		N/A	Inbox	Phone	Incoming	Bamit ana may don't male me mad now ana may I am not playing
15	8033091143	N/A	04/24/10 21:52:35 (GMT-5)		N/A	Inbox	Phone	Incoming	Ana may. Ana may answer me
16	8033091143	N/A	04/24/10 21:53:06 (GMT-5)		N/A	Inbox	Phone	Incoming	I know u r lol right now



COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) ELEVENTH JUDICIAL CIRCUIT
 COUNTY OF LEXINGTON) WARRANT NO: J-816953

State of South Carolina,)

v.)

Shellie Davis,)

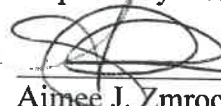
MOTION TO REQUEST HEARING TO
 RECONSIDER NOT FINDING OF A
 BATTERED WOMEN DURING SENTENCING

COMES NOW Shellie Davis by and through her attorney, Aimee J. Zmroczek, Esq., and hereby submits this Motion to Request a Hearing to Reconsider not finding of a battered woman during sentencing for the Court's consideration at the next possible court week before Honorable Judge Russo.

On April 30, 2014, Davis was sentenced by the Honorable Judge Russo after a verdict of guilty on April 25, 2014.

Defendant respectfully requests that a hearing be scheduled for the Court to reconsider the lack of a finding of the Defendant to be a battered woman beyond the preponderance of the evidence as not found on April 30, 2014.

Respectfully Submitted,



Aimee J. Zmroczek, Esq. #77193

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Counsel for Defendant

Columbia, South Carolina.

Dated: May 8, 2014.

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS
ELEVENTH JUDICIAL CIRCUIT

THE STATE OF SOUTH CAROLINA

Warrant No. J-816953

v.

SHELLIE DAVIS,

DEFENDANT.

**ORDER DENYING
DEFENDANT'S MOTION FOR
HEARING TO RECONSIDER
NOT FINDING BATTERED WOMAN
DURING SENTENCING**

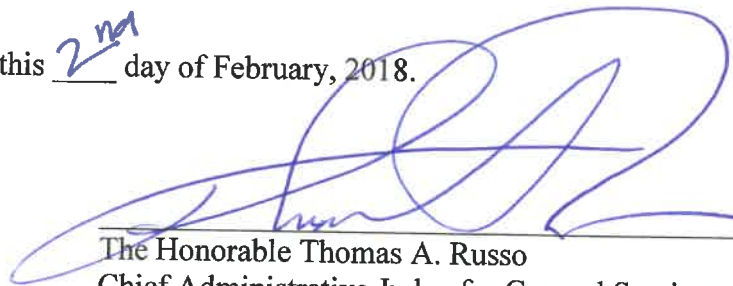
THIS MATTER comes before the Court on motion of the Defendant, Shellie Davis, by and through her Defense Counsel, Aimee J. Zmroczek, for a hearing to reconsider the Court's finding that Defendant was not a battered woman during sentencing on April 30, 2014.

A jury found Defendant guilty of murder on April 25, 2014. Prior to sentencing, the Court took evidence and heard testimony from expert witnesses regarding the issue of Battered Woman Syndrome as it related to Defendant and her case. After reviewing the file, submissions of the parties, and the evidence presented, the Court determined that Defendant was not a battered woman by a preponderance of the evidence and proceeded with sentencing. Defendant's Motion to Request Hearing to Reconsider Not Finding of a Battered Women During Sentencing was filed May 8, 2014. It has recently come to the Court's attention that a formal ruling was never issued on Defendant's motion; the Court now takes the opportunity to do so.

Having heard sufficient testimony from expert witnesses for both the State and the Defendant prior to sentencing, this Court finds no need for another hearing on the issue of Battered Woman Syndrome.

IT IS THEREFORE ORDERED that Defendant's Motion for a Hearing to Reconsider is **DENIED**.

AND IT IS SO ORDERED this 2nd day of February, 2018.

A large, stylized handwritten signature in blue ink, likely belonging to Thomas A. Russo, is written over a horizontal line.

The Honorable Thomas A. Russo
Chief Administrative Judge for General Sessions
Twelfth Judicial Circuit

Florence, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Thomas A. Russo, Circuit Court Judge

Case No.: 2011GS3201037

RECEIVED

FEB 28 2018

SC Court of Appeals

State of South Carolina,

Respondent,

v.

Shellie Davis,

Appellant.

NOTICE OF APPEAL

Shellie Davis appeals the denial of her Motion to Reconsider as well as the conviction and sentence in this case. The sentence was imposed by the Honorable Thomas Russo on April 30, 2014 and the Order Denying Defendant's Motion for Hearing to Reconsider Not Finding Battered Woman During Sentencing was entered on February 7, 2018 and the undersigned counsel received a copy of same on February 27, 2018.

February 28, 2018



Aimee J. Zmroczek, Esq.

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Fax: 803-403-8005

ajzlawfirm@gmail.com

Attorney for Appellant

Other Counsel of Record:

Shannon Davis

Assistant Solicitor, Eleventh Judicial District

205 East Main Street

Lexington, SC 29072

Attorney for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of General Sessions

Thomas A. Russo, Circuit Court Judge

Case No.: 2011GS3201037

State of South Carolina,

Respondent,

v.

Shellie Davis,

Appellant.

RECEIVED

FEB 28 2018

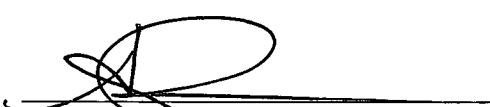
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Shannon Davis by depositing a copy of it in the United States Mail, postage prepaid, on February 28, 2018, addressed to her office at:

205 East Main Street
Lexington, SC 29072

February 28, 2018



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Attorney for Appellant

The South Carolina Court of Appeals

The State, Respondent,

v.

Shellie Lavette Davis, Appellant.

Appellate Case No. 2018-000366

ORDER

In April 2014, Appellant was convicted of murdering her husband. Prior to sentencing, trial counsel moved for a finding that Appellant was a battered spouse pursuant to S.C. Code Ann. § 16-25-90 (2015) and thus eligible for early parole. The circuit court held a sentencing hearing during which it denied Appellant's motion and sentenced her to thirty years' imprisonment. Appellant filed a motion for reconsideration, which the circuit court denied. However, the written order denying Appellant's motion for reconsideration was not filed until February 7, 2018. Appellant subsequently filed a notice of appeal with this Court and moved for a new sentencing hearing or for remand to the circuit court for reconstruction of the sentencing hearing because the transcript was unavailable by this time. This Court remanded to the circuit court for reconstruction, but the circuit court ultimately concluded reconstruction was not possible. Appellant has now filed a motion to vacate her sentence and remand for a new sentencing hearing.

Appellant has established that the lack of a sentencing transcript prevents this Court from engaging in meaningful appellate review. *See State v. Ladson*, 373 S.C. 320, 325, 644 S.E.2d 271, 274 (Ct. App. 2007) (stating a new trial is appropriate if the appellant establishes the incomplete nature of the transcript prevents the appellate court from conducting a meaningful appellate review). However, the order on appeal deals only with Appellant's motion for reconsideration of the circuit court's ruling that she was not a battered spouse pursuant to § 16-25-90. Appellant does not dispute the legality of her thirty-year sentence, which is the mandatory minimum for murder. *See* S.C. Code Ann. § 16-3-20(A) (2015) ("A person who is convicted of or pleads guilty to murder must be

punished by death, or by a mandatory minimum term of imprisonment for thirty years to life."). Accordingly, Appellant's motion to vacate her sentence is denied and this case is remanded to the circuit court for a new hearing only on Appellant's motion to be classified a battered spouse pursuant to § 16-25-90. Appellant shall provide a status update to the clerk of this Court no later than thirty days from the date of this order.

 J.
D. Manli J.
 J.

Columbia, South Carolina

cc:

Alan McCrory Wilson, Esquire
Taylor Davis Gilliam, Esquire
Sherrie Butterbaugh, Esquire
Joshua Abraham Edwards, Esquire

FILED
Jan 14 2022

State of South Carolina	)	Court of General Sessions
	)	Eleventh Judicial Circuit
County of Lexington	)	Case No. 2011-GS-32-01037
	)	
	)	
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Shellie Lavette Davis,	)	
	)	
Defendant.	)	
	)	

July 29-30, 2024
Edgefield, South Carolina

B E F O R E:

The Honorable Walton J. McLeod IV, Judge

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

Robbie McNair, Esquire
Whitney Taylor, Esquire
Attorneys for the Plaintiff/State

Gary Johnson, Esquire
Taylor Gilliam, Esquire
Attorneys for the Defendant

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter III

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COURT REPORTER LEGEND

dashes -- intentional or purposeful interruption
or change in thought
ellipses . . . trailing off
[ph] phonetically written
[sic] written as said

1 JULY 29, 2024

2 (WHEREUPON, the proceedings began at 10:40 a.m.)

3 THE COURT: All right. Again, we were hearing the matter
4 of the State versus Shellie Davis. This is a post-trial
5 motion for a trial that actually occurred in 2014. Is that
6 not accurate?

7 MR. JOHNSON: That is, Your Honor.

8 THE COURT: Okay. So I think the primary issue we're
9 here to discuss is the issue of battered spouse.

10 This was -- at the outset, this was a case that was tried
11 in 2014, and there were some hearings held after the trial on
12 this subject matter, but at some point, the -- the record in
13 this case vanished, along with the record of several cases
14 when a South Carolina court reporter's vehicle was broken into
15 and the computer -- computer and disks and technology that was
16 associated with the record taken in this case and several
17 others were lost.

18 So at the request -- the direction of the South Carolina
19 Court of Appeals, we've attempted to reconstruct the record of
20 what's in the past, and then we subsequently were ordered by
21 the Court to convene a hearing to discuss this specific
22 matter.

23 So, Mr. Gilliam -- or who's going to do it?

24 MR. JOHNSON: We'll let Mr. Gilliam call it.

25 THE COURT: All right. Mr. Gilliam, anything else for

DR. CATHERINE ROSS - DIRECT BY MR. GILLIAM

1 the record that you also do want to note?

2 MR. GILLIAM: I think that's it, Your Honor. That was an
3 accurate summation. Thank you.

4 THE COURT: Okay. Anything from the State before we
5 allow the defense to call their first witness?

6 MR. MCNAIR: No, Your Honor.

7 THE COURT: All right. The defense may proceed.

8 MR. GILLIAM: Your Honor, the defense calls Dr. Catherine
9 Ross to the stand, please.

10 THE COURT: Very well.

11 THE CLERK: Raise your right hand. Place your left hand
12 on the Bible. Do you swear or affirm the testimony you're
13 about to give the Court will be the truth, the whole truth,
14 and nothing but the truth, so help you God?

15 THE WITNESS: I do.

16 THE CLERK: Thank you, ma'am. Please be seated and state
17 your full name and spell your last name for the record.

18 THE WITNESS: Catherine Ross, C-a-t-h-e-r-i-n-e R-o-s-s.

19 DR. CATHERINE ROSS, being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 Q: Good morning, Dr. Ross. Thank you for being here.

23 A: Good morning.

24 Q: Where are you employed?

25 A: I'm employed at Sister Care.

1 Q: Can you tell me a little bit about Sister Care?

2 A: Yes, I can. Sister Care is a non-profit, trauma-informed
3 agency whose mission is to provide trauma-informed, evidence-
4 based services and advocate for survivors of intimate partner
5 violence and their children. Our mission is also to promote
6 prevention and awareness of intimate partner violence or
7 domestic violence. The two are used interchangeably. We're
8 the only organization that provides services in a five-county
9 area.

10 Q: Thank you. How long have you been employed at Sister
11 Care?

12 A: I have been employed at Sister Care for 26 years.

13 Q: Can you share your responsibilities and title?

14 A: Currently, I am the chief clinical and educational
15 officer at Sister Care. I am -- provide oversight in the
16 implemation [sic] -- implementation -- excuse me -- and
17 development of the clinical department, which is based on
18 trauma-informed, evidence-based services. I create, modify,
19 and update policies and procedures.

20 I work with clients, both individual and in group,
21 especially with clients who have been exposed to intimate
22 partner violence over a long period of time, and I specialize
23 in treating them for acute post-traumatic stress response
24 because of the domestic violence.

25 I also serve as an expert witness in court cases. I have

1 for 20 years been out at Alvin S. Glenn Detention Center
2 working with intimate -- with clients who were exposed to
3 intimate partner violence.

4 I'm advisor to a student group, Allies of Sister Care.
5 I'm also affiliated with USC Medical School. I teach a class,
6 and I'm also a mentor at -- affiliated with Prisma Health.
7 And that's just the nutshell in it --

8 Q: Thank you very much.

9 A: -- to be honest.

10 Q: Turning briefly away from your employment, I'd like to
11 discuss your education.

12 A: Uh-huh.

13 Q: Where did you go to college, and did you obtain any
14 degrees after that?

15 A: Okay. I went to Limestone College, majoring in English
16 and Social Sciences. During college, I worked for the
17 Department of Mental Health. I then went to Tulane University
18 and obtained a master's degree in social work. The emphasis
19 was on clinical practice, especially with children and
20 families experiencing violence. I worked during my tenure
21 there, and then -- let me speed up the process here.

22 I practiced in mental health in Spartanburg and then
23 taught at Erskine College, developed a social work program,
24 was actively involved in the community. Then I went back and
25 got a full scholarship at Tulane University and obtained my

1 Ph.D.

2 Q: Wonderful. Thank you.

3 MR. GILLIAM: Permission to approach the witness, Your
4 Honor?

5 THE COURT: Very well.

6 BY MR. GILLIAM:

7 Q: Do you recognize this document, Dr. Ross?

8 A: Yes, I do.

9 Q: Can you tell me what it is, please?

10 A: It's just a synopsis of my -- my -- my resume.

11 Q: Thank you.

12 MR. GILLIAM: Your Honor, I've provided a counsel -- a
13 copy to opposing counsel and would move to mark this as
14 Defendant's Exhibit 1, please. I have copies for Your Honor
15 as well.

16 THE WITNESS: Okay.

17 THE COURT: Thank you.

18 THE WITNESS: Do you have copies of my full resume too?

19 THE COURT: This works for now.

20 THE WITNESS: Okay.

21 THE COURT: All right. Defense Exhibit 1 admitted into
22 the record.

23 (WHEREUPON, Defendant's Exhibit Number 1, CV of Dr. Ross,
24 was admitted into evidence.)

25 MR. GILLIAM: Thank you, Your Honor.

1 BY MR. GILLIAM:

2 Q: Dr. Ross, in order to try to expedite things, let's talk
3 about your field of expertise.

4 A: My field of expertise is intimate partner violence. My
5 very first case was in 1975. So I've been at this for a very
6 long time.

7 Q: Have you ever testified as an expert witness before?

8 A: Yes, I have.

9 Q: Approximately how many times?

10 A: This will be my 15th time.

11 Q: Wonderful.

12 MR. GILLIAM: In order to move things along, Judge, we
13 request that Dr. Ross be qualified as an expert witness in the
14 area of social work and intimate partner violence.

15 THE COURT: Intimate partner what? What was the second
16 part?

17 MR. GILLIAM: Social work and intimate partner violence.

18 THE COURT: Any objection from the State?

19 MR. MCNAIR: No, Your Honor.

20 THE COURT: All right. This witness will be qualified in
21 the area of social work and intimate partner violence. Very
22 well. Proceed.

23 MR. GILLIAM: Thank you, Your Honor.

24 BY MR. GILLIAM:

25 Q: To start, can you talk about the two sides of an abuser?

1 In your experience, do friends and family generally perceive
2 an abuser the same way that a partner or victim would?

3 A: Two parts to this question. Let me answer the first one.

4 There is a private and a public image that abusers
5 present of themselves. They're very insecure and -- but they
6 display behaviors which is very private that the public
7 doesn't see. So women refer to it as Dr. Jekyll and Mr.
8 Hyde.

9 So the private side, demeaning, berating, a lot of
10 psychological manipulation, gaslighting. They view the women
11 and children, if there are children involved, as property.
12 They're always blaming the woman for anything that goes wrong
13 in the relationship. They use sex as an act of aggression.
14 For some examples of that, they don't feel that their violent
15 behavior should have any negative consequences.

16 The public image, the nicest guy in the world, would do
17 anything for anyone else. So there's two different personas,
18 and the abuser tries very, very hard to keep that private
19 image private and maintain power and control because intimate
20 partner violence or domestic violence is about power and
21 control.

22 Q: Are there any myths held by the general public that you
23 have encountered in your training and experience regarding
24 domestic violence?

25 A: The same myths that I've been dealing with for 49 years.

1 That women must like the relationship because they don't
2 leave. Women like to be beaten. It's all her fault. If I
3 were in that type of relationship, I would leave. And it's
4 reinforced by societal attitudes that we do hold women
5 accountable for relationships and the maintenance of
6 relationships.

7 Q: Thank you. How does an abuser control a victim?

8 A: By many, many means. The most potent means is the
9 psychological, and that's kind of the glue that keeps the
10 person in the relationship. So it's a psychological
11 manipulation by creating an environment where the victim feels
12 like the abuser -- she needs the abuser, when, in fact, the --
13 the abuser needs her to break to give him some sense of
14 adequacy.

15 So, for example, the constant berating, demeaning,
16 calling her names, gaslighting her puts her into a state of
17 confusion and shock, and so she tries desperately to try to
18 please him. And he will do this intermittently because he has
19 to maintain power and control at all costs. So it's the
20 intermittent reinforcement that keeps the woman in a
21 relationship, for example.

22 Q: Is that cyclical in nature?

23 A: Yes, it is cyclical. And because I've been trained under
24 some of the leading authorities in the field of intimate
25 partner violence, it -- I'll give you an example from *The*

1 *Cycle of Violence* by Lenore Walker.

2 It's cyclical. So there will be a tension building phase
3 where the woman will feel great anxiety and tension. She
4 feels like she's walking around on eggshells, and then there
5 will be an explosion. It could be a psychological assault or
6 a verbal assault. It doesn't necessarily have to be physical.
7 And then after the explosion of violence, there will be a
8 reconciliation in where the abuser will beg her forgiveness or
9 do some -- show her some small token of kindness.

10 And again, that keeps her glued in the relationship
11 because she likes that. And over a period of time, victims
12 get kind of addicted to that kind of dopamine rush in the
13 head. So that also keeps her in that relationship.

14 Q: Has any of the research that you've read indicated that
15 it changes a victim's neurochemistry, neurological chemistry?

16 A: Absolutely.

17 Q: Is isolation a means that an abuser would use to control
18 a victim?

19 A: Isolation is the key element, and it's the same thing.
20 I've had 30 years of working with the military, and it's the
21 same tactics that are used with prisoners of war. So what you
22 do is you isolate them, you bombard them with negative
23 messaging constantly, and so the person fears for their life.
24 They're confused. It changes the structure and function of
25 your brain. It changes your autonomic nervous system. So

1 you're always on that fight and flight mode, and so you can't
2 think, you can't problem solve, and your judgment is -- is
3 very, very poor at that point.

4 So you get in a very defensive survival posture, and that
5 -- and your autonomic nervous system gets used to that. And
6 so when you're not in that defensive survival posture, the
7 victim thinks something is wrong, and so she very desperately
8 wants to hang on to that.

9 But you have to remember, if you've ever talked to
10 prisoners of war, which I have, all they're thinking about is
11 surviving. After a point, they're really not thinking.

12 Q: Thank you, Dr. Ross. Turning a little bit to physical
13 violence, is domestic violence always physical?

14 A: No. In fact, the bulk of it is psychological. It's
15 verbal. And again, I'll repeat myself, it's the glue that
16 keeps the person in the relationship. And once that abuser's
17 messages gets in your head, that is all the victim hears. She
18 comes to see herself in the eyes of the abuser. She devalues
19 herself. She totally loses her self-esteem and her self-
20 confidence or her confidence.

21 Q: If there is physical violence, what is the impact of that
22 on a relationship for a woman?

23 A: If there's physical violence and this is -- I'm concerned
24 about this, especially I talk to my medical students about
25 this, especially the strangulation, the non-lethal

1 strangulation, and then traumatic brain injury down the road
2 or hitting them in the head. Again, this further puts her in
3 a very defensive survival posture where she knows that her
4 very livelihood, her very essence of surviving in this world,
5 is -- is totally in the hands of the abuser.

6 Q: Is there a form of violence that is a good indicator that
7 the abuse is escalating?

8 A: Strangulation. It's well documented in the medical
9 literature. That -- that's the key indicator right there.
10 And I -- you know, I could cite you all kinds of journal
11 articles about that, but we do talk about that at the medical
12 school.

13 Q: Turning now to victim behaviors, do all victims behave
14 the same way?

15 A: Not necessarily, but a lot of that, it depends on their
16 history, not only with the abuser, but their childhood history
17 also. But I will pull out three things. And again, it
18 depends on the length of time that the person has been in an
19 abusive relationship, their coping strategies, if they have
20 support systems, if they've reached out for help and people
21 have believed them, if they live in a community where there
22 are resources. Obviously, if you live in a rural community
23 where everybody knows everybody, there's very limited
24 resources for a person to reach out.

25 But it can affect you physiologically, in other words, so

1 it could lead to some medical illness. It's stress related.
2 So heart disease, blood pressure, so on and so forth. Then it
3 could lead to any type of psychiatric illnesses, which would
4 be greater anxiety, depression, panic attacks, even lead to
5 suicidal ideations, and then some personality changes also.

6 Q: How does the absence -- you mentioned a support system.
7 How does the absence of a support system affect a victim?

8 A: You know, when you're in this -- when you're in a crazy
9 situation -- I've had women come into the office and plop
10 themselves down on my sofa and say I think I am going crazy,
11 and I say, no, you're in a crazy situation, but it's like
12 you're in a whirlwind and you can't get out of it.

13 So I cannot tell you how many women over the years and
14 I've seen some men also who have told me they have told
15 someone, they've told someone in a position of authority, and
16 the person will look at them and say, but he or she is such a
17 nice person. What is going on with you? That completely
18 shuts them down, and so what happens with that when there is
19 no support systems, the victim withdraws. She doesn't -- she
20 thinks that it is totally her fault. She is the only one
21 experiencing the abusive relationship.

22 Q: Why might victims choose not to file a police report when
23 an incident occurs?

24 A: Many, many reasons. First of all, fear that she won't be
25 believed. Fear that the children will be taken away, if she

1 has children. Fear she'll be -- get labeled as crazy or
2 incompetent. She's had bad experiences with the police or
3 historically she comes from a community of color.
4 Historically, it's not been a good experience for her.

5 So there's a myriad of reasons. And to be very honest,
6 when women come forward, they -- they defend themselves and
7 they may be arrested for defending themselves, such as the
8 situation that we have today, which is really a tragedy.

9 Q: Sort of in that same vein, does abuse occur in private,
10 behind closed doors, not in public?

11 A: Absolutely. Always.

12 Q: In private?

13 A: In private. When it gets to the point where -- and I've
14 had some cases where the abuser -- this is after. This is
15 called post-separation abuse when the abuser comes up because
16 there's children involved also. I have had cases where the
17 abuser will come into the parking lot and -- and berate the
18 woman. I've had cases where women have been assaulted out in
19 public.

20 Q: Do victims blame themselves?

21 A: All the time. All the time. But you have to remember
22 the societal message that we do make women responsible for
23 relationships.

24 Q: Does that make them feel like they have an opportunity to
25 advocate for themselves or not?

1 A: Again, it depends on their prior coping strategies, their
2 support systems, but -- and women are different. Some women
3 will withdraw and not tell anybody. Some women will defend
4 themselves and verbally fight back, and then the consequences,
5 obviously, I think as everybody knows in this courtroom, are
6 not really in the victim's favor, you know, but -- you know,
7 it's different. People are different.

8 Q: Have you evaluated Ms. Davis in this case?

9 A: No, I have not. I haven't.

10 Q: Were you retained to provide an overview of battered
11 spouse status or intimate partner violence?

12 A: Yes, I was.

13 Q: Are you being paid for your testimony today?

14 A: I am being paid and I'm giving it to Sister Care, which I
15 do in all my cases where I serve as expert witness.

16 MR. GILLIAM: Thank you, Dr. Ross.

17 I beg the Court's indulgence.

18 Thank you, Dr. Ross, for your time and your testimony.

19 Please answer any questions that opposing counsel or the judge
20 may have.

21 THE COURT: Cross-examination?

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

24 THE COURT: Yes, ma'am.

25 MS. TAYLOR: Just briefly.

CROSS-EXAMINATION

1
2 BY MS. TAYLOR:

3 Q: Good morning, Doctor.

4 A: Good morning. How are you, Ms. Taylor. It's Ms. Taylor;
5 right?

6 Q: That's correct. Thank you.

7 A: All right. I just wanted to make sure.

8 Q: Thank you. So it's your testimony that it is common in
9 interpersonal relationships for alleged battered victims to
10 become withdrawn? That's a yes? I'm sorry, just for the
11 record.

12 A: They can become, yes, withdrawn.

13 Q: Now, in instances when alleged victims are -- they do
14 disclose to other people, such as friends or family, is it
15 common for those accounts of the abuse to be inconsistent?

16 A: Will you clarify what you mean by inconsistent?

17 Q: So if an alleged victim discloses a specific instance of
18 alleged abuse to a friend or a family member or a colleague,
19 but then they talk about that same instance of an alleged
20 abuse to another individual, but the account is different or
21 inconsistent, how does that factor into the battered spouse?

22 A: Okay. I want to be sure that I'm understanding your
23 question so I can answer it as honestly as possible. Again,
24 there's lots of variables. This is very complex and multi-
25 layered.

1 So for example, if someone does disclose, it's not been
2 my experience that women make this up. If there is some
3 inconsistencies, it may be due to the -- the physical trauma
4 because of strangulation or brain damage or just because of
5 the psychological abuse over a period of time that she does --
6 she may get hers -- her words out differently depending on who
7 the audience is. We all speak differently to different
8 people.

9 Q: I guess my question is not as related to minor details as
10 to what occurred, but entirely new accounts --

11 A: Okay.

12 Q: -- or different major details of the alleged incident.

13 A: Okay.

14 Q: Is that common?

15 A: It is not common, and that has not been my experience in
16 49 years.

17 Q: Now, is it common for alleged victims of domestic
18 violence to stalk their alleged abuser?

19 A: It's not common, but it could be possible. Again, let me
20 go back to the traumatic bonding where I know it sounds
21 strange to someone who's looking from the outside, but because
22 of the traumatic bonding, the abuser and the victim almost
23 make a pact with one another and they claim ownership of each
24 other. And remember that when you are a prisoner of war in
25 your own home and you have traumatically bonded with someone,

1 your very survival is dependent on that abuser.

2 Q: Now, you said prisoner in your own home. What about
3 instances where the alleged victim and the alleged abuser live
4 apart in separate homes, miles and miles apart? Is it common
5 for alleged victims to seek that person out? Seek the alleged
6 abuser out?

7 A: You know, anything is possible. I've lived long enough
8 to say that, but again, I go back. It -- it may depend on the
9 severity of the trauma. A lot of times they seek them out
10 just because there are children involved. There's an
11 attachment. She loves him. She cares for him. She remembers
12 some small kindness he may have done, and that's what's in her
13 head.

14 Q: Okay. Is -- so is it common -- piggyback -- piggybacking
15 off of that, is it common for alleged victims to show up
16 unannounced at a victim's job or home or anywhere else that
17 they may be?

18 A: It's just as common as abusers showing up at victim's
19 place of work, at their house. Again, it depends on -- it
20 depends on the level, the severity of the traumatic bonding.

21 Q: And you stated on direct examination that you've never
22 spoken with Ms. Davis?

23 A: No, ma'am, I have not.

24 Q: You've never evaluated her?

25 A: No, ma'am, I have not.

1 Q: Did you review discovery or any other material in this
2 case?

3 A: No, I have not. I wanted to be as neutral as possible.

4 MS. TAYLOR: No further questions.

5 THE COURT: Redirect?

6 MR. GILLIAM: Three questions, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. GILLIAM:

9 Q: Dr. Ross, do inconsistencies foreclose the possibility
10 that abuse occurred?

11 A: Absolutely. You have to remember the level of the -- the
12 brain trauma, the psychological trauma. It's like you're in
13 shock and you're walking around. You're really looking at a
14 shell of a person walking around. I always say intimate
15 partner violence is soul murdering. You become disconnected.

16 So if you're thinking about post-trauma, she's constantly
17 re-experiencing the trauma. So everything is seen as a threat
18 at that point. She's trying to avoid as much as possible. So
19 the avoidance comes. She'll minimize what happened in her
20 head. She's got to rationalize why it's necessary for her to
21 remain.

22 And I'm not saying, you know, that sounds consistent to,
23 like, a layperson or somebody looking from the outside, but
24 then all the physiological responses, the autonomic nervous
25 system is changed. This fight, flight, or freeze -- there's

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1 four things. There's fight, there's flight, there's freeze,
2 and then I call it appeasement where she -- she -- she goes
3 along with the abuser because she wants the violence to end,
4 not the relationship. She wants the violence to end.

5 Q: My question was inartfully worded. You said probably.
6 I'm going to try to rephrase it. Does a victim's inconsistent
7 statements to friends or family mean the abuse did not occur
8 in your experience?

9 A: Absolutely not. No. She's going to minimize it because
10 she's going to protect him at all costs.

11 Q: If a situation falls outside the confines of what is
12 common, does that mean abuse did not occur?

13 A: Absolutely not.

14 Q: And last question, can a trapped environment make a
15 victim feel like they need the relationship to continue, even
16 if it is unhealthy?

17 A: Absolutely.

18 MR. GILLIAM: Thank you, Dr. Ross.

19 Thank you, Your Honor. No more questions.

20 THE COURT: All right. Any recross?

21 MS. TAYLOR: No.

22 THE COURT: All right. Thank you. The witness may step
23 down.

24 THE WITNESS: Thank you.

25 THE COURT: And I think she can be excused, assuming

1 there's no objection.

2 MR. MCNAIR: No objection.

3 THE COURT: All right.

4 MR. JOHNSON: Thank you, Your Honor. Your Honor, Ms.
5 Davis would call Whitney Danso to the stand.

6 THE COURT: Ms. Danso.

7 THE CLERK: Please raise your right hand. Place your
8 left hand on the Bible. Do you swear or affirm the testimony
9 you're about to give the Court will be the truth, the whole
10 truth, and nothing but the truth, so help you God?

11 THE WITNESS: Yes.

12 THE CLERK: Thank you. Please be seated. State your
13 full name and spell your last name for the record.

14 THE WITNESS: Whitney Danso. Last name is spelled D-a-n-
15 s-o.

16 MR. JOHNSON: Thank you.

17 DR. WHITNEY DANSO, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. JOHNSON:

21 Q: Dr. Danso, were you retained to meet with and evaluate
22 Ms. Davis?

23 A: Yes.

24 Q: When did you first meet with and evaluate Ms. Davis,
25 approximately the time frame?

1 A: I met with her in early 2023. I believe we wrapped up
2 our interview in February.

3 Q: Okay. So you have actively treated Ms. Davis?

4 A: Not treated, but evaluated her, yes.

5 Q: And you evaluated discovery in connection with this
6 matter?

7 A: Yes.

8 Q: Trial transcript?

9 A: Yes.

10 Q: Other material?

11 A: Yes.

12 Q: And tell us a little bit about your background, first of
13 all your educational background.

14 A: Yes. So I obtained my doctorate degree in clinical
15 psychology, graduated in 2018 from Palo Alto University in
16 California. From there, I worked with Dr. Lois Veronen for my
17 post-doctoral residency and then into private practice.

18 Q: And what is your private practice centered on?

19 A: Now it's centered around psychological evaluations.
20 Before that, I spent my time treating trauma victims.

21 Q: And I'm going to ask you to look at what's been marked as
22 Defense Exhibit Number 2.

23 A: Yes.

24 Q: Do you recognize that?

25 A: Yes.

1 Q: Is that your CV?

2 A: Yes.

3 Q: Okay. And it lists your experience and your education?

4 A: Yes.

5 MR. JOHNSON: Any objections?

6 MR. MCNAIR: No objection.

7 MR. JOHNSON: Your Honor, Defense Exhibit 2. Yes, Your
8 Honor.

9 THE COURT: All right. Defense Exhibit 2 will be
10 admitted into the record.

11 (WHEREUPON, Defendant's Exhibit Number 2, CV of Dr.
12 Danso, was admitted into evidence.)

13 MR. JOHNSON: Thank you.

14 BY MR. JOHNSON:

15 Q: And you're a licensed clinical psychologist?

16 A: Licensed psychologist, yes.

17 Q: Okay. And have you been qualified as an expert in
18 psychology?

19 A: Yes.

20 Q: How many times?

21 A: I've been qualified approximately five or six times in
22 different things. I've been qualified as a parenting expert,
23 in psychology and trauma and domestic violence, and in
24 forensic psychological evaluations, and in trauma-focused
25 cognitive behavioral therapy for children.

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1 Q: And have those been in state courts here in South
2 Carolina?

3 A: Yes, primarily in South Carolina, once in family court in
4 North Carolina.

5 Q: And the domestic trauma you mentioned, what was that
6 specific area of expertise?

7 A: Trauma in domestic violence.

8 Q: Pardon me?

9 A: Trauma in domestic violence.

10 Q: Trauma in domestic violence? Thank you.

11 MR. JOHNSON: Your Honor, we'd offer Dr. Danso as an
12 expert in clinical psychology and in domestic trauma.

13 THE COURT: Without objection?

14 MR. MCNAIR: No objection.

15 THE COURT: All right. This witness will be qualified as
16 an expert in the fields listed.

17 BY MR. JOHNSON:

18 Q: Dr. Danso, tell us a little bit about your evaluation of
19 Ms. Davis and how she presented in relation to domestic
20 trauma.

21 A: So during my evaluation of Ms. Davis, what I was looking
22 for is physical and psychological experience of domestic
23 violence and the impacts that they had on her. I did this by
24 clinical interview, by record review. I reviewed the
25 transcripts from her -- her trial and also through

1 psychological testing. Through that, I found extensive -- or
2 suggestion of extensive experience of physical and
3 psychological abuse, as well as a psychological pattern of
4 symptoms that are commonly identified in victims of domestic
5 violence.

6 Q: And what are some of those symptoms?

7 A: She presented -- at the time of her trial -- just
8 remember I evaluated her about 13 years after, but at the time
9 of her trial, it was revealed that she experienced symptoms of
10 depression. And so those were helplessness, feelings of
11 suicidality. She had low mood. And then there was also a
12 mention of acute stress response.

13 When I evaluated her, some of those same symptoms still
14 persisted. So we saw physiological symptoms of depression and
15 anxiety, as well as intrusive experiences of anxiety, which is
16 common after trauma.

17 Q: Now, in connection with your review of the testimony, a
18 lot of focus at her trial centered around the 2010 time
19 period. Did you find some information from trial predated
20 2010?

21 A: Yes.

22 Q: That was helpful in your evaluation?

23 A: Yes.

24 Q: Could you talk a little bit about the information that is
25 before 2010 that was --

1 A: So there were mentions of changes in her behavior and how
2 Ms. Davis presented before -- before she left or what she was
3 like prior to her marriage with Mr. Davis while she was living
4 in Maryland and how that changed when she moved to South
5 Carolina. There was a progressive change in her presentation.

6 She was originally described by people who knew her early
7 in her life as being very, very warm, very kind of optimistic
8 and positive kind of outlook and, over time, they watched that
9 change. In that 2010 period, there was a significant --those
10 symptoms became even more noticeable, but those that had known
11 her over a long period of time had watched that become a
12 progressive pattern.

13 Q: And in your experience, intimate partner violence, is
14 that something that is displayed out for public consumption or
15 is that something that's very intimate and private?

16 A: Typically, it happens behind closed doors. So it becomes
17 -- it's a very intimate thing. It happens usually without an
18 audience.

19 Q: And the level of violence, is there a, you know, everyday
20 typical level of domestic violence that -- that we would look
21 at in terms of physical violence?

22 A: So when we're looking at these relationships, we see a
23 mixture, as Dr. Ross testified to, of both psychological and
24 physical violence. And so in regards to Ms. Davis
25 specifically, in my interviews with her, there's evidence or

1 there's her reports of being slammed against walls and hard
2 objects, being grabbed, being slapped, being punched, being
3 kicked, being strangled, being drug up the stairs by her hair,
4 and being raped throughout the relationship, different periods
5 of time.

6 Q: And would that level of physical violence be something
7 that is daily? Is it weekly? Is it something that is sort of
8 an on and off again, Jekyll and Hyde type situation?

9 A: So typically, as Dr. Ross testified to, there's a
10 pattern, there's a cycle, and that cycle can change in terms
11 of frequency. So Ms. Davis reports that there were periods of
12 time where this abuse was happening several times a week, and
13 then there were other times where it wasn't happening as
14 often. And a lot of that has to do with kind of external
15 factors, like work schedules for one thing, whether there was
16 extra stress that might have perpetuated those cycles on kind
17 of a faster loop.

18 Q: And I believe you mentioned that Ms. Davis is originally
19 from Maryland?

20 A: Yes.

21 Q: Is that where her support system is? Her family support
22 is in Maryland?

23 A: Yes.

24 Q: And the move to a new location in South Carolina, what
25 impact would that have on someone who's experienced domestic

1 violence?

2 A: Significant impact. One would be the removal from
3 primary supports. Oftentimes, our family and those that we
4 grew up with are able to offer a buffer to stressful
5 situations. And so without that, that would be problematic.
6 It also would limit the ability of access to resources that
7 might help in times of escalating violence or the ability to
8 leave a relationship.

9 Q: And how many children did Ms. Davis have?

10 A: I believe three, but I -- I may be wrong on that.

11 Q: Okay. And the presence of children, young children and
12 children as they age, how does that impact someone who is
13 involved in a violent domestic relationship?

14 A: It can have a significant impact. Oftentimes, a person
15 who has children involved in those kinds of situations is also
16 trying to shelter the children, trying to make sure the
17 children's needs are being met, and trying to placate the
18 abuser to deescalate and prevent the children from being kind
19 of caught in the crossfire or in uncomfortable situations. It
20 also makes it more difficult to leave a situation because
21 there's additional need for financial resources and supports
22 when you're raising children.

23 Q: And do people who experience domestic partner violence --
24 do they at times feel trapped in a marriage?

25 A: Yes.

1 Q: And what traps them in such a relationship?

2 A: So there's the psychological piece to abuse that
3 reinforces the victim's need for the abuser. In these
4 situations, the -- the victim is frequently told that they are
5 worthless, they have no value, and that they are responsible
6 for their -- the abuse that they experience. Over time, they
7 begin to believe that, just as Dr. Ross testified. They start
8 to see themselves in the image of the abuser. And that change
9 in their perspective of themselves, at least because they
10 start to believe it, they start to believe that they have no
11 option, no other option than to continue to rely on the
12 abuser.

13 There's also the piece of loving the abuser. These
14 relationships are maintained also with those positive
15 interactions. And so because you have that -- that piece of
16 being negative, being told that you're awful while also being
17 told how much you're loved, it almost feels like a gift that
18 this abuser loves you because you are so awful, and so it
19 perpetuates those cycles.

20 Q: Are domestic violence relationships always violent,
21 always awful?

22 A: No. There has to be positive points in order for the
23 relationship to be maintained. There has to be something that
24 attracts the person to their abuser and then allows them to
25 continue to participate.

1 Q: And how does things like faithfulness to the marriage
2 impact violent domestic relationships?

3 A: At times they can be kind of a -- well, obviously, to be
4 a point of conflict for most relationships, but in domestic
5 violence relationships, they can also be -- also be used to
6 reinforce the belief that it's the victim's fault. And so
7 oftentimes you'll hear women describe their abuser having an
8 affair and saying, well, it's your fault because you don't do
9 these things right, or I have no choice but to have an affair
10 because of some kind of deficiency with their partner.

11 Q: And do folks who are trapped in a domestic relationship
12 of this nature -- do they sort of go along to get along? Is
13 that sort of their method? Is there sort of a survival
14 instinct to accept things as they are?

15 A: There's definitely -- yes, definitely a piece to try to
16 placate and to minimize the -- the cycles of abuse or those
17 explosions. There's also times where you'll hear of victims
18 when they know that there's building, kind of that tension
19 building. They may do something that might set their abuser
20 off and do it in a way that's safer than if it was to be in
21 public. And so will some -- excuse me. They'll do it in
22 public in a way to try to minimize the severity of the abuse.
23 So if, for instance, they see their abuser giving the signs
24 that they're getting more agitated and frustrated, they might
25 do something in front of family members and get a smaller

1 response that doesn't include physical violence to try to
2 minimize the risk of physical harm when they're behind closed
3 doors.

4 Q: And would the nature of the -- the controlling aspect of
5 the relationship change over time?

6 A: It can. Oftentimes, it depends on the circumstances of
7 what's going on in life. It's the situational demands or kind
8 of the environmental demands. So oftentimes we'll hear
9 yelling and screaming and kind of people being called
10 demeaning names, and then we start to see things like
11 financial control, limits being set on where a person is able
12 to go, curfews, restriction of communication with important
13 sources of support.

14 Q: And did you see evidence of that in the relationship
15 between Mr. Davis and Ms. Davis?

16 A: Yes. Ms. Davis reported regularly being yelled and
17 screamed at, being called names. There was significant
18 financial control that she reported. She was often left
19 without resources. Her paychecks were regularly taken from
20 her. Her movement was monitored.

21 One of the things that really struck me in my interviews
22 with her is she talked about Mr. Davis almost playing this
23 game of phone tag with her, and that if she was not home at a
24 certain time to answer the phone, she would be punished for
25 it, like physically hurt. And so she was running to do

1 errands quickly in order to catch the phone to make sure that
2 she did not anger him.

3 And she was regularly humiliated in front of other
4 people, and she was regularly blamed for the abuse that she
5 experienced. He told her that if she was a good wife or if he
6 could get control of her, then none of this would be a
7 problem. She wouldn't have to be abused.

8 Q: And some of the nature of the physical violence that you
9 observed through your evaluation of the record and the witness
10 testimony and Ms. Davis, what were some of the nature -- the
11 aspects of the physical violence that occurred?

12 A: So, as I mentioned, she describes being slammed against
13 hard objects, being grabbed, being slapped, being punched.
14 There are affidavits of her being jacked up is the description
15 by her -- around her neck, strangled, being drug up the
16 stairs, and she describes being raped on a number of
17 occasions.

18 Q: And would a victim of domestic abuse exaggerate the cause
19 of some of these injuries, make up causes of some of these
20 injuries?

21 A: We'll see victims try to mask the -- you know, what's
22 happened, like we see them sometimes minimize things. So
23 there's all kinds of different ways that the -- these
24 situations can be presented, but as Dr. Ross testified,
25 there's oftentimes a -- a level of shame and fear that they

1 will not be believed, and so we see people present or try to
2 present this -- present their story sometimes in a way that
3 may not give full details.

4 Q: And in terms of your evaluation of Ms. Davis, is that a
5 narrow focus to that calendar year 2010 or is this a look at
6 her entire marital relationship?

7 A: This is a look at her entire marital relationship.

8 Q: You didn't limit your scope to just what occurred around
9 the time of Mr. Davis's murder?

10 A: No. We began at the time that she met Mr. Davis in 1996.

11 Q: And did violence sort of start early in the relationship?

12 A: It did.

13 Q: Could you relay what information you obtained about that?

14 A: Yes. One of the first instances of violence that she
15 described to me was they were living in a -- an area that was
16 kind of where there's much more traffic than there might be
17 here, and he was teaching her to drive a manual vehicle. And
18 she was pregnant at the time, and she became overwhelmed and
19 wanted to get out of the car and wanted him to drive the rest
20 of the way, and he became upset with her. He shoved her
21 against the car and yelled at her, and she was completely
22 shocked. She had never seen that behavior from him before.
23 This is something that happened very shortly after they were
24 married.

25 Q: And does that type of interaction sort of set a tone?

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1 A: It does, yes. Not to anger. Not to anger the abuser.

2 Q: Is there anything else of clinical significance in your
3 interaction with Ms. Davis that you want to talk to the Court
4 about?

5 A: I think we've covered it.

6 Q: Okay.

7 MR. JOHNSON: Your Honor, that's all the questions I
8 have.

9 THE COURT: Cross-examination?

10 MR. MCNAIR: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. MCNAIR:

13 Q: Welcome to Edgefield, Dr. Danso.

14 A: Thank you.

15 Q: Let me get set up here. I've got a bunch of stuff. Now,
16 you testified that you evaluated Ms. Davis 12 or 13 years
17 after she had shot her husband; correct?

18 A: Yes. So I believe that happened in 2010, and I evaluated
19 her in 2023.

20 Q: Okay. And that's nine years after she's been convicted
21 of murder and incarcerated; right?

22 A: Yes.

23 Q: And you diagnosed her with depression?

24 A: I did not diagnose her at all. I just evaluated her
25 symptoms.

1 Q: She had signs of depression, you said?

2 A: Yes. She has some of those kind of lasting symptoms.

3 Q: Okay. And she has some signs of trauma?

4 A: Yes.

5 Q: And she was diagnosed with acute stress disorder in
6 October -- late September or October of 2010; is that correct?

7 A: Yes.

8 Q: And that could be from the very event of her shooting her
9 husband in the back of the head; correct?

10 A: Yes.

11 Q: So the signs of trauma that you noticed could have been
12 from that event itself, the murder itself?

13 A: It could have been from that.

14 Q: Okay. Now, in large part, your analysis is based on what
15 she's telling you; right?

16 A: A portion of it, yes.

17 Q: Well, the portion -- what portion are you not basing on
18 what she's telling you?

19 A: Based on the testimony of those who reported seeing
20 bruises, those pieces. I reviewed the medical records,
21 obviously the same thing that you're seeing, the acute --

22 Q: Okay.

23 A: -- stress disorder.

24 Q: And the witnesses you're referring to, they testified to
25 what Shellie Davis told them had happened; right?

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1 A: And their observations of her changes in behavior.

2 Q: The demeanor. We'll get to that, but you're referencing
3 the -- I think it was two witnesses who -- two witnesses who
4 testified to seeing a bruise on her forearm and a bruise on
5 her leg?

6 A: Yes.

7 Q: Okay. Now, they were married for 13 years; right?

8 A: Yes.

9 Q: And she told you Jermaine would assault her several times
10 a week when they were first married in Maryland?

11 A: There were time periods during the relationship, yes, it
12 was several times a week.

13 Q: That's in your -- in your report?

14 A: Yes.

15 Q: It says she disclosed that he would assault her several
16 times per week?

17 A: Yes.

18 Q: And probably about the same when they moved to South
19 Carolina, except when he was gone? That's what she disclosed
20 to you?

21 A: Yes.

22 Q: And it's in your report; correct?

23 A: That there's a change in frequency because of his work
24 schedule.

25 Q: Okay. So if we do the math on that, we're talking about

1 over a thousand episodes of abuse; right? If it's two times a
2 week for 690 weeks, that's 1,380 times.

3 A: Okay.

4 Q: And say it happened -- it wasn't two times a week every
5 week. It's hundreds of times that this alleged abuse happened
6 according to what she told you; right?

7 A: Yes.

8 Q: And she told you he would slam her against hard objects,
9 slap her, punch her, choke her, drag her up the stairs by her
10 hair, causing her to bruise and lose patches of hair?

11 A: Yes.

12 Q: Okay. And you're aware of that over this time period
13 that this alleged abuse occurred, she had daily contact with
14 people? Were you aware of that?

15 A: Yes.

16 Q: Okay. She worked at ERA Realty for five years.

17 A: Yes.

18 Q: Are you aware of that? Are you aware of Janice Rosemond
19 testified that she saw her two to three times a week and never
20 saw anything?

21 A: Yes, I remember.

22 Q: Were you aware of that?

23 A: Yes. I remember reading that.

24 Q: Enola Thornton was her business partner at ERA, had daily
25 contact with her and never saw anything. Are you aware of

1 that?

2 A: Yes.

3 Q: Tracy Crocker knew Shellie since 2003. They talked
4 regularly about Jermaine, but Shellie never told her anything
5 about Jermaine abusing her. Are you aware of that?

6 A: Yes.

7 Q: Neatha Collins was her best friend for 30 years, and
8 Shellie never told her anything. Are you aware of that?

9 A: Yes.

10 Q: And her son, Marquis Davis, who was 14 or 15 at the time,
11 lived in the house. He said he never saw any physical
12 altercations. Are you aware of that?

13 A: Yes.

14 Q: So you clearly are basing your opinion on just her word?

15 A: My evaluation is largely based on Ms. Davis's self-
16 reports, yes.

17 Q: Because all we have in this whole time frame is two
18 people who saw bruises on her, one to her forearm and one to
19 her leg, but they don't know what happened because they
20 weren't there, were they?

21 A: There were also people at work who saw bruises and after
22 --

23 Q: Karen Swartz -- we'll get to that in a minute. You noted
24 in your report that the -- let me back up one second. Now,
25 after -- I guess, based on your interview of her and the

1 transcript, I think we're talking about four separate
2 incidents of abuse that she testified to and that she's
3 disclosed. One was this -- this stick shift incident
4 involving the car.

5 A: Uh-huh.

6 Q: One was when Karen Swartz saw a bruise on her forearm.
7 One was this 2006 Richland County incident where she was
8 arrested for domestic violence.

9 A: Uh-huh.

10 Q: And then we're talking about her grandmother's -- around
11 the time of her grandmother's funeral where a witness said
12 they saw bruises on her leg.

13 A: Yes.

14 Q: So we're talking about four different times?

15 A: Uh-huh. Yes.

16 Q: And regarding the manual car, the stick shift, she told
17 you that Mr. Davis pushed her against the hood; is that
18 correct?

19 A: Yes.

20 Q: But she testified that he threw her across the hood at a
21 busy intersection during rush hour; correct?

22 A: Yes.

23 Q: Okay. But -- but no -- there's no police report of that;
24 right?

25 A: Not that I'm aware of.

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1 Q: Okay. No witnesses to that that you're aware of?

2 A: Not that I'm aware of, no.

3 Q: But he threw a pregnant woman across a car at a busy
4 intersection during rush hour, and nobody saw that and nobody
5 reported that; correct?

6 A: From my perspective, from my lens, whether you're being
7 pushed down against the hood of the car or you're being thrown
8 against the hood of the car is problematic regardless of the
9 language we use.

10 Q: Agree. Agree. But she's saying -- she's telling you a
11 different thing than she testified to, different details;
12 correct?

13 A: I'm also trained to ask questions in a way that doesn't
14 lead the conversation in any one direction.

15 Q: Correct. And so was Donna Schwartz-Watts; right?

16 A: I would -- I'm not sure of Dr. Schwartz's background.

17 Q: You're not?

18 A: Other than she's a psychiatrist.

19 Q: She evaluated her back in 2011, I believe, and she told
20 Dr. Schwartz-Watts that he slung her around the house --

21 A: That's --

22 Q: -- concerning the stick shift car incident. Do you
23 realize that?

24 A: No, I didn't.

25 Q: Okay.

1 A: I was not aware of that. Is that -- it's also possible,
2 though, that there's more information here beyond. I asked
3 about specific incidents. When I interview people, I say,
4 tell me about the -- the three most significant instances of
5 abuse. The first one, the one that was by far the worst, and
6 the last one. If not, we would spend all day going through
7 each and individual -- each every -- each and every individual
8 experience.

9 Q: But would you agree with me that's more than an
10 insignificant detail, that one she said it happened at a busy
11 intersection during rush hour, and she's telling another
12 doctor it happened at her house? That's a pretty significant
13 detail; correct?

14 A: Unless the abuse continued when they got home.

15 Q: Well, I'll move on to the next one, then. Karen Swartz
16 saw her with a bruise on her forearm at work; right?

17 A: Yes.

18 Q: And Karen testified that she saw bruises on the forearm,
19 but Ms. Davis testified that that instant Jermaine blackened
20 her eye. Did you read that?

21 A: I'm sure I did read that, yes.

22 Q: And she told Dr. Schwartz-Watts that he blackened her
23 eye.

24 A: Okay.

25 Q: But Karen Swartz only testified to seeing a bruise on her

1 forearm. Were you aware of that?

2 A: It is possible that there was more than one instance of
3 -- of abuse that happened.

4 Q: No, it was clear based on the testimony that it was --
5 they're referring to one incident.

6 A: Okay.

7 Q: Okay. You weren't aware of that?

8 A: I don't recall seeing her talking about her eye being
9 blackened, but it was 800 pages of transcripts, so it's
10 possible that --

11 Q: I read it all, unfortunately. Now, this -- this 2006
12 Richland County incident where she told you Mr. Davis hit her;
13 correct?

14 A: Yes.

15 Q: That's where the police came up?

16 A: Yes.

17 Q: Came out, and they arrested her for domestic violence,
18 not Mr. Davis; right?

19 A: Right.

20 Q: Y'all talked about that?

21 A: Yes.

22 Q: And she told you that Mr. Davis hit her; correct?

23 A: Yes.

24 Q: Have you seen that incident report?

25 A: No.

1 Q: Are you aware that she told the police that he grabbed
2 her by the arm and forced her to the ground?

3 A: No, I did not see the incident report.

4 Q: Okay. Are you aware that she showed the police where the
5 metal bar was that she threatened to kill him with?

6 A: She talked to me about the metal bar and that she grabbed
7 it. She was tired of being abused and she was trying to
8 protect herself, and that was her intention.

9 Q: Okay. Were you aware she threatened to kill him?

10 A: No, I was not aware that she threatened to kill him.

11 Q: Were you aware that she took Mr. Davis's phone from him
12 when he was trying to call the police?

13 A: It was my understanding that he did call the police, and
14 that's how she ended up being arrested.

15 Q: Were you aware the initial call by Mr. Davis was
16 disconnected because she admitted to taking his phone from
17 him?

18 A: No, I was not aware of that.

19 Q: Were you aware that during the time that happened that
20 she found out about a couple of women he was talking to?

21 A: I -- she's told me about the affairs that were going on
22 throughout the relationship, but not that was specific.

23 Q: And the fourth incident she disclosed and that we've
24 talked about is the grandmother's -- her -- the incident where
25 she had bruises on her leg around the time of her

1 grandmother's funeral; right?

2 A: Yes.

3 Q: She testified that Jermaine hit her?

4 A: Yes.

5 Q: Kenyatta Terry-Allen, her friend, testified that she saw
6 bruises on Shellie's leg, and Shellie told her Jermaine threw
7 her across the bed and choked her until she lost
8 consciousness. Are you aware of that?

9 A: Yes. And we talked about the number of times that she
10 had been choked and lost consciousness.

11 Q: But Kenyatta Terry-Allen didn't see any bruising to her
12 neck. Are you aware of that?

13 A: Are we sure that it's the exact same date? We're talking
14 about multiple instances of abuse. I think you -- you did the
15 math. There's thousands of times she's talking about being
16 abused.

17 Q: Multiple people have testified to this incident that
18 happened around the time of her grandmother's funeral service.
19 Were you aware of that?

20 A: No.

21 Q: Okay. And she told Dr. Schwartz-Watts that that incident
22 occurred because she found that Jermaine had an extra cell
23 phone that had pics of a girl on it?

24 A: We talked about the phone, yes.

25 Q: And she woke him up and confronted him about that. Are

1 you aware of that?

2 A: Yes.

3 Q: Is that typical of a battered spouse to wake up their
4 abuser to confront him about his cell phone?

5 A: You have to remember that these relationships are not
6 black and white. There's still the piece, still an element of
7 they love the person that they're with. So it's not
8 unreasonable to confront your spouse for having an affair.

9 Q: Well, your predecessor -- what was his name? Dr. Tyson?

10 A: Yeah, I believe so, but I don't believe Dr. Tyson
11 evaluated her.

12 Q: Well, he testified about the characteristics of a
13 battered spouse.

14 A: Okay.

15 Q: And can you tell me whether or not this is true? He said
16 battered woman syndrome is defined by two things, attribution
17 of blame onto the victim and acceptance of blame by the
18 victim.

19 A: Yes.

20 Q: Right? And then as a result, he said that creates a
21 situation where the victim not only accepts the blame but
22 begins to take steps to avoid the physical pain.

23 A: Yes, but --

24 Q: Which is -- which is human -- human nature; right? To do
25 things to avoid pain?

1 A: Absolutely.

2 Q: So that would be highly unusual for a battered spouse to
3 wake up her abuser and confront him about having what he has
4 on his phone, would it not?

5 A: No, it would not be highly unusual. If you find out that
6 your spouse is having an affair and you're upset about that,
7 there's a -- there's an instant reaction of this. Like, I'm
8 upset. I want to have a conversation about it. She's still
9 very much in a interpersonal relationship, even if it is
10 abusive.

11 Q: Well, she thought he's been having an affair since 2006.
12 Have you read her journal?

13 A: Yes, he's been having -- he was having affairs throughout
14 the relationship.

15 Q: So she found girls on his phone in 2010. That wasn't
16 shocking to her. That's been going on since 2006, according
17 to her.

18 A: But also at the same time, he was telling her that we're
19 working on our marriage, we're working on our marriage, you're
20 the only woman for me, and then going and having more affairs.

21 Q: And that's what she was really upset about, wasn't it?

22 A: She was upset about that, but I believe anybody would be
23 upset about that.

24 Q: She was upset because he left her with the kids; right?
25 With a house in foreclosure, with bills to pay, and he was

1 living like a single man. That's what she was upset -- that's
2 based on her journal, was it not?

3 A: And he was calling her to come and have physical intimate
4 -- calling her to have sex with her on a regular basis,
5 telling her this is the way we -- we fix our marriage. This
6 is the way we work on our marriage, giving her hope that the
7 relationship would be restored, then only then to continue
8 going on with his affair partners.

9 Q: Well, she liked the sex; right? I mean, in her journal,
10 she talks about how great it was, how passionate.

11 A: They had -- yes, they had a positive physical
12 relationship.

13 Q: So he's not making her have sex. She likes having sex
14 with him?

15 A: The times that it's consensual, yes. She wants the
16 relationship to work.

17 Q: And she wants him back in the home?

18 A: Yes, she wants him back in the home. She wants the
19 relationship to work.

20 Q: Now, you noted in your report that the triggering event
21 for Jermaine would be if she did anything to jeopardize his
22 job or disrespect him?

23 A: Yes.

24 Q: Okay. But you're aware that she showed up unannounced
25 and caused a scene at one of his work events in April 2010?

1 A: Yes.

2 Q: She went through his phone on multiple occasions?

3 A: Yes.

4 Q: She went through his drawers and found condoms?

5 A: Yes.

6 Q: She followed him to see where he was going?

7 A: Yes.

8 Q: She called women that she found out he was talking to?

9 A: Yes.

10 Q: She told a business partner of Jermaine's about the
11 problems she was having with Jermaine in the relationship?

12 A: I don't know that we talked about that, but that's fine.

13 Q: And she talked down to him like he was a child?

14 A: That I don't know that I've been told.

15 Q: You didn't see that in her journal? Let me look at my
16 notes real quick. She wrote in her journal that she realizes
17 letting a man be a man is allowing him to make his own choices
18 and not shoving your ideas down his throat or chastising him
19 like a child. You didn't see that journal entry?

20 A: Can I see that?

21 Q: These are my notes from May of 2006.

22 A: I'd like to see what comes before that.

23 MR. JOHNSON: It's Exhibit 6.

24 MR. MCNAIR: It's Exhibit 6 for the record. Your Honor,
25 I've got a copy of all these journal entries that I can give

1 to you.

2 THE COURT: Well, I guess if you've got a copy, I'd
3 better take it. I may or may not have all of it.

4 THE WITNESS: Thank you.

5 BY MR. MCNAIR:

6 Q: So I -- I view this or read this differently. She's
7 describing -- she says -- before that she says one thing I
8 have to understand is Jermaine may not realize or see how he's
9 hurt me. He's not a woman to express every day he sees my --
10 he sees my pain, but I believe he knows that one day we'll
11 discuss it. One thing I realize is a man being a man is
12 allowing him to make his own choices and see that he makes his
13 own mistakes. You can't shove your ideas down his throat or
14 chastise him like a child.

15 She's not saying that she does that, but she's trying --
16 what I think this means is this is her processing her
17 thoughts, which is what a journal is, from a psychological
18 lens at least. She's trying to figure out a way to make him
19 -- how to appease him, how to reduce his anger towards her.
20 This is not saying that she walks around and chastises him or
21 shoves her ideas down his throat. This is what he's telling
22 her this is the problem. He needs to be allowed to do and
23 think what he needs, what he wants, and lead the relationship.

24 Q: That's an interesting interpretation, but then she goes
25 on to write respect is allowing him to drive us to our

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1 destination without giving directions or advice how to get
2 there every step of the way too, doesn't she?

3 A: Yes. It's a male-led relationship. It is a -- they're a
4 religious family. They come from that strong background, and
5 so in a traditional Christian relationship, as my
6 understanding, is that the -- the male, the head of the
7 household, leads the family.

8 Q: But what she -- the way she starts what I just read is
9 she says one thing I realize is a man being a man is allowing
10 him to make his own choices. She doesn't say Jermaine told
11 me; right? She says, I realize this?

12 A: Yes. Letting him make his own choices, letting him do
13 his own thing, is going to allow him to lead the family. She
14 needs to stop interfering is the way she's reading that.
15 Remember, he's blaming her.

16 Q: So you knew Shellie Davis better than she does?

17 A: No, but I --

18 Q: You can't read her mind.

19 A: No, I can't read her mind, but I read what she said.

20 Q: You're just speculating at this point -- right? -- on
21 what -- what happened, what you think happened?

22 MR. JOHNSON: Your Honor, she's responding to a question
23 he's asking.

24 THE COURT: Okay.

25 MR. JOHNSON: If he wants her to speculate, let him ask

1 that question.

2 THE COURT: Okay. Let's -- Mr. McNair, you can let her
3 answer that question, and then you can follow up.

4 BY MR. MCNAIR:

5 Q: Is it typical for batterers to arm their victims and
6 teach them how to shoot?

7 A: Yes, actually. I've been involved in a few cases where
8 that's -- that is the situation.

9 Q: The person they're abusing they give a gun to and teach
10 them how to shoot it?

11 A: Yes. And throughout that, there's a piece of the
12 reminders of I'll kill you if you do anything, or pieces of
13 look how powerful I am while I shoot this weapon.

14 Q: It seems to me that anything could be a characteristic of
15 a battered spouse in your mind.

16 A: No, sir, that's not --

17 Q: Everything's a characteristic of a battered -- I mean,
18 what isn't a characteristic of a battered spouse?

19 A: Battered spouse syndrome is based on research that Lenore
20 Walker started in the 70s. The research is based off of the
21 premise of post-traumatic stress disorder, and then it
22 includes pieces that come about with repeated trauma from an
23 intimate partner over time, and those include changes in their
24 views of themselves, their body image, psycho -- psychosomatic
25 symptoms that come up with that as well, health problems that

1 come up. It's a hyper connection to their victim.

2 Q: Okay. Let me stop right there. But she was not
3 diagnosed with post-traumatic -- PTSD at the time this
4 happened?

5 A: She was diagnosed with acute stress disorder, which is
6 the precursor to PTSD.

7 Q: But you're talking about abuse over a decade is what
8 you're testifying to, that this abuse happened over -- what?

9 A decade long period, a 13-year marriage?

10 A: Yes. And I would --

11 Q: And she wasn't diagnosed with PTSD in 2010, was she?

12 A: She hadn't seen anybody to be diagnosed with PTSD. From
13 what I understand, there was no psychological treatment prior
14 to being in the hospital.

15 Q: You weren't aware that Donna Schwartz-Watts diagnosed her
16 in 2011?

17 A: That would be after the incident.

18 Q: Right, but she wasn't diagnosed with PTSD then.

19 A: You're telling me -- you're asking before then. No, she
20 wasn't diagnosed at any other point in her relationship. No.
21 She was diagnosed with depression, but she presented with
22 symptoms that mirrored the battered piece -- battered spouse
23 piece. So she had several of those pieces. Dr. Schwartz
24 didn't diagnose her with PTSD, but she diagnosed her with --
25 with depression.

1 Q: And do you --

2 A: And several of those pieces overlap.

3 Q: Okay. Is it typical for batterers to go to joint
4 counseling with their victims at their church and with other
5 married couples?

6 A: That's not atypical.

7 Q: It's what?

8 A: It's not atypical. A battered person doesn't hide in a
9 closet and wait for their abuser to leave the house. They
10 live lives.

11 Q: So if a battered spouse does all the things any other
12 normal married couple would do, how do we determine who's
13 battered and who's not? I mean, it seems like they do
14 everything that every normal couple would do.

15 A: But this abuse that we talked about, the being slammed,
16 being grabbed, being strangled --

17 Q: How would you know that? You're basing that on what she
18 told you?

19 A: Yes, but --

20 Q: Okay.

21 A: Okay. Yes.

22 Q: You have no way to independently determine whether she's
23 telling you -- you didn't give her a lie detector test, did
24 you?

25 A: I don't -- no, lie detector tests aren't -- aren't --

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1 they don't hold up, but I also don't have a crystal ball to be
2 able to tell. So it's through interviews.

3 Q: The basis of your whole opinion is based on what she told
4 you and her credibility?

5 A: Yes.

6 Q: You noted that about this change in demeanor and weight
7 loss, but Shellie Davis in her journal entries is telling us
8 about why she's losing weight and why she's sad, is she not?
9 Her own words before she had a motive to lie.

10 On May 29th of 2010, she writes: I'm alone. I miss my
11 family. I'm tired of all of this. I'm sleepy. Why can't my
12 life end here? I love my husband. This sucks.

13 May 30th of 2010, she writes: I'm lonely again. I hate
14 this. This is not what I want at all. He knows this. I'm
15 left to figure out what to do by myself. I want this to be
16 the last day.

17 She's depressed because he's left; right?

18 A: Yes.

19 Q: Also, on May 30th of 2010, she writes: I want anyone who
20 sees or reads this that I only wanted my husband and family
21 back. If I can't have that, then I want nothing, nothing at
22 all. The world can fall apart. But as long as I had them,
23 I'm good.

24 Did you read that?

25 A: Yes.

1 Q: Then on June 8th of 2010, she says: I'm so angry at the
2 mess and destruction this has caused on my health. No
3 appetite has gotten me roughly 10 to 13 pounds lighter, and it
4 shows so drastically. Geez. Why me? All the whispers behind
5 my back from co-workers, friends, colleagues, and him.

6 And then she -- she goes on to -- let's review what's
7 happened in her life.

8 She says: My husband left me and our five kids with a
9 house not only in foreclosure, but in desperate need of
10 repairs, from plumbing to replacement of dishwasher and
11 garbage disposal, from electrical to window replacements to a
12 new -- a new front and screen door to painting, pressure
13 washing and, yes, the dreaded yard and torn wires to the
14 expensive sprinkler system to fix to the broken HVAC and
15 compressor.

16 She's talking about why she's depressed --

17 A: And she --

18 Q: -- and why she's lost weight, and this is June 8th of
19 2010, and it's because he's left her to deal with all these
20 problems; right? Her words?

21 A: It certainly seems like a contributing factor, yes.

22 Q: Her words. Not what you think. Her words. And then
23 y'all talked about what happened the morning of this murder,
24 September 22nd, 2010, and you put that in your report, and she
25 told you she knocked on the door when she arrived; right?

1 A: Yes.

2 Q: Do you realize she testified that she called him when she
3 got there?

4 A: She told me about calling him. I think he didn't answer
5 is what I recall.

6 Q: Okay. And she told you they laid on the bed together;
7 correct?

8 A: Yes.

9 Q: Are you aware that she testified that he laid on the bed
10 and she sat on the floor?

11 A: No, I don't recall that difference.

12 Q: Okay. And she told you she laid next to him and showed
13 him this check that she had gotten from her work?

14 A: Yes.

15 Q: And if she showed him this check, he was supposed to be
16 coming back home; right?

17 A: He told her if she produced a paycheck that he could
18 return home.

19 Q: That if she showed him this check, he was going to come
20 home, which is what she wanted?

21 A: Right.

22 Q: But then she also testified that she planned to kill
23 herself at his apartment?

24 A: Yes, because she felt like she was the problem.

25 Q: So she was going to show him this check to make him want

1 to come home and then shoot herself right in front of him?

2 A: That was the intention, it sounds like, at the time.

3 Q: That sounds vindictive to me.

4 A: Okay.

5 Q: She told you that Mr. Davis was happy and then, all of a
6 sudden, he got mad and began to blame her for getting him
7 fired; right?

8 A: Yes.

9 Q: Are you aware that he didn't get fired?

10 A: No.

11 Q: Okay. Again, this is what she said.

12 A: Okay.

13 Q: She told you that he received a phone call, and she moved
14 to the end of the bed with her purse, waiting for him to
15 finish the call?

16 A: Yes.

17 Q: And then when he finished the call, he continued to blame
18 her, accused her of disrespecting him, and reminded her that
19 he would kill her if she ever caused him to lose his job or
20 disrespected him. That's what she told you?

21 A: Yes.

22 Q: Are you aware that she testified that she handed his
23 phone to him?

24 A: I don't recall that detail.

25 Q: Okay. Are you aware that he received a text from his

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1 high school sweetheart at 8:04 a.m. that morning?

2 A: No.

3 Q: Are you -- are you aware that he was dead and she was
4 leaving five minutes after that?

5 A: No.

6 Q: Okay. Are you aware that she told the folks at the jail
7 when they mentally evaluated her that she took the gun out of
8 her purse to shoot herself, but it accidentally went off and
9 hit Jermaine? Are you aware that she said that?

10 A: Yes.

11 Q: Are you aware that she told Dr. Roberts on September 27th
12 of 2010 -- he's a doctor in Charlotte. Are you aware that she
13 told him that she had a history of at least ten suicide
14 attempts?

15 A: Yes, I do recall seeing that.

16 Q: Okay. But she told Donna -- Dr. Donna Schwartz-Watts
17 that she had two prior suicide attempts. Are you aware of
18 that?

19 A: Yes.

20 Q: And you --

21 A: During that time, I believe she -- she had a -- didn't
22 she have fragments of the bullet lodged in her head and she
23 was being treated at the hospital?

24 Q: Well, I missed one excuse, I guess, she could -- briefly
25 you can assign to that inconsistency. Are you aware that she

1 told Dr. Roberts that she has had suicidal ideations for the
2 past 20 years?

3 A: Yes.

4 Q: So that predates her relationship with Jermaine?

5 A: Yes.

6 Q: Okay.

7 A: Not by much, though.

8 Q: Pardon?

9 A: Twenty years would put it when?

10 Q: They were married for 13.

11 A: Thirteen.

12 Q: They dated for six months prior to marriage.

13 A: Yeah. I mean, we talked about the -- yes, we talked
14 about her early history, which, yes, that there was history of
15 depression prior to the relationship doesn't change that she
16 was impacted by the dynamics in the relationship.

17 Q: But you can't say she was suicidal because of Jermaine?
18 She'd been suicidal for 20 years.

19 A: I've never said she -- I never said she was suicidal
20 because of Mr. Davis.

21 Q: Maybe that was Dr. Ross just now that that's indicative
22 of a battered spouse or a victim of domestic violence, that
23 they become suicidal.

24 A: They can become suicidal.

25 Q: Can be.

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1 A: But suicide is not something that persists nonstop. We
2 see that happen in waves, typically.

3 Q: You also noted in your report that Mr. Davis controlled
4 all the finances and left her without money for basic needs;
5 correct?

6 A: Yes.

7 Q: Are you aware that she had to give him money for soap to
8 bathe and toothpaste?

9 A: No.

10 Q: You didn't see that entry in her journal? You weren't
11 aware that he had to borrow money from her?

12 A: I don't recall seeing that.

13 Q: Were you aware that she told him to put in writing that
14 he'll pay her back because since he's been gone, he would
15 borrow money and not pay it back?

16 A: There were periods of time when he left. I know that
17 there were periods of time when he left the home that she was
18 struggling to make ends meet with the children.

19 Q: And he must have been struggling too, huh? If he can't
20 afford soap and toothpaste? And did you see her last journal
21 entry on September 18th of 2010?

22 A: I reviewed it, but I'd be happy to look at it again for
23 -- so that I can answer your questions competently.

24 Q: Do you recall her writing that mentally is taking over my
25 mind, I can't think straight, I think about his adultery all

1 the time now?

2 A: Yeah, she was ruminating on it.

3 Q: And that goes all the way back to 2006, when she writes
4 about the first time he cheated on her and she couldn't get it
5 out of her mind, could she?

6 A: Yes.

7 Q: In fact, in the journal entries, that's pretty much what
8 she's writing about, is him talking to these other women and
9 the adultery; right?

10 A: And how she's -- how she feels. Yes, that's what a
11 journal is.

12 Q: And the one thing she never writes in any of these
13 journals, which she describes as her most raw feelings, is she
14 never writes about any abuse, does she?

15 A: Not that I saw her write about, no.

16 Q: So shouldn't we give more weight to what somebody writes
17 in their most private thoughts before they had a motive to
18 lie?

19 A: No, because you don't always -- the problem with this
20 stuff is just because it's your journal, it's your most
21 private thoughts doesn't mean that everything that's happened
22 to you is going to be written down. There's also not always
23 safety in writing everything down.

24 Q: But she wrote a lot of stuff in there about Jermaine, did
25 she not?

1 A: She wrote about him, yes.

2 Q: Okay. But she never wrote about any abuse; right?

3 A: No, she did not write about abuse.

4 Q: Okay. I guess one question I had thinking about this
5 today is what level of proof do you require to make a
6 diagnosis that somebody is -- or findings that somebody is a
7 battered spouse? And let me give you an example. If I tell
8 you my wife hits me and I show you a bruise that I have, would
9 you find that I'm a battered spouse?

10 A: No. What I'm looking for, I'm looking for people who
11 have as much additional information as possible from other
12 sources. So the witnesses that have seen injuries, the
13 reports about the abuse, and I'm also looking for the
14 psychological presentations that come up in testing.

15 The challenge with Ms. Davis is that I evaluated her 13
16 years after the incident, and so part of that is having to
17 rely on Dr. Schwartz and the pieces of information, the
18 symptoms that she testified to in order to try to reconstruct
19 where she was at that time.

20 Q: But again, the foundation of your opinion is what she
21 told you and what she told other people; correct?

22 A: A lot of my report is based on self-report, yes.

23 Q: All right.

24 MR. MCNAIR: That's all the questions I have, Your Honor.

25 THE COURT: Redirect?

1 MR. JOHNSON: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. JOHNSON:

4 Q: Let's jump right into these journals.

5 A: Okay.

6 Q: I'm going to hand you my copy. Okay?

7 A: Okay.

8 MR. JOHNSON: And I'll refer the Court to Defense Exhibit
9 6 first, Your Honor.

10 BY MR. JOHNSON:

11 Q: Read the highlighted portion. This is from 2006, isn't
12 it?

13 A: Yes. May 20th, 2006. I've been hurt so hard and for so
14 long by my husband, but yet I still love him.

15 Q: And when you're asked about whether or not she relates
16 problems within the marriage, does she in her journal
17 constantly refer to being hurt and being -- we'll call it
18 damaged by the relationship?

19 A: Yes. She talks about it. She talks about being hurt.
20 Would you like for me to read this?

21 Q: If it will help you, yes.

22 A: It says: When your spouse cheats on you and you go
23 through so much emotionally and mentally and physically, I
24 broke down because I felt Jermaine was lashing out at me about
25 my job, not getting enough contracts. I can't help but feel I

1 am falling short of what he wants, and the other women were
2 better in these areas.

3 Q: And what impact would it be when she's constantly having
4 to compare herself to the other women in place of his wife?

5 A: It's reinforcing the belief that she's not good enough.

6 Q: Again, is she sharing these problems with other people
7 based upon her own journal entries?

8 A: No, she's not.

9 Q: Did she specifically relay that information?

10 A: I felt myself picking up again. I spoke to no one and I
11 got through, I know.

12 Q: So she's doing the whole pick yourself up by the
13 bootstraps?

14 A: It's my fault. I'm to blame anyways, so keep going.

15 Q: Does Jermaine even know the impact that he is having on
16 his spouse? Does he even care based upon her journal?

17 MR. MCNAIR: Objection. That's total speculation.

18 MR. JOHNSON: All right.

19 BY MR. MCNAIR:

20 Q: Does she, Ms. Davis, believe her husband knows of the
21 impact he's having?

22 A: No. Based on what she's written, she does not believe he
23 knows.

24 Q: And what did she write?

25 A: One of the things I have to understand is Jermaine may

1 not realize or see how he's hurt me.

2 Q: And these injuries are all from well before the incident

3 --

4 A: Yes.

5 Q: -- that resulted in murder?

6 A: Yes.

7 Q: Because the State wants to concentrate on 2010, and I
8 don't blame them because that issue has already been decided
9 for the purposes of this hearing, that Ms. Davis did, in fact,
10 murder her husband, but you're looking at this relationship as
11 it progresses over 13 years; correct?

12 A: Yes.

13 Q: And in terms of impacts, does she even seem thankful when
14 Jermaine cheats on her?

15 A: Yes. She writes: I never thought I would think this,
16 but I'm glad we went, quote, through it and survived. Looked
17 at it as strengthening the relationship.

18 Q: And again, in your experience, is this type of behavior
19 from a battered spouse unusual that they're actively trying to
20 salvage what is a dangerous, toxic relationship?

21 A: No, they love their abuser. So there's these pieces of
22 the good parts of the relationship that they -- they hold on
23 to. They hope that if they can align with what their abuser
24 wants, that they'll be happy and the abuse will stop.

25 Q: And does she talk about time heals all wounds type of

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1 view of the problems of the marriage?

2 A: Yes. All pain and hurt eventually will fade and, in this
3 case, I hope the memories do too.

4 Q: And the solicitor made a --

5 A: Uh-huh.

6 MR. JOHNSON: Your Honor, that's State's -- Defense
7 Exhibit 6 from the original trial again. That's from 2006.

8 BY MR. JOHNSON:

9 Q: The journals are already in evidence. The solicitor went
10 through several aspects of it. Let's talk about Janice
11 Lawson.

12 THE COURT: Okay. Just one minute. They're already in
13 evidence?

14 MR. JOHNSON: They are from the original trial.

15 THE COURT: Okay.

16 MR. MCNAIR: Judge, I've got --

17 THE COURT: Oh, that's right. Okay.

18 MR. JOHNSON: We've got copies for the Court for now.

19 THE COURT: Okay.

20 MR. JOHNSON: I'll mark those now.

21 THE COURT: Sorry for the confusion. All right. So I --

22 MR. JOHNSON: This is --

23 THE COURT: When we take -- when we take a recess, y'all
24 can update me on all the evidence from the trial.

25 MR. JOHNSON: Okay. We'll do that. We'll introduce the

1 -- without objection, I think the three -- I think it's four
2 different journal entries.

3 MR. MCNAIR: Yeah, I've got them right here.

4 MR. JOHNSON: We'll mark them as exhibits for this trial
5 during the break.

6 BY MR. JOHNSON:

7 QL You were asked about Ms. Rossman. She worked at ERA with
8 Ms. Davis. Do you remember --

9 A: Yes.

10 Q: -- the solicitor asked you? And did Ms. Rossman talk
11 about how Shellie typically had a big smile but had lost a lot
12 of weight?

13 A: Yes.

14 Q: And was there a difference in the physical
15 characteristics between Jermaine and Shellie?

16 A: Yes. I believe there was almost a foot of difference in
17 height and 100 pounds weight difference.

18 Q: Okay. And Jermaine would show up at ERA is what Ms.
19 Rossman said. He would show up?

20 A: Yes.

21 Q: Visit her work?

22 A: Yes.

23 Q: You were asked about her visiting his work unannounced?

24 A: Yes.

25 Q: He did the same?

1 A: Yes.

2 Q: And you were asked about Ms. Swartz? She saw those
3 bruises on the forearms?

4 A: Yes.

5 Q: And Ms. Davis would initially give different responses to
6 what happened, and then broke down and said it was Jermaine.
7 Do you remember reading that testimony?

8 A: Yes.

9 Q: And then you were asked about Kenyatta Terry-Allen?

10 A: Yes.

11 Q: She's the one that took the photos of the bruises from
12 the funeral?

13 A: Yes.

14 Q: Was there anything else unusual about that funeral that
15 stuck out at you in terms of problems that Ms. Davis had
16 related to the funeral?

17 A: Yes. She wanted to take the children, and Mr. Davis
18 would not let her. And after she had gotten to Maryland, she
19 got a phone call from Mr. Davis telling her that he had moved
20 out and he had left the children alone.

21 THE COURT: Let's get along as best we can and, hopefully
22 you can hear.

23 MR. JOHNSON: Not sure if that's the fire alarm.

24 THE COURT: The town siren is going off right now. So I
25 think that we're under suddenly a tornado warning that we need

1 to know. Okay.

2 BY MR. JOHNSON:

3 Q: You were asked about Tracy Crocker?

4 A: Tracy who? I'm sorry. Tracy Crocker. Yes.

5 Q: I'll refer you to page 767 of the record. You don't have
6 to read it out loud. I just want you to refresh your memory
7 on what Ms. Crocker testified to. Just take a moment.

8 A: Yes.

9 Q: Okay. Ms. Crocker's original trial testimony, was that
10 in any way contradictory to the fact that Ms. Davis was in an
11 abusive domestic relationship?

12 A: No.

13 Q: What about her testimony actually reinforces that?

14 A: They talked about something that had upset her. She was
15 upset a lot. She was on the phone with her a lot.

16 Q: Go on.

17 A: And that she loved him, and she wanted the marriage to
18 work.

19 Q: And this is from well before 2010?

20 A: Right.

21 Q: Ms. Crocker's relationship actually is she's another
22 witness who lived -- I think she was friends with Ms. Davis in
23 the mid-2000s when they first got to know each other. So she
24 knew this from the long-standing history of the marriage?

25 A: Yes.

1 Q: Thank you. The personality changes. How big of a factor
2 is that in your evaluation when you can physically hear about
3 somebody's personality changing over time when they're in an
4 abusive relationship?

5 A: It's important. It's something we can't tell what is the
6 origin of those changes, but it is important because these
7 relationships impact. We expect them to impact the way a
8 person feels about themselves, the way they see the world, the
9 way they operate.

10 Q: Okay. And is it common for someone's personality to be
11 altered to the point that they move from being an extrovert,
12 happy go lucky, to more of an introvert?

13 A: Yes.

14 Q: Is that something that you noticed in Ms. Davis's
15 history?

16 A: Yes.

17 Q: And did that correspond also with the move from Maryland,
18 where she grew up and where her family was, to South Carolina?

19 A: Yes.

20 Q: And who was the driving force behind that move?

21 A: It was my understanding that Mr. Davis was the driving
22 force.

23 Q: And that's reflected in those -- that flavor from the
24 2006 journal where she talks about the husband needs to drive?

25 A: Yes. He needs to lead the family.

1 Q: Th solicitor really harped on that, that she talked down
2 to him, but the lesson she was gathering from that was not to
3 talk down to him; correct?

4 A: That's my understanding.

5 Q: Not to criticize?

6 A: Yes.

7 Q: Now, Ms. Davis is not perfect?

8 A: No.

9 Q: Would she have made life difficult for Jermaine Davis at
10 times?

11 A: Sure. I could imagine at times in interpersonal
12 relationships, we can get on each other's nerves and we can
13 antagonize each other.

14 Q: And based upon what you read from other witnesses, what
15 you heard from Ms. Davis, Mr. Davis's response to those
16 aggravations could be violent?

17 A: Yes.

18 Q: Controlling?

19 A: Yes.

20 Q: Abusive?

21 A: Yes.

22 Q: And in your opinion, does she meet the status of an
23 abused spouse under the statute?

24 A: Yes.

25 MR. JOHNSON: Thank you, Your Honor. That's all I have.

1 THE COURT: Recross?

2 MR. MCNAIR: Very briefly.

3 RECROSS-EXAMINATION

4 BY MR. MCNAIR:

5 Q: Dr. Danso, I do agree with something you just said about
6 personality changes. You can't tell the origin of that?

7 A: No.

8 Q: That could be a multitude of factors?

9 A: Uh-huh.

10 Q: It could be just life in general. It could be just
11 having kids. It could be having problems in your marriage;
12 correct?

13 A: Yes. With the changes that were reported, we'd expect it
14 to be more than just one of those things. We would expect it
15 to be a significant stressor.

16 Q: And the defense asked you about somebody going from being
17 happy go lucky to being an introvert?

18 A: Right. Being more withdrawn.

19 Q: But are you as fun as you were in your 20s?

20 A: I don't know that I have ever been fun. All I've done is
21 study.

22 Q: But that's natural for somebody to go from happy go lucky
23 in their 20s to being married, having kids, having
24 responsibilities?

25 A: It definitely changes as we age, yes.

1 Q: And that would be a natural personality change that
2 happens to everybody; correct?

3 A: Yes. But there's a big difference between being sort of
4 light-hearted and being suicidal.

5 Q: Well, having your marriage fall apart, your house being
6 foreclosed on, your husband cheating on you, having five kids
7 to take care of, that could cause you to be suicidal, too;
8 right?

9 A: I don't -- it could.

10 Q: People have committed suicide over that before?

11 A: I'm sure they have, yes.

12 Q: When their life is falling apart?

13 A: Yes. People commit suicide when they're life is falling
14 apart.

15 Q: Now, were you aware that Shellie did file for divorce in
16 2006?

17 A: I believe I remember talking with her about that.

18 Q: And in that divorce complaint, do you recall what her
19 grounds were?

20 A: I do not.

21 Q: Well, has anybody ever told you it was adultery?

22 A: No. It wouldn't be surprising, though.

23 Q: And abandonment?

24 A: That's not surprising, given the history.

25 Q: And in that divorce complaint, when she wants to get

1 separated, there's nothing about physical abuse. Were you
2 aware of that?

3 A: I -- that's not -- I've not seen the complaint. That's
4 not something that's uncommon.

5 Q: But at that point, you would agree she wants to get
6 separated from him? She -- she filed a divorce complaint.

7 A: It may be because he abandoned her. She wants the
8 relationship to work. That's something, though, that
9 throughout this, even though there's these pieces, she wants
10 the relationship to work.

11 Q: You're correct. He abandoned her. He cheated on her.

12 A: Yes.

13 Q: But he did not abuse her?

14 A: No, she reports abuse.

15 Q: She didn't in that divorce complaint, did she?

16 A: Just because it's not reported in the divorce complaint
17 doesn't mean it didn't happen.

18 Q: Because anything's possible, isn't it?

19 A: It's possible.

20 MR. MCNAIR: That's all I have, Your Honor.

21 THE COURT: All right. The witness may step down.

22 Counsel, we've probably -- we've been going about an hour
23 and a half anyway.

24 MR. MCNAIR: Yes, sir.

25 THE COURT: It's time for a break. It's 12:15 now.

1 Assuming that we can get out of the building without the use
2 of a boat, since it's been raining hard for an hour, why don't
3 we go and just break for lunch now? An hour and 15? Is that
4 suitable? 1:30 --

5 MR. JOHNSON: 1:30.

6 THE COURT: -- start time? And we'll just set up
7 technology and hope the power stays on.

8 MR. JOHNSON: We will do that. We will test it, Your
9 Honor.

10 THE COURT: All right. We'll be in recess for an hour
11 and 15 minutes. Thank you.

12 MR. JOHNSON: And, Your Honor, the virtual courtroom, if
13 we could have access to it?

14 THE COURT: Yes, sir. Yes, sir.

15 MR. JOHNSON: Just to test it.

16 (WHEREUPON, there was a break in the proceedings from
17 12:14 p.m. until 1:48 p.m., after which the proceedings
18 resumed as follows)

19 THE COURT: Okay. So we've set up here for a virtual
20 witness, and it looks like it's ready to go.

21 MR. JOHNSON: We think so, Your Honor.

22 THE COURT: Okay. I think I'll be on there, too.

23 THE CLERK: I just have to click unmute so that the
24 defense can question the witness.

25 THE COURT: All right. Well, is the defense ready to

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1 call their next witness?

2 MR. JOHNSON: We are, Your Honor.

3 THE COURT: You may proceed.

4 MR. JOHNSON: We'd call Wanda Hundley.

5 THE COURT: All right.

6 THE CLERK: Ms. Hundley?

7 THE WITNESS: Yes.

8 THE CLERK: Would you raise your right hand, please?

9 THE WITNESS: Yes.

10 THE CLERK: Do you swear or affirm the testimony you're
11 about to give the Court will be the truth, the whole truth,
12 and nothing but the truth, so help you God?

13 THE WITNESS: Yes.

14 THE CLERK: Thank you, ma'am.

15 WANDA HUNDLEY, being first duly
16 sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. JOHNSON:

19 Q: Ms. Hundley?

20 A: Yes.

21 Q: Could you tell the Court how you're related to Shellie
22 Davis?

23 A: My sister, my middle sister.

24 Q: And where do you currently reside? Where do you
25 currently live?

1 A: Where I currently -- repeat that again?

2 Q: Yes, ma'am. Where do you currently live?

3 A: I live in Capitol Heights, Maryland.

4 Q: Okay. And is that where Shellie is from? Maryland?

5 A: Yes.

6 Q: And did she grow up in Maryland?

7 A: Yes.

8 Q: That's where her family is?

9 A: Yes.

10 Q: And over the course of knowing Shellie, because you've
11 known her a long time, did you get to know Jermaine Davis?

12 A: Yes, a little.

13 Q: And did you know they were married?

14 A: Yes.

15 Q: And did you witness any behaviors or incidents during
16 their marriage that caused you concern?

17 A: Yes.

18 Q: Could you relay some of those to the Court?

19 A: Yes. I witnessed an incident while she was living on
20 Marlboro Pike, and at the time the name of those apartments
21 were Doral [ph] Terrace. Myself and my late husband, which we
22 are divorced, Leonard Howard, we had went to the apartment to
23 go visit Shellie, and we was there talking, chit chatting and,
24 you know, having fun sitting in the living room.

25 And while we were sitting in the living room, Jermaine

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1 came into the house. The late Jermaine Davis came in and he
2 called her back to the room, to their bedroom. So, you know,
3 we were sitting. She said I'll be back. I said okay.

4 So while we were sitting, Leonard and I was talking, and
5 I was like, wow, it's taking Shellie a long time. Let me see.
6 I was going to -- I got up to proceed to go to the bathroom
7 because I also had to go to the bathroom, but I had to walk
8 past their room.

9 So as I walked past the room, the door was cracked and I
10 walked in. He had her against the wall with his hand around
11 her neck, and she was pregnant at the time. And I said take
12 your hands from around my sister's neck. And at the time in
13 her room, as I can remember, was an ironing board, and the
14 iron was sitting on top of the ironing board. And I said you
15 should take that iron and hit him with it, because then I told
16 Jermaine you have no business putting your hands on my sister.
17 You had her around her neck. She's pregnant.

18 And then I called for Leonard. Leonard come in because I
19 screamed because I was hysterical to see that. So he came
20 into the room, proceeded into the room, and went towards
21 Jermaine and grabbed him and said if anybody you want to hit,
22 won't you hit me or fight me, round about that. So, you know,
23 it was a little of words, altercation.

24 Leonard was upset. He grabbed Jermaine. He jacked him
25 up, and he was about to throw Jermaine out the window, out

1 their bedroom window. I hollered no. And at that time, you
2 know, everything started to calm down. And he, you know,
3 started -- everything started to get calm.

4 So at this time I'm, like, okay, it's -- no police, no
5 nothing was called. I was saying, Shellie, we should call the
6 police. She was like, no, everything was fine. So we got our
7 stuff. We left. And later on, I guess that day, as I can
8 remember, I called her and she told -- and I asked her was she
9 okay, was everything okay. She said everything was fine. So
10 I said okay. And that was traumatizing to me.

11 Q: And do you --

12 A: And -- go ahead.

13 Q: You finish your sentence. Go ahead. I didn't mean to
14 interrupt.

15 A: Oh, that -- that was one occasion.

16 Q: Okay. And do you remember what time period that was?
17 You said she was pregnant. Do you remember roughly what time
18 period in the marriage that was?

19 A: Wow. Whew. Probably --

20 Q: I'll narrow it down. Was that more than -- is it before
21 they moved to South Carolina?

22 A: Yes.

23 Q: Okay.

24 A: Yes.

25 Q: And Ms. Davis moved to South Carolina with her husband?

1 A: Yes.

2 Q: Did you see her as much after that?

3 A: No.

4 Q: Were there any other incidents that you noticed signs of
5 violence in the marriage?

6 A: Yes. Another time, you know, me calling, checking on her
7 because they did move to South Carolina, and me calling
8 checking, you know, checking on her. This particular time, I
9 got off of work and came home. You know, I called her to see
10 how she was doing. Her and I, sister-sister talking, chatting
11 for a good little period of time.

12 And, you know, we were just talking and just talking. So
13 she told me -- you know, she was just talking. So I heard
14 Jermaine come in the house, and she told me, you know, he --
15 you know, Jermaine is here. So, oh, okay. So we're just
16 talking. So I guess he -- I don't know what was said. So she
17 was like, let me -- hold on. So I said, okay, hold on, on the
18 phone.

19 So I'm listening. I hear this scream. Then I heard some
20 glass shattering. And all I can remember was Shellie,
21 Shellie, I kept calling her name, Shellie, and pick up the
22 phone, pick up the phone. So she came to the phone and she
23 was let me call you back, let me call you back. She was --
24 and I said what happened? What's wrong? Because I heard the
25 glass. And she, like, dropped the phone.

1 So I was -- I was just -- again, I was shocked because I
2 was in shock because I didn't know what happened to my sister.
3 I don't know, you know, with the glass. I heard her scream,
4 and I just heard the glass shatter. So I was shocked and I
5 was trying to at the time call her back. I couldn't get
6 through. Nobody answered the phone.

7 So I guess the next day I called, and she -- I said
8 everything okay? What happened? What is going on? She again
9 just says everything -- I'm fine. I'm okay. So I said you
10 should call the police. We need -- the police need to be
11 called. She said, no, everything's fine. Everything is
12 okay.

13 Because I was going to come to South Carolina. I said do
14 you need me to come? She said, no, she was fine. And I said,
15 Shellie, it's not fine because that's not right. I said did
16 he put his hands on you? Did he push you through the glass?
17 She said it was okay because of something. So I said, no,
18 it's not okay. Did he put his hands on you? So, you know,
19 she kind of smoothed everything off. So that was that.

20 Q: When you --

21 A: That was dedication. So -- and I remember I have another
22 incident, so go ahead.

23 Q: No. You go ahead and tell us about another incident.

24 A: I have another incident. My grandmother passed. During
25 my grandmother's funeral -- I think it was 2010. The day our

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1 grandmother passed away was her funeral. We was all at the
2 church, and Shellie comes in. I saw Shellie because all the
3 family was together. I saw Shellie.

4 Shellie came in. She had on some sunglasses and she --
5 you know, she looked like she was just, like, disgruntled a
6 little bit. And I saw her, and then, you know, she gave us
7 hugs, and I said, everything okay? Are you fine? She said,
8 yes, I'm fine. I'm, like, why don't you take the glasses off?
9 She said, no, I'm okay. Everything okay.

10 So I was, you know, hugging her, but she kind of like
11 jumped, was jumpy, and I said what's wrong? What happened?
12 You know, I'm glad to see you. She was glad to see us, but
13 she was, like, in a hurry. So I said to her, Shellie, are you
14 okay? Everything okay?

15 I know it was, you know, my grandmama's funeral.
16 Everyone was emotional. She was very emotional, too. And I
17 said why are you so jumpy? That was just in our conversation.
18 You know, what's going on? And she said, no, I'm okay. She
19 calls me Denny because she doesn't call me Wanda. She said,
20 Denny, I'm okay. I said, okay. So my cousin Kenny -- name is
21 Kenyatta, but we call her Kenny. She kind of pulled me to the
22 side and she said --

23 MR. MCNAIR: Objection to hearsay.

24 A: -- look at this.

25 THE COURT: Ms. -- Ms. Wanda, hold on one second. We

1 have an objection to hearsay. Hold on one second.

2 THE WITNESS: Okay.

3 THE COURT: Ms. -- Ms. Hundley, if you could, just please
4 testify to what you actually saw and heard and not testify to
5 what you heard -- what you thought or heard other people say.
6 Can you hear me okay?

7 THE WITNESS: Yeah.

8 BY MR. JOHNSON:

9 Q: Ms. Wanda, could you tell us not what Kenyatta told you,
10 but what did you do or what did you observe after you spoke to
11 Kenyatta?

12 A: I observed a picture, some pictures Kenyatta took of
13 Shellie. She had a bruise on her leg, a gash on her leg, and
14 I just looked at it. I just -- I was in shock again because
15 the bruises from -- the gash on her leg was deep.

16 And I asked Shellie what happened. She was just -- I'm
17 fine. Everything is okay. No, you're not okay. How did that
18 get there? She wouldn't say. She had to hurry up and go
19 because she received a phone call because her children was
20 left alone and she had to hurry up and go back home to her
21 children. That's what I witnessed on her leg, the gash and
22 some bruises, and some bruises on her back.

23 Q: And did Shellie try to minimize any of the interactions
24 that she had with Jermaine? Did she -- did she tell you not
25 to worry?

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1 A: She just kept saying, yes, everything okay. Everything
2 is fine. Yes.

3 Q: And particularly after she moved to South Carolina, did
4 you notice any changes in Shellie's demeanor or personality?

5 A: Not really. We -- I just didn't hear from her that much.

6 Q: Okay.

7 MR. JOHNSON: Okay. Thank you, Ms. Hundley. If you'll
8 answer any questions the State may have.

9 THE COURT: Hold one second. You have another lawyer
10 coming up.

11 CROSS-EXAMINATION

12 BY MR. MCNAIR:

13 Q: Hey, Ms. Hundley. How are you doing?

14 A: I'm doing fine.

15 Q: Can you see and hear me okay?

16 A: Yes.

17 Q: Now, you testified that at your grandmother's funeral,
18 you saw pictures of a bruise and gash on your sister's leg?

19 A: Yes, I saw the pictures, and I saw on her, too, just as
20 well.

21 Q: You saw? What did you see on her person?

22 A: The gash on her -- on her -- her leg.

23 Q: But you just testified you saw pictures of that? Now
24 you're saying --

25 A: Yes, I saw photos.

1 Q: Now you're saying you saw it on her person? Did you hear
2 me?

3 A: Yes, sir. It's, like -- it's, like, going in and out.

4 Q: You testified that you saw bruises on her back?

5 A: Yes.

6 Q: How did you see those?

7 A: Because my cousin lifted up her -- her shirt.

8 Q: In the church?

9 A: Yes. We was down in the hall. We was in the bathroom.

10 Q: Well, if she lifted up her shirt to show you the bruises
11 on the back, why did she have to show you pictures of her leg?

12 A: Because at first we was upstairs, and then we went
13 downstairs because we had the reception.

14 Q: Okay. And you asked Shellie what happened, and she
15 didn't tell you?

16 A: No. She just said she was okay.

17 Q: And you described her as being jumpy; is that correct?

18 A: Emotional, because it was my grandmother's funeral.

19 Q: Okay. And did you realize that Jermaine had told her he
20 was leaving at that time?

21 A: No.

22 Q: That he -- that he was separating from her? You didn't
23 know that?

24 A: No.

25 Q: Okay. Now, you testified that this incident where

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1 Jermaine had her against the wall with his hand around her
2 neck, that was when she was pregnant; right?

3 A: Yes.

4 Q: Was that shortly after they got married or had they been
5 married a while?

6 A: I believe they'd been married a while.

7 Q: But she didn't tell you about the incident two weeks
8 after they got married where he supposedly threw her over the
9 hood of a car at a busy intersection?

10 A: No, because I didn't really talk to her that much.

11 Q: Well, how much did you talk to her?

12 A: We talked occasionally, but it wasn't every day.

13 Q: How often would you say?

14 A: Well, probably I can say this would be, like -- I could
15 say, like -- like, it could be two, like, in a week. Like,
16 two times in a week.

17 Q: Two times in a week?

18 A: Yes.

19 Q: How often --

20 A: Sometimes we would go periods of time. It could be
21 longer.

22 Q: How often would you see her when she was in Maryland?

23 A: Not that often because we worked.

24 Q: Once a -- once a month? Twice a month?

25 A: Could be. Like, shoot, this -- that's -- I'm going to

WANDA HUNDLEY - CROSS BY MR. MCNAIR

1 say -- dang. Probably approximately once every probably two
2 months.

3 Q: Okay. And the only time you saw a bruise on her was at
4 your grandmother's funeral?

5 A: Yes.

6 Q: Okay.

7 MR. MCNAIR: That's all the questions I have. Thank you.

8 THE COURT: Okay. Redirect?

9 MR. JOHNSON: Very briefly, Your Honor.

10 REDIRECT EXAMINATION

11 BY MR. JOHNSON:

12 Q: And, Ms. Hundley, this is more of a housekeeping
13 question. Your daughter, I think, was also slated to testify,
14 but she's got a medical issue and is not available; right?

15 A: Yes.

16 Q: Okay.

17 MR. JOHNSON: That was -- I forgot to ask that question
18 at the end. So that's all I have. Thank you for your time,
19 Ms. Hundley.

20 I'd ask the Court to relieve the witness.

21 THE WITNESS: Okay.

22 THE COURT: Any recross?

23 MR. MCNAIR: No objection, Your Honor.

24 THE COURT: All right. No more questions, and the
25 witness is excused.

1 MR. JOHNSON: Thank you, Ms. Hundley.

2 THE WITNESS: Thank you.

3 MR. JOHNSON: Madam Clerk, that's all we need for the
4 virtual courtroom.

5 THE COURT: I'm going to shut down the virtual courtroom
6 at this time. You can go ahead.

7 MR. JOHNSON: Your Honor, a couple of housekeeping
8 matters. We have what's been marked as Defendant's Exhibit 3,
9 4, 5, and 6, I think without objection, which are the excerpts
10 from the diaries that were introduced at trial, and I have
11 copies for the Court.

12 THE COURT: Okay. These are exhibits for this hearing?

13 MR. JOHNSON: These are four exhibits for this hearing,
14 but also introduced at the original hearing.

15 THE COURT: Gotcha. Okay.

16 (WHEREUPON, Defendant's Exhibits 3, 4, 5, and 6, diary
17 excerpts, were admitted into evidence.)

18 MR. JOHNSON: Your Honor, at this time, we'd call Deidre
19 Davis-Washington to the stand.

20 THE COURT: Okay.

21 THE CLERK: Raise your right hand. Place your left hand
22 on the Bible. Do you swear or affirm the testimony you're
23 about to give the Court will be the truth, the whole truth,
24 and nothing but the truth, so help you God?

25 THE WITNESS: Yes, I do.

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1 THE CLERK: Thank you. Please be seated. State your
2 full name and spell your last name for the record.

3 THE WITNESS: Sure. Deirdre Angela Davis-Washington.

4 THE CLERK: Thank you, ma'am.

5 THE WITNESS: Last name spelled D-a-v-i-s hyphen W-a-s-h-
6 i-n-g-t-o-n.

7 MR. JOHNSON: Thank you. Do you prefer Ms. Davis or Ms.
8 Washington?

9 THE WITNESS: Mrs. Washington, please.

10 DEIRDRE DAVIS-WASHINGTON, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JOHNSON:

14 Q: Ms. Washington, you testified at the original hearing?

15 A: Yes.

16 Q: How long have you known Shellie?

17 A: I have known Shellie since 1991.

18 Q: And originally you got to know her because y'all both
19 lived in Maryland?

20 A: That is correct, yes.

21 Q: And do you still live in Maryland?

22 A: I do.

23 Q: And as Shellie and -- you and she interacted as you got
24 to know her, what was her personality like?

25 A: Very fun. Beautiful style. When I met her, she was

1 looking for a career opportunity. I just happened to work for
2 a word processing school at the time, and so we were looking.
3 I was a telemarketer looking to get people in. And so just my
4 first interaction with her was the telephone. Like, she was
5 really looking for an opportunity. I knew that it was about
6 trying to get them in to enroll them for school, but her
7 personality just shined through the phone.

8 She -- again, you know, very friendly, very happy, always
9 laughing at something or smiling at something. She just was
10 one of those people that was just always, like, joyous. And,
11 like, I said, you know what? I think she would actually be a
12 good telemarketer. And so I talked to my boss and said, you
13 know what? Instead of having her come in for the school,
14 let's, you know, bring her in, and she was able to get the job
15 with me at that same company as well.

16 Q: And did you get to know Jermaine Davis?

17 A: Yes.

18 Q: Was that through Shellie?

19 A: That is correct, yes.

20 Q: And what observations did you have of their interaction
21 as a couple?

22 A: I mean, their interaction as a couple in the beginning
23 was definitely -- you know, it was cohesive at that particular
24 time. Jermaine was kind of like the goofy country boy, and I
25 would always refer to him as being country. And so he had

1 that southern personality, but very much a man's man, someone
2 who, again, the foundation was that the man pretty much led
3 the relationship, which in most circumstances, especially in
4 Christian households, that's usually how it goes. But the
5 dynamic between them, you know, was like, again, a normal --
6 in the beginning, a normal, you know, husband-wife
7 relationship where the man is leading the family.

8 Q: Did you ever observe any abusive behavior from Jermaine?

9 A: In the beginning or in later years?

10 Q: Anytime.

11 A: Abusive, as in if we're talking about physical abuse, I
12 did not observe him physically abusing her directly, but if
13 we're talking about emotional abuse or, you know, mental
14 abuse, then, yes, I definitely have observed that in our
15 relations where I've said to myself, you know, that, okay,
16 that's not necessarily right, but I have observed that
17 directly.

18 Q: What jumps out at you from specific memories?

19 A: Just the -- the -- the idea of being it was like more
20 controlling or manipulative. Whatever Jermaine said is what
21 Shellie believed. And even if it was outlandish, he still --
22 you know, she still believed that.

23 And so we would even have conversations, Jermaine and I,
24 and if it was something that I didn't necessarily, you know,
25 agree with in terms of the concept itself, then we would go,

1 okay, well, no, I don't -- you know, I don't necessarily think
2 it's that, and so we would, you know, just kind of at that
3 point, you know, have like a friendly disagreement, agree to
4 kind of disagree type of conversation. But yeah, that -- that
5 was definitely, you know, the beginning for sure.

6 Q: And did you see a big change in Shellie Davis's
7 personality when they left Maryland and moved to South
8 Carolina?

9 A: Oh, I saw the change in her personality before they left
10 Maryland to go to South Carolina. Absolutely.

11 Q: What type of changes did you observe in her?

12 A: She was definitely -- I felt like she had become timid.
13 I felt like she was almost, like, childlike, where she then
14 became this personality where she had to get permission to do
15 certain things.

16 And I understand the concept of being married myself, and
17 so I understand the concept of talking to your mate, you know,
18 about something that you're going to do, but it just felt like
19 she needed to have permission in order to be able to do
20 certain things. It just -- you know, it wasn't that free
21 spirited, you know, personality anymore. It just seems like,
22 you know, again, that she was a little timid. It had become
23 that way.

24 Q: And did Jermaine take steps to exercise any control over
25 Shellie?

1 A: Did -- I'm sorry. Repeat that again?

2 Q: Yes. Did Jermaine exercise any steps to control Shellie?

3 A: I -- I would say so, yes.

4 Q: Did she have a curfew?

5 A: Oh, absolutely. I can recall when they were living in
6 Doral Terrace, and I want to say that's either District
7 Heights or Forestville, Maryland. It's right there on the
8 line. And Shellie and I went out to the mall and, honestly, I
9 thought she was, like, playing, like she was just
10 overexaggerating.

11 And so she kept saying -- you know, she's, like, I have
12 got to get home by 9 o'clock. And I mean, mind you, we're,
13 like, close. I'm -- I'm driving the car. It's only, like, a
14 few minutes after nine. And I want to say it was, like,
15 really only a few minutes after nine, and she kept saying
16 that, you know, I've just -- I have to be home. Like, I have
17 to be home.

18 But, like, she was really nervous and afraid about the
19 fact that she did not make it home by this 9 o'clock curfew
20 that I literally was finding out about while we were in the
21 car, because obviously, if I -- if she would have told me that
22 ahead of time, I probably either would not have gone or I
23 would have had an issue and probably would have spoken with
24 her.

25 I know that when we pulled up to the parking lot again,

1 she had fear all over her. And so I said -- I said, well, do
2 you want me to go in, like, I can talk to Jermaine, like, I'll
3 talk to him and I'll, you know, tell him what happened so that
4 he'll know. And I'm thinking, okay, is it jealousy that she
5 thinks, you know, did he think that we were out doing
6 something different than what she told him, but she was afraid
7 because she did not meet the curfew that he set for her.

8 Q: Do you have any other similar experiences with them over
9 the years of that?

10 A: That was the only curfew situation.

11 Q: Okay. And did you eventually counsel Shellie about
12 perhaps seeking a divorce?

13 A: Yes, I absolutely did.

14 Q: And was this about the 2006 time period?

15 A: This was -- no, it was not 2006.

16 Q: Okay.

17 A: Yeah, it was after that.

18 Q: Okay.

19 A: Yeah, I can -- I mean, I can tell you the year.

20 Q: That's okay.

21 A: Okay.

22 Q: And what was her response to that?

23 A: Oh, she was upset with me.

24 Q: Okay.

25 A: Beyond a shadow of doubt, she was upset with me, and the

1 context behind that was that I wasn't necessarily doing it to
2 force her to do something that she did not want to do. I just
3 so happened to be in a class. I am now an experienced
4 paralegal, but at that particular time I was in a class, and
5 it just so happened that family law was the subject.

6 And so I said, look, this is what you need to -- you
7 know, here -- you know, here's this -- if you need a legal
8 separation, it has information on divorce. And I sent that to
9 her by email, but she became extremely offended at the fact
10 that I would even suggest that -- you know, that -- that she
11 was even ready for me or ready for that. That is exactly how
12 she responded to that.

13 Q: And did you have any other basis for concern about the
14 nature of the marriage towards the end of their marriage? Any
15 other factors that caused you concern?

16 A: Well, the biggest factor that caused me concern other
17 than the fact they argued a lot -- there's no doubt about
18 that. I've been on the phone with Shellie when he's been
19 arguing before. I've been on the phone when he has gotten on
20 the phone and said Shellie will call you back and abruptly,
21 you know, ended the call.

22 I have -- in 2010, for me -- and that was the same year,
23 which is also why I decided that I was going to give her the
24 literature as well. She came past my office. I also attended
25 her grandmother's funeral that day, but she had come past my

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1 office in downtown D.C., Washington, D.C., that is, and so she
2 hadn't said anything to me at that particular point. I left
3 out of my office to go into the lobby area, came back in. She
4 was sitting down and her pants leg was up, and I looked at the
5 back of her leg, and the back of her leg looked like it was
6 like flesh exposed the bruise was so bad on the back of her
7 leg.

8 And I'm like, what is -- and I asked her. I said what is
9 that? What happened? And so she proceeded to tell me that
10 the two of them had begun to fight. She mentioned to me that
11 she, you know, was thrown on the bed and that -- and I'm like,
12 Shellie, this is unacceptable. This is absolutely
13 unacceptable.

14 And so that was the -- that's -- for me, that was enough,
15 which is why again later on in that same year, I made that,
16 you know, decision to send that on to her so she could at
17 least read it and understand it. And when she did make a
18 decision to do whatever it is that she was going to do, that
19 she would have the knowledge that she needed to proceed.

20 Q: And you mentioned your office in Maryland. I meant to
21 ask, what do you currently do in Maryland?

22 A: Well, I currently work for one of the top defense and
23 aerospace companies as a -- the assistant corporate secretary
24 over the international subsidiaries.

25 MR. JOHNSON: Thank you. Answer any questions counsel

1 has.

2 THE COURT: Cross-examination?

3 CROSS-EXAMINATION

4 BY MR. MCNAIR:

5 Q: Ms. Washington, how are you doing?

6 A: Hi. I'm doing well. Thank you.

7 Q: Now, you -- when did you first meet Shellie? How old was
8 she?

9 A: Shellie was born in '73. So that is '91. What is that
10 math?

11 Q: I was going to ask you to do the math. Was that before
12 she was married to Jermaine?

13 A: Yes, that was absolutely before she was married to
14 Jermaine.

15 Q: That was before she had five kids; right?

16 A: That is correct.

17 Q: Okay. So it's not unusual for somebody's personality or
18 demeanor to go from light-hearted to kind of more reserved
19 after having kids and just dealing with life either, is it?

20 A: No, I'm the same.

21 Q: Right. Me too.

22 A: Yeah.

23 Q: I was more fun in my 20s. I promise you.

24 A: Yes.

25 Q: So that's not unusual for somebody to change over time

1 after having kids and being married and having bills?

2 A: It's also not unusual to not change.

3 Q: Right. Okay. Now, you've testified previously that you
4 talked to Shellie just about every day in Maryland; right?

5 Almost every day y'all talked?

6 A: We talked often, yes.

7 Q: Okay. Not as much when she moved to South Carolina;
8 right?

9 A: That is correct.

10 Q: How often would you see her when y'all were in Maryland?

11 A: When we -- at what point? You didn't give me a --

12 Q: After Shellie --

13 A: -- point in time.

14 Q: After she was married to Jermaine --

15 A: Okay.

16 Q: -- how often would you see her?

17 A: Occasionally. I want to say -- I don't want to say that
18 it was actually weekly, but maybe once every couple of weeks.

19 Q: Once every couple of weeks?

20 A: Yeah.

21 Q: Okay. And did you ever see her with a black eye?

22 A: While she was in Maryland, no.

23 Q: Okay. Is --

24 A: The first bruise -- the first bruise that I saw myself
25 was the bruise that I saw when she sat in my office that March

1 of 2010.

2 Q: When her -- after her grandmother's funeral?

3 A: That is absolutely correct.

4 Q: So you never saw her with a black eye? You never saw her
5 with missing patches of hair, did you?

6 A: I didn't observe her hair.

7 Q: You did?

8 A: I did not --

9 Q: Did not?

10 A: -- observe her hair. Yeah.

11 Q: But you didn't see any bruises in Maryland? The only
12 bruise you saw was in 2010 at her grandmother's funeral?

13 A: That's the -- the only one that I witnessed. That is
14 correct.

15 Q: And just curious, why didn't you testify to that at the
16 previous trial?

17 A: May I -- can I say it the way that I want to say it?
18 Because no one asked me any question of substance whatsoever,
19 not the prosecutors, not even her defense attorney.

20 Q: Well, weren't you asked if you'd seen any abuse, any
21 signs of abuse?

22 A: I do not recall being asked that question.

23 Q: Okay. But you acknowledge you did not testify to that at
24 the trial? This is your first time testifying to that?

25 A: This is the first time that I'm being asked any questions

1 about domestic violence.

2 Q: Okay. And did you ever talk to the police?

3 A: I did not.

4 Q: Why not?

5 A: What do you mean? Did the police ask --

6 Q: Did they --

7 A: Were they calling me?

8 Q: After this happened, they reached out to you, didn't
9 they? And try to talk to you?

10 A: No. Well, you -- you may have the wrong person.

11 Q: Okay.

12 A: Okay.

13 Q: But you never told that to the police either; right?

14 They may not have reached out to you, but you never came
15 forward to tell the police that you had seen bruises on her
16 leg at her grandmother's funeral?

17 A: You wanted me to call them from Washington, D.C., to tell
18 them that I saw bruises on your legs from -- to South
19 Carolina?

20 Q: Well, you knew she'd been charged with murder; right?

21 A: I'm sorry?

22 Q: You knew she had been charged with murder; correct?

23 A: What do you -- and at that point in 2010 in March? She
24 had not been charged with murder in March of 2010.

25 Q: After she got charged with murder, you never told anybody

1 the information about her having bruises on her legs?

2 A: No. No one. We -- no one called me to ask me any
3 questions.

4 Q: Fair enough.

5 A: Okay.

6 Q: Nobody called you and you didn't volunteer; right?

7 A: I'm located in another state. I think it's fair that if
8 someone calls me, then I would have been able to say this is
9 what I saw. I think at that particular time -- and, you know,
10 I think you must remember this part. That at that particular
11 time that I received a call from Enola Thornton, I was the
12 first person that she called in Maryland, and she reached out
13 to me because she knew that I was the closest thing to
14 Shellie, and I was the person in her phone.

15 She told me what happened. She also told me the
16 condition of my best friend, and that in that moment was my
17 concern. Number one, shocked because --

18 Q: Okay.

19 A: -- I never expected to receive such a call about anything
20 happening to Jermaine. I would have expected to receive a
21 call that Shellie might have done something to herself first.
22 So when I also was told that she also attempted to --
23 attempted suicide in that moment, my concern was on making
24 sure that she was okay and that the kids were okay.

25 Q: Okay. Now, you sent this email to Shellie about getting

1 divorced or how to get divorced. You sent her -- that to her
2 in July of 2010. Does that sound right?

3 A: Approximately.

4 Q: And then she didn't talk to you for two months after
5 that?

6 A: Actually, it was -- I don't know that it was two months.
7 I can recall us definitely not speaking for a couple of weeks
8 before this incident had happened.

9 Q: Well --

10 A: So it had been -- it had definitely been a while.

11 Q: Okay. But after you sent that email, you did not talk to
12 her again; right?

13 A: No. We did not because we argued.

14 Q: So if you previously testified --

15 A: We argued.

16 Q: If you previously testified that you sent that email in
17 July of 2010, then you did not talk to her after that time;
18 correct?

19 A: It was whose testimony?

20 Q: Yours. I'm reading your testimony.

21 A: What? Can I read it myself, please?

22 Q: Yes. This is page 662 of the transcript, lines 22
23 through 25.

24 A: Thank you very much. We had an entire argument.

25 Q: So your prior testimony is wrong?

1 A: Yeah. First of all, no, I haven't spoken to her until
2 this incident.

3 Q: Meaning the murder?

4 A: Well, I didn't even talk to her then. I received a call
5 from Enola Thornton at that particular time.

6 Q: But didn't you -- didn't you --

7 A: She was not even coherent at that particular time.

8 Q: I know, but didn't you go talk to her after this
9 happened? Did you ever?

10 A: Yes. I visited her once she was actually -- she had
11 recovered. That is correct.

12 Q: Right.

13 A: But we had an -- we had an entire argument after the
14 emails were sent. So I spoke to her then, and then we didn't
15 have any communication.

16 Q: Okay.

17 A: Yes.

18 Q: Now, were you aware that Shellie filed for divorce in
19 2006?

20 A: I was not aware that she filed for divorce at all in
21 2006.

22 Q: Were you aware that she filed for divorce because
23 Jermaine had cheated on her?

24 A: I recall from my recollection, from my -- the best of my
25 knowledge that she had sought advice on legal separation, and

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1 they did nothing with that whatsoever. They did not decide to
2 proceed forward. I have never heard of a 2006 divorce
3 complaint filed by Shellie or Jermaine.

4 Q: So I guess it's fair to say she didn't tell you
5 everything that was going on, did she?

6 A: It's possible.

7 Q: It's possible that she didn't tell you everything?

8 A: Yes, it's possible.

9 Q: Okay. And during the time you were in Maryland until she
10 left -- until the time they were in Maryland until they came
11 to South Carolina, you didn't see any bruises on her at all?

12 A: The bruise that I observed was the bruise that I saw when
13 she was in my office in Washington, D.C.

14 Q: Correct. In 2010?

15 A: That is the bruise that I saw.

16 MR. MCNAIR: Thank you.

17 THE WITNESS: You're welcome.

18 THE COURT: Redirect?

19 MR. JOHNSON: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. JOHNSON:

22 Q: Personalities change as you get older? Do they do that
23 huge 180 you saw in Shellie?

24 A: No.

25 MR. JOHNSON: That's all.

1 THE COURT: Any recross?

2 MR. MCNAIR: No, Your Honor.

3 THE COURT: All right. The witness may step down.

4 THE WITNESS: Thank you, Your Honor.

5 MR. JOHNSON: Your Honor, a bit of guidance from the
6 bench, if you have a moment.

7 We've got specific portions of the original trial
8 transcript that we would reference. I've got those pulled out
9 that I can hand individually, or I can simply refer the Court
10 to the specific pages. I'll leave it up to you in terms of
11 how you would like to handle that, but we do have portions of
12 the --

13 THE COURT: I think -- does this reference specific -- at
14 the point you want to reference specific pages in this
15 transcript, I'd like you to do it on the record.

16 MR. JOHNSON: Yes.

17 THE COURT: I'd also like -- I've got the transcript, but
18 if you want to hand me something, you might as well.

19 MR. JOHNSON: I can -- I can do that. And, Your Honor,
20 since this is already part of the transcripts, I'm not going
21 to mark it as a Court exhibit for today's hearing, since it's
22 simply excerpts from the original trial transcript.

23 We'd call the Court's attention to Janice Rossman, and
24 these are in order from the transcript. She is a co-worker
25 from ERA who worked with Ms. Davis. She would talk about

1 Shellie's typical big smile and weight loss, and that's on
2 page 329 to 330. We pulled those out for you.

3 Karen Swartz, who was mentioned earlier, she saw the
4 bruises on Ms. Davis, forearms in particular. It upset her.
5 Shellie was quiet, withdrawn. That was on page 653 of the
6 original record through 655. The financial issues with the
7 family. She had to loan the family \$500 for Christmas, part
8 of the financial strain the marriage was under. That's again
9 on page 655. So that's Karen Swartz.

10 Rhonda Davis, who worked with Shellie Davis as a real
11 estate agent, discussed how Shellie was suicidal and broken.
12 That's on page 750 of the record. That she noticed the
13 personality changes in Ms. Davis. That's on page 750 of the
14 record as well.

15 Robert Wilder, who was in charge of the real estate
16 agency, he testified on page 757 regarding Shellie Davis's
17 personality generally.

18 Kenyatta Terry-Allen, Ms. Davis's cousin from Maryland,
19 relayed again the funeral incident the Court has heard from
20 from a couple of different witnesses today, took the actual
21 photographs. That's Defendant's 64 and 65. We will put those
22 on the screen when I'm done so that the Court can visually see
23 the exhibits that were introduced, but that's Defendant's 64
24 and 65 from the original trial. That's page 760 through page
25 761.

1 Ms. Allen also relates the eat the cake, Anna Mae,
2 reference, which is on page 762. For reference for the Court,
3 that's the -- the issue from the Ike and Tina Turner movie
4 that -- that was an issue in the original trial. And Ms.
5 Kenyatta Terry-Allen puts that in the context of what that
6 actually means when someone is told to eat the cake, Anna Mae.
7 That's on page 762 of the trial transcript.

8 Finally, Tracy Crocker, who's a friend of Ms. Davis since
9 the early 2000s, she related the marital problems that she
10 observed with Jermaine on page 764 of the trial transcript.

11 So we would refer back to those portions of the original
12 trial transcript. Again, for ease of use, we have also
13 included Ms. Deidre Davis-Washington's entire transcript since
14 she testified earlier on the stand, and we've also included
15 Ms. Shellie Davis's entire testimony from the earlier trial.
16 So we would reference those.

17 I'll be glad to let the solicitor respond to any of that,
18 if they wish, and then I'll need a short break to talk with
19 Ms. Davis.

20 THE COURT: Okay.

21 MR. JOHNSON: Yes, Your Honor.

22 THE COURT: But you also -- also in this packet is Dr.
23 Tyson and Schwartz-Watts. Is there anything in particular?

24 MR. JOHNSON: Just out of clarification, since they've
25 both been referenced. I did not write them down. I'm sorry,

1 but those were both witnesses who testified regarding abuse
2 natures. I included both the experts in the original trial to
3 make them accessible to the Court.

4 THE COURT: Very well.

5 MR. JOHNSON: Both of those witnesses were talked about
6 earlier in today's hearing. So to make that easier, we've
7 included those as well.

8 THE COURT: Okay. So you'd like a short recess?

9 MR. JOHNSON: Just to discuss the situation with Ms.
10 Davis, Your Honor, whether she's going to testify or whether
11 we're going to use her.

12 THE COURT: All right. We started at 1:15. So we're
13 about an hour, and so we're doing fine. We'll go ahead and
14 take a ten-minute recess now and go from there.

15 MR. JOHNSON: And just for the State's scheduling
16 purpose, if Ms. Davis is not going to testify, in terms of
17 actual witness presentation, we would be done.

18 THE COURT: Okay.

19 MR. JOHNSON: I do have a couple of exhibits to put on
20 the screen, but in terms of actual presentation, we would be
21 done.

22 THE COURT: All right. Thank you. We'll be in recess.

23 MR. JOHNSON: Thank you, Your Honor.

24 (WHEREUPON, there was a break in the proceedings from
25 2:34 p.m. until 3:06 p.m., after which the proceedings

1 resumed as follows.)

2 THE COURT: Mr. Johnson?

3 MR. JOHNSON: Thank you, Your Honor.

4 THE COURT: Any other witnesses?

5 MR. JOHNSON: Your Honor, at this time, Ms. Davis and I
6 have consulted. Because she does have a direct appeal
7 currently pending, she's going to stand on her original trial
8 transcript.

9 After all, she testified extensively at trial regarding
10 the nature of the marriage with Jermaine and her actions
11 leading up to his murder. So any testimony that she'd provide
12 today would be adding flavor, but not substantially change
13 what she's already testified to before the jury. So we're
14 going to rely upon the existing testimony from Ms. Davis.

15 At this time, I do have Defendant's Exhibit 7 and 8
16 without objection. These are just notes about the physical
17 characteristics between Shellie and her husband, Jermaine, at
18 the time of his death, his height and weight versus her height
19 and weight.

20 (WHEREUPON, Defendant's Exhibits Number 7 and 8, notes,
21 were admitted into evidence.)

22 MR. JOHNSON: In addition, we do have the photographs
23 that have been testified to by a number of the different
24 witnesses regarding the bruising on Shellie Davis's leg.
25 We're not entering them as separate exhibits for this hearing,

1 since they were already introduced as Defense Exhibit 64 and
2 65 during her original trial, but because color photographs
3 are always desirable, Your Honor, we did put them on the
4 screen so the Court could actually see them individually.

5 So upper thigh. Oops. Went the wrong way. And the
6 lower leg. I can do a better job next time flipping between
7 the two of them, Your Honor.

8 THE COURT: But what are you showing me?

9 MR. JOHNSON: This is the photograph of her lower leg,
10 the contusion, the bruising on her lower leg that was
11 described by a few of the witnesses who testified, including
12 Ms. Hundley who testified remotely, as well as the testimony
13 from several of the witnesses during trial.

14 THE COURT: So the exhibit used at trial was a picture of
15 a BlackBerry with a picture?

16 MR. JOHNSON: A picture of the BlackBerry. Yes, Your
17 Honor.

18 THE COURT: Kind of gives a little bit of insight on how
19 long ago the trial was.

20 MR. JOHNSON: How long that trial was and how long ago
21 the photo was taken. So you had that photograph, Your Honor,
22 which is 64 from the original trial. Defendant's 65, which is
23 the bruising on the upper leg.

24 And at this time, the defense would rest its presentation
25 in connection with the abused spouse.

1 THE COURT: Very well. Thank you.

2 Mr. McNair, I think y'all's first witness will be
3 tomorrow morning; is that correct?

4 MR. MCNAIR: That's correct, Your Honor. We told our
5 witnesses to be prepared for tomorrow morning. We may have
6 one or two, and then we'd be prepared to argue.

7 THE COURT: Okay. All right. Well, then we'll recess
8 for the day. I believe -- have they already worked that out?

9 UNIDENTIFIED MALE: Yes.

10 THE COURT: Okay. All right. So Ms. Davis will be in
11 Edgefield tonight?

12 UNIDENTIFIED MALE: Yes.

13 THE COURT: Okay. Very well. All right. We'll see you
14 at -- what time tomorrow did you tell them to be here?

15 MR. MCNAIR: We can plan for 9:30 again. Hopefully,
16 there won't be a hundred other defendants here.

17 MR. JOHNSON: I can't control how many other defendants
18 show up, Your Honor.

19 THE COURT: Yeah. Well, 9:30, with an aspirational start
20 at 9:45 to 10:45. So -- all right. We'll be in recess until
21 tomorrow morning. Thank you.

22 (WHEREUPON, the proceedings adjourned for the day at 3:10
23 p.m.)

24 JULY 30, 2024

25 (WHEREUPON, the proceedings resumed at 10:20 a.m.)

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1 THE COURT: All right. Are we ready to proceed?

2 MR. MCNAIR: Yes, Your Honor.

3 MR. JOHNSON: Yes, Your Honor.

4 THE COURT: All right. Well, Mr. McNair -- Ms. Taylor or
5 Mr. McNair, whoever, call your first witness.

6 MR. MCNAIR: Thank you, Your Honor. The State calls
7 Arletta Carr.

8 THE CLERK: Raise your right hand. Place your left hand
9 on the Bible. Do you swear or affirm the testimony you're
10 about to give the Court will be the truth, the whole truth,
11 and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 THE CLERK: Thank you, ma'am. Please be seated. State
14 your full name and spell your last name for the record.

15 THE WITNESS: It's Arletta Carr, C-a-r-r.

16 THE CLERK: Thank you, ma'am.

17 ARLETTA CARR, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MCNAIR:

21 Q: Good morning, Ms. Carr.

22 A: Good morning.

23 Q: Tell the judge a little bit about yourself. Where are
24 you currently living?

25 A: I'm a resident in Columbia, South Carolina. I'm 53 years

1 old, have two children and three grandchildren.

2 Q: All right. And where are you currently working?

3 A: For Cumulus Media.

4 Q: At Cumulus Media?

5 A: Uh-huh.

6 Q: Okay. What --

7 A: It's a radio station. It consists of five different
8 radio stations, KISS 107.5, B-106, OMG, and also ESPN.

9 Q: Okay. Now, tell the judge how you knew Jermaine Davis.

10 A: Jermaine and I are coworkers and friends.

11 Q: Okay. How long did you know Jermaine prior to his death?

12 A: Probably about three years.

13 Q: Three years?

14 A: Uh-huh.

15 Q: At some point, did you and Jermaine start working for the
16 same company?

17 A: We did.

18 Q: And approximately when was that?

19 A: 2000 -- I want to say 2009.

20 Q: Okay.

21 A: Around that time.

22 Q: Now, because y'all worked for the same company, would
23 y'all sometimes attend work functions together?

24 A: All the time.

25 Q: All the time?

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1 A: Yes. We -- we did a lot of work functions, you know, and
2 communicated on a regular basis almost every day.

3 Q: Y'all communicated almost every day?

4 A: Yes.

5 Q: Now, at some of these work functions -- well, before I
6 get there, did you also know Shellie Davis?

7 A: I knew Shellie through Jermaine as, you know, his wife.

8 Q: Okay. And have you actually met her in person before?

9 A: I have.

10 Q: And have you talked to her on the phone before?

11 A: I have.

12 Q: Okay. Now, let's talk about these work functions. Were
13 there some work functions that you and Jermaine were at where
14 Shellie would show up?

15 A: Yes. It was several occasions where Shellie would -- I
16 would just say pop up.

17 Q: Okay. Was she -- was it expected or unexpected that she
18 would show up?

19 A: Unexpected.

20 Q: Unexpected? Let's go through some of those work events
21 where you saw her show up unexpected and tell the judge about
22 those. Okay?

23 A: Okay. Shellie would show up at a place called
24 Hemingway's, like, a little burger spot. Jermaine -- part of
25 his -- if I may say, part of his work duties was to -- he was

1 in transportation. So he would drive my -- our CEO and CFO to
2 different meetings and so forth.

3 Q: Okay.

4 A: So Jermaine would drop -- you know, take them or drop
5 them off to, say, Hemingway's or Ruth's Chris, you know,
6 different -- various different places, and sometimes he would
7 sit in the truck and just wait for them to, you know, finish
8 their meetings or whatever the case may be.

9 Also, like, with my position, I would always have to go
10 to some of those events, different events in place of the CEO
11 or the CFO. One particular event that happened was at a --
12 one of the local -- well, one of the politician's events,
13 Clyburn, Jim Clyburn.

14 Q: Jim Clyburn?

15 A: Jim Clyburn's event, and it was off of Garner's Ferry
16 Road. Jermaine picked me up that afternoon. We went to this
17 event. We were seated. Everybody was seated. Our company
18 had a table. We were seated at the table, and Jermaine went
19 to the back of the event to get, like, beverages and so forth.
20 And he took forever to come back, and I was just kind of
21 waiting on him and, you know, so forth. And then Jermaine
22 came back, and he came back empty handed, and I just looked at
23 him and I was, like, Jermaine, you know, you've been gone
24 forever, and you came back, you know, empty handed.

25 And he said -- he just kind of looked at me and, like, it

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1 almost was like he's a deer in headlights. You know, I knew
2 something had occurred, but I didn't know what. So he just --
3 he said I'll tell you about it later, and I was, like, okay.
4 Then I looked around and everybody was kind of making eye
5 contact at me, like, you know, just looking at us like
6 something had occurred.

7 During that time the, I guess, Secret Service guys or
8 whatever, they were kind of working the room and they just
9 kept focusing on our table. And a young lady just came up and
10 she said -- she said, man, that almost got really bad, you
11 know, over there, and I'm just looking at her and I'm, like,
12 what are you talking about? And Jermaine just -- you know, he
13 always had a big smile no matter what. He was just always
14 smiling. He was just sitting there smiling and, you know, I
15 -- I said what happened, and he said I'll just tell you.

16 And when we got outside to the car, you know, they
17 interacted with me, asked was I okay. Did, you know, we need
18 to be escorted, you know, to our vehicle. All these different
19 things that I still didn't have any idea of what happened.

20 Well, when we got in the car, Jermaine said Shellie
21 showed up and was at the back of the event and she made a big
22 scene, and I was like, what? You know, I was so embarrassed
23 because again, you know, this was a -- it was a formal event
24 and it was a work event, which was very important. We were
25 representing the company and -- you know, and this occurred.

1 So I demanded that Jermaine call Shellie at that time,
2 and he did. And he got Shellie on the phone, and I said,
3 Shellie, please tell me this is not true that you came up here
4 at this event and showed out, and she said Jermaine never
5 tells me where he's going. You know, I just wanted to see
6 where he was going.

7 And I'm like, okay, I understand that that's between you
8 and Jermaine, but you can't come up to these events like that.
9 I said Jermaine is going to lose his job if you continue to do
10 this, because this wasn't, like, the first time. And I said
11 to her -- I said you're going to be the reason why he loses
12 his job. And then how will he -- you know, how do you expect
13 for him to take care of his five children?

14 And she said -- and she said -- and she said I know,
15 you're right, but Jermaine just -- he wouldn't, you know, tell
16 me where he was going. And then I also said to her -- I said,
17 well, I'm giving Jermaine 24 hours and I'm going to tell the
18 CEO what happened, I said, and it's going to be -- you know, I
19 cannot not tell what happened, I said, because it's going to
20 get back to the CEO that you were there and you made a scene.
21 I said they know all of these people and it's not good and,
22 you know, I just told her. I said this is happening too much,
23 and he's going to end up losing his job.

24 Q: Okay. So she told you she did not know, he never tells
25 her where he's going?

1 A: Yes.

2 Q: And she wanted to see where he was going?

3 A: Exactly.

4 Q: And in relation to when he died, when did this happen?

5 A: I would say maybe about a month or two months. It was
6 all in a short period of --

7 Q: Okay.

8 A: -- time.

9 Q: About a month or two prior to him being killed?

10 A: Uh-huh.

11 Q: Now, you mentioned Hemingway's. Is that a bar in Irmo?

12 A: Yes.

13 Q: Okay. And you saw her show up there sometimes as well?

14 A: She did show up there.

15 Q: Any other places where you saw her show up unannounced?

16 A: Gamecock pavilion. She showed up there unannounced. And
17 it had gotten to a point, and I was like, Jermaine, I mean, do
18 -- you know, has she got a tracker on you or something, you
19 know, because Shellie would just pop up out of nowhere, and he
20 -- and of course, that was her argument. He'd never say, you
21 know, where he's going or whatever the case may be.

22 Q: Okay. So it was always to see where -- where Jermaine
23 was and what he was doing?

24 A: Exactly.

25 Q: Did you have any conversations with her about Jermaine

1 and the status of their relationship?

2 A: I did. It was on a Sunday afternoon. Jermaine came --
3 came by my house. He was very upset.

4 Q: Why was he upset?

5 A: Because he said that Shellie got their daughter, which is
6 his only daughter --

7 MR. JOHNSON: Objection, Your honor.

8 MR. MCNAIR: She's testifying to why he was upset.

9 THE WITNESS: He -- I asked him why he was --

10 THE COURT: Hold on. Please stop.

11 I'll overrule the objection for the moment. Let me hear
12 where the testimony goes.

13 MR. MCNAIR: Thank you.

14 BY MR. MCNAIR:

15 A: I asked him, you know, why he was upset, and he came in
16 the door and he said you won't believe this. Shellie got --
17 and he called his daughter's name -- baptized. And I said
18 what do you mean? He said she got her baptized and didn't
19 tell me anything about the baptism. And during that time when
20 he was just -- you know, we were just talking in general
21 about, you know, things and what was going on and stuff. I
22 cannot remember if he called her or she called him, but
23 Shellie ended up on the phone.

24 Q: In your presence?

25 A: In my presence. And I said Shellie. I said did you get

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1 the baby baptized? And you know, the daughter was older, but
2 did you get the baby baptized without him knowing? And -- and
3 she said, yeah, you know, like that, and Jermaine was really
4 -- he really was upset about it.

5 And the conversation ended up going. I said, listen,
6 Shellie, and I told her this. I said, look, if you and
7 Jermaine are not going to be together, I said, honey, listen,
8 if a man don't want you, you don't want him. You don't need
9 to want him. I said you can go get -- he's the father of
10 those children.

11 And she said to me that no man is going to want me. I
12 have five kids already. I said, but they got a daddy. They
13 have a daddy. I said, leave the kids with Jermaine. You go.
14 If he's in -- if he's in South Carolina, you go to North
15 Carolina for the weekend.

16 Q: All right. Let me stop you right there just to slow you
17 down. You told her she could do what?

18 A: Move on with her life. She can --

19 Q: Are you talking about getting a divorce?

20 A: Yes, I'm telling her. I said if Jermaine -- because
21 Jermaine was saying he didn't -- you know, he didn't want the
22 marriage, and I was saying to her that she didn't have to --
23 don't -- basically, don't run behind a man if they don't want
24 you.

25 Q: Okay. So you tell her --

1 A: Yeah.

2 Q: -- she can get divorced?

3 A: Yes. I'm, like -- and I said --

4 Q: I'll slow you down a little bit.

5 A: Okay.

6 Q: And what was her response to you telling her she can move
7 on without Jermaine?

8 A: Her response to me was, initially, I have five children,
9 nobody's going to want me. And that's when I said to her
10 that, listen, if your children have a father, the man don't
11 want you for the kids, basically. So if he's in South
12 Carolina, let him get his kids on the weekend and you go on
13 with your life and live your life and find you somebody, you
14 know, somewhere else.

15 And that's when she said to me then that, Arletta, I love
16 Jermaine, I want Jermaine. If I can't have Jermaine, nobody
17 will. And I looked at Jermaine and I said do you hear her? I
18 said do you hear her? I said okay. And that's when he said
19 -- he just looked at me and he just smiled. Every time, he
20 always just smiled.

21 Q: How did you take that comment?

22 A: I took that as crazy as hell, period. I'm sorry. No
23 disrespect, but I said it to him. I said don't take it for
24 granted. And I told him then, I said, Jermaine, change your
25 locks on your -- the door -- on the apartment door.

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1 Q: Why did you tell him to change his locks?

2 A: Because Shellie had gotten a key from Jermaine somehow,
3 and Jermaine said I took the key back from her. I said,
4 Jermaine, I am a woman. Once the woman get that key, I said,
5 honey, she done made five copies of that key. I said she got
6 one probably in the spare tire. You know, I just started
7 talking to him. I said, oh, she got the key. And he said,
8 no, I took it back. I took it from her.

9 Q: Okay.

10 A: And I -- and I just told him. I said you need to change
11 the locks.

12 Q: And about when was this conversation that you had with
13 her when she said if I can't have Jermaine, nobody can?

14 A: This was a couple of weeks before Jermaine died.

15 Q: You mentioned Jermaine being upset because she got his
16 daughter baptized without telling him, and there's been
17 testimony about Jermaine leaving his kids. How did Jermaine
18 feel about his kids?

19 A: Jermaine loved his children. He loved those kids. He
20 loved those boys. He loved his only daughter. He loved them.
21 He used to brag and boast about the fact that he would go to
22 Sam's and buy candy, and he was like, Arletta, my boys are
23 selling candy. You know, they're like little entrepreneurs.
24 They're making their own money. He was so proud of it. He
25 loved his children. He really loved those kids.

1 Q: Would Jermaine talk to you about how he felt about his
2 relationship with Shellie?

3 A: He initially wanted to make his marriage work because he
4 wanted to be with his children. He loved his kids so much
5 that he really wanted to make it work for those children, and
6 then it just got to a point where Shellie kept going through
7 his phone, she kept popping up in places, and it just got to a
8 point where he just -- he couldn't -- he said he couldn't do
9 it no more.

10 Q: How did Jermaine feel about his relationship with Shellie
11 in the weeks leading up to his death?

12 A: He had made his decision that he was not going to be with
13 Shellie.

14 Q: Do you know if he'd told Shellie that?

15 A: He said he did.

16 MR. JOHNSON: Objection, Your Honor. Hearsay.

17 THE COURT: Well --

18 MR. MCNAIR: I just asked if she knew.

19 THE COURT: If she knows, that's a response, but the
20 statement may not be. So you can --

21 BY MR. MCNAIR:

22 A: I told her when he was in my -- in my house that Sunday.
23 When we were sitting in there, I said to her, you know, he's
24 -- he's saying he don't want -- he don't want you. You don't
25 need to want him.

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1 Q: Oh, you -- so you told -- you told her that on the phone
2 --

3 A: Yes.

4 Q: -- during a conversation, which was in the weeks --

5 A: And it was all --

6 Q: -- leading up to his death?

7 A: Yes. It was on speakerphone.

8 Q: Okay. Now, have you had the opportunity to see Jermaine
9 and Shellie together?

10 A: I have.

11 Q: How would you describe Shellie and how she interacted
12 with Jermaine or how she appeared around Jermaine?

13 A: Shellie was always watching the room, just kind of
14 looking to see what Jermaine was doing, who he was
15 communicating with. She -- she always was, you know, a quiet
16 person, but she was always -- just had that strange -- you
17 know, observing what he was doing.

18 Q: Would you describe her as jealous?

19 A: Very. She was. She was very jealous.

20 Q: Would you describe her as scared?

21 A: Not at all scared.

22 Q: Would you describe her as controlling?

23 A: She was controlling.

24 Q: Would you describe her as submissive?

25 A: Not at all submissive.

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1 Q: How -- how did Jermaine behave around Shellie when you
2 saw them together?

3 A: Jermaine was always, like, on his P's and Q's. You know,
4 he always was trying to cater to her so that she wasn't upset
5 about anything. You know, Jermaine was a person that he never
6 met a stranger, always smiling, always -- you know, just -- he
7 was just a warm person, you know, with a big personality.

8 I nicknamed him Kool-Aid, too, because he just was always
9 smiling. I mean, even when there was nothing to smile about,
10 he's just smiling. And so he -- he -- but I noticed when he
11 was around Shellie, he would kind of downplay that, per se,
12 you know, just he -- it wasn't like he could really be
13 himself.

14 Q: So based on your observations, he would change his
15 behavior to please her?

16 A: Definitely.

17 MR. MCNAIR: That's all the questions I have, Ms. Carr.
18 Thank you.

19 THE WITNESS: Thank you.

20 THE COURT: Cross-examination?

21 MR. JOHNSON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. JOHNSON:

24 Q: Ms. Carr, do you remember testifying at Shellie Davis's
25 original trial?

1 A: I do.

2 Q: That was a long time ago?

3 A: It is.

4 Q: Closer in time to when all these incidents happened?

5 A: Uh-huh.

6 Q: I got your transcript from that. Would it surprise you
7 that you didn't mention this baptism?

8 A: It wouldn't. No, it wouldn't surprise me because, again
9 --

10 Q: If this was an important part of your testimony, why
11 would you have omitted that from your original testimony?

12 A: Because a lot of things came back to me. Like you said,
13 it was closer in time then. So when that -- it was more
14 traumatic during that time.

15 Q: Well, so Shellie showing up unannounced, you actually had
16 a birthday party, and the photo was introduced in the original
17 trial?

18 A: Uh-huh.

19 Q: Shellie and Jermaine smiling and right there at your
20 birthday party. It was in 2010. Do you remember that?

21 A: I do.

22 Q: So the interactions you saw with Shellie and Jermaine
23 were not all negative?

24 A: I don't recall her smiling in the picture. I do recall
25 because Jermaine -- I do recall her coming to my birthday

1 party, but I don't recall. It was not a situation where she
2 was bubbly and outgoing at the party.

3 Q: And how often would you speak with Shellie?

4 A: When, like, instances of her doing a pop up, you know,
5 showing up, but not on a regular basis.

6 Q: How about not that often at all? I mean, I could
7 probably -- about three or four times, that's what you had
8 said at your original trial.

9 A: That's right.

10 Q: I spoke with Shellie three or four times.

11 A: Yes. And I think I said that today, too. Not often.

12 Q: Well, three or four times over how many years? You said
13 you got to know Jermaine when?

14 A: I got to know Jermaine in 2008 -- 2009, I would say 2009.

15 Q: So over a year?

16 A: Over -- from the time that she murdered him, it was three
17 years.

18 Q: Yes, ma'am.

19 A: Uh-huh.

20 Q: And did you know Jermaine well?

21 A: I knew him. I do -- I did know him.

22 Q: Was he faithful to the marriage?

23 A: When they were separated, I think Jermaine -- you know,
24 he -- he -- he was separated.

25 Q: Did he like other women?

- 1 A: Of course.
- 2 Q: Do you remember Christina Skinner?
- 3 A: I do.
- 4 Q: What was Christina Skinner's relationship to Jermaine?
- 5 A: They were friends.
- 6 Q: Friends?
- 7 A: Uh-huh.
- 8 Q: That's all you knew? They were friends?
- 9 A: I knew they were friends. I knew that --
- 10 Q: Were they intimate friends?
- 11 A: I don't -- I can't say if they were intimate.
- 12 Q: Did he talk to her a lot? Christina Skinner?
- 13 A: He definitely communicated with her.
- 14 Q: And did you know Natasha Miller?
- 15 A: I did.
- 16 Q: Who's Natasha Miller?
- 17 A: The person that Jermaine wanted to pursue his life with
- 18 after the divorce.
- 19 Q: Where did she live?
- 20 A: She was in Texas, and then she was going to move to
- 21 Hawaii, and Jermaine had made the decision that he was --
- 22 A: Was he going to take his kids with him?
- 23 A: That was the dilemma that -- between -- with him. That
- 24 was a dilemma, but he definitely wanted to move on with
- 25 Natasha.

1 Q: Now, this conversation, if I can't have him, no one can?

2 A: Uh-huh.

3 Q: Do you remember what you talked about in terms of the
4 time frame of the original trial about when this conversation
5 occurred?

6 A: I don't -- I don't recall.

7 Q: Well, let me show it to you.

8 A: Thank you.

9 Q: It's on page 234, and I'm going to point you to line 15.
10 I've got it highlighted a little bit. I'm just going to let
11 you refresh your memory as to your birthday when that
12 conversation occurred. So it was months before his death, was
13 it not?

14 A: It didn't say months. It said I wasn't certain.

15 Q: Well -- but it does say it was around before your
16 birthday. It may have been before my birthday.

17 A: I --

18 Q: And your birthday is when?

19 A: I said I wasn't certain.

20 Q: When's your birthday?

21 A: July 21st.

22 Q: Okay. And the time frame here would have been 2010;
23 correct?

24 A: Yes.

25 Q: Okay. So at trial it was before your birthday, and now

ARLETTA CARR - CROSS BY MR. JOHNSON

1 it's a couple of weeks before his murder?

2 A: I think the -- what you just highlighted --

3 Q: Yes, ma'am.

4 A: It said I'm not certain. So if I said I'm not certain,
5 I'm not exactly certain when it was.

6 Q: So, ten years later, you're more certain that it was
7 closer in time to the murder than your birthday?

8 A: I think I said I'm not certain. I don't know if it means
9 --

10 Q: You sounded pretty certain earlier.

11 A: -- I need to explain it to you.

12 THE COURT: Let's try not to talk over each other.

13 MR. JOHNSON: Yes, Your Honor. I apologize.

14 BY MR. JOHNSON:

15 Q: You sounded pretty certain on direct when this
16 conversation occurred. So you're not certain?

17 A: I'm certain that she said if I can't have him, nobody
18 else will. I'm certain of that.

19 Q: I understand. Absolutely. You said that many times.
20 You said that at the original trial. I'm just trying to
21 narrow the time frame for you.

22 A: Okay.

23 Q: You're not certain of the time?

24 A: It was definitely within a -- I would say within a month
25 or two before Jermaine was actually killed.

ARLETTA CARR - CROSS BY MR. JOHNSON

1 Q: Okay. And around the time they were at your birthday
2 party having a good time?

3 A: I didn't say they were having a good time. They were at
4 the party. I didn't say she was smiling and, you know,
5 enjoying herself at the party.

6 Q: The photo is here. So we can look at it.

7 A: Well, please refresh because I don't recall her really
8 smiling at all in it.

9 Q: Was Jermaine smiling in the photo?

10 A: Jermaine normally always smiling.

11 Q: Okay.

12 MR. JOHNSON: Thank you, Your Honor. That's -- I think
13 that's all I have. One second. Thank you, Your Honor.
14 That's all I have.

15 THE COURT: Any redirect?

16 MR. MCNAIR: Briefly.

17 REDIRECT EXAMINATION

18 BY MR. MCNAIR:

19 Q: So your birthday was July? It is July 21st; correct?

20 A: It is.

21 Q: And Jermaine died September 22nd?

22 A: Yes.

23 Q: So that was two months prior -- around two months prior
24 when you heard that threat?

25 A: Yes.

ARLETTA CARR - REDIRECT BY MR. MCNAIR

1 Q: Now, Christina Skinner, is she a friend of yours?

2 A: I do know her. Yes, she is.

3 Q: Now, did you ever come to learn that Shellie was calling
4 people that she thought Jermaine was talking to?

5 A: Yes.

6 Q: Was Christina Skinner one of those?

7 A: Uh-huh.

8 Q: Were there others?

9 A: It was a lot of people.

10 Q: How did she get those numbers?

11 A: She went through his phone and without him knowing.

12 Q: And did Jermaine know he was calling -- did Jermaine know
13 she was calling these other women?

14 A: She didn't know -- he -- he did not know until
15 afterwards.

16 Q: He found out about it?

17 A: Yes. It was -- it was to a point where I actually got
18 our CEO to get him a new phone so that he could possibly lock
19 his phone, which I don't think he did. But again, he had a
20 new phone, which was a BlackBerry.

21 Q: All right. Because it was that bad?

22 A: It was that bad.

23 Q: All right. Now, you mentioned Natasha Miller. Who was
24 Natasha Miller?

25 A: Natasha Miller was someone that Jermaine -- they were

1 high school sweethearts.

2 Q: Okay.

3 A: And he actually had -- they crossed paths and, you know,
4 reunited toward the end of his -- before he got murdered.

5 Q: Okay.

6 A: Uh-huh.

7 Q: And were you aware of any decisions Jermaine had made
8 concerning Natasha?

9 A: Yes. He wanted to move on with Natasha. He wanted to
10 give that a chance.

11 Q: He wanted to move on into a relationship with Natasha?

12 A: Yes.

13 Q: And when did he make that decision?

14 A: He made that decision -- I think it was --

15 Q: And I'm not holding you exactly, but in relation to when
16 he died, when do you think he had made that decision?

17 A: He had made that decision, like, the week of -- of that.

18 MR. MCNAIR: Thank you.

19 THE COURT: Any recross?

20 MR. JOHNSON: No, Your Honor.

21 THE COURT: All right. The witness may step down. Thank
22 you.

23 THE WITNESS: Thank you.

24 THE COURT: Does the State have another witness?

25 MS. TAYLOR: Yes, sir.

JESSE MOON - DIRECT BY MS. TAYLOR

1 MR. MCNAIR: Yes, sir.

2 THE COURT: Okay. We're kind of bumping up on -- is the
3 court reporter here? I don't want to hold you up.

4 Any idea on how long the testimony would be?

5 MR. MCNAIR: Is 11 o'clock a hard deadline?

6 THE COURT: Well, I thought -- well, I don't want to --

7 MR. MCNAIR: I can't guarantee we'll be done in ten
8 minutes.

9 THE COURT: All right. Why don't we just go into -- we
10 haven't heard from -- we haven't heard from the other person.
11 All right. I think we can go ahead and do our next witness.

12 MS. TAYLOR: Okay. The State calls Jesse Moon.

13 MR. MCNAIR: We're missing Sunny, Judge.

14 THE COURT: Raise your right hand. Do you swear or
15 affirm the testimony you will give will be the truth, the
16 whole truth, and nothing but the truth, so help you God?

17 THE WITNESS: I do.

18 THE COURT: All right. He's been sworn.

19 JESSE MOON, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. TAYLOR:

23 Q: Please state your name for the record and spell your last
24 name?

25 A: Jesse James Moon, M-o-o-n.

1 Q: Where are you currently employed?

2 A: Walterboro Police Department.

3 Q: What was that? I'm sorry. I didn't hear what you said.
4 I'm sorry.

5 A: Walterboro Police Department.

6 Q: All right. And where were you employed back in early --
7 or March 2006?

8 A: With the Richland County Sheriff's Department.

9 Q: What were your responsibilities and duties when you were
10 with the Richland County Sheriff's Department at that time?

11 A: I was a road patrol deputy.

12 Q: Okay. Now, would some of these responsibilities include
13 being dispatched to calls for service?

14 A: Yes, ma'am.

15 Q: Were some of these calls for service domestic-related
16 calls?

17 A: Yes, ma'am.

18 Q: Okay. Jumping to specifically March 20th of 2006, did
19 you receive or were you dispatched to a call for service at
20 [REDACTED] Algrave Way?

21 A: Yes, I was.

22 Q: In Richland County?

23 A: Yes, I was.

24 Q: And what was the nature of that call?

25 A: It was a domestic disturbance involving a weapon.

JESSE MOON - DIRECT BY MS. TAYLOR

1 Q: Is it typical to be briefed upon the general nature or
2 general details of the call?

3 A: Dispatch will give any details that they have reference
4 to the call that they send us to. Yes, ma'am.

5 Q: And would that affect how you respond to the scene?

6 A: Yes, ma'am.

7 Q: Okay. In cases where a 9-1-1 call, for example, may be
8 disconnected for no reason, would that affect how you respond
9 to the scene?

10 A: It could, depending on what we're being dispatched to.
11 It could -- it could make us expedite our response to it.
12 Yes, ma'am.

13 Q: Was that the case in this incident?

14 A: Yes, ma'am.

15 Q: All right. Now, when you arrived on scene, who did you
16 make contact with first?

17 A: Initially, I made contact with Mrs. Davis.

18 Q: All right. And what was her demeanor when you made
19 contact?

20 A: She answered the door. She was apparently mad, but she
21 did not appear to be fearful at all.

22 Q: Okay. Now, were you able to find or make contact with
23 the victim in this case?

24 A: Mr. Davis at that point when we entered the residence did
25 come out from the upstairs bathroom.

1 Q: Okay. You said he had come from the bathroom?

2 A: Yes, ma'am.

3 Q: All right. Now, were you -- throughout your
4 investigation and fact gathering on the scene, were you able
5 to determine why he was coming from the bathroom or what had
6 occurred?

7 A: Yes, ma'am. He and Ms. Davis had been in an altercation
8 involving some keys, from what we were told, that he would not
9 give to her, at which point a verbal altercation started. And
10 then, according to him, his wife did shove him in the bedroom
11 and then grabbed a large metal bar and threatened to kill him.

12 Q: Was his wife Shellie Davis, the defendant?

13 A: Yes, ma'am.

14 Q: All right. Now, just in case I missed it, did -- were
15 any weapons involved in this case?

16 A: So a large metal bar. Yes, ma'am.

17 Q: Okay. Now, did -- were you -- did you locate that metal
18 large bar?

19 A: Yes, ma'am.

20 Q: Where was it?

21 A: I asked another deputy that was with me, Deputy Newman,
22 to inquire of Ms. Davis where the metal bar was that she
23 allegedly threatened to kill Mr. Davis with, at which time she
24 pointed it out at the staircase in the garage of the incident
25 location.

1 Q: So the -- Shellie Davis pointed out where the metal bar
2 or metal pole was located?

3 A: Yes, ma'am.

4 Q: All right. Now, did she make any admissions as far as
5 what the victim had alleged had occurred, specifically whether
6 she threatened to kill him?

7 A: She claimed that Mr. Davis had grabbed her by her left
8 arm and forced her to the ground during the altercation.

9 Q: Well, did the victim have any physical manifestation of
10 injuries?

11 A: The victim did not.

12 Q: Okay. Now did -- did -- did Shellie Davis have any
13 physical manifestation?

14 A: Ms. Davis did not.

15 Q: Okay. Now, in all cases, specifically domestic violence
16 cases, is there a determination of who the primary aggressor
17 is when you are determining whether to make an arrest?

18 A: Yes, there is.

19 Q: Was -- was that done in this case?

20 A: Yes, ma'am, it was.

21 Q: Who was the primary aggressor determined to be?

22 A: Mrs. Davis.

23 Q: All right. Now, you said that there was a 9-1-1 call in
24 this case that was disconnected?

25 A: That is correct.

1 Q: Okay. Were you able to determine why that call was
2 disconnected?

3 A: It was determined that Mrs. Davis had taken the phone
4 from Mr. Davis.

5 Q: Did she make that admission?

6 A: Yes, she did.

7 Q: Okay.

8 MS. TAYLOR: Nothing further, Your Honor.

9 THE COURT: Cross-examination?

10 CROSS-EXAMINATION

11 BY MR. JOHNSON:

12 Q: Officer Moon, your memory of this is based upon your
13 report?

14 A: That is correct, sir.

15 Q: How long ago was this incident?

16 A: Approximately 18 years.

17 Q: Okay. Do you have any independent memory of the incident
18 after 18 years?

19 A: Very slim.

20 Q: Okay. In your report, did you note the physical
21 characteristics of Ms. Davis and her husband? Height?
22 Weight? Size?

23 A: Yes, sir.

24 Q: Can you make it out for Mr. Davis?

25 A: It looks like he's five eleven, 265.

JESSE MOON - CROSS BY MR. JOHNSON

1 Q: In a fight without a weapon, without a metal bar, without
2 a gun, who was going to win the fight between Mr. Davis and
3 his wife?

4 A: I cannot answer that, sir.

5 Q: You can't? How big was Ms. Davis at the time?

6 A: I do not recall.

7 Q: Is it on your report?

8 A: If I can read it here, looks like five four, and I cannot
9 make out the weight.

10 Q: Okay. Very difficult on mine. I would -- I would be
11 guessing. Five four I can make out. So he's considerably
12 taller?

13 A: Yes, sir.

14 Q: And he's over 250 pounds?

15 A: Yes, sir.

16 Q: Okay. And she indicated that he had been physically
17 aggressive with her before you arrived, twisted her arm,
18 pushed her down. It's in your report. You testified --

19 A: Yes.

20 Q: -- just --

21 A: Yes.

22 Q: -- a minute ago?

23 A: Yes.

24 Q: Okay. He denied that?

25 A: That's correct.

1 Q: He said she came after me with the metal bar?

2 A: Correct.

3 Q: She said there's a metal bar. I threatened him with the
4 metal bar to some degree?

5 A: Correct.

6 Q: That's the determining factor of who you arrested?
7 Somebody admitted they were involved in the incident, somebody
8 else denied any physical act whatsoever?

9 A: As well as her taking the phone from him, yes.

10 Q: Taking the phone from him? Okay. This was before sort
11 of the zero tolerance push for criminal domestic violence,
12 wasn't it?

13 A: I don't recall exactly when that went into effect, sir.

14 Q: After the zero tolerance policy, when you would be called
15 to a domestic violence disturbance and both parties made
16 allegations that there had been physical rough stuff between
17 the two parties, what would you have done? Would you have
18 arrested both?

19 A: I would always try to determine the primary aggressor.

20 Q: Okay. So even after the zero tolerance policy, if
21 there's back and forth, you'd still just arrest the primary
22 aggressor?

23 A: I would attempt to, yes, to determine who the primary
24 aggressor is. Yes, sir.

25 Q: Okay.

JESSE MOON - REDIRECT BY MS. TAYLOR

1 MR. JOHNSON: All right. Thank you. Nothing further.

2 THE COURT: Redirect?

3 MS. TAYLOR: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. TAYLOR:

6 Q: Was -- was there any redness or bruising noted to Ms.
7 Davis's arms because she had alleged to have been grabbed by
8 Mr. Davis?

9 A: No, there was not.

10 Q: Okay. And you said -- you noted -- you were discussing
11 on cross-examination the difference in their sizes, but there
12 was a metal pole that was alleged to have been used as a
13 weapon in this case, wasn't there?

14 A: That's correct. Approximately a 30-inch bar.

15 Q: Okay. And at the conclusion of your investigation, you
16 determined Ms. Davis to be the primary aggressor?

17 A: That is correct.

18 MS. TAYLOR: Nothing further.

19 MR. JOHNSON: Just one question, Your Honor.

20 RECROSS-EXAMINATION

21 BY MR. JOHNSON:

22 Q: No injuries on either party?

23 A: No, sir.

24 MR. JOHNSON: Thank you.

25 THE COURT: All right. The witness may step down. Thank

1 you.

2 THE WITNESS: Thank you, Judge.

3 THE COURT: All right. Anything else from the State at
4 this time?

5 MR. MCNAIR: That's all from the State, Your Honor.

6 MR. JOHNSON: We have some housekeeping exhibits to
7 introduce between the two of us. I'd be happy to do that with
8 our replacement court reporter. If I knew it was going to be
9 11, we probably could have done the virtual. It won't take
10 long once we get her started, but I'm doubtful I can finish
11 getting her actually in the courtroom and ready to go before
12 11:15.

13 THE COURT: All right. So we'll do your housekeeping
14 now, and -- and we'll check one more time, but whoever the new
15 court reporter is, it won't be long. All right. That's fine.

16 MR. JOHNSON: And I do defer to when the court reporter
17 does -- I mean, 20 minutes, I probably could have her up and
18 off, but that puts us at 11:30.

19 THE COURT: All right. Why don't you contact the person
20 now?

21 MR. JOHNSON: Your Honor, if we can take five minutes to
22 set it up?

23 THE COURT: We'll stand at ease here, but we won't be out
24 of the courtroom.

25 (WHEREUPON, there was a pause in the proceedings from

1 11:07 a.m. until 11:08 a.m., after which the proceedings
2 resumed as follows.)

3 MR. JOHNSON: The Court may want to refer to some of that
4 --

5 THE COURT: Okay.

6 MR. JOHNSON: -- because their testimony is so fresh.

7 We don't have any objection to the police report from
8 2006 for its value that Officer Moon just testified to. The
9 State is introducing that, and the State is also introducing
10 the divorce complaint, which has been mentioned a couple of
11 times. It's public record. We have no objection to that. We
12 have one other report that I don't have a clean copy of that
13 we will introduce as well.

14 Do you want to make that defense?

15 MR. MCNAIR: That's correct. We will --

16 MR. JOHNSON: Defense 10?

17 MR. MCNAIR: Dr. Schwartz-Watts' report will be our
18 exhibit as well.

19 MR. JOHNSON: But that was also -- was that an exhibit at
20 the original trial?

21 MR. MCNAIR: It was not.

22 MR. JOHNSON: She testified extensively. We are okay
23 with it being introduced --

24 THE COURT: Okay.

25 MR. JOHNSON: -- to help the Court in terms of specific

1 portions of the record. That may be helpful.

2 THE COURT: Okay.

3 MR. JOHNSON: That would be Defendant's Exhibit 10. Or
4 do you want to make it Court's Exhibit 1? Schwartz?

5 MR. MCNAIR: I believe Court's 1 would be fine.

6 MR. JOHNSON: Court's 1.

7 THE COURT: Okay.

8 (WHEREUPON, Court's Exhibit Number 1, report of Dr.
9 Schwartz-Watts, was admitted into evidence.)

10 MR. JOHNSON: We're just waiting for a clean copy
11 tomorrow.

12 (WHEREUPON, there was a pause in the proceedings from
13 11:09 a.m. until 11:14 a.m., after which the proceedings
14 resumed as follows.)

15 MR. JOHNSON: I think we are, Your Honor.

16 THE COURT: Oh, I thought you were ready already.

17 MR. JOHNSON: I think she's just in the lobby.

18 MR. MCNAIR: Oh, there you go.

19 THE COURT: Perfect.

20 MR. JOHNSON: Your Honor, Ms. Davis would call Lynesha
21 Howard.

22 THE COURT: Very well.

23 MR. JOHNSON: Has she been sworn?

24 THE CLERK: Ms. Howard, raise your right hand. Do you
25 swear or affirm the testimony you're about to give the Court

LYNESHA HOWARD - DIRECT BY MR. JOHNSON

1 will be the truth, the whole truth, and nothing but the truth,
2 so help you God?

3 THE WITNESS: Yes.

4 THE CLERK: Thank you, ma'am.

5 THE WITNESS: Uh-huh.

6 LYNESHA HOWARD, being first duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JOHNSON:

10 Q: Ms. Howard, I appreciate you making arrangements to be
11 back with us today. I know that yesterday was problematic for
12 you. How are you related to Shellie Davis?

13 A: I am her niece.

14 Q: Okay. And you currently live in the state of?

15 A: Maryland.

16 Q: Maryland. Okay. And you grew up in Maryland?

17 A: Yes.

18 Q: And so you know Ms. Davis from when she also lived in
19 Maryland?

20 A: Yes.

21 Q: Okay. But at that time, you were a very young child?

22 A: Yes.

23 Q: Do you remember any incidences growing up where you saw
24 an interaction between Jermaine Davis and Shellie Davis?

25 A: Yes. Two. Two of them stands out in my mind.

1 Q: Okay. Could you tell us about the first one that you
2 remember?

3 A: Yeah, sure. The first one I remember, Shellie used to
4 come get me and my brother for family -- family night on
5 Fridays. So she took us back to her apartment. She ordered
6 pizza from Papa John's, like -- like we always did. And once
7 the pizza came, you know, we opened up the pizza. It was a
8 supreme pizza, which means you get -- you know, everything
9 come -- comes on it.

10 So as soon as we open up the pizza, Jermaine walks
11 through the -- the front -- the front door and look at the
12 pizza, and he gets mad. So he proceeds to go back to the
13 bedroom. Shellie then followed -- follows him back to -- to
14 the bedroom. I get up to go wash -- to go wash my hands, you
15 know, before I eat my pizza.

16 On my way to the bathroom, you can see into their
17 bedroom. I saw Jermaine have Shellie jacked up by -- by the
18 collar. And I stood there in -- in shock and -- and, you
19 know, I finally said, is everything okay, and once he noticed
20 me, he -- he let her -- he let her go. Then Shellie told --
21 told me everything -- you know, everything's okay.
22 Everything's fine.

23 So I went in the bathroom to wash -- wash my hands. On
24 my way coming out the bathroom, she asked me -- she -- she
25 told me she was okay. She asked me not to say nothing to my

1 mother or my father about it. That's the first one I
2 remember.

3 The second one, like I said, she always got me and my
4 brother. We did family stuff with -- you know, with her
5 children. So she took us to the beach. The closest beach to
6 us was Sandy Point at that -- at that particular time. So it
7 was, like, an hour away. We finally get -- get to the beach
8 and we're playing. We got our buckets and we got the -- the
9 -- the little toys to play with making sand castles.

10 So Jermaine has laid out his towel and stuff. He's
11 laying -- he's laying down flat on his back, and we're --
12 we're, like, close by him playing, flicking sand. So when I
13 was flicking the sand, it was an accident. I accident --
14 accidentally got sand all over him, and he gets -- you know,
15 gets upset.

16 And I remember Shellie saying, you know, Jermaine, it's
17 just an acc -- you know, it's an accident. She didn't -- she
18 didn't mean -- mean to. So she -- when she went over closer
19 to -- to him, he had grabbed -- like, grabbed her by -- by the
20 neck and then, again, once he turned his head and saw that I
21 was looking, he -- he let her go.

22 Q: And during those incidences, how old were you?

23 A: It was back in 1999, so I was five.

24 Q: And has that stuck in your memory since then?

25 A: Yes.

LYNESHA HOWARD - DIRECT BY MR. JOHNSON

1 Q: Is there any other incidents that you can recall about a
2 physical altercation between Jermaine and Shellie Davis that
3 you remember?

4 A: Not any. Those are the only two I vividly remember.

5 Q: All right.

6 MR. JOHNSON: Thank you, Ms. Davis [sic]. I appreciate
7 your time. Hold on one second. There's another lawyer who
8 may have some questions for you. Okay?

9 THE WITNESS: Okay.

10 CROSS-EXAMINATION

11 BY MS. TAYLOR:

12 Q: Good morning, Ms. Howard.

13 A: Good morning.

14 Q: So you said that you were five years old at the time both
15 of these incidents occurred?

16 A: Yes.

17 Q: But you vividly remember every detail of both of these
18 incidents, even though you were only five at the time?

19 A: Yes.

20 Q: All right. How often would you see Shellie during this
21 time when you were five?

22 A: She would -- like I said, she would get us on a Friday --
23 on Fridays. Maybe -- it would maybe be like two times in --
24 in the month.

25 Q: And she would pick you up?

1 A: Yes.

2 Q: Now, when she would pick you up, would she see your --
3 see your mother? Your mother is Wanda; is that correct?

4 A: Yes. Yes.

5 Q: Okay. So she would pick you up every single week and she
6 would see your mother at the time?

7 A: I didn't say every single week. I said two -- two times
8 out of the month, which will be on -- it will be on Fridays
9 since there was no school. And yes, she would see -- see my
10 mother. I lived -- I lived with my mother and father. I was
11 five.

12 Q: Okay. I apologize. I thought you said every Friday on
13 your -- on your cross-examination. I'm sorry, on your direct
14 examination. So the second incident I wanted to ask you about
15 you said occurred on the beach?

16 A: Yes.

17 Q: Now, this was a public beach?

18 A: Yes, it was Sandy Point Beach.

19 Q: All right. Is that a very popular area for locals to go
20 or tourists?

21 A: Yes. Very popular beach at the -- at that particular
22 time, yes.

23 Q: And what time of day was this?

24 A: It was after -- it was in the afternoon. It wasn't -- it
25 wasn't too early.

1 Q: Okay. So your -- your testimony is that Jermaine grabbed
2 Shellie by the neck on the beach?

3 A: Yeah.

4 Q: And no one else on the beach saw this happen?

5 A: I don't know if anybody else saw it on -- on the beach,
6 but I saw it.

7 Q: So you're --

8 A: We wasn't -- we wasn't near too many -- too many people.

9 Q: So your testimony is this is a very popular destination
10 for people?

11 A: Yeah, it is. It was, yes. It was popular at that --
12 like I said, at that particular time.

13 Q: Okay. So on a popular beach --

14 A: I can't -- I can't account to what another person saw,
15 only to account to what I -- what I saw and what I remember.
16 I don't know what everybody else saw and remembered.

17 Q: Okay. Now, so did you see any other interactions between
18 the two of them after five after they moved to Maryland -- I'm
19 sorry -- after they moved to South Carolina or were these the
20 only two that you remembered?

21 A: No. I mean, because they moved to South Carolina, we
22 didn't visit as often. The only interaction I had with her
23 after that was by phone. She -- she would call periodically
24 to check on us, or she would call -- always call us on our
25 birthdays.

LYNESHA HOWARD - CROSS BY MS. TAYLOR

1 Q: Okay. And then the time with the incident about the
2 pizza, who else was in the home?

3 A: It was Shellie. It was my brother. It was Jermaine, her
4 two oldest sons, Marquis and Marlon, and at the time she was
5 pregnant with her third son, Mario.

6 Q: Okay. So all of these other people in the home didn't
7 see anything when this occurred?

8 A: Like I said, they went back to the bedroom, and I was the
9 only one who got up to go wash my hands.

10 Q: And they wouldn't have heard anything either? Is that
11 your testimony?

12 A: No. There wasn't -- it wasn't -- it wasn't being -- they
13 wasn't being loud.

14 Q: You said he had her jacked up in the --

15 A: Yes.

16 Q: -- bedroom?

17 A: Yes.

18 Q: So there was no noise and no argument or anything else
19 going on that anybody else in this house would have heard?

20 A: They wasn't making much noise. It wasn't a -- it wasn't
21 a loud commotion.

22 Q: Okay. Now, you said that after that occurred, she told
23 you that she was okay?

24 A: Yes, she did.

25 Q: And she told you not to tell anybody?

1 A: Yes.

2 Q: Now, jumping forward to after she was charged with the
3 murder of Jermaine Davis, did you ever tell law enforcement or
4 anybody else that this had occurred?

5 A: No. How was I going to tell law enforcement anything?
6 I'm in -- I'm in Maryland, and she's in South Carolina. And
7 during this time, I'm -- I'm in high -- you know, by the time
8 she was charged with this, I am in high school.

9 Q: But you would have --

10 A: And I was not in contact with her previous lawyer. So,
11 no, I wasn't able to tell -- tell anybody about it.

12 Q: And when you were in high school, did you have a phone?

13 A: Yes, I had a cell phone.

14 Q: Okay. So you had the ability to contact law enforcement
15 or her attorney after she was charged with murder?

16 A: Yeah. No. No, I did not have the ability to contact law
17 enforcement. Like I said, at the time I was in high school.
18 I was a -- I was a teen. I was a teenager.

19 Q: Did you tell anybody else?

20 A: I was -- I was still a child. I was still a child at
21 that time. I was not an adult yet.

22 Q: Did you ever tell your mother or anybody else in the
23 family about what happened?

24 A: Yes. I eventually told my mother about -- about this,
25 about these two particular stories, yes.

LYNESHA HOWARD - CROSS BY MS. TAYLOR

1 Q: But law enforcement was never notified?

2 A: No.

3 MR. TAYLOR: Thank you.

4 MR. JOHNSON: Your Honor, no redirect.

5 THE COURT: No redirect?

6 MR. JOHNSON: No.

7 THE COURT: The witness is excused. Thank you for
8 appearing remotely. Thank you, Ms. Howard.

9 All right. I think that covers all witness testimony?

10 MR. JOHNSON: It does from the defense, Your Honor.

11 THE COURT: Okay. No other witnesses from the State?

12 MR. MCNAIR: No, sir, Your Honor.

13 THE COURT: Okay. Well, we've got a few minutes here.
14 I -- I don't know how in-depth we really need to make
15 argument.

16 MR. JOHNSON: We're prepared for oral argument, Your
17 Honor. I don't know how much the Court needs from the two
18 sides. There's --

19 THE COURT: Actually, I would like a -- I don't want to
20 go over every piece of evidence, necessarily. I mean, that's
21 all in the transcript, and that's what I'll ask for, a post-
22 hearing submission from you all, basically transcript points.
23 I appreciate you handing me each witness and -- and I'll look
24 at those pages, but I would like some sort of reference to it.

25 MR. JOHNSON: Gotcha. Yes, Your Honor.

1 THE COURT: But, I mean, the sole issue we're here for is
2 the determine -- determination of whether or not she's a
3 battered spouse under the law. Is that accurate?

4 MR. JOHNSON: That's correct, Your Honor.

5 THE COURT: Okay. So in light of the hearing we've had
6 today, what do you believe are the most compelling reasons to
7 find such?

8 MR. JOHNSON: Thank you, Your Honor.

9 Number one, I'd like to point out what the Court doesn't
10 have to believe of the defendant. The Court doesn't have to
11 believe that Shellie Davis is not guilty of murder. The Court
12 does not have to believe that Shellie Davis did not contribute
13 to marital problems. The Court does not have to believe that
14 in 2010 Shellie Davis was pursuing a marriage that she was
15 better off without.

16 The Court doesn't have to believe any of that. All that
17 can be true, and she still could have been in an abusive
18 domestic relationship. In fact, the testimony shows that
19 there are incidents of specific physical aggression from Mr.
20 Davis.

21 You heard Lynesha just testify. You heard her mother,
22 Wanda Hundley. Both testified about independent examples of
23 Jermaine Davis showing aggressive behavior. Other witnesses
24 from the original trial related similar stories about
25 suspicions of domestic abuse when they would see bruises.

1 Specifically, Your Honor, Karen Swartz from the original
2 hearing testified about bruises along Ms. Davis's forearms
3 that were the result of an altercation with Jermaine Davis.

4 So what the defense needs to convince the Court of is
5 that this marriage had a physically abusive component to it.
6 The State went to the trouble of bringing Officer Moon here to
7 show that Ms. Davis at times behaved physically aggressive,
8 and I would point to the Court that a mutually abusive,
9 physically abusive relationship qualifies both spouses under
10 our law for consideration under the statute.

11 So it is not a one way street on abuse. It could be that
12 the Court accepts that there was areas of physical
13 altercations that went both ways, and the Court can still
14 adjudicate Ms. Davis qualifies under the statute.

15 The statute is designed to give someone who has been
16 convicted of murder an ability to obtain early release through
17 parole. It's not an explanation to avoid the murder. It only
18 applies when you have actually been convicted of the greater
19 offense. So it's a statutory scheme that acknowledges that
20 some marital relationships have violent components, and those
21 violent components may attribute to the ultimate violent act
22 here, the ultimate murder.

23 The State has done an excellent job of pointing out that
24 at the very end of this marriage, Ms. Davis was an aggressive
25 pursuer of Mr. Davis. That she was not happy with the

1 relationship ending.

2 Our experts would tell you that there are reasons that
3 someone who's been in an abusive marriage would continue to
4 seek that relationship, particularly someone who is burdened
5 with five children, burdened with financial debt, burdened
6 with financial problems. That there are reasons that they
7 would continue pursuing that relationship, even when it's
8 counterintuitive.

9 So, ultimately, what I'm selling to the Court is easier
10 to buy; right? Was someone who was in a financially unstable
11 marriage, who was cheating on his spouse, who was physically
12 larger in stature, who could physically control her as he
13 desired when he wanted to based sheerly upon the physical
14 characteristics of the two parties, was that person at times
15 physically abusive? If the Court accepts that, then this was,
16 under the statute, someone who is in a domestic abusive
17 marriage.

18 THE COURT: Now refresh my memory, but there weren't any
19 prior domestic violence charges against Mr. Davis? Is that
20 accurate?

21 MR. JOHNSON: Based upon the record that this Court has,
22 yes, that is accurate.

23 THE COURT: All right. And there weren't any domestic
24 violence charges against Mrs. Davis either?

25 MR. JOHNSON: The one that Investigator Moon -- she was

1 arrested for one.

2 THE COURT: Okay. So that --

3 MR. JOHNSON: The disposition of that one is a little
4 unclear in the record. She was not convicted of that. She
5 wouldn't have been able to go purchase a handgun legally if
6 she had, like she did before the murder.

7 THE COURT: Let me ask you -- and they may be able to
8 help as well, but as far as the determination of battered
9 spouse, there's some case law out there on it, but not a whole
10 lot, frankly. The statute has -- is somewhat general, but, I
11 mean, in -- in your review of the law, do you see that the
12 determination of battered spouse is ordinarily determined in a
13 post-trial hearing or based upon the evidence at trial?

14 MR. JOHNSON: I don't think that there is a clear-cut
15 manner to determine battered spouse. I think it can be raised
16 for the first time, for example, at PCR, if it was not raised
17 during her original trial.

18 I think in this unique setting, because of what the
19 appellate court has done -- right? That you have a mixed
20 record. You have the original trial record, which has
21 material in it which supports battered spouse, which we've
22 referred to several times.

23 THE COURT: Yeah.

24 MR. JOHNSON: But the appellate court has also remanded
25 this matter to this Court to conduct a hearing --

1 THE COURT: Right.

2 MR. JOHNSON: -- specifically for this purpose.

3 THE COURT: I have no doubt we're here because --

4 MR. JOHNSON: I -- I do not think that this is a repeat
5 performance for future cases. I think this is a one-off based
6 upon the unique status of the record. Had the record been
7 complete after her original trial, that would have been it.
8 It would have closed.

9 THE COURT: Okay.

10 MR. JOHNSON: So in terms of the -- I'll call it the
11 second bite of the apple, the -- the lost record provides Ms.
12 Davis -- that's the additional witnesses the Court has heard
13 from --

14 THE COURT: Okay.

15 MR. JOHNSON: -- over the last two days, which I do think
16 expands the playing field considerably. It's providing the
17 Court more information than what the original trial judge had
18 in making this determination.

19 And again, what we are selling is not what happened in
20 September of 2010. That ship has sailed. What we're looking
21 at is what was this marriage like over a decade?

22 THE COURT: Yeah, I realize that we're not here to debate
23 murder or self-defense. All of that can exist in the same
24 plate as --

25 MR. JOHNSON: Absolutely. Absolutely.

1 The Court asked for guidance from the appellate courts.
2 Right? So I would cite the Court to two cases in particular,
3 *State v. Hayes* and *State v. Wilkins*. I have copies I'll be
4 happy to provide the Court.

5 There's not a ton of appellate court reported decisions
6 on this issue. Obviously, the focus is on the burden of proof
7 being the preponderance of the evidence, as opposed to the
8 burden the State had at the original trial and successfully
9 accomplished, which was beyond a reasonable doubt of guilt at
10 the time of Jermaine Davis's murder.

11 So here it's by a preponderance of the evidence. Has Ms.
12 Davis provided the Court credible evidence that she was in a
13 domestic violent relationship?

14 THE COURT: All right. Would it be accurate to say the
15 new evidence or the additional evidence would consist of
16 essentially the virtual testimony we heard yesterday and
17 today? Are there any other specific incidents that were
18 brought up that --

19 MR. JOHNSON: Those are the two new evidence pieces.
20 Yes, Your Honor.

21 Ms. Deidre Davis-Washington also testified. She had
22 testified originally at trial. Her testimony was
23 substantially the same as from trial, though she did give some
24 additional information regarding seeing additional evidence on
25 Shellie of physical abuse. No new direct evidence of I saw

1 Jermaine hit Shellie.

2 And I think that will be what the State will focus on
3 when they talk to the Court, is that there's a lot of you have
4 to believe Shellie Davis that this was a domestic abusive
5 relationship, and I would just say that you don't have to
6 believe Shellie solely.

7 I think it's important that the Court believes what
8 Shellie Davis has said, but when the Court looks at the
9 testimony of the expert witnesses, that explains some of the
10 odd behaviors that the solicitor has done a good job of
11 pointing out, the pursuing of this damaging relationship. Why
12 would anyone do this? I think the experts will give the Court
13 insight as to why someone would continue to pursue a
14 relationship that was destructive.

15 And I think that the witnesses from Maryland are family
16 witnesses, but they provide that flavor of there were
17 incidents of Jermaine being physically aggressive and violent.
18 And if the Court accepts that he was physically aggressive and
19 violent in Maryland early in the marriage, it would stretch
20 the imagination that that behavior somehow dramatically
21 altered on moving to South Carolina, where Shellie was away
22 from family and support.

23 And I would key in on the personality changes that people
24 observed in Shellie Davis as a key component. She was one
25 thing early in the marriage, and she became something

1 different over time. And yes, there are lots of reasons
2 personalities change. I'm certainly different than I was when
3 I was 21 years old, probably for the wrong reasons. I'm
4 probably less responsible than I was when I was 20 years old,
5 but I may regress backwards in time, unfortunately.

6 But specifically, when you look at Shellie Davis, she
7 went from being outgoing to something different. She went
8 from being gregarious to something different. And even Ms.
9 Carr talked about her. She's suspicious. She's cutting her
10 eyes around the room. She's always looking for what's going
11 on with Jermaine. And yes, some of that certainly could be
12 explained by the fact that she suspected him of cheating on
13 her, and there were women for which he was certainly involved
14 with, but the other factor is that she has now been trained
15 over the years, and her personality has matched that training.

16 I don't have to have the Court believe that Jermaine
17 Davis beat Shellie Davis up every day, black and blue. That's
18 not what this relationship was. What this relationship was,
19 it was domestically violent at times. It was -- it was a
20 toxic marriage at times, it was a good marriage at times, and
21 you don't have to find that it was always one.

22 Jekyll and Hyde has been mentioned more than once. The
23 experts yesterday mentioned that concept, that Jermaine had
24 moments of being Mr. Hyde, being the aggressor, and we've
25 provided the witnesses we can that show that, independent of

1 what Shellie Davis would have -- has already testified to
2 extensively at trial.

3 THE COURT: Okay.

4 MR. JOHNSON: So we'll be happy to respond to any
5 questions the Court has. It is a preponderance of the
6 evidence standard. It's the civil law standard.

7 I use the gas tank in my -- it's right there at the
8 middle. Do I have a little more than half? And it does have
9 to be credible. The Court has to buy what I'm selling. I do
10 have the burden of persuasion.

11 THE COURT: Sure.

12 MR. JOHNSON: So it's not enough to -- to stack a bit of
13 evidence. It still has to be persuasive evidence.

14 I would point out that somebody who's very young, a
15 traumatic experience of seeing that would stick with you, and
16 I think that makes the last witness the Court heard from
17 particularly helpful in my burden of meeting that standard.

18 THE COURT: All right. Let me let Mr. McNair respond.

19 MR. MCNAIR: Thank you, Your Honor.

20 Your Honor, just to -- looking at the defendant's
21 memorandum of law, what the Court is concerned with here is
22 whether the defendant has presented credible evidence of a
23 history of criminal domestic violence. Credible, meaning
24 trustworthy, not simply plausible. The defendant must
25 persuade the judge her evidence is reliable. The foundation

1 of this whole house of cards is what Shellie Davis has said,
2 what she says, what she told other witnesses, and she is not
3 credible.

4 She told Dr. Danso and Dr. Schwartz-Watts that this was
5 13 years of chronic abuse twice a week. That would have been
6 over a thousand assaults during this time period, involving
7 slapping, punching, kicking, dragging up the stairs, and God
8 knows what else, and all she can produce is two witnesses, one
9 who saw a bruise on her leg, or I think three now, but she
10 told them what happened, and one who saw a bruise on her
11 forearm.

12 She -- and what they testified to is what Shellie Davis
13 told them. They didn't see any of this. They're relying on
14 what she said, and she is not credible. In fact, I'd go so
15 far as to say she's a liar.

16 All the things she testified to in trial, all the things
17 she's told Donna Schwartz-Watts, all the things she's told Dr.
18 Danso, we can boil that all down to four incidents of abuse.

19 There's the stick shift car incident that happened two
20 weeks after she got married when she was pregnant, where she
21 says he threw her across the hood. She testified he threw her
22 across the hood at a busy intersection during rush hour, but
23 yet we have no police reports of that. Apparently, nobody
24 called the police. She told Dr. Danso Mr. Davis pushed her
25 against the hood. She told Donna Schwartz-Watts he slung her

1 around the house after that happened. She's not even
2 consistent on that.

3 The second incident is where Karen Swartz, who she worked
4 with, saw a bruise on her forearm. Karen Swartz testified
5 that she saw bruises on her forearm. Shellie Davis testified
6 that Jermaine blackened her eye. She told Donna Schwartz-
7 Watts he blackened her eye, but Karen Swartz didn't see that.
8 She just saw a bruise on her forearm, which could be from
9 anything.

10 The third incident would be this 2006 Richland County
11 domestic violence incident that Officer Moon just testified
12 to. She told Dr. Danso that Mr. Davis hit her, but she told
13 the police that day that he just -- you just heard that he
14 grabbed her by the arm. In that police report, she showed the
15 police where the metal bar was that she threatened Mr. Davis
16 with. She admitted to taking his phone as he was trying to
17 call 9-1-1. She threatened to kill him. She was arrested for
18 domestic violence. She's the only one in this case who's been
19 arrested for domestic violence, not Jermaine Davis.

20 Officer Moon testified that that argument, that verbal
21 altercation that day, started over Jermaine taking a key, but
22 she testified that during that time she had found out about a
23 couple -- a couple of women Jermaine was talking to and that
24 he had just come back from Myrtle Beach. That's in the
25 transcript.

1 The fourth incident is the grandmother's funeral service,
2 where her family members saw a bruise on her leg. She told
3 them -- Kenyatta Terry-Allen testified that she saw bruises on
4 Shellie's leg, and Shellie told her Jermaine threw her across
5 the bed and choked her until she lost consciousness, but she
6 didn't see any bruising on her neck. He threw her across the
7 bed and choked her, but she's got a bruise on her leg.

8 She testified too Jermaine hit her, but nobody testified
9 to seeing bruises on her face or that she had a black eye.
10 She told Donna Schwartz-Watts that she had found an extra cell
11 phone that had pics of a girl on it, and she woke him up to
12 confront him about it, and he began pushing her, trying to get
13 his phone back, and that he was slamming her into the
14 headboard.

15 So the four episodes or incidents that we could
16 potentially corroborate what she's saying, she's all over the
17 place about what happened. It's more likely than not that
18 didn't happen. It's highly unlikely that didn't happen --
19 highly likely that did happen.

20 MR. JOHNSON: I think he knows what you're saying.

21 MR. MCNAIR: Highly -- too many negatives. That's not
22 credible evidence.

23 Dr. Tyson, who testified in the first trial, who I
24 believe was Dr. Danso's predecessor, testified that the
25 characteristics of a battered spouse is they do things to

1 avoid triggering events, to avoid pain, which is human nature.
2 Dr. Danso agreed with that. Jermaine's triggering event,
3 according to Dr. Danso, was if she did anything to disrespect
4 him or jeopardize his job.

5 Well, here's what we have evidence of at the trial and at
6 this hearing. She confronts him at work events multiple
7 times. She told -- in her journal on July 21st of 2010, she
8 writes about telling a business partner of Jermaine's about
9 the problems she was having with Jermaine in the relationship.
10 So the things she's -- she's saying trigger him, she's doing
11 that. She's not trying to avoid pain.

12 She goes through his phone. She confronts him about
13 what's on his phone. She calls women -- females' numbers that
14 she finds on his phone. She wakes him up to confront him
15 about what's on his phone.

16 She goes through his drawers. She ignores his calls.
17 She testified he bought her a gun and taught her how to shoot
18 it. He went to joint counseling at the church and with other
19 married couples.

20 Is that typical of an abuser? I guess, according to Dr.
21 Danso, everything is typical of an abuser.

22 According to Dr. Ross, isolation is a key element, that
23 the abuser tries to isolate their victims. We have -- but she
24 saw people every day. She worked at ERA Realty for five
25 years. She saw several of these people two to three times a

1 week. Ms. Washington testified she talked to her almost
2 daily. How is that isolation? She's out and about, working,
3 seeing people all the time.

4 What about the inconsistencies about the shooting itself
5 the morning of? She testified to she went over there to show
6 Jermaine this check from her work because if Jermaine saw the
7 check, he was going to come home, and that's what she wanted.
8 But then in the same train of thought, she says -- admits that
9 she was going to kill him -- kill herself after showing
10 Jermaine the check.

11 How does that make sense? You want him to come home.
12 That's why you go over there, but then you say you're going to
13 kill yourself after you show him the check? That makes no
14 sense. This whole story doesn't make sense.

15 Then she says she went home after the shooting to pack
16 this bag because she wanted to dress up to see herself look
17 nice for her last day. Well, you just said you're going to
18 kill yourself at Jermaine's house. So now why are you going
19 back to get a bag to pack up and go somewhere and dress up and
20 look nice?

21 And then she says she went to this Reggie Sumter's guy --
22 Reggie -- I forget what his last name is. Is it Sumter?
23 Reggie who lives in Sumter. She went to his house and took a
24 shower she said to -- to dress up so she could see herself
25 looking nice, but yet when she goes to Charlotte, where she

1 allegedly attempts suicide, to where her best friend lived,
2 her best friend testified to Shellie changed clothes and
3 freshened up in Charlotte. So even that story doesn't make
4 sense.

5 She told Dr. Roberts -- he's the doctor in Charlotte who
6 saw her after the shooting. She told him she had at least ten
7 prior suicide attempts over a 20-year period. That's pre-
8 dating her relationship with Jermaine. She told Donna
9 Schwartz-Watts she had attempted suicide twice.

10 Just more lies. Lie after lie after lie. That is the
11 opposite of credible, trustworthy evidence. That's hot air is
12 what that is.

13 She was not diagnosed with PTSD at the time this
14 happened. She was diagnosed with acute stress disorder, which
15 could be from the actual murder itself. Thirteen years of
16 chronic abuse, but she was not diagnosed with PTSD.

17 So, Judge, I encourage you to -- please, if you want to
18 know the true Shellie Davis, read her journals. Read her
19 journals. She writes in her journal that that's the place
20 where she can be totally honest with herself and everything
21 going on in her life. She wrote that in May of 2006, and it's
22 so obvious what this is. It is so obvious.

23 In May of 2006, she writes she can't quit thinking about
24 Jermaine cheating on her. She makes rules for herself to stop
25 watching movies where -- where the husband cheats on the wife.

1 She says when he doesn't call, her mind wanders back to what
2 he did before, cheat. That's the -- that's the first journal
3 entries in May of 2006.

4 Fast forward to September of 2010, September 18th of
5 2010, her last journal entry. I'm not getting better. I
6 thought my wish was coming true, but I can't handle the wait
7 any longer. Mentally, it has taken over my mind. I can't
8 think straight. I think about his adultery all the time now.

9 And you can read everything in between, and it's -- it's
10 the same stuff. She's left to take care of the kids and pay
11 the bills, and he's gone. He's abandoned them, and he's
12 living like a single guy. That's her issue.

13 And then he was about to move on and that cost him his
14 life. She shot him in the back of the head as he's standing
15 up at his closet, presumably about to leave. He got a text at
16 8:04 a.m. that morning from guess who? Natasha Miller, his
17 high school sweetheart.

18 She admits to holding his phone. She admits to holding
19 his phone that morning. He is dead and she is leaving five
20 minutes after that text. Doesn't that seem more plausible?
21 This is what it appears to be.

22 I heard Judge Clifton Newman say one time, some people
23 see facts as they are, and some see them as they wish them to
24 be. I think this is clear, crystal clear, what happened here.

25 That's all I have, Your Honor.

1 MR. JOHNSON: Very briefly, Your Honor.

2 THE COURT: Yes.

3 MR. JOHNSON: Absolutely, it's crystal clear what
4 happened that day. The jury has already decided that. So --
5 and the State has done an excellent job of focusing as to
6 that. Our job was to show you a flavor of what this marriage
7 was like before the end of it.

8 The law is in place for folks who are in an abusive
9 relationship. It grants them a chance at early parole. It
10 doesn't release them, doesn't change their conviction, doesn't
11 change what they've been convicted of doing, doesn't alter
12 that at all. All it does is acknowledge that a domestic
13 physically abusive marriage relationship can have an impact.
14 And that's all that we're asking the Court to decide, that
15 this was at times a domestically violent relationship.

16 The State makes a point that Shellie talks about the
17 abuse was continual all the time, but her definition of the
18 abuse, it's psychological, it's financial, it's emotional.
19 It's sometimes physical. Abuse comes in all different forms
20 and fashions.

21 Now, the statute, I acknowledge, is only concerned if it
22 crosses the line into physical abuse. So that's the burden we
23 have. Did it cross the line into physical abuse? The State
24 is equating every instance that Shellie felt abused and
25 relayed the abuse with the physical component of the abuse. I

1 think that's reading too much into what's there. Right?

2 This was an abusive relationship in a lot of ways, in
3 some ways more than others. It was at times physically
4 abusive. It was physically abusive enough to qualify under
5 the statute for her to at least be considered eligible for
6 early parole.

7 That's all this case is about. Thank you, Your Honor.

8 THE COURT: All right. As I mentioned yesterday, I think
9 I -- well, I say at your convenience, but the sooner the
10 better. If you could just provide me just a post-trial or
11 post-hearing submission of sort, you can do it via email, that
12 just kind of pinpoints in the transcript where you'd like me
13 to review.

14 I recognize we won't have a transcript quickly from this
15 hearing, but you can certainly provide those points to me
16 again in writing. That way I don't have to reach out to you
17 again after today.

18 But I do want to thank each of you, both attorneys for
19 both sides, for coordinating this hearing. I know it's been a
20 long time coming, and I'm glad we were able to get it done.

21 I'll take the matter under advisement and come up with a
22 decision in the coming weeks. Okay?

23 MR. JOHNSON: Thank you, Your Honor.

24 MR. MCNAIR: Thank you, Your Honor.

25 MR. JOHNSON: One -- one piece of housekeeping is Dr.

1 Schwartz's report --

2 MR. MCNAIR: That's right.

3 MR. JOHNSON: -- as a Court's exhibit. We can supply it
4 after the fact. There's no dispute on what the report is. We
5 just don't have a clean copy for the court reporter, I don't
6 think.

7 MR. MCNAIR: We don't yet.

8 THE COURT: Can we send those to you via email, Melinda?

9 THE COURT MONITOR: Yes.

10 THE COURT: Yes. Okay. We'll -- we'll acknowledge that
11 that's going to be Court's Exhibit Number 1 for the record,
12 and there's no dispute about what the actual document is.

13 THE COURT: Right.

14 MR. JOHNSON: We just don't actually have a clean copy.

15 THE COURT: Okay.

16 MR. MCNAIR: We're about to get one.

17 MS. TAYLOR: I have it in my email. I can go --

18 MR. MCNAIR: That's your call.

19 We'll get it right now.

20 THE COURT: All right.

21 MR. JOHNSON: Thank you, Your Honor.

22 THE COURT: All right. Thank you. We'll be in recess.

23 MR. JOHNSON: Your Honor, if the deputies could allow us
24 a little time with Ms. Davis?

25 THE COURT: Sure. That'd be fine.

1 MR. JOHNSON: Thank you, Your Honor.
2 (WHEREUPON, the proceedings ended at 11:56 a.m.)
3
4 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
	)	
THE STATE SOUTH CAROLINA,	)	
Respondent	)	CASE NO.: 2011-GS-32-01037
vs.	)	(Appellate Case No. 2018-000366)
	)	
	)	
SHELLIE DAVIS	)	ORDER
Defendant.	)	
	)	

This matter comes before the Court by way of an Order filed in the South Carolina Court of Appeals on January 14, 2022. This Court was ordered to hold a new hearing only on Defendant Shellie Davis' ("Defendant" or "Ms. Davis") motion to be classified [as] a battered spouse pursuant to S.C. Code § 16-25-90. A hearing for this matter convened on July 29, 2024 in Edgefield County. Defendant was present and represented by Taylor D. Gilliam, Esq. and Gary Johnson, Esq., and present on behalf of the State was Deputy Solicitor Robert E. McNair III and Assistant Solicitor Whitney Yongue Taylor. For the reasons set forth herein, the Defendant's Motion is hereby DENIED.

PROCEDURAL HISTORY

Defendant was indicted by a Lexington County Grand Jury in May of 2011 on one count Murder. A jury trial was held before the Honorable Thomas A. Russo on April 21, 2014. Aimee J. Zmroczek, Esq. and M. Wade Downtin, Esq. represented Defendant, and Deputy Solicitors C. Dayton Riddle, III and Shannon A. Davis appeared on behalf of the State. Prior to trial, defense counsel filed a written notice pursuant to S.C. Code Ann. § 17-23-170(E), which indicated her intent to offer evidence of battered spouse syndrome at trial.

Following a five-day trial, the jury found Defendant guilty of the murder of Jermaine Davis ("victim" or "Mr. Davis"). Sentencing was deferred to the following week. On April 30, 2014,

Judge Russo convened a sentencing hearing, wherein he denied defense counsel's request to convey "battered spouse" status upon the Defendant in accordance with S.C. Code Ann. § 16-25-90. In denying Defendant's post-trial motion, Judge Russo did not issue a written order of his findings and the transcript of that sentencing hearing cannot be produced.

Defense filed a post-trial motion to reconsider Judge Russo's finding regarding battered spouse syndrome on May 8, 2014. For unknown reasons to this court, the Order denying this motion was not filed until February 7, 2018. Defendant's appeal could not be perfected until a ruling on this Motion was filed.

Following receipt of that Order, a Notice of Appeal was filed with the South Carolina Court of Appeals on February 28, 2018. Unbeknownst to the attorneys of record, the post-trial record was not available. Subsequent to the 2014 trial and post-trial motion hearing, the trial record for this case was lost as a result of the trial court reporter's equipment being stolen from her vehicle. Therefore, there was no full record for the appellate court to review. Previous appellate counsel for the Defendant, Jennifer Roberts, Esq., filed a Petition with the South Carolina Court of Appeals on December 6, 2018 that sought an order remanding the case for reconstruction. The Court of Appeals requested a Return from the State, and a Return was filed on December 12, 2018. The State did not oppose the Petition.

Accordingly, the Court of Appeals issued the aforementioned Order granting the motion to remand on January 24, 2019. Counsel for the parties then diligently attempted to reconstruct this case. The Court and the parties noted that reconstruction of this matter would be difficult given the significant time lapse and recommended that the parties initially gather affidavits from trial participants and witnesses with personal knowledge of the trial and sentencing hearing conducted in 2014. To that end, six affidavits were gathered from attorneys, Defendant, a family member,

and an expert witness. This court subsequently reviewed the affidavits and heard the arguments of counsel. After a thorough review, the Court concluded that due the enigmatic nature of what occurred at the sentencing hearing and the ambiguity of what Judge Russo weighed in consideration of his ruling, there could be no meaningful appellate review based on the affidavits that the parties collected at the direction of this Court.

By way of an Order dated January 14, 2022, the South Carolina Court of Appeals then remanded this case to the circuit court for "a new hearing only on Defendant's motion to be classified [as] a battered spouse pursuant to § 16-25-90." The new hearing was scheduled for July 29 and 30, 2024 in Edgefield County.

LEGAL STANDARD

S.C. Code Ann. § 16-25-90 provides:

[A]n inmate who was convicted of ... an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to ... an offense against the household member ... presented credible evidence of a history of criminal domestic violence, as provided in [s]ection 16-25-20, suffered at the hands of the household member.

Section 16-25-20 states: "[i]t is unlawful to: (1) cause physical harm or injury to a person's own household member, (2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril. " Household member includes "a spouse;" and "persons who have a child in common." S.C. Code Ann. § 16-25-10

A history of criminal domestic violence must be proven by a preponderance of the evidence. *State v. Grooms*, 343 S.C. 248, 254, 540 S.E.2d 99, 102 (2000). "[T]he defendant must persuade the judge by presenting proof which leads the trier of fact to find that the existence of the contested fact is more probable than its nonexistence. *Id.* at 253-54, 540 S.E.2d at 101-02.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Counsel for Defendant called five witnesses to testify. Two experts were first called to testify both generally to domestic partner violence and specifically to evaluations of signs of domestic violence as it related to Defendant. Three fact witnesses also appeared to testify as to their personal observations of domestic violence instances with Defendant.

Defense Witness Presentation for Analysis:**Dr. Catherine Ross**

Dr. Catherine Ross provided expert testimony regarding domestic abuse, including the general behavior patterns for perpetrators and victims domestic abuse. She also testified about non-physical abuse that routinely occurs in relationships involving domestic abuse and trauma. On cross examination, Dr. Ross confirmed she had neither met nor examined Defendant Shellie Davis. The court notes that Dr. Ross' testimony appears similar to the trial testimony of Dr. William Tyson testifying generally about battered spouse issues, but not personally interviewing or examining Ms. Davis.

Dr. Whitney Danso

Dr. Whitney Danso provided expert testimony in the field of clinical psychology and domestic trauma. Unlike Dr. Ross, Dr. Danso did perform and interview and examination of Ms. Davis wherein she expressed symptoms of depression and acute stress response. She reported that Ms. Davis stated she was abused several times per week on and off over a period of years. Further, Dr. Danso reported of Mr. Davis' financial control issues, that she was humiliated several times in front of her friends, and told by the victim if she were a better wife they would not have problems.

Dr. Danso also reported from her examination that Ms. Davis alleged being slapped, punched, strangled, pulled up stairs, and being shoved against a car.

On cross examination, it was noted that Dr. Danso's examination and involvement with Ms. Davis occurred nearly nine years after the trial and 14 years after the murder. The State also pointed out in questioning that if Ms. Davis' alleged abuse occurred as much as she indicated to Dr. Danso it would be hundreds of instances of abuse. Further, Dr. Danso did not speak with any prior witnesses in this case who reported no such abuse. The State further addressed Ms. Davis' previously admitted journal entries on cross examination which did not document physical abuse, but noted in one journal entry "I think about his adultery all the time". On redirect, Dr. Danso again opined that Defendant Shellie Davis meets the standard of a battered spouse. On re-cross, the State inquired if Dr. Danso had seen Ms. Davis' divorce papers from 2006 which do not mention physical abuse as a ground for divorce, to which Dr. Danso testified she had not.¹

Wanda Huntley

Defendant's sister, Wanda Huntley, testified that she knew both the victim and the Defendant and had personal knowledge of several disturbing incidents. Specifically, she testified to walking by a bedroom in Defendant's home when she and victim lived in Maryland and seeing the Defendant pinned to the wall with her husband's hands are her throat. Ms. Huntley found this incident more concerning because Ms. Davis was pregnant at the time. After Ms. Davis moved to South Carolina with her husband, Ms. Huntley testified to an incident when she was on the phone

¹ Dr. Donna Swartz-Maddox provided testimony at the 2014 trial based upon her examination of Shellie Davis. She diagnosed Shellie as suffering from major-depression that was recurrent. Tr. 788, l. 20 – 789, l. 5. She noted Ms. Davis was suicidal and took actions on the day of the murder that were consistent with that. *Id.* at 791. On cross examination, the State pointed out that Defendant informed law enforcement when she was booked at the jail that she did not have a history of victimization, had not been victim of a crime, and that the gun went off as she was taking it out of her purse. Dr. Swartz-Maddox opined that she was suffering from major-depression prior to the murder.

A TRUE COPY
SWARTZ-MADDOX

with Ms. Davis and heard glass breaking and screaming in the background. Lastly, Ms. Huntley testified to attending their grandmother's funeral, where she was shown pictures by a cousin of bruises on Ms. Davis' body. On cross examination, Ms. Huntley confirmed that the incident she alleged happened would have been years before the victim's death. She further testified she was not aware of other allegations made by Ms. Davis, particularly that the victim threw Ms. Davis over the hood of a car in public. She further noted that she talked with her sister periodically but not every day.

Deidre Washington

Deidre Washington testified she had known Ms. Davis since 1991 and that she still lived in Maryland. She described the victim as a controlling person, who gave Ms. Davis a curfew and argued a lot with her. She testified she had seen a bruise on the back of Ms. Davis' leg which indicated occurring during a fight with her husband. On cross examination, Ms. Washington testified she did not talk much with Ms. Davis after she moved to South Carolina, and only saw each other occasionally. Further she testified she never saw Ms. Davis with a black eye or missing hair, but only saw a bruise in 2010.²

Lynesha Howard

The final witness for the Defense was Lynesha Howard, who was called out of order due to her unavailability on the first day of this hearing. She testified remotely via the virtual courtroom. Ms. Howard is Defendant's niece and grew up with her in Maryland. She testified to seeing an incident where victim took Ms. Davis into a bedroom and put his hands on her collar

² Ms. Washington also provided testimony at the 2014 trial in line with her appearance at the post trial hearing.

(throat) but let he go upon seeing Ms. Howard. She further testified this incident occurred in 1999 when Ms. Howard was five years old and a decade before the victim's death.

State Witness Presentation for Analysis:

Aletta Karr

At the conclusion of Defendant's presentation, the State also put up witnesses in this hearing, the first being Aletta Karr. She testified that she worked with the victim (Jermaine Davis), and that she knew Shellie Davis. She testified that Ms. Davis attended work events with the victim, and that Ms. Davis had shown up unexpectedly at some of these events. Ms. Karr recalled a specific event where her company had a table reserved and Ms. Davis showed up and "made a big scene." This incident occurred about 1-2 months before his death. Ms. Karr recalled another work function at Hemingways where Ms. Davis again showed up unexpectedly. Ms. Karr stated that Ms. Davis had shown up at her house as well, and that Ms. Davis got their child baptized without the victim's knowledge. Further Ms. Karr testified that 1-2 months before the murder, she heard Ms. Davis say over the phone "if she could not have Jermaine when no one could" and Ms. Karr testified she told Jermaine he should change his locks.³ In addition, she said the victim loved his kids and he tried to make marriage work for his kids, but Ms. Davis kept going through his phone, unexpectedly showing up places, and was a jealous person.

Former Officer Jesse Lind

The next witness, Jesse Lind, was a former officer with the Richland County Sheriff's Department. He testified to his response to a 2006 domestic violence 911 call wherein Jermaine Davis alleged Defendant had threatened him with a metal bar. Officer Lind ascertained that Mr.

³ This was also addressed at the original trial in 2014.

Davis grabbed Defendant and forced her to the floor, but there was no appearance of physical injury on Defendant's body. Officer Lind further testified that after investigation, Defendant was determined to have been the primary aggressor. In addition, he testified that Defendant appeared angry, but not scared when he arrived. On cross examination, Mr. Lind's testimony is based upon reviewing a written police report and he did not have independent recollection of the 2006 incident.

In their closing arguments, Defendant argued that the evidence presented at trial and post-trial met the burden to warrant a finding that she was a battered spouse as provided by S.C. Code Ann. § 16-25-90. Specifically, Defendant points to expert testimony presented as well as eyewitness testimony provided by her sister and niece. Trial testimony also included several accounts of Defendant changing emotional status, as well as her physical appearance in the time leading up to the victim's murder. The State noted that Ms. Davis was not credible in many of her accounts of abuse, and the only eyewitness testimony, assuming they were true, occurred nearly a decade before Jermaine Davis was shot in the back. In sum, several witnesses relied on what Defendant told them, and not on personal knowledge. Further, the State argued that Ms. Davis' action in killing her estranged husband were not that of a battered spouse, but of a woman unable and unwilling to accept the ending of her marriage and her husband's adultery.

Both parties were afforded the opportunity to make closing arguments and submit additional materials should they deem appropriate. Defendants' counsel provided a summary of relevant testimony from both trial and the post-trial, which included transcript citations. This court has attempted to give appropriate weight to the testimony and exhibits offered and personally observed during the post-trial hearing on July 29th and 30th as well as the 2014 trial record. Defendant's counsel also provided an evidence summary for the court's review on January 17, 2025. Admittedly, weighing testimony from the 2014 trial transcript is difficult since this court

did not have the opportunity to actually see and hear the witnesses testify at trial, including the Defendant.

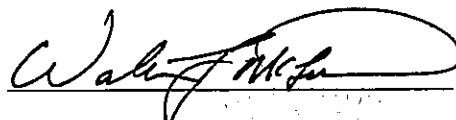
Of the many exhibits submitted at trial or during the course of the post-trial hearing, the Defendant's personal journals provide unique insight. These journals certainly tell the story of a broken marriage and devastated spouse. Defendant provided details of her feelings of abandonment, exhaustion over adultery, and overall loss about her relationship with the victim, Jermaine Davis. Oddly missing from any of these journal entries are any descriptive accounts of physical abuse.

The Court is of the opinion that this was a tumultuous relationship with scattered instances of domestic abuse, in multiple formats, occurring on both sides of the relationship. However, in looking at the totality of the evidence, this court finds that Defendant has not presented sufficient credible evidence to meet her burden to establish a history of criminal domestic violence such that § 16-25-20 is triggered.

CONCLUSION

For the aforementioned reasons, this Court finds that Defendant has not presented sufficient credible evidence of a history of criminal domestic violence, as provided in § 16-25-20, suffered at the hands of the household member. Defendant's Motion is hereby DENIED.

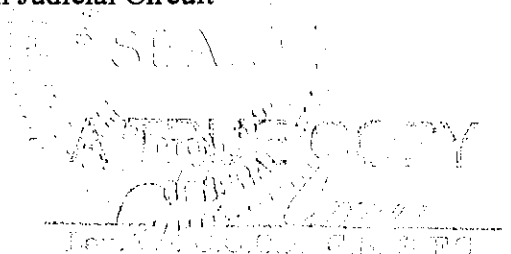
IT IS SO ORDERED.



Walton J. McLeod, IV
Presiding Judge
Eleventh Judicial Circuit

Lexington, South Carolina

JAN. 24, 2025



WITNESSES

Lexington County Sheriffs Department

Stephen M. Collins

Law Enforcement Case #:

CDR

ARREST WARRANT NUMBER

J816953

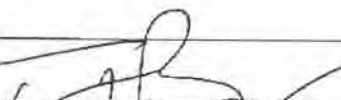
ACTION OF GRAND JURY

TRUE BILL


Foreperson of Grand Jury
Date: 5/9/11

VERDICT

GUILTY


Foreperson of Petit Jury
Date: 4-25-2014

DOCKET NO. 2011GS3201037

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MAY TERM 2011

THE STATE

vs.

Shellie Lavette Davis

CDR #: 0116

Indictment for

MURDER

§ 16-03-0010

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
MURDER

§ 16-03-0010

At a Court of General Sessions, convened on MAY 2011, the Grand Jurors of Lexington County present upon their oath:

That Shellie Lavette Davis did, in Lexington County, on or about September 22, 2010, willfully, unlawfully, feloniously and with malice aforethought shoot Jermaine D. Davis with a .380 caliber firearm and the said Jermaine D. Davis did die on or about September 22, 2010 in Lexington County as a proximate result of the wounds he received in violation of Section 16-3-10 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.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.

Shellie Lavette Davis

AKA:

Race: Black Sex: F Age: 41

DOB:

Address:

City, St:

DL#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2011GS3201037

A/W#: J816953

Date of Offense: 9/22/2010

S.C. Code § : 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

SC Bar# 4728

Defendant

Attorney for Defendant

SC Bar# 77193

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$
TOTAL	\$	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Δ To receive ANY MENTAL
Health treatment as deemed necessary
by The Dept. of Corrections.☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code:

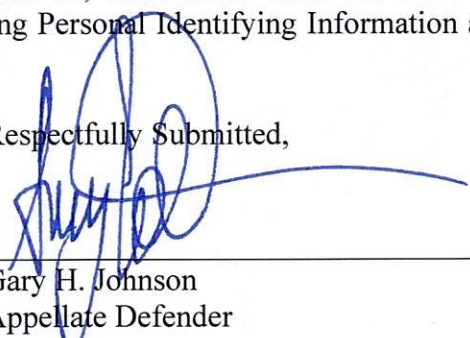
Sentence Date:

2191
4-30-2014

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,



Gary H. Johnson
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 27th day of March, 2026.

RECEIVED
Mar 27 2026
SC Court of Appeals