

2014 FINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM PICKENS COUNTY

J. Michael Baxley, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TIMOTHY CARSON RYDER,

APPELLANT

APPELLATE CASE NO. 2013-001916

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF PICKENS

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 TIMOTHY CARSON RYDER,)
)
 DEFENDANT.)
 _____)

2012-GS-39-02339

TRANSCRIPT OF RECORD

AUGUST 26 - 27, 2013
PICKENS, SOUTH CAROLINA

BEFORE:

THE HONORABLE J. MICHAEL BAXLEY

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

SAMUEL TOOKER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

STEVEN ALEXANDER, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

OPENING STATEMENTS - MR. TOOKER

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1 But I rule on it based on my training as a judge, my
2 understanding of South Carolina's law, both substantive and
3 procedural, my experiences from many years in the courtroom
4 as a judge and as a lawyer before becoming a judge, but
5 never do I rule on a case or, excuse me, on a motion or an
6 issue to send you a message about how I feel about the
7 issue.

8 I want to tell you now, I don't have a position on the
9 facts. I'm not the judge of the facts, you are. If I had a
10 position on the facts, I'd be invading your province. And
11 I'm not going to do that, ladies and gentlemen. So take no
12 inference from any rulings that you may hear the Court make
13 during the course of this trial other than the fact that
14 something had to be ruled upon and was indeed ruled upon.

15 Now, again, I look forward to working with you in this
16 trial. Thank you for coming forward to serve as jurors in
17 this case. And at this time the State -- the Court
18 recognizes the State for opening statements.

19 **MR. TOOKER:** Thank you, Your Honor. May it please the
20 Court, Mr. Alexander.

21 **THE COURT:** Yes, sir, Mr. Tooker. Go ahead.

22 **MR. TOOKER:** Ladies and gentlemen of the jury, I've
23 got to hand it to Judge Baxley, he did a really nice job
24 introducing the proceedings to you guys. So I'm actually
25 going to be briefer than I normally am with opening

OPENING STATEMENTS - MR. TOOKER

25

1 statements.

2 The first thing he said that I think is exceptionally
3 important, particularly in this case, is how important the
4 credibility is because in this case everything that you're
5 going to hear and see is really going to hinge on the
6 credibility of the people saying it. And what you're going
7 to have to determine at the end of the day is whether or not
8 what those people told you is something you can believe.
9 And I'll touch on that again in a second.

10 But I do want to first acknowledge what y'all are doing
11 here today and thank you very much for your services. And I
12 don't mean to do that to kiss up to you or anything, but I
13 can tell you, and I know I speak for Mr. Alexander, and his
14 client, and for Detective Raines, and for everybody here
15 when I say that what you do is very much appreciated.

16 You know, we're here because there's a dispute on the
17 facts. And y'all are to resolve it. And y'all doing that
18 is something that we certainly acknowledge is an
19 inconvenience for you, but it's also very important for us
20 and for the justice system. I mean we can do a lot, but we
21 can't do any of this stuff without you. You are the most
22 important cog in this mechanism. And, again, I thank you
23 for it.

24 Now, as the Judge said too, the burden is on the State.
25 The burden is on the State of South Carolina in this case to

OPENING STATEMENTS - MR. TOOKER

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1 prove that the Defendant, Timothy Ryder, violated the law.
2 The law in this case is the law of domestic violence,
3 criminal domestic violence.

4 And, in essence, what the State has to show, what I
5 have to show, is that the Defendant and the victim in this
6 case, Ms. Ryder, were in a relationship, that they're
7 married, or that they have kids together, or they live
8 together, but they're in some sort of domestic relationship,
9 and being in that relationship the Defendant either harmed
10 her or threatened to harm her, putting her in fear.

11 So it's either he touched her unlawfully, or did
12 something unlawful to her or put her in a reasonable fear of
13 harm or injury. So those are the elements that I have to
14 show. That's what I have to meet in order to prove the
15 Defendant guilty.

16 And I say that, I say the burden is on us, and the
17 burden is beyond a reasonable doubt. And we accept that
18 burden. And we're prepared to meet that burden.

19 But I also would like you to remember that this burden
20 is not a novel thing. The burden of proof on the State and
21 the burden beyond a reasonable doubt has been the burden in
22 this Country since 1782 in our Constitutional Convention,
23 you know, when our current court system was created.

24 Every time somebody goes to court, be it Magistrate
25 Court, or State Court, or Federal Court, the burden is on

OPENING STATEMENTS - MR. TOOKER

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1 the State and the burden is beyond a reasonable doubt. And
2 every time they're found guilty, that burden is met. So I
3 don't want you to think it's an insurmountable burden.

4 Now, this case, again, like I told you, it's domestic
5 violence. And what we're going to show is that the police
6 responded to the Defendant and the victim's residence in
7 February. And they responded to the residence as a result
8 of a call.

9 And Detective Raines -- Detective Raines is seated
10 beside me at counsel's table. He gets out there and he
11 finds the Defendant in an intoxicated state and he's being
12 held down by a couple of individuals who were already there,
13 Mr. Phillip Towe and Mr. Ernest Baldwin. They were holding
14 the Defendant on the ground, and he is very impaired.

15 The victim is on the scene as well. And Detective
16 Raines talks to her and talks to the parties and determines
17 based on that conversation or those conversations that the
18 right thing to do is to get a warrant for domestic violence.

19 And what we'll do is we'll show you that in the
20 testimony, the testimony of Detective Raines. We'll also
21 call the other witnesses in this case.

22 And, in essence, what's alleged is that the Defendant
23 threw a beer bottle at the victim, she got scared. And so
24 she then called her son-in-law, Mr. Towe, and her daughter,
25 Katelyn Choiniere, that they came out and then the Defendant

OPENING STATEMENTS - MR. TOOKER

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1 got even more upset and started talking about doing further
2 harm both to the victim and to himself. So that's what
3 we're going to show you.

4 And I know that's not like super juicy. You know,
5 we're not talking about something, you know, where the
6 Defendant just beat the tar out of the victim, but
7 nevertheless, that is still domestic violence. And we show
8 that to you. And we show you that those things happened.
9 We'll come back to you and say, jury, we request a verdict
10 of guilt for domestic violence based on those facts.

11 So that's what we're asking you to look for. We're
12 asking you to look for that fear, that fear of harm or
13 injury, and the reasonableness of that fear, whether a
14 reasonable person would be fearful in similar circumstances.

15 Now, CDVs are different. They're not like every other
16 crime. And I do a lot of these CDVs. That's kind of my
17 thing here in Pickens. And it's different. I've prosecuted
18 robberies, and drug crimes, and sexual type crimes, and
19 they're different.

20 And those kind of crimes, often what you see in a
21 burglary, for instance, someone gets their house broken into
22 and things are stolen from them. It's strangers, you know,
23 it's a stranger that targets another stranger that takes
24 advantage of them because of, you know, some moment of
25 opportunity.

OPENING STATEMENTS - MR. TOOKER

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1 And they don't know each other. And there's not
2 anything personal. And so when they get to court, there's
3 nothing personal. It's this is what happened, I came home
4 and I found my house burglarized, and this was missing.

5 But in these cases, in these domestic violence cases,
6 they are intrinsically and inherently personal. They would
7 not be domestic violence were they not household members,
8 were these people not married.

9 Because they are married it muddies the waters. It
10 makes things a little more murky because you have all those
11 feelings, all those emotions. You've got people who care
12 for each other, who have kids in common, who have similar
13 financial needs. And those things sort of affect how folks
14 perceive the continued effects of these crimes.

15 It may be that they're very upset when they first
16 happen, and then six months later they're not as mad, and
17 then 12 months later they're not as mad. And we end up with
18 cases where folks testify and maybe what they're saying
19 today isn't quite what they said back when the incident
20 occurred.

21 And that's something, again, like the Judge said, when
22 we talk about credibility, that you should be mindful of.
23 You should be mindful of how it is that people's statements
24 change and why it is that people's statements change. And
25 so think about the how and think about the why when you hear

OPENING STATEMENTS - MR. ALEXANDER

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1 these people testify.

2 And, again, I'm about to sit back down, but I do again
3 want to thank you for your service. You know, the
4 importance of what you're doing here today is not just, you
5 know, I'm sure you anticipate me saying, you know, to
6 protect the State and all that kind of stuff, but it's also
7 to protect the Defendant, protect his rights and to ensure
8 that his rights are adequately preserved during this
9 proceeding.

10 So I thank you for your service. And I look forward to
11 presenting my case before you. And at the end, hopefully
12 arguing to you, you know, what I think the evidence showed.
13 But in the meantime, please give to Mr. Alexander all the
14 attention you've given to me. And I look forward to talking
15 with you at the end of the evidence.

16 **THE COURT:** Thank you, Mr. Tooker. And now for the
17 Defense, Mr. Alexander.

18 **MR. ALEXANDER:** Thank you, Your Honor, ---

19 **THE COURT:** Opening statement.

20 **MR. ALEXANDER:** --- Mr. Tooker. Good morning, ladies
21 and gentlemen. I met y'all briefly yesterday. And I'll be
22 briefly talking to you. I don't want to delay the testimony
23 starting here.

24 I echo a lot of what the Judge already told you and
25 what Mr. Tooker already told you. And I won't belabor the

OPENING STATEMENTS - MR. ALEXANDER

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1 point by repeating it, but I ask you to follow all those
2 instructions from the Judge.

3 The burden of proof is on the State. Watch all the
4 witnesses, listen to all the witnesses carefully, as I know
5 you will, for all those purposes that the Judge said,
6 credibility, what they're saying, look for inconsistencies,
7 look for what the truth is, which is what's your job.

8 Mr. Tooker told you what he was trying to prove in this
9 case, criminal domestic violence. And I think he was clear
10 on it, but based on what I believe as the facts are being
11 presented to you through the testimony, this isn't a case
12 where there was -- there's any alleged physical injury. And
13 so that leaves the offer for attempt to cause physical
14 injury, circumstances that created some fear. So that's
15 what this case comes down to.

16 And you'll hear the testimony of Mr. Ryder, Timothy
17 Ryder and Erica Ryder. They're married. They were married
18 at the time, separated on and off over the years. They're
19 still married, to my knowledge. And so certainly part of
20 what he's got to prove is there.

21 And you'll hear the testimony. What I believe you'll
22 hear is facts about throwing of a beer bottle and all that.
23 But just when Ms. Ryder testifies and any other witnesses
24 that, you know, were present at the particular points in
25 this, you know, alleged altercation, you listen to what they

OPENING STATEMENTS - MR. ALEXANDER

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1 say carefully, and you come to your conclusions on the
2 facts.

3 So I'll just leave you with that. Just keep in mind
4 what the Judge said about keeping an open mind throughout
5 the case, listen to all the testimony. And it's an
6 important case, as Mr. Tooker said. This isn't, you know, a
7 real juicy case with juicy facts, but it's important to Mr.
8 Ryder, and I'm sure it's important to the State and all the
9 parties involved. It's very important to Mr. Ryder.

10 And so we appreciate your service. I don't think this
11 will be a very lengthy trial. And I appreciate in advance
12 your attention and just ask you at the end of the case, when
13 you hear everything, we believe that after you've heard all
14 the facts for you to decide what the facts are, you've heard
15 all the testimony, that you'll be able to return a verdict
16 of not guilty. Thank you.

17 **THE COURT:** Thank you, counsel. All right. Ladies and
18 gentlemen, we're now going to move into the testimonial
19 phase of the case. I will tell you that the witnesses have
20 been sequestered, meaning that they are in a room outside of
21 the court until they testify. And once they've testified,
22 they may remain in, but until that time they are not in the
23 courtroom.

24 Now, there are certain exceptions to that. Obviously,
25 the Defendant, who may be a witness, not required to be one,

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 but may be one, he's allowed to remain. The State is
2 allowed to keep their case officer, that is the prosecuting
3 officer, in the room throughout the trial. And also under
4 South Carolina law the person who is designated as the
5 victim or the complaining witness is allowed to remain as
6 well under the South Carolina Victims' and Witnesses' Bill
7 of Rights.

8 So those three individuals will be with us throughout,
9 but other witnesses are being sequestered. Now, State,
10 please call your first witness.

11 **MR. TOOKER:** Thank you, Your Honor. The State calls
12 Erica Ryder to the stand.

13 **THE COURT:** All right. Please come forward and take
14 the oath of a witness.

15 **MADAME CLERK:** Place your left hand on the Bible and
16 raise your right hand, please. Do you solemnly swear or
17 affirm the testimony you're about to give in this case will
18 be the truth, and the whole truth and nothing but the truth
19 so help you God?

20 **MS. RYDER:** Yes.

21 **MADAME CLERK:** State your full name for the record.

22 **MS. RYDER:** Erica Lynn Ryder.

23 **MADAME CLERK:** Please be seated.

24 **Direct examination by Mr. Tooker:**

25 Q. All right. Ms. Ryder, what is your relationship with

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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- 1 the Defendant, Mr. Timothy Ryder?
- 2 A. Timothy is my husband.
- 3 Q. He's your husband?
- 4 A. Yes.
- 5 Q. And if you would, you've got a microphone right there,
- 6 and I'm going to ask that -- I'm just going to put it right
- 7 in front of you so that -- will you try to talk right into
- 8 that microphone so the last juror can hear you real clear.
- 9 All right. So what is your relationship with Mr. Ryder?
- 10 A. Timothy is my husband.
- 11 Q. Okay. And how long have y'all been married?
- 12 A. 10 years.
- 13 Q. 10 years? Do you guys have any kids together?
- 14 A. We do.
- 15 Q. Okay. Where -- where are you from originally?
- 16 A. Massachusetts.
- 17 Q. When did you move to South Carolina?
- 18 A. In 2001.
- 19 Q. What brought you down here?
- 20 A. Timothy.
- 21 Q. Okay. Where did y'all meet?
- 22 A. We met in Massachusetts.
- 23 Q. Okay. And is he from Massachusetts originally?
- 24 A. No.
- 25 Q. Where is he from originally?

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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- 1 A. South Carolina.
- 2 Q. Okay. Why did y'all decide to move down here?
- 3 A. He was still residing here.
- 4 Q. Okay. And when you moved down here did y'all move in
- 5 together?
- 6 A. Not immediately, no.
- 7 Q. Okay. So how soon after you moved down to South
- 8 Carolina did y'all get married?
- 9 A. Oh, six, eight months, maybe.
- 10 Q. Okay. And after you got married did you move in
- 11 together?
- 12 A. Yes.
- 13 Q. Okay. And have you lived together since then?
- 14 A. Off and on.
- 15 Q. Off and on? And have y'all always lived at the same
- 16 residence or a different residence?
- 17 A. No. We've ...
- 18 Q. Okay. Do you currently live at [REDACTED]
- 19 A. I do.
- 20 Q. And did you all live there together for some period of
- 21 time?
- 22 A. Yes.
- 23 Q. Okay. And back in 2012 on February 1st do you remember
- 24 when the police came out to that residence?
- 25 A. Yes.

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. And is that residence in Pickens County, South
2 Carolina?

3 A. Yes, it is.

4 Q. Okay. And what do you remember about the police coming
5 out to that residence on that occasion?

6 A. I had called them out.

7 Q. You called them out?

8 A. Yes.

9 Q. Okay. And when you called them, what did you report?

10 A. I don't really recall what I said to the 911 operator.

11 Q. You don't recall?

12 A. No.

13 Q. Okay. But you remember calling them?

14 A. Yes.

15 Q. And you called them on the phone?

16 A. I did.

17 Q. Okay. And do you recall saying that Timothy was on the
18 scene making threats?

19 A. Yes.

20 Q. That's what you told them?

21 A. (Affirmative nod).

22 Q. Okay. And do you recall saying that your son-in-law
23 and friend were holding him down at that period of time?

24 A. Yes.

25 Q. Okay. That is what you said?

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 A. (Affirmative nod).

2 Q. Okay.

3 **THE COURT:** And, ma'am, ---

4 Q. And ---

5 **THE COURT:** --- just a moment, please. You're going to
6 need to verbally respond so our court reporter can take it
7 down, but also I want to make sure, can you hear, ladies and
8 gentlemen? It's a little bit difficult to hear. We need
9 you to speak up, if you would. How about just tap your
10 microphone in front of you and let's see if they're working.
11 Okay. So if you'd speak up a little bit then, please.

12 Q. Why don't we do a test. Say test.

13 A. Test.

14 **MR. TOOKER:** And, Your Honor, I think you might have a
15 volume ---

16 **THE COURT:** Oh, do I have a volume?

17 **MR. TOOKER:** I think so, sir.

18 **THE COURT:** We'll work on that then. Thank you.

19 **MR. TOOKER:** Yes, sir.

20 Q. Okay. So you said that Timothy was on the scene making
21 threats. Is that right?

22 A. I truly don't recall what I said at the time.

23 Q. You don't recall?

24 A. I don't know my exact words, no, I don't.

25 Q. Okay. Do you recall calling 911?

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 A. Yes.

2 Q. Do you think you said something along the lines that
3 Timothy is on the scene making threats?

4 A. Yes.

5 Q. Okay. And do you think you said something along the
6 lines of your son-in-law and a friend had him held down at
7 that time?

8 A. Yes.

9 Q. Okay. And do you recall about when you made that call?

10 A. It was in the evening.

11 Q. In the evening?

12 A. (Affirmative nod).

13 Q. Was it dark outside?

14 A. Yes.

15 Q. Okay. So we're talking February, right?

16 A. Um-hum (affirmative).

17 Q. Gets dark pretty early?

18 A. Um-hum (affirmative).

19 Q. What were y'all doing at the time?

20 A. We had all been outside talking, everybody, you know,
21 had had some beer.

22 Q. Okay. And who is everybody?

23 A. Myself, my son-in-law, my daughter, Timothy, and Ernie,
24 a friend of my daughter, and my son-in-law's.

25 Q. Okay. And what is your son-in-law's name?

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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- 1 A. Phillip Towe.
- 2 Q. And what is your daughter's name?
- 3 A. Katelyn Choiniere.
- 4 Q. Okay. Choiniere?
- 5 A. Yes.
- 6 Q. Okay. I think I've been saying that wrong. And you
- 7 guys were all just hanging out. Did Katelyn and Phillip
- 8 leave or did they stay?
- 9 A. They had left.
- 10 Q. They left. And then what happened after they left?
- 11 A. They had left. And shortly after that Tim had thrown
- 12 the beer bottle in my direction.
- 13 Q. Tim threw a beer bottle in your direction?
- 14 A. Um-hum (affirmative).
- 15 Q. Okay. Do you think he was trying to hit you?
- 16 A. I don't know.
- 17 Q. You don't know?
- 18 A. No.
- 19 Q. Do you recall talking to Detective Raines in this case?
- 20 A. Yes.
- 21 Q. Okay. And did you tell him what happened when you
- 22 talked to him?
- 23 A. I'm sure I did.
- 24 Q. Okay. And that was after he was dispatched, after you
- 25 called 911, is that right?

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 A. Yes.

2 Q. Okay. And I just want to give you a time-frame.

3 A. Okay.

4 Q. And do you recall telling him that Tim had been
5 drinking and became irate when asked to go to bed?

6 A. Again, I don't recall exactly what was said. This is a
7 year and a half ago, almost 2 years.

8 Q. Sure. Do you recall saying that Timothy threw a glass
9 bottle at you, narrowly missing you, and stated he was going
10 to kill you?

11 A. Again, I don't recall every word that was said.

12 Q. Okay. Does that sound like something you said?

13 A. It does.

14 Q. An approximation?

15 A. Yes.

16 Q. Okay. And what happened after he said those things and
17 threw the bottle at you?

18 A. He threw the bottle in my direction. I got up and was
19 angry. And I immediately went to call the police.

20 Q. Okay. Did you call the police first or did you call
21 someone else first?

22 A. I called Katelyn and Phillip first because they had
23 just left the house. I called them. And then I called 911.
24 I kind of did everything right ---

25 Q. Okay.

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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- 1 A. --- immediately.
- 2 Q. And how did the Defendant respond when that happened?
- 3 A. He was upset because I was calling the police.
- 4 Q. He was upset?
- 5 A. Um-hum (affirmative).
- 6 Q. And what did he do?
- 7 A. He started to come towards me asking me not to call the
- 8 police. And at that time Ernie came and got in between us.
- 9 Q. Okay. Asking you not to call the police?
- 10 A. Um-hum (affirmative). Yes.
- 11 Q. Okay. And is that before or after he said he was going
- 12 to kill you?
- 13 A. That was never said in -- at that point at all.
- 14 Q. Was that said at some point?
- 15 A. No, it wasn't even said.
- 16 Q. That was never said?
- 17 A. Not that he was going to kill me, no.
- 18 Q. So you didn't tell Detective Raines that?
- 19 A. Not that I recall, no.
- 20 Q. Okay. And but you did tell him about calling Katelyn
- 21 and Phillip?
- 22 A. Yes.
- 23 Q. Okay. And about calling 911?
- 24 A. He wouldn't have been at my house if I hadn't called
- 25 911.

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Yes, of course. I'm just trying to establish a time-
2 line. And after Ernie got in the way, when the Defendant's
3 coming at you, what happened?

4 A. At that time Phillip and Katelyn had also returned back
5 on the scene. And Phillip immediately jumped out of the
6 vehicle and tackled Tim and threw him to the ground.

7 Q. Okay. Why did he do that?

8 A. I guess he felt -- I don't know. I don't know why
9 somebody else does something.

10 Q. Well, of course, you can't put yourself in their brain,
11 but based on the circumstances as you observed them ---

12 A. I had called, yes, I had called him, they knew that I
13 was upset, they came back to the house. Tim was standing
14 there, I was standing there in the driveway, Ernie was
15 between us, and Phillip got out of the vehicle and threw Tim
16 to the ground.

17 Q. Okay. And what happened after that?

18 A. After that, he held him there for a few minutes. Tim
19 was upset. He was a little agitated, of course. I mean,
20 he's being pinned down on the driveway. Phillip released
21 him, and Tim said that he was going to go into the or he was
22 -- I don't even know. I don't even know.

23 Q. What do you mean you don't ---

24 A. I don't recall everything. It's been so long. And
25 I've tried to recall it.

ERICA RYDER - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. Well, do you recall having given a written
2 statement in this case?

3 A. Of course.

4 Q. All right. If I show you a copy of that written
5 statement, do you think it might refresh your recollection?

6 A. Sure.

7 Q. All right. I'm showing you what's been marked as
8 State's 3. Just take a moment to review that statement.

9 (Pause)

10 A. That's my statement, but ...

11 Q. Is that your handwriting?

12 A. That's my handwriting.

13 Q. Okay. And you wrote that statement?

14 A. I did.

15 Q. Okay. And at the top, Deputy Gilstrap, is that the
16 person who witnessed that statement? You don't remember?

17 A. That's his signature. I don't know him.

18 Q. Was it Detective Raines or a different deputy who was
19 on the scene?

20 A. (Negative nod).

21 Q. You don't remember?

22 A. I don't know.

23 Q. After having refreshed your recollection with this
24 written statement, what happened?

25 A. This here is my statement. And it states that he had

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1 threatened to kill me.

2 Q. He had threatened to kill you?

3 A. Um-hum (affirmative).

4 Q. And what were the circumstances surrounding that?

5 A. (No response).

6 Q. How did he threaten to kill you?

7 A. Oh, he -- he threatened to kill me, said he was going
8 to go get the gun.

9 Q. Get the gun. What gun?

10 A. My daughter has a little .22 pink rifle in the house.

11 Q. A .22 pink rifle. So not your gun that you keep in the
12 house?

13 A. It's my daughter's gun that stays in my house. My
14 nine-year-old daughter's.

15 Q. Okay. And this statement, you just reviewed it?

16 A. Yes.

17 Q. Okay. And what about this statement differed from what
18 you just told this jury?

19 A. Well this here, what differs is this just speaks about
20 my son-in -- friend, Ernie, tackling him to the ground at
21 that point, but he had been tackled to the ground before
22 that. This is not a thorough explanation of that night.
23 It's missing a whole lot of elements in this brief
24 statement.

25 Q. How about this part, where you say Timothy Ryder threw

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1 a 24 ounce beer bottle attempting to hit me with it?

2 A. Um-hum (affirmative).

3 Q. On that night were you pretty confident that he was
4 attempting to hit you with it?

5 A. I just became angry because I felt like, you know, the
6 beer bottle went by me. The way my building is, where I was
7 sitting, I was sitting in a doorway, there was a trash right
8 over here. I don't know that he was actually throwing it at
9 me or if he was throwing it into the trash. But it went by
10 me, and I became angry. And I called the police and I, you
11 know ...

12 Q. That doorway was open, right?

13 A. Yes, and I was sitting inside the doorway ---

14 Q. And it went ---

15 A. --- in a chair.

16 Q. --- into the doorway, right?

17 A. Yes, it went past me.

18 Q. All right. I'm going to show you something real quick.

19 It's been marked as State's 2. Do you recognize this?

20 A. Yeah, it's my building.

21 Q. Okay. Would you say it's a fair and accurate
22 representation of your building?

23 A. Absolutely.

24 Q. Okay.

25 A. The doghouse wasn't on the porch that night, though.

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1 Q. Okay.

2 A. I just recently put that there.

3 Q. Okay. The doghouse is an addition?

4 A. Um-hum (affirmative).

5 Q. Okay.

6 **MR. TOOKER:** At this point, Your Honor, the State wants
7 to move State's 2 into evidence and publish to the jury.

8 **THE COURT:** Is there an objection?

9 **MR. ALEXANDER:** No objection.

10 **THE COURT:** Without objection, State's 2 in evidence.
11 And you may present it to the jury.

12 (Whereupon State's exhibit 2 was admitted into
13 evidence)

14 Q. Okay. So what we're looking at here is a small shed-
15 type building, is that right?

16 A. (Affirmative nod).

17 Q. Okay. And is that where the trash can was, where the
18 ---

19 A. No, no.

20 Q. --- doghouse is?

21 A. The trash can's inside the door over here. The door
22 swings open this way. The trash can's inside the building,
23 and it's sitting over in this area. I'm sitting inside the
24 doorway catty-cornered in a chair relative to this.

25 Q. Okay. Yeah. So what you're saying is it's all a big

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1 mistake, is that right?

2 A. Again, I don't know his intent because there was the
3 trash and there was me. I was never hit with the bottle. I
4 became angry.

5 Q. No, but we're not so concerned with his intent at this
6 moment, but your fear.

7 A. I wasn't afraid, I was mad.

8 Q. You weren't afraid?

9 A. No. I was angry thinking that the beer bottle was
10 being thrown in my direction. Yes, ---

11 Q. You weren't ---

12 A. --- I got angry.

13 Q. --- afraid when you talked to Deputy Raines?

14 A. No ---

15 Q. How would you describe your emotional state when you
16 talked to Deputy Raines?

17 A. I was upset.

18 Q. You were upset?

19 A. Yes.

20 Q. What do you mean by upset?

21 A. Angry more than anything.

22 Q. Angry?

23 A. Yes.

24 Q. Okay. Would you say you were emotional?

25 A. I'm sure I probably was.

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1 Q. Okay. Would you say that when you talked to him you
2 talked to him about that fear?

3 A. I don't recall ---

4 **MR. ALEXANDER:** Your Honor, I would object.

5 A. --- that at all.

6 **MR. ALEXANDER:** I think this is leading questions at
7 this point.

8 **THE COURT:** All right. Counsel objects to leading.
9 And what say you to that?

10 **MR. TOOKER:** Well, I would say that pursuant to 611 © I
11 need to use some leading questions to help develop this
12 witness' testimony.

13 **THE COURT:** Very good. What response do you make to
14 the rule 611 (C)?

15 **MR. ALEXANDER:** I believe she's answering his
16 questions. I've kind of let it go. I think he's asked
17 leading questions a lot, I've just kind of let it go. But I
18 think she's answering his questions. He just -- I think he
19 doesn't like the answers. I don't ---

20 **THE COURT:** Very good.

21 **MR. ALEXANDER:** --- think that gives him the right to
22 ask leading questions.

23 **THE COURT:** Very good. All right. Ladies and
24 gentlemen, let's talk a little bit about what this
25 discussion was about. And I mentioned to you when we began

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1 this case that there is a difference between direct and
2 cross examination and the rules are different.

3 One of the rules is that when you call a witness
4 yourself you cannot ask a leading question on direct.
5 Probably just a poor example of a leading question, but one
6 that comes to mind is if this was an automobile accident
7 case, which clearly it's not, and you said was the car blue
8 and you're on direct with your witness, that's an
9 inappropriate question because the answer is inside that
10 question. So that's a leading question.

11 If you ask what color was the car? Well, that's an
12 appropriate question on direct. But when you're on cross,
13 you can lead a witness. You can lead to see whether or not
14 they follow to whatever they testified to on direct. So
15 that's the difference -- one of the differences between
16 cross and direct.

17 But one of the rules says that if a witness -- just a
18 moment. If a witness may be hostile, and when I say
19 hostile, I don't mean that they are confrontive or violent,
20 but that's a term of art meaning that they may not be
21 aligned with your side of the case ---

22 (Whereupon a cell phone rang)

23 **THE COURT:** All right. Please seize that telephone, if
24 you will.

25 That they may be aligned with another side of the case

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1 or aligned with an adverse party, then counsel, under one of
2 our rules of evidence, and that's rule 611, is permitted to
3 ask leading questions.

4 And I find that there is a sufficient basis here in the
5 witness' testimony that rule 611 applies. And you may lead
6 the witness. I'm going to overrule your objection to
7 leading questions. And you may proceed.

8 **MR. TOOKER:** Thank you, Your Honor.

9 **Direct examination by Mr. Tooker continued:**

10 Q. Ms. Ryder, I'm going to point your attention again to
11 this written statement that you said you made. All right.
12 So do you deny saying that he threw the bottle attempting to
13 hit you with it?

14 A. That's my statement, but ---

15 Q. Then just yes or no. Do you deny saying it?

16 A. I wrote it.

17 Q. So is that a yes, I made the statement?

18 A. I made this statement.

19 Q. Okay. And you had a friend of yours present and your
20 daughter and son-in-law just left the house, you said that
21 too, is that correct?

22 A. Yes.

23 Q. Okay. And that you immediately called your son-in-law
24 and daughter asking them to return to your home, do you
25 remember saying that?

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- 1 A. Yes, it's written here.
- 2 Q. So you said that he threw the bottle and you got angry.
- 3 And so ---
- 4 A. (Affirmative nod).
- 5 Q. --- because you were angry you called your daughter and
- 6 son-in-law and you called 911?
- 7 A. Yes.
- 8 Q. Because you were angry?
- 9 A. Because I'm angry, yes.
- 10 Q. Not because you're fearful?
- 11 A. No. I wanted him removed from my home at that point.
- 12 Q. You wanted him ---
- 13 A. I did not want him there.
- 14 Q. --- removed because he had just thrown a beer bottle at
- 15 you?
- 16 A. Because I was angry with him, yes.
- 17 Q. Okay. And then at that point do you recall saying at
- 18 this time Tim threatened to kill me?
- 19 A. And this is not accurate.
- 20 Q. That's not accurate?
- 21 A. No, there's ---
- 22 Q. Those are not your words?
- 23 A. It's written here, but I do not recall that being said
- 24 at all.
- 25 Q. Okay.

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- 1 A. No.
- 2 Q. So you don't recall him saying, and this is what you
3 wrote, so you don't recall writing him saying I have
4 bullets, "I will take you out"?
- 5 A. I wrote that, yes.
- 6 Q. You wrote that?
- 7 A. I wrote that.
- 8 Q. Okay. Do you recall writing that?
- 9 A. I obviously wrote it, yes. I wrote it.
- 10 Q. But you just said a minute ago ---
- 11 A. But I don't recall ---
- 12 Q. --- that you didn't ---
- 13 A. --- that actually being ---
- 14 Q. --- recall stating that.
- 15 A. --- stated. I don't.
- 16 Q. Okay. So you don't recall that?
- 17 A. I recall writing it, but that's not how I remember it
18 really happening, no.
- 19 Q. Okay. So you're equivocating a little bit?
- 20 A. (No response).
- 21 Q. Do you recall saying that your son-in-law and friend
22 Ernie then tackled him to the ground and subdued him until
23 the police arrived?
- 24 A. Yes.
- 25 Q. Okay. So you recall saying that part?

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- 1 A. (Affirmative nod).
- 2 Q. So just the part about him trying to kill you is what
- 3 you don't remember?
- 4 A. He never tried to kill me.
- 5 Q. Or him saying he was going to kill you?
- 6 A. I really do not recall that being said, no.
- 7 Q. You don't recall that?
- 8 A. No.
- 9 Q. And you don't recall him saying I have bullets and I
- 10 will take you out?
- 11 A. I do not.
- 12 Q. Okay. I'm going to show you another document. Is that
- 13 your statement at the bottom of that piece of paper?
- 14 A. At the bottom? That's my signature.
- 15 Q. Yeah. And what did I say?
- 16 A. Statement.
- 17 Q. Statement, I apologize. Is that your signature at the
- 18 bottom of that piece of paper?
- 19 A. That's my signature.
- 20 Q. Okay. And what does that document say at the top?
- 21 A. Victim Information Notification Form.
- 22 Q. Okay. And on what date did you fill out that form?
- 23 A. It looks like -- I think it's 2/1/12.
- 24 Q. 2/1/12. So the date of this incident?
- 25 A. Um-hum (Affirmative).

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1 Q. Okay. And what did you request in that Victim
2 Notification Form on the date of this incident?

3 A. I don't understand the question.

4 Q. You don't understand the question?

5 A. No.

6 Q. You see you've got a bunch of boxes that you checked
7 down the side of that piece of paper.

8 A. And that none of them are checked.

9 Q. Okay. You see that you ran a line down through each of
10 the ---

11 A. I didn't do that.

12 Q. --- yes boxes? You didn't do that?

13 A. Maybe the police officer did, but I did not put a line
14 through that. And I didn't check anything.

15 Q. Did you sign that document?

16 A. I signed it.

17 Q. You signed the document?

18 A. But there's nothing checked.

19 Q. Okay. We're talking semantics now. When you signed
20 the Victim Notification Form was it under the auspices of
21 being notified as a victim in this case?

22 A. I don't even remember signing the form. I'd signed it,
23 that's my signature, but I don't recall doing it.

24 Q. Okay. So there's a lot you don't recall now. Is that
25 a fair summation of what's going on?

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1 A. There is a lot that's not even included ---

2 Q. Okay.

3 A. --- in any of this.

4 Q. Just answer my question. There's a lot that you don't
5 seem to recall ---

6 A. Yes, ---

7 Q. --- now ---

8 A. --- two years later. Yes.

9 Q. Okay. But when this thing was fresh in your mind would
10 you say that you recalled what had happened?

11 A. I don't know what to tell you.

12 Q. You don't know what to tell me? I'm asking you a yes
13 or no question. When this was fresh in your mind would you
14 say at that point you recalled ---

15 A. At that point I was very upset with my husband. And
16 I'm not going to tell -- say anything incriminating towards
17 myself, but I've done things out of anger that weren't
18 always right to my husband also.

19 Q. So you're saying that that's all a lie and you're
20 telling the truth today that you don't remember anything and
21 nothing really happened?

22 A. I do not remember my husband threatening to kill me,
23 no.

24 Q. Okay. And you don't remember having said that to the
25 officer?

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1 A. I obviously said it because I wrote it, but ...

2 Q. And you don't remember having said that to Detective
3 Raines here?

4 A. I wouldn't -- no, I don't even remember him, looking at
5 him.

6 Q. Okay. And you don't recall having said that he ran
7 into the house threatening to obtain a gun ---

8 A. He didn't run into the house. He was never inside that
9 house.

10 Q. I'm asking what you said. I'm asking you what you
11 said. Do you recall having said he threatened to run into
12 the house to get a gun to kill you as well as others on the
13 scene?

14 A. I remember stating that, yes, he had made a threat
15 about getting the gun. He never went into the house.

16 Q. No, the gun is in the house, is that correct?

17 A. The gun is upstairs in my house, yes.

18 Q. Okay. And so to get to the gun you have to go in the
19 house, is that correct?

20 A. Yes.

21 Q. Okay. I'm going to show you what's been marked as
22 State's 1. Do you recognize this image?

23 A. Yes.

24 Q. Okay. What is that image?

25 A. That is one side of my house.

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1 Q. One side of your house. Is that pretty close to the
2 little shed where y'all were hanging out?

3 A. Yeah.

4 Q. Would you say, I mean, it's about as far as from where
5 I am to where you are right now?

6 A. Maybe a little further.

7 Q. A little further? Another step? Okay.

8 A. Okay.

9 Q. And that door, that goes directly inside?

10 A. Yeah, it goes into the children's playroom. It used to
11 be the garage.

12 Q. Yeah. Yeah.

13 A. Um-hum (Affirmative).

14 **MR. TOOKER:** Okay. Your Honor, at this point I want to
15 introduce State's 1 into evidence and publish to the jury.

16 **THE COURT:** Is there an objection?

17 **MR. ALEXANDER:** No objection.

18 **THE COURT:** State's 1 in evidence without objection.
19 You may publish it.

20 **MR. TOOKER:** Okay.

21 (Whereupon State's exhibit 1 was admitted into
22 evidence)

23 Q. So you don't recall having said that he was trying to
24 get into the house to get a gun to kill anybody?

25 A. I don't think he ever said he was going to kill

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1 anybody. Yes, I remember him mentioning the gun and going
2 towards the house. And that's when Phillip and Ernie got on
3 top of him at that point.

4 Q. You do recall that?

5 A. Yes.

6 Q. Mentioning the gun?

7 A. Mentioning the gun, yes.

8 Q. And going into the house to go get it?

9 A. He did not go into the house.

10 Q. No, no, but making a movement to go to ---

11 A. He went towards the house, ---

12 Q. --- the house to get the gun?

13 A. --- they tackled him.

14 Q. And they felt it necessary to restrain him to prevent
15 him from getting that firearm?

16 A. In case he was going to, yes.

17 Q. In case he was going to, because he might harm you?

18 A. I never felt like he was going to harm me, no.

19 Q. You never felt like he was going to harm you when he
20 threw the beer bottle at you?

21 A. No. The trash is sitting right there. If he -- I was
22 sitting that close, he could've hit me if he wanted to.

23 Q. Okay. And you and ---

24 A. I was angry.

25 Q. --- I have talked about this, haven't we?

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- 1 A. Excuse me?
- 2 Q. You and I have talked about this case, haven't we?
- 3 A. Yes, we have.
- 4 Q. Okay. And you said you didn't want to go to court, is
- 5 that correct?
- 6 A. Well, why would I want to go to court? Does anybody?
- 7 Q. You said that you wanted our office to drop the
- 8 charges, is that correct?
- 9 A. No, I did not say that. I said do what you need to do
- 10 because I know you can't -- won't drop the charges anyway.
- 11 Q. Okay.
- 12 A. The State takes over and you don't drop them.
- 13 Q. And we don't drop them?
- 14 A. Right.
- 15 Q. Okay. And you and I, after having had that discussion,
- 16 came to an understanding that this would go to court, is
- 17 that correct?
- 18 A. Yes.
- 19 Q. Okay. So you were prepared to come into court to
- 20 testify ---
- 21 A. Yes.
- 22 Q. --- today? Okay. And when it comes to that
- 23 preparation, how many times did you and Mr. Ryder talk about
- 24 this case?
- 25 A. We haven't been discussing this case.

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1 Q. You haven't discussed it?

2 A. No. I mean, ---

3 Q. You haven't discussed it once?

4 A. --- other than him being nervous about coming to court,
5 me being nervous, yeah. This is not a place I want to be.

6 Q. Before we came into this courtroom where were you
7 sitting out there?

8 A. I was sitting out in the lobby area with friends.

9 Q. Okay. With friends. And before Mr. Ryder went back to
10 talk to his lawyer, where was he sitting?

11 A. I don't know. He was in with his lawyer when I arrived
12 here.

13 Q. Okay. And in this same area, all right, everybody's
14 talking and everything, is it that y'all agreed to come
15 together to court today?

16 A. No.

17 Q. Is that right? You didn't?

18 A. We didn't even come ---

19 Q. Did anybody come together?

20 A. No. We didn't come together. My daughter and I came
21 together, and that was it.

22 Q. That's what I'm saying. So you and Katelyn ---

23 A. Yes.

24 Q. --- came together today? Okay. How many times have
25 you talked about this case with Katelyn?

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1 A. Katelyn doesn't reside with me. We have not been
2 discussing this. She's had enough on her own plate.

3 Q. Yeah. I'm not asking you if she resides with you. I'm
4 asking you if you had talked to her about this case.

5 A. We have not, no.

6 Q. Didn't she have her own stuff going on?

7 A. She did.

8 Q. She did? And so you're saying you didn't have a
9 conversation with her about changing testimony for each
10 other?

11 A. My goodness, no.

12 Q. Okay. All right.

13 **MR. TOOKER:** No further questions, Judge.

14 **THE COURT:** And now cross examination.

15 **MR. ALEXANDER:** Thank you, Your Honor.

16 **Cross examination by Mr. Alexander:**

17 Q. All right. Ms. Ryder, let's kind of take a step back
18 here minute. Let's pick up right where Mr. Tooker left off.
19 Now, obviously, before we started today you, and some of the
20 other witnesses and Mr. Ryder were standing out in the
21 courthouse. You don't deny that, do you?

22 A. No. There was no discussion about any of this.

23 Q. And me and you talked on a couple of occasions just
24 leading up to this?

25 A. Um-hum (Affirmative).

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1 Q. And you told me kind of what you testified to today,
2 right?

3 A. Yes.

4 Q. And one of the times being here in the courthouse with
5 me, and Mr. Ryder and you in the same room, right?

6 A. Yes.

7 Q. And you talked to me and then left, right?

8 A. Yes.

9 Q. Okay. So no -- nobody's colluded or tried to convince
10 you to say anything ---

11 A. No.

12 Q. --- other than what you want to say yourself, is that
13 right?

14 A. Yes.

15 Q. Okay. All right. So let's just go back to the
16 beginning of this. So February 1st, 2012 were you and Mr.
17 Ryder together -- I know y'all are married, but were y'all
18 ---

19 A. We were separated.

20 Q. --- living together? Okay. Had he been staying at the
21 house for a few days at this time?

22 A. He did stay a couple of days maybe and then be gone
23 for, you know, a week. And, yeah. But he wasn't there
24 consistently at that point.

25 **THE COURT:** All right. Counsel, just one moment.

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1 Ma'am, let's do this, for our court reporter, wait until he
2 finishes his question. I know when we talk with people we
3 usually bump and talk over, but when the court reporter is
4 trying to take down what two people say at one time, it's
5 difficult. So, counsel, you ask your question, then you
6 finish, and then you answer, and you finish, and then the
7 next question. Fair enough?

8 **MR. ALEXANDER:** Yes, sir.

9 A. Yes, sir.

10 **THE COURT:** Thank you. Go ahead to your next question.

11 Q. So on February 1st, 2012 how many days had he been
12 staying with you at that point?

13 A. Maybe two evenings, two nights.

14 Q. Okay. All right. And had y'all -- had he lived at
15 this house with you like long-term at any point in time?

16 A. Yes.

17 Q. Okay. So y'all separated and he moved out?

18 A. Yes.

19 Q. Okay. Y'all had never taken any court action to get
20 divorced or ---

21 A. No.

22 Q. --- addressed even custody of your daughter ---

23 A. No.

24 Q. --- or anything like that? Okay. All right. So did
25 any -- you said when you called the police it happened in

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1 the evening, February 1st, ---

2 A. Um-hum (Affirmative).

3 Q. --- did anything happen earlier in the day that you
4 were kind of predisposed to be angry with him or anything
5 like that? I mean, did y'all have any fight or anything,
6 arguments or ---

7 A. He was predisposed to be angry with me.

8 Q. Okay. Did he have a lot going on, including a job and
9 stuff like that?

10 A. Yeah, he had lost his job. And we had been separated.
11 And I was showing some interest in another male at that
12 time.

13 Q. Okay. All right. So fast-forward to when y'all were
14 -- so you -- it was yourself, your husband, Ernie Baldwin or
15 Ernest Baldwin, ---

16 A. (Affirmative nod).

17 Q. --- your daughter and your son-in-law ---

18 A. Yes.

19 Q. --- were there and y'all were all drinking some?

20 A. Um-hum (Affirmative).

21 Q. All right. And so your daughter and son-in-law left at
22 some point in time?

23 A. Yes.

24 Q. And then it was -- you and Ernie were still there, is
25 that correct?

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1 A. Yes. Tim, Ernie and myself were still at home.

2 Q. And you're sitting in the doorway of this ---

3 A. Um-hum (Affirmative).

4 Q. The door's open?

5 A. The door's open. And it opens up against that outer
6 wall on the inside.

7 Q. Just tell me how -- where Mr. Ryder was and how the
8 beer bottle got thrown over or beside your head or whatever.

9 A. Okay. I was seated in a chair, you know, in an outdoor
10 porch-type chair, and I had it inside the doorway with the
11 door open. I was sitting there partially blocking the door.
12 Over here beside me -- we keep a trash can inside the
13 building. And the trash can was sitting there. I was
14 seated, you know, like catty-corner within the door, on the
15 inside of the building.

16 Timothy -- there's like a 4 foot porch on the front of
17 the building, which you can see. He was over here to this
18 side of the front of the porch. And he swung around with
19 his arm around the door with this beer bottle into the
20 doorway.

21 Q. Now you say he was -- he was where -- on the porch, you
22 said?

23 A. He was like right -- he was like in this area in front
24 of the porch.

25 Q. Okay. So if you're facing that, he's to the ---

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 A. Right. He'd be facing ---

2 Q. --- right of the door ---

3 A. --- the building. And, yes, he come around with the
4 beer bottle and slung it into the building.

5 Q. Okay.

6 A. With me sitting there and the trash can here.

7 Q. So he was -- so he was in front of you or beside you?

8 A. Well, not directly in front of me. He was more to the
9 -- this side of me. I'm sitting inside the doorway looking
10 out. He's facing in, but he is more to -- what would've
11 been my left.

12 Q. Okay. And did the bottle go like directly over your
13 head, to the side ---

14 A. Uh-uh (Negative). It was low. It didn't even come
15 really at my head. It kind of went, you know, across like
16 my body area.

17 Q. All right. And what do you keep -- why would he be --
18 if he wasn't trying to hit you, why would he be throwing a
19 beer bottle into the building?

20 A. To throw it into the trash can.

21 Q. Okay. Did y'all normally keep the trash can in the
22 building?

23 A. Yes, we always do. We have animals and we keep feed.
24 And we keep the barrel there for feed and other things ---

25 Q. Had y'all been throwing or not throwing, had y'all been

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 putting ---

2 A. Yes, to keep ---

3 Q. --- beer bottles in ---

4 A. --- put beer bottles, empty ---

5 **THE COURT:** All right. Excuse me, ma'am, let him
6 finish. Let him finish. Don't talk -- go ahead and ask
7 your question, counsel.

8 **MR. ALEXANDER:** Thank you, Your Honor.

9 Q. Had you, and Ernie, and your daughter, and son-in-law
10 and Mr. Ryder been putting previous beer bottles into that
11 trash can that night?

12 A. We do it all the time, yes.

13 Q. Okay. All right. So when the beer bottle went by you
14 did you flinch or anything like that?

15 A. No, I got up, and I got angry.

16 Q. All right. So at that point you're saying you weren't
17 afraid he was trying to hit you or anything like that?

18 A. No.

19 Q. All right. So you got up. And did you tell him right
20 away I'm going to call the police?

21 A. Um-hum (Affirmative). I did.

22 Q. And you called your daughter first, right?

23 A. I believe I called her first.

24 Q. Okay. And then you told them to come back.

25 A. Um-hum (Affirmative).

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. Or did you tell them that he threw a bottle? Do you
2 remember what you told them?

3 A. I don't recall what I actually said, but I asked them
4 to come back to the house.

5 Q. Okay. But you -- you must have said something that
6 would make them come back that quickly and for ---

7 A. I probably told them that we were arguing.

8 Q. Okay. Now, you said that he came towards you, and
9 Ernie got between y'all.

10 A. Yes.

11 Q. When you say he came towards you, was he running
12 towards you, walking towards you ---

13 A. No, he wasn't running. He was just walking swiftly
14 like, you know, he wasn't running or anything like that.

15 Q. Okay. And when he did that were you afraid he was
16 going to come at you and hit you, tackle you, do something
17 physically ---

18 A. No. He was just asking me not to call the police and,
19 you know, that type of thing.

20 Q. And then Phillip got back or Phillip and your daughter
21 got back at some point, right?

22 A. Um-hum (Affirmative).

23 Q. And he got out of the truck and tackled Mr. Ryder, is
24 that correct?

25 A. He did, yes.

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. Okay. And then at some point he made some kind of
2 statement about going to get a gun in the house ---

3 A. Well, Phillip first tackled him and Tim, you know, then
4 let him up in a couple of minutes. And then Tim was crying
5 and very upset at that point. And, you know, and he got up
6 and he said that he was going to go to the house and made
7 mention somehow of the gun. I don't recall exactly how it
8 was said or what was said.

9 Q. Now, you said Tim had been there for a day or two. Did
10 he know where this pink .22 rifle was to your knowledge?

11 A. He wouldn't have known where it was located in the
12 house, no.

13 Q. Where was it located?

14 A. It was located up on the second floor. I have a big
15 closet off of my master bedroom. And it was locked up in
16 that closet in there.

17 Q. When you say locked up, was it ---

18 A. Well, the closet door I keep locked so that the
19 children don't have access because I do keep the gun in
20 there.

21 Q. All right.

22 A. And, of course, it's not loaded. I keep bullets
23 separate in a different place in the house.

24 Q. Were you in any way, shape, or form afraid he was going
25 to get to that gun and come out and shoot you or anybody

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 else?

2 A. No.

3 Q. Okay. All right. Now let's -- Mr. Tooker made a big
4 deal about your written statements, your statements to the
5 detective out there being different and all this.

6 A. Right.

7 Q. So I just want to make -- be clear. The written
8 statement he showed you, and you have a copy of it here.

9 A. Yes.

10 Q. You wrote that statement ---

11 A. I did.

12 Q. --- in its entirety, correct?

13 A. Yes.

14 Q. And you've already said you were angry with Mr. Ryder
15 that day?

16 A. Yes.

17 Q. Is it possible that when you wrote that statement that
18 you exaggerated what happened because you were angry with
19 Mr. Ryder that day?

20 A. It's very possible, yes.

21 Q. And so when you say that -- the part about Tim
22 threatening to kill me, I have bullets, I will take you out,
23 is what you wrote, right?

24 A. I wrote it.

25 Q. You exaggerated what he said because you were angry

ERICA RYDER - CROSS EXAMINATION BY MR. ALEXANDER

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1 with him and you wanted to make sure the police took him
2 away because you wanted him out of your house ---

3 A. I did want him out of my house.

4 Q. All right. He made some kind of statement about going
5 to get the gun and you took that and went a little further,
6 is that right?

7 A. Yes.

8 Q. Okay. And did you do the same thing with your verbal
9 statements to Detective Raines?

10 A. If that's what the statement states, what they were
11 telling me, then, yes, I did.

12 Q. All right. So just to be clear, you were not
13 physically injured in any way ---

14 A. No, I was never touched at all.

15 Q. Okay. And even though him throwing the beer bottle,
16 you're saying he didn't even offer or attempt to cause you
17 physical harm, is that right?

18 A. I don't believe so, no.

19 Q. Okay. Well, let's assume that, just for the sake of
20 argument, that he did offer that, I'm not admitting that,
21 but let's just assume for this question that he did do that,
22 you were not at all afraid of what he -- of that if he did
23 that, is that right?

24 A. No, I wasn't in fear, I was angry.

25 Q. And you didn't feel threatened in any way?

ERICA RYDER - REDIRECT EXAMINATION BY MR. TOOKER

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1 A. No.

2 Q. Okay. All right.

3 **MR. ALEXANDER:** One moment, Your Honor.

4 (Pause)

5 **MR. ALEXANDER:** That's all the questions I have for Ms.

6 Ryder, Your Honor.

7 **THE COURT:** All right. Ladies and gentlemen, when you
8 present a witness you have direct and then cross. And if a
9 new issue is brought up on cross, the proponent of the
10 witness may ask questions about that on what we call
11 redirect. Is there redirect for the witness?

12 **MR. TOOKER:** Two question, sir.

13 **THE COURT:** Go ahead.

14 **Redirect examination by Mr. Tooker:**

15 Q. You mentioned to Mr. Alexander that other people were
16 throwing beer bottles in the trash can all night, too.

17 A. That's what I used it for is for trash when I'm
18 outside.

19 Q. Okay. But you didn't call the police on anybody else
20 that night, did you?

21 A. Nobody else was there at that point except for Ernie,
22 myself and Timothy.

23 Q. No, but the question is other people threw beer bottles

24 ---

25 A. Yes. And was I sitting in that chair all evening? No.

ERICA RYDER - REDIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. And you never called the police on anybody else?

2 A. (Negative nod).

3 **MR. TOOKER:** No further questions.

4 **THE COURT:** All right. Ma'am, you may step down.

5 Please watch your step as you exit the witness box. And,
6 ladies and gentlemen, let's take our -- let's take our
7 morning break at this time. We'll be on -- we'll be in
8 recess about 15 minutes. And we'll remain where we are
9 while you return to the jury room. Please don't discuss the
10 case, but enjoy your break.

11 (Whereupon the jury exited the courtroom at 10:49 AM)

12 **THE COURT:** All right. Let's go ahead and bring in Mr.
13 Towe while we are just on break for a moment. Then we'll
14 stand down and take our own break. Mr. Towe is not your
15 next witness is he, or will he be?

16 **MR. TOOKER:** No sir. I'm going to call Mr. Baldwin
17 next and then Mr. Towe.

18 **THE COURT:** Very good.

19 (Pause)

20 **THE COURT:** All right. MR. Towe, how are you, sir?

21 **MR. TOWE:** Good.

22 **THE COURT:** Let me get you to -- just come around, if
23 you would, please, to the front. Good morning. As you
24 know, you are a witness in this case.

25 **MR. TOWE:** Yes, sir.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 **MR. TOOKER:** Yes, sir.

2 **THE COURT:** All right. Please bring in the jury.

3 Let's go ahead and call your next witness while the jury's
4 coming in.

5 **MR. TOOKER:** Thank you. Ernie Baldwin.

6 (Whereupon the jury entered the courtroom at 11:14 AM)

7 **THE COURT:** All right. Welcome back, ladies and
8 gentlemen. I trust you had a nice break. And the State has
9 called the witness, Mr. Ernest Baldwin, Jr. And please take
10 the oath of a witness, sir.

11 **MADAME CLERK:** Place your left hand on the Bible, raise
12 your right hand. Do you solemnly swear or affirm that the
13 testimony you're about to give is the truth, the whole truth
14 and nothing but the truth so help you God?

15 **MR. BALDWIN:** I do.

16 **MADAME CLERK:** Have a seat and state your name for the
17 record, please.

18 **MR. BALDWIN:** Ernest Baldwin, Jr.

19 **THE COURT:** All right. Direct examination.

20 **MR. TOOKER:** Thank you, Your Honor. May it please the
21 Court.

22 **Direct examination by Mr. Tooker:**

23 Q. Mr. Baldwin, do you know why you've been subpoenaed for
24 court today?

25 A. Yeah, for the ---

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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- 1 **THE COURT:** All right. Sir, I'm going to get you to
2 lean a little closer to that microphone right there and
3 speak up just a bit so we can all hear you in the courtroom.
- 4 A. For the case versus -- State versus Timothy Ryder.
- 5 Q. Okay. And what is it that you know about that case?
- 6 A. I don't know. Be more specific.
- 7 Q. Okay. Were you over at, you know, the residence of Ms.
8 Erica Ryder in February, 2012 when this incident occurred?
- 9 A. I was.
- 10 Q. You were? And what were y'all doing?
- 11 A. We was hanging out.
- 12 Q. Hanging out?
- 13 A. Yep.
- 14 Q. Were y'all drinking beers?
- 15 A. We was drinking beer.
- 16 Q. Okay. And how is it that you know all the parties in
17 this case?
- 18 A. Friends of a friend.
- 19 Q. Okay. Who were your friends in this case?
- 20 A. Phillip Towe.
- 21 Q. Phillip Towe?
- 22 A. How I met them.
- 23 Q. And Katelyn ---
- 24 A. Katelyn.
- 25 Q. Okay. Are you friends with Erica and Tim?

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 A. I am.

2 Q. Okay.

3 A. I don't go over there regular, but, as a matter fact, I
4 haven't been over there since that night. But, yeah, I
5 guess they're friends of mine.

6 Q. Okay. And y'all hung out socially?

7 A. Yeah, I've been over there a few times.

8 Q. Okay. And on the occasion in this incident, what
9 happened?

10 A. We was just hanging out. And then, I mean, you'd have
11 to be more specific.

12 Q. Okay.

13 A. I mean, what do you want -- what do you want me to say?

14 Q. What happened that led to the police -- were you done?

15 A. Nah, go ahead.

16 Q. Okay. What happened to the police or what happened
17 that led to the police being called out to the scene?

18 A. They got in a little argument. She got upset and
19 called the police.

20 Q. They got in a little argument?

21 A. In a little spat, whatever you want to call it.

22 Q. What did you do when all this happened?

23 A. I was standing there.

24 Q. You were standing there?

25 A. Yeah.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. Do you recall talking to law enforcement in this
2 case?

3 A. I do.

4 Q. You do? And do you recall having given a written
5 statement in this case?

6 A. I do.

7 Q. You think it might help refresh your recollection if
8 you read over that written statement that you gave?

9 A. You want me to read it?

10 Q. No, I just want you to look at it, sir.

11 (Pause)

12 A. Okay.

13 Q. Okay. Now, is that a statement that you gave?

14 A. Yes, sir.

15 Q. Is that your signature at the bottom of that page?

16 A. That is.

17 Q. Okay. And is the date on that right, 2/1/12?

18 A. That's the date.

19 Q. Okay. And did you give it at the residence of Ms.
20 Erica Ryder?

21 A. Yes, sir.

22 Q. Okay. And it was witnessed by Deputy Gilstrap?

23 A. I'm assuming. I don't know who the deputy was.

24 Q. Okay. But a deputy signed that paper after you signed
25 it?

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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- 1 A. Yes.
- 2 Q. Okay.
- 3 A. I guess so.
- 4 Q. Now, after having refreshed your memory with that
- 5 statement, what do you remember happening on that night?
- 6 A. I just remember, you know, they kind of had a spat.
- 7 Q. Do you recall seeing Tim Ryder throw a glass bottle at
- 8 Erica Ryder?
- 9 A. Well, I don't know that he was throwing it at her, but
- 10 he threw a glass bottle.
- 11 Q. Okay. Do you recall writing in your written statement,
- 12 the one you just acknowledged, ---
- 13 A. Yeah.
- 14 Q. --- that you saw Tim Ryder throw a glass bottle at
- 15 Erica Ryder?
- 16 A. That's correct.
- 17 Q. Okay. And that's what you wrote?
- 18 A. That is what I wrote.
- 19 Q. Is that what happened?
- 20 A. Yeah, he threw a bottle, and it went past her.
- 21 Q. It went past her?
- 22 A. Yeah.
- 23 Q. Okay.
- 24 A. I mean, whether he was intending on hitting her, I
- 25 don't know.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Sure. And you can't ever say for sure what somebody
2 else thought, right?

3 A. That's exactly right.

4 Q. Okay. But what did you see?

5 A. I seen the bottle fly past her and into the, ---

6 Q. Okay.

7 A. --- you know, into the corner of the building there.

8 Q. Okay. And then afterwards did he come at her?

9 A. He was kind of ranting and raving and was, you know,
10 going towards her, you know. She was on the phone with the
11 cops.

12 Q. And he'd go ---

13 A. And I just stood there, and I told him to calm down,
14 you know, just chill out, calm down.

15 Q. So he was angry at her?

16 A. I don't know whether he was angry or not. I don't know
17 what he was angry at. He was -- we all had a buzz. We was
18 drinking.

19 Q. Okay. Why would you find it necessary to stand between
20 he and she if he weren't angry?

21 A. Well, I didn't want -- I didn't want nothing to become
22 physical or anything, you know. So I just stood there and
23 told him to calm down, chill out.

24 Q. Did you think that was the right thing to do?

25 A. I think it was.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. Why do you think it was the right thing to do?

2 A. Because I just said, I didn't, you know, I didn't want
3 to see, you know, anything happen that somebody would
4 regret.

5 Q. What do you mean by that?

6 A. I don't mean -- just exactly what I said.

7 Q. Well, I'd like you to clarify. You said you didn't
8 want somebody to do something that they would regret?

9 A. Yeah, you know, either ---

10 **THE COURT:** Sir, I'm going to get you to speak up so
11 our jury can hear you. Go ahead and answer that again,
12 please.

13 A. Sometimes when you're drinking you do stuff that you
14 don't, you know, that you wouldn't normally do. So ...

15 Q. Okay. And you thought that Tim was going to do
16 something ---

17 A. I don't know what ---

18 Q. --- that he wouldn't normally do?

19 A. I don't know what Tim was going to do.

20 Q. Okay. You just ---

21 A. I just wasn't going to allow nothing to happen.

22 **THE COURT:** All right. Counsel, let the witness finish
23 so our court reporter ---

24 **MR. TOOKER:** Yes, sir.

25 **THE COURT:** --- can take it down.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 **MR. TOOKER:** And I apologize, sir.

2 Q. But you felt it necessary to stand between he and she?

3 A. Necessary, I don't know.

4 Q. Okay.

5 A. I don't know what you mean by necessary, but ...

6 Q. You don't know what I mean by necessary?

7 A. No. I mean, what do you ...

8 Q. You thought that it was a good thing to stand between
9 them.

10 A. Yes.

11 **MR. ALEXANDER:** Object to leading again, Your Honor.

12 **MR. TOOKER:** I'm trying to elicit from this witness
13 what it is that brought him to stand between the victim and
14 the Defendant. He's being somewhat noncommittal.

15 **MR. ALEXANDER:** It's his witness, Your Honor. And I
16 don't think that gives him the right to elicit leading
17 questions even under rule 611. He's not being hostile in
18 that sense in any manner. He's trying to answer his
19 questions.

20 **THE COURT:** I'm going to permit it under 611 © to
21 develop the witness' testimony as appropriately permitted
22 under the rule. You may proceed.

23 **MR. TOOKER:** Thank you, Your Honor.

24 Q. I'm going to direct your attention again at that
25 statement. So will you look at that with me, please.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 A. I'm looking.

2 Q. Okay. And you acknowledge that you wrote this
3 statement?

4 A. Yes, sir.

5 Q. So did you write that you saw Tim Ryder throw a glass
6 bottle at Erica?

7 A. That is what I wrote.

8 Q. Okay. And did you write that then he was coming after
9 her?

10 A. Coming -- that's what I wrote, yes.

11 Q. So you wrote ---

12 A. I guess he was coming towards her, not like after her
13 to, you know ---

14 Q. Well, I'm asking what you wrote. Did you write ---

15 A. Yeah, ---

16 Q. --- that he was coming after her?

17 A. --- I see what I wrote.

18 Q. So is that a yes, that's what you wrote?

19 A. That's what I wrote. I've already answered that
20 question like three times.

21 Q. Okay. And then did you write that me and Phillip Towe
22 stopped him?

23 A. We did.

24 Q. Okay. How did you stop him?

25 A. Well, when Phillip got back -- because Phillip was

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 already gone, he come back, they kind of locked up together
2 and they went to the ground. All three of us went to the
3 ground. And then I held Tim to the ground and told him to
4 calm down. He said, I'm fine, let me up. I said, you calm
5 down and I'll let you up. And then he got up, and he was
6 fine. Well, you know, then after that, you know, you can
7 see what I wrote.

8 Q. Okay. Well, I'm going to ask you first about you said
9 that you told him to calm down.

10 A. Yeah.

11 Q. Was he upset?

12 A. At that point in time, yes.

13 Q. Okay. How does he act when he's upset?

14 A. What do you mean?

15 Q. How does he act when he's upset? How does he behave?

16 A. I don't -- I don't know what you want me to say.

17 Q. You don't know what ---

18 A. No, I don't. I don't know what you're trying to get
19 at.

20 Q. What I'm trying to get at is what was his behavior?
21 Was he yelling? Was he screaming? Was he cussing? Was he
22 spitting? Was he crying? What was his behavior?
23 A. He wasn't spitting, nothing like that. He was just
24 kind of thrashing around there on the ground saying let me
25 up, let me up. I told him to calm down.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. I mean, you and Phillip felt it necessary to tackle him
2 to the ground.

3 A. No, I didn't tackle him to the ground.

4 Q. So ---

5 A. I was facing in the opposite direction. Phillip
6 grabbed a hold of him, Phillip took him to the ground. And
7 when they -- both went to the ground, they grabbed a hold of
8 me, and I fell down backwards.

9 Q. Okay. And then you held him there, you said?

10 A. Yeah.

11 Q. Okay. Until he ---

12 A. Because at that point -- at that point, I was involved.

13 Q. Okay.

14 A. You know what I'm saying?

15 Q. Sure. And what I'm asking is what you said. Correct
16 me if I'm wrong. You felt it necessary to hold him there
17 until he calmed down?

18 A. Well, I thought I had a fight on my hands. I mean, you
19 know. I didn't want -- like I said, I didn't want nothing
20 to happen. So I just ---

21 Q. So my question to you ---

22 A. --- held onto him. I said just chill out, calm down.
23 He said, I'm fine, just let me up.

24 Q. Okay. And so you then let him up?

25 A. And then I let him up.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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- 1 Q. Okay.
- 2 A. That's correct.
- 3 Q. And then I'm going to direct your attention again to
- 4 this written statement. So would you look at that with me,
- 5 please.
- 6 A. Um-hum (Affirmative).
- 7 Q. Okay. Then did you say he was also talking about
- 8 killing himself and went for a gun, is that right?
- 9 A. He said he was going to get a gun.
- 10 Q. He said he was going to get the gun?
- 11 A. Yeah.
- 12 Q. Okay. And did he make movements in that direction?
- 13 A. He -- I don't even know where his gun was at. So I
- 14 don't know if he made movements in that direction.
- 15 Q. Fair enough.
- 16 A. I don't even know if he had a gun. I never seen a gun.
- 17 Q. Where did he move to?
- 18 A. He was still in the driveway right there.
- 19 Q. Okay.
- 20 A. And about that time the police showed up.
- 21 Q. And when the police showed up where did they find him?
- 22 What were you doing?
- 23 A. I was standing in the driveway.
- 24 Q. You were standing in the driveway?
- 25 A. Yes, sir.

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Were y'all not holding him down still at that time when
2 the police arrived?

3 A. No.

4 Q. You weren't?

5 A. Not to my knowledge.

6 Q. Not to your knowledge?

7 A. It's been almost, you know, a year and a half, close to
8 two years ago. So details are a little foggy.

9 Q. Details are a little foggy?

10 A. Yeah.

11 Q. And you don't remember if you had him on the ground
12 when the police arrived?

13 A. I don't think I did. I'm pretty sure we had already
14 let him up.

15 Q. Okay. And do you recall speaking with Deputy Raines
16 here?

17 A. Not really.

18 Q. You don't?

19 A. No. I remember the other guy in the hallway. I don't
20 really remember him.

21 Q. Okay. Deputy Gilstrap in the hallway, but you don't
22 remember Detective Raines?

23 A. Uh-uh (Negative).

24 Q. Okay. So you don't remember if it was Detective Raines
25 or Deputy Gilstrap that showed up on the scene first?

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 A. I'm not sure.

2 Q. Okay. And you don't remember which one of them you
3 talked to first?

4 A. I'm not sure.

5 Q. Okay. You're not sure about a lot of stuff ---

6 A. That's right.

7 Q. --- are you?

8 A. Because we was drinking that night.

9 Q. Sure. And everybody was drinking, right?

10 A. Yeah. I think ---

11 Q. The Defendant was drinking, right? Is that right?

12 A. Yeah.

13 Q. Okay. And would you say that when folks drink they can
14 get a little more emotional?

15 A. I guess so, sometimes.

16 Q. They can get angry easier?

17 A. Maybe.

18 Q. Maybe?

19 A. Maybe.

20 Q. You don't know for sure?

21 A. Well, I know drinking causes a lot of problems.

22 Q. Apparently does cause a lot of problems. And that
23 night you think drinking caused these problems?

24 A. Possibly.

25 **MR. ALEXANDER:** Objection, Your Honor, ---

ERNEST BALDWIN, JR. - DIRECT EXAMINATION BY MR. TOOKER

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1 A. Possibly.

2 MR. ALEXANDER: --- calls for speculation.

3 THE COURT: Sustained. I'm going to sustain it.

4 Anything further?

5 Q. You say you don't remember a lot. Do you remember
6 giving this statement?

7 A. I remember writing the statement.

8 Q. Okay.

9 A. I didn't remember what it said until you -- until you
10 just showed it to me, but, I mean, like I said, it was a
11 year and a half ago, maybe a little longer.

12 Q. And is what you wrote on that statement what happened
13 that night?

14 A. To my knowledge.

15 Q. Okay.

16 A. You know, I wrote what I saw.

17 Q. Okay. About him throwing the bottle at her?

18 A. Well, I don't know -- he threw a bottle, I'll put it
19 that way.

20 Q. Okay.

21 A. I guess if he was aiming to hit her, he probably
22 would've hit her, you know.

23 Q. Okay. And if he was aiming to scare her, he did a good
24 job, didn't he?

25 A. I don't know.

ERNEST BALDWIN, JR. - CROSS EXAMINATION BY MR. ALEXANDER

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1 **MR. ALEXANDER:** Objection, Your Honor.

2 **MR. TOOKER:** No further questions, Judge.

3 **THE COURT:** All right. Objection overruled. And now
4 cross examination.

5 **MR. ALEXANDER:** Thank you, Your Honor.

6 **Cross examination by Mr. Alexander:**

7 Q. All right, Mr. Baldwin. So let's just look at your
8 statement here for a minute. Well, first of all, let's back
9 up. So that night it was yourself, Erica Ryder, Timothy
10 Ryder, and then Phillip and Katelyn there?

11 A. Yes, sir.

12 Q. And y'all were all there together at one point, is that
13 right?

14 A. Yes, sir.

15 Q. And everybody at some point was drinking some amount of
16 alcohol, is that right?

17 A. Um-hum (Affirmative).

18 Q. Is that correct?

19 A. To my memory, yes.

20 Q. Okay. All right. And then Phillip and Katelyn left,
21 they drove off in a vehicle, is that right?

22 A. Yes, sir.

23 Q. So whoever drove at least was sober enough to drive
24 their car, correct?

25 A. Well, Katelyn, -- Katelyn, I don't think she was

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1 drinking that night. I don't remember if she was. It
2 wasn't, you know, ---

3 Q. So she drove and Phillip was the passenger?

4 A. Yeah.

5 Q. Is that right?

6 A. Yep.

7 Q. Okay. So they left. Now, do you remember Erica
8 sitting on the porch of this little building after Phillip
9 and Katelyn left? Do you recall where Erica was sitting?

10 A. I think she was inside of the building.

11 Q. Was she sitting like in the doorway there?

12 A. Yeah, kind of to the left.

13 Q. Okay. All right.

14 A. To my memory.

15 Q. All right. Where were you at? At the time that ---

16 A. Well, I think I was in the building there, too.

17 Q. You were inside the building?

18 A. I think so. I can't -- that's what I say, details are
19 a little foggy. So ...

20 Q. All right. Just ---

21 A. I'm pretty sure we was in the building.

22 Q. All right. And Mr. Ryder was just in front of the
23 building, slightly, correct?

24 A. Um-hum (Affirmative).

25 Q. Is that a yes or no?

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1 A. Yes, sir.

2 Q. Okay. Now, so you saw Mr. Ryder throw a bottle and it
3 went past ---

4 A. Through the doorway.

5 Q. It went past Erica first, and through the doorway and
6 towards the trash can, right? You remember a trash can
7 being there?

8 A. They always had a trash can right there at the corner
9 of the building.

10 Q. Okay. Do you remember it being there that night?

11 A. It was always there.

12 Q. Okay. Now, did you see how Mr. Ryder threw the bottle?
13 Like the motion that he threw it in?

14 A. No. I just seen it ---

15 Q. Okay. So you ---

16 A. --- come through ---

17 Q. --- didn't see whether he tossed it underhanded?

18 A. I have no idea.

19 Q. Okay. Do remember how the bottle was going through the
20 air? Was it going in a straight line? Was it going in an
21 arc coming down?

22 A. I don't know.

23 Q. Okay.

24 A. I just seen the bottle come through there, through the
25 doorway.

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1 Q. All right. So the bottle was thrown. And then Erica
2 got upset and angry, correct?

3 A. Yes, sir.

4 Q. All right. And she told Mr. Ryder she was going to
5 call the police, is that right?

6 A. That's correct.

7 Q. All right. And then at some point -- well, in your
8 statement you said, referring to Mr. Ryder, was coming after
9 her. Now when you say coming after her, was he -- he was
10 walking towards her?

11 A. He was walking towards her.

12 Q. All right. He wasn't running towards her?

13 A. No.

14 Q. All right. And then you said me and Phillip Towe
15 stopped him. So you're referring to -- are you saying that
16 initially you just got in front of him and kept him from ---

17 A. Yeah, ---

18 Q. --- walking towards her?

19 A. Yeah, I was just walking with him kind of telling him,
20 you know, ---

21 Q. Okay.

22 A. --- it's all right, just chill out.

23 Q. And did he stop? I mean, he ---

24 A. Basically.

25 Q. All right. You didn't have to restrain him ---

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1 A. No.

2 Q. --- or anything?

3 A. No, not at all.

4 Q. Okay. And so then Phillip came back. And that's when
5 Phillip tackled him, right?

6 A. That's right. That's correct.

7 Q. And do you remember -- what was Mr. Ryder doing when
8 Phillip tackled him? Was he just standing there or was he
9 ---

10 A. Yeah, he was still in the same general vicinity.

11 Q. Okay. Hadn't made any ---

12 A. He was just ---

13 Q. --- anymore moves toward Ms. -- toward Erica?

14 A. No. He was still in the same area there.

15 Q. Okay.

16 A. I mean, he was in the same area the whole time, you
17 know, kind of moving in, you know, circles maybe.

18 Q. Okay.

19 A. I don't remember exactly. He was like walking around
20 out there.

21 Q. All right. And did Phillip tackle him right when he
22 got out of the car?

23 A. He went over there and then tried to talk to him.

24 Q. Okay.

25 A. And then he just grabbed a hold of him and put him to

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1 the ground. And, like I said, they kind of both grabbed a
2 hold of me, and I went to the ground with them.

3 Q. All right. So let's back up a minute. Before you saw
4 the bottle be tossed, or thrown, or whatever, did you hear
5 any type of statements from Mr. Ryder that would make you
6 think he was throwing the bottle at her?

7 A. No.

8 Q. Okay. When Erica said I'm calling the police -- and at
9 that point Mr. Ryder got upset, right?

10 A. Correct.

11 Q. And would you agree it's fair to get upset when someone
12 is calling the police on you when you believe you hadn't
13 done anything wrong?

14 A. Yes, I'd say.

15 Q. Would you be upset if that ---

16 A. I probably would.

17 Q. --- happened to you? Okay. Would you become agitated
18 if they continued ---

19 **MR. TOOKER:** Your Honor, ---

20 Q. --- to call the police?

21 **MR. TOOKER:** --- I'm going object to this line of
22 questioning. I don't think it's probative whether or not
23 Mr. Baldwin would get upset if somebody called the police on
24 him.

25 **MR. ALEXANDER:** Your Honor, ---

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1 **THE COURT:** I'm going to sustain that, counsel. Please
2 move to your next question.

3 **MR. ALEXANDER:** Thank you.

4 Q. All right. So -- so at the point where he, Mr. Ryder,
5 was walking towards Erica and you just kind of got between
6 them, at that point did Mr. Ryder make any statements that
7 you perceived to be a threat in any way?

8 A. No.

9 Q. Okay.

10 A. He was just kind of ranting, raving.

11 Q. Okay.

12 A. You know. He didn't say anything about hitting her or
13 anything like that. He was just walking towards her. He
14 was upset.

15 Q. All right. At any point in time during the entire
16 incident did you hear Mr. Ryder threaten to kill Erica?

17 A. No.

18 Q. Okay. And you were there the whole time, correct?

19 A. I was there the whole time.

20 Q. All right. And even though you had been drinking, you
21 were able to hear everything that was said and observe
22 everything that was said, correct?

23 A. That's correct.

24 Q. Okay. And you were able to give this statement to the
25 officer on the scene, correct?

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1 A. That's correct.

2 Q. All right. Did the officer say anything to you that he
3 wanted to wait to take your statement later?

4 A. No.

5 Q. Okay. All right. So after -- after you and Phillip
6 let Mr. Ryder up, is it at that point that he made some kind
7 of statement about killing himself and going to get a gun?

8 A. That's correct.

9 Q. So he -- the statement was about harming himself, not
10 anybody else?

11 A. Yeah.

12 Q. Okay. But he never actually made it anywhere to get a
13 gun?

14 A. No, sir.

15 Q. Okay.

16 A. I never seen a gun. I don't even know if he owned a
17 gun, you know.

18 Q. Okay.

19 A. That's just what he said, I'm going to go get a gun and
20 shoot myself.

21 (Pause)

22 **THE COURT:** Anything further?

23 **MR. ALEXANDER:** One moment, Your Honor.

24 (Pause)

25 **MR. ALEXANDER:** That's all the questions I have for Mr.

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1 Baldwin, Your Honor.

2 **THE COURT:** Is there redirect?

3 **MR. TOOKER:** No, sir, Judge.

4 **THE COURT:** All right. Sir, you are free to step --
5 watch your step as you step down. You're free to leave if
6 you wish. You're not required to stay, but you may stay if
7 you wish. Have a good day.

8 A. You, too.

9 **MR. TOOKER:** Thank you, Judge. The State next calls
10 Phillip Towe.

11 **THE COURT:** All right. Counsel, step up and let's talk
12 about scheduling as Mr. Towe comes in the courtroom, please.

13 (Whereupon a bench conference was held off the record
14 in the presence of the jury, but out of their hearing)

15 **THE COURT:** All right. Please bring in the witness.
16 Thank you.

17 **MADAME CLERK:** Do you solemnly swear or affirm that the
18 testimony you're about to give is the truth, the whole truth
19 and nothing but the truth so help you God?

20 **MR. TOWE:** Yeah.

21 **MADAME CLERK:** Have a seat and state your name for the
22 record, please.

23 **MR. TOWE:** Phillip Towe.

24 **Direct examination by Mr. Tooker:**

25 Q. All right. Mr. Towe, first things first, why are you in

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- 1 handcuffs?
- 2 A. CDV.
- 3 Q. CDV?
- 4 A. High and aggravated nature.
- 5 Q. And did you plead to that yesterday?
- 6 A. Yes, sir.
- 7 Q. And who was the victim of that offense?
- 8 A. My fiancé.
- 9 Q. What's her name?
- 10 A. Katelyn Choiniere.
- 11 Q. Okay. Do you have any other criminal convictions?
- 12 A. Got an arson charge in 2006 or 2008.
- 13 Q. Okay. Now do you know why you've been subpoenaed for
- 14 this trial today?
- 15 A. I mean, I haven't talked to nobody, but I can
- 16 understand why.
- 17 Q. Okay. I guess, what I'm getting at is are you familiar
- 18 with this case?
- 19 A. Kind of, yeah.
- 20 Q. Okay. So do you remember February, 2012 when all this
- 21 went down?
- 22 A. I remember getting a phone call and going over there.
- 23 Q. Okay. And what did you get a phone call about?
- 24 A. Said that Tim was throwing beer cans or beer bottles.
- 25 Q. Okay. And who was it that called you?

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- 1 A. Erica.
- 2 Q. Erica. Now, let's lay the scene. Before you got that
- 3 call, where were y'all at?
- 4 A. I think I was -- left and went home from there earlier.
- 5 Q. Okay.
- 6 A. I was on my way home.
- 7 Q. With who?
- 8 A. Myself. I had my company van.
- 9 Q. Okay. You were not with Katelyn?
- 10 A. I think she drove a separate car at the time.
- 11 Q. Okay. So two separate cars?
- 12 A. Yeah.
- 13 Q. Okay. But y'all had -- y'all had left hanging out with
- 14 them?
- 15 A. Yeah.
- 16 Q. Okay. How long were y'all hanging out that night?
- 17 A. I don't recall. I know it was dark when I left.
- 18 Q. It was dark?
- 19 A. Yeah.
- 20 Q. And who else was there?
- 21 A. Ernie.
- 22 Q. Ernie? Is that Ernest Baldwin?
- 23 A. Yeah.
- 24 Q. Okay. What about the Defendant, Mr. Ryder?
- 25 A. Yeah, he was there.

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- 1 Q. He was there?
- 2 A. (Affirmative nod).
- 3 Q. What about Ms. Ryder?
- 4 A. Yeah, she was there.
- 5 Q. Okay. And what is their relationship to you and
- 6 Katelyn?
- 7 A. It was to be my mother and father-in-law.
- 8 Q. Okay. And you and Katelyn are married?
- 9 A. No, not yet.
- 10 Q. Not yet? Engaged?
- 11 A. Was.
- 12 Q. Was?
- 13 A. Yeah.
- 14 Q. And on the night in question what is it that or where
- 15 is it y'all were going when you got the call?
- 16 A. Home.
- 17 Q. You were going home for the night?
- 18 A. Yeah.
- 19 Q. Okay. And when you got the call what is it that you
- 20 did?
- 21 A. I turned around and went back to their house.
- 22 Q. Turned around and went back?
- 23 A. Yeah.
- 24 Q. And when you went back what did you find?
- 25 A. I got out and Tim kind of came towards me. And I

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1 grabbed him, threw him down. All he said was I'm going to
2 end this, went towards the house. I grabbed him again, and
3 that was about it. He never made it in. And the cops --
4 Erica called the cops. And they got there within like five
5 to six minutes.

6 Q. Okay. So she called y'all and then she called the
7 cops. And then cops got there shortly after ---

8 A. Yeah, it wasn't much after.

9 Q. Okay. And you threw him to the ground when you got on
10 the scene. Why is it you felt that was necessary?

11 A. I mean, I was getting out of my car and he was kind of,
12 I mean, I got out of the driver's side and he was coming
13 around the side. So I didn't know if he was coming towards
14 me.

15 Q. Okay. What would you say his emotional state was like?

16 **MR. ALEXANDER:** Objection, Your Honor. It calls for
17 speculation.

18 **MR. TOOKER:** I think he can testify as to his
19 observations.

20 **THE COURT:** Overruled. We'll let you lay a foundation
21 as to what his observations were, ---

22 **MR. TOOKER:** Yes, sir.

23 **THE COURT:** --- not his speculation. Go ahead.

24 **MR. TOOKER:** Yes, sir.

25 Q. So when you got out of the car you saw him in the

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1 driveway?

2 A. Yeah, coming out of the building.

3 Q. Okay. And by the building, which building are we
4 talking about?

5 A. There's only one building, the one right beside their
6 house.

7 Q. Okay. The little brown building?

8 A. Yeah.

9 Q. And he came out and what did you see on his face?

10 A. I didn't really look at -- he was coming around, I
11 mean, it looked like he was crying. I mean, he didn't look
12 like he was really mad. He just looked like he was crying
13 and upset.

14 Q. Upset?

15 A. (Affirmative nod).

16 Q. Okay. And then you thought he was coming at you?

17 A. I mean, he just came around kind of fast. I didn't
18 know what, you know, you jump out and somebody's running at
19 you, what do you do?

20 Q. Okay. And you'd just gotten the call from Erica?

21 A. Yeah.

22 Q. Saying that he was throwing beer bottles at her?

23 A. Or he was throwing beer bottles. I didn't know.

24 Q. Okay. And you let him up -- you and Ernie let him up?

25 A. Yeah.

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1 Q. Okay. Why did y'all let him up?

2 A. Because he calmed down.

3 Q. Okay. And then what happened after you let him up?

4 A. He said he was going -- going to end it. He said he
5 was going to end this.

6 Q. Okay. And I'm going to show you what has been marked
7 as State's 5. And just take a look at that. Do you
8 recognize that statement?

9 (Pause)

10 A. Yeah.

11 Q. Okay. And, specifically, does it refresh your
12 recollection as to what the Defendant was doing when he got
13 -- when you let him up the second time?

14 A. Yeah, he was coming towards the house.

15 Q. He was going towards the house, toward the what in the
16 house?

17 A. He said he was going to get the gun and end this.

18 Q. Yeah. Specifically, did you say that I let him up and
19 he runs into the house towards the guns?

20 A. I mean, that's what I wrote. He never made it inside
21 the house.

22 Q. Okay. You stopped him before he got in the house?

23 A. Yeah.

24 Q. Okay. And why did you do that?

25 A. Because he said he was going to end this.

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1 Q. Okay. Why is it you felt it was necessary?

2 A. I mean, you know, don't nobody in a state like that
3 need to have a gun.

4 Q. Okay. Were you doing it to protect yourself?

5 A. I mean, I just stopped him, protecting him. He said he
6 was going to end this. I figured it was going be him, you
7 know.

8 Q. Protect himself?

9 A. Yeah.

10 Q. Protect yourself?

11 A. Protect him.

12 Q. What about your fiancé? Did you want to protect her?

13 A. No, she never -- she wasn't even close. She wasn't
14 around.

15 Q. She wasn't around?

16 A. I mean, she was still outside.

17 Q. Okay. She was on the scene?

18 A. Yeah, she was behind my van.

19 Q. And then you said ---

20 A. She was pregnant. She didn't get out and run after him
21 or nothing.

22 Q. Of course not.

23 A. She kind of, I mean, she kept her distance.

24 Q. Okay. But she was on the scene though and observed all
25 this stuff happen as well, though, didn't she?

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1 A. Yeah.

2 Q. Okay. Observed you take him down?

3 A. (Affirmative nod).

4 Q. And then let him up?

5 A. Yeah.

6 Q. And then take him down again?

7 A. (Affirmative nod).

8 Q. Lest he hurt himself or somebody else?

9 A. (Affirmative nod).

10 **THE COURT:** All right, sir, you need to answer
11 verbally. Was that a yes?

12 A. Yes, sir.

13 **THE COURT:** Thank you.

14 Q. Okay. Do you recall talking to Detective Raines in
15 this case, this man sitting right here?

16 A. Is he the cop that came to the place? Is he the cop
17 that came to ---

18 Q. Well, I'm asking if you recall having talked to him?

19 A. No.

20 Q. You don't recall having talked to him?

21 A. (Negative nod).

22 Q. Do you recall having talked to the other deputy that
23 showed up, Deputy Gilstrap?

24 A. I mean, I remember seeing them. I don't remember what
25 deputy they was. So, I guess, yeah.

PHILLIP TOWE - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. Okay. So you just remember a badge and uniform?

2 A. Yeah. I mean, I wasn't the most sober person either.

3 Q. So would you say the Defendant was impaired?

4 **MR. ALEXANDER:** Objection, Your Honor. It calls for
5 speculation.

6 **THE COURT:** Sustained.

7 Q. How much did y'all drink together?

8 A. I don't know how much he drank. I probably drank four
9 or five beers.

10 Q. Okay. About how long were y'all drinking together?

11 A. I hung out over there every day after work. I don't
12 exactly remember what day it was, you know. It's been two
13 years ago.

14 Q. Okay. But you were impaired at least?

15 A. Yeah.

16 Q. Okay.

17 **MR. TOOKER:** I have no further questions, Judge.

18 **THE COURT:** All right. Cross examination.

19 **MR. ALEXANDER:** Thank you, Your Honor.

20 **Cross examination by Mr. Alexander:**

21 Q. Mr. Towe, I just have a few questions. All right. So
22 you left and then returned because -- strike that. Let me
23 ask this question. You said Erica called you ---

24 A. Yeah.

25 Q. --- on your phone?

PHILLIP TOWE - CROSS EXAMINATION BY MR. ALEXANDER

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1 A. I had my cell phone.

2 Q. Okay. And you and Katelyn were in separate cars?

3 A. Yeah.

4 Q. All right. Did you call Katelyn and tell her that you
5 were going back to the house?

6 A. No, I turned around. Katelyn was following behind me.

7 Q. Okay. All right. And did she just -- she turned
8 around and followed you back?

9 A. Yeah.

10 Q. Okay. Now you say you had been drinking?

11 A. Yeah.

12 Q. You were sober enough to drive your van back home,
13 correct?

14 A. I mean, I considered myself was.

15 Q. Okay. You wouldn't have -- you wouldn't have driven if
16 you thought you were too impaired to drive, would you?

17 A. No.

18 Q. Okay. Now, I know you said you heard Mr. Ryder make a
19 statement at some point, I'm going to end this. Did you
20 hear him make any other statements about -- did you hear him
21 make any other statements that you thought was some kind of
22 threat or threat of harm against himself or anybody else?

23 A. I mean, if he was going to hurt somebody I figured it
24 would be himself, not, I mean, nobody else. He said he was
25 going to end it. He didn't say he was going to shoot

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1 nobody.

2 Q. Okay. But you didn't hear him make any other
3 statements?

4 A. No.

5 Q. Okay. And when you heard that statement, I'm going to
6 end this, you thought he was talking about himself?

7 A. Yes. I was grabbing him.

8 Q. All right. And why did you think he was talking about
9 himself and not anybody else?

10 A. He was crying and he was in an emotional, you know, he
11 was being emotional.

12 Q. Okay.

13 A. If I say I'm going to end it, I hope somebody grabs me.

14 **MR. ALEXANDER:** That's all the questions I have.

15 **THE COURT:** Is there redirect?

16 **MR. TOOKER:** No, sir.

17 **THE COURT:** All right. Then, sir, please watch your
18 step exiting the witness box. State, please call your next
19 witness.

20 **MR. TOOKER:** The State calls Katelyn Choiniere.

21 **THE COURT:** Ma'am, please come forward and take the
22 oath of a witness here at the witness stand.

23 **MADAME CLERK:** Place your left hand on the Bible and
24 raise your right hand. Do you solemnly swear or affirm that
25 the testimony you're about to give is the truth, the whole

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1 truth and nothing but the truth so help you God?

2 **MS. CHOINIERE:** I do.

3 **MADAME CLERK:** Have a seat and state your name for the
4 record, please.

5 **MS. CHOINIERE:** My name is Katelyn Choiniere.

6 **Direct examination by Mr. Tooker:**

7 Q. All right. Ms. Choiniere, how old are you, ma'am?

8 A. I'm 22.

9 Q. 22. And where do you live?

10 A. I'm currently staying with Ray Carpenter in Easley.

11 Q. Okay. And what's your relation to the Defendant, Mr.
12 Ryder?

13 A. I am his step-daughter.

14 Q. Step-daughter. And would that make his wife, Ms.
15 Ryder, your mother?

16 A. Yes, sir.

17 Q. Okay. And about how long have they been married?

18 A. 11 years, 10 years. I don't -- I have no idea.

19 Q. Okay. And you got a subpoena from me in this case?

20 A. Yes, sir.

21 Q. Okay. And do you know why you were subpoenaed for
22 court?

23 A. Because I was a witness to the incident that night.

24 Q. Okay. And do you remember that night?

25 A. For the most part.

KATELYN CHOINIERE - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Okay. What was happening that night?

2 A. Really nothing happened while I was there.

3 Q. Yeah. No, beforehand?

4 A. Beforehand?

5 Q. Before any of the allegations, what was everybody
6 doing?

7 A. Tim, my mother, Ernie, Phillip and I were hanging out
8 on the front building porch just as family.

9 Q. Okay. Drinking beer, right?

10 A. I wasn't drinking, no, sir.

11 Q. Okay. You weren't drinking, everybody else was
12 drinking?

13 A. Um-hum (Affirmative).

14 Q. How come you weren't drinking?

15 A. I was pregnant.

16 Q. You were pregnant, okay. And what happened, I mean,
17 before all this happened did y'all stay or you go?

18 A. We left before the incident happened.

19 Q. Okay. You left. And why is it that you returned?

20 A. Phillip had received a phone call from my mom asking us
21 to come back.

22 Q. Okay. How do you know that Phillip received a phone
23 call?

24 A. I was in the car. I was driving.

25 Q. You were in the car with him?

KATELYN CHOINIERE - DIRECT EXAMINATION BY MR. TOOKER

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1 A. I was driving.

2 Q. Y'all weren't in two separate cars?

3 A. No, sir.

4 Q. Okay. You were in one car together?

5 A. Yes, sir.

6 Q. So he was the passenger?

7 A. Um-hum (Affirmative).

8 Q. Okay. So you actually heard him get the call?

9 A. Well, the phone rang, and I heard his side of the
10 conversation.

11 Q. And what did you hear or what was the intent after that
12 call was received?

13 A. Phillip answered and said Yep, Yep and all right, and
14 told me that my -- to turn around and go back to my mom's.
15 And I said, what happened? He says, well, I don't really
16 know. And so I went back.

17 Q. And when you got back what did you find?

18 A. Phillip and Ernie were on the side of the driveway. I
19 think Ernie had him held down at that point. I don't really
20 remember. My mom was standing there telling him, Tim, to
21 just calm down. And then Ernie let Tim up.

22 And Tim said something about, I'm just going to end
23 this now and walks towards the house. At that point Phillip
24 and Ernie both tackled him as soon as he entered the
25 doorway.

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1 Q. Okay. And you said your mom was telling the Defendant
2 to calm down?

3 A. Yeah. She was just saying, now, calm down, Tim, you
4 know, they'll let you up, just calm down.

5 Q. Okay. And did he appear to calm down before he was let
6 up?

7 A. Yes, sir.

8 Q. Okay. Now, you said that he was threatening to do harm
9 to himself and that's why they restrained him again?

10 A. I think that was more implied or assumed. He had just
11 said he was just going to end this now. Whether that meant
12 he was going to do harm to himself, to somebody else, or
13 maybe he was going to go to bed, or pack a bag and leave,
14 really, I don't know.

15 Q. You don't know?

16 A. I don't know what he meant by the statement he made,
17 no, sir.

18 Q. Okay. So you're saying you don't recall him
19 threatening to obtain a gun?

20 A. He didn't threaten to obtain a gun. Again, that was
21 assumed. Guns were a new thing at our house. And after Tim
22 said he was going to end this now, my mom said there's guns
23 in the house. At that point ---

24 Q. How many guns were in the house?

25 A. We have two.

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1 Q. What kind of guns?

2 A. We have a .22 and a .410. It's my brother and my
3 sister's guns.

4 Q. What's a .410?

5 A. A rifle, shotgun. I don't know.

6 Q. Okay. And you're saying so that's assumed that he was
7 going to get a gun? You're saying he didn't say that?

8 A. No, sir, he did not say that. My mother had said that
9 there were guns in the house. At that point Ernie and
10 Phillip just went and stopped him immediately before -- we
11 didn't question and ask what are you doing? I mean, it was
12 just stopped before anything could happen.

13 Q. Okay. So you're saying right now that he didn't -- he
14 didn't threaten to get a gun and use it either on himself or
15 your mom?

16 A. He didn't actually threaten to go get a gun, no, sir.

17 Q. Okay. I'm going to show you what's been marked as
18 State's 6. And if you would, please take a look at this
19 document and read through it. And I'm going to ask you some
20 questions about it, okay?

21 (Pause)

22 A. Okay, sir.

23 Q. Okay. So did you write that statement?

24 A. Yes, sir.

25 Q. Is that your signature at the bottom of the page?

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1 A. It is.

2 Q. Okay. And did you write it on 2/1/12?

3 A. That's what it says.

4 Q. Okay. Where did you write this statement?

5 A. At my mother's house.

6 Q. Okay. Is that [REDACTED] Six Mile?

7 A. Yes, sir.

8 Q. Okay. And, specifically, with regards to this
9 statement I want to address some of the things that are
10 somewhat different than what you just said here today, okay?

11 A. Um-hum (Affirmative).

12 Q. All right. So what you said in this statement was that
13 you returned to your mom's house after receiving a phone
14 call that Timothy Ryder was acting threatening towards your
15 mom.

16 **MR. ALEXANDER:** Your Honor, I'm going to object to
17 leading questions.

18 **MR. TOOKER:** Well, I'm going to impeach ---

19 **THE COURT:** For the same reasons, the Court's going to
20 permit it under rule 611 to lead. You may go ahead.

21 **MR. TOOKER:** Thank you, Your Honor.

22 Q. All right. Now, Katelyn, I'm going to refer you again
23 -- so it's like the first three sentences, the first three
24 lines on that page. You say who you are and your relation
25 to Erica. But then you say you arrived back at your

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1 mother's house after receiving a phone call that Timothy
2 Ryder was acting threatening toward your mom, is that right?

3 A. That's what it says, yes.

4 Q. Is that what you wrote?

5 A. That's what I wrote.

6 Q. Okay. Now, that's different than what you just
7 testified to, is that right?

8 A. Slightly, yes.

9 Q. Okay. So which one's right?

10 A. I mean, I didn't actually receive a phone call, Phillip
11 did. I was just in the car and Phillip relayed that to me.

12 Q. Okay. But you knew in the car then that the Defendant
13 was acting in a threatening manner.

14 A. I didn't know exactly what had happened except that, I
15 mean, I needed to go back to my mom's house.

16 Q. Okay. But in this statement you wrote that he was
17 acting in a threatening manner.

18 A. Um-hum (Affirmative). Well, I mean, it was some sort
19 of reason that I had to go back. What it was, I never heard
20 through my ears. I can't tell you what Phillip heard.

21 Q. Okay. And then you wrote that when we arrived, Phillip
22 Towe and I, Tim was yelling and tried to come after my
23 mother. Do you recall writing that?

24 A. That's what I wrote. I don't recall it, no, sir.

25 Q. You don't recall writing that?

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1 A. I mean, this is two years ago, really. The night to me
2 is vague.

3 Q. Okay. So you don't recall him yelling and trying to
4 come after your mother when you got back to the house?

5 A. No. I thought -- I remember it as when I came there I
6 thought Ernie had already had him held down at that point.

7 Q. Okay. But you wrote this on the day that the event
8 happened, is that right?

9 A. Yes, sir.

10 Q. Okay. Would you say it was fresher in your mind at
11 that point in time?

12 A. Yes, sir.

13 Q. As opposed to two years later?

14 A. Um-hum (Affirmative).

15 Q. So is this statement more accurate or what you're
16 saying today in court?

17 A. I mean, then I guess that would probably be more
18 accurate.

19 Q. The written statement?

20 A. (Affirmative nod).

21 Q. Okay. And that Ernie and Phillip then restrained Tim
22 against the pavement while my mom called 911, is that right?

23 A. Yes, sir.

24 Q. Okay. And then Tim then was let up and he ran into my
25 mother's house threatening to obtain a gun, is that right?

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1 A. I -- know that he didn't ever threaten to actually
2 obtain the gun. Like, again, that was something that was
3 implied Tim had said. And I do remember that, that he was
4 just going to end it all.

5 Q. Okay. But you wrote that in your written statement
6 that he was going to run inside to obtain a gun, threatening
7 to obtain a gun. Is that what you wrote?

8 A. Yes, sir.

9 Q. And use it either on himself or my mom?

10 A. And, again, those words actually never came out of
11 Tim's mouth. It was something -- this is the way I took
12 that incident. It wasn't that those were all exact things
13 that were said, no.

14 Q. I mean, so you perceived him to be both threatening
15 himself and your mother?

16 A. Either/or.

17 Q. Well, I mean, ---

18 A. I didn't know.

19 Q. --- you wrote down on the page that he's threatening to
20 get the gun to use on himself or your mom?

21 A. Yeah, either/or. Him or my mother.

22 Q. And you're saying that's your perception?

23 A. At the time, yeah, I didn't know what he was going to
24 do.

25 Q. Okay. So were you in fear for your mom's safety?

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1 A. I wasn't in fear for her safety at that point. I had
2 Ernie and Phillip were both there.

3 Q. Okay. And then they forcefully restrained him on the
4 ground, is that right?

5 A. Yes, sir.

6 Q. After he made those threats they held him down till the
7 police arrived?

8 A. Um-hum (Affirmative).

9 Q. Okay. And do you think that was necessary?

10 A. I guess at that point, yes.

11 Q. It was necessary?

12 A. I mean, I guess. Well, in the manner that we perceived
13 the incident after my mom had said that there was guns in
14 the house, then, of course, everybody at that point was
15 heightened to a point of -- it didn't matter what Tim had to
16 say, he was being held down whether it was ---

17 Q. Yeah, the potential for danger was real.

18 A. The idea of the potential of danger was there.

19 Q. Okay. And would you say that everybody had consumed a
20 few alcoholic beverages?

21 A. It was more than a few.

22 Q. More than a few?

23 A. Yes, sir.

24 Q. Okay. How would you describe the Defendant's state?

25 A. Agitated and scared.

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1 Q. He was scared?

2 A. Yes, sir.

3 Q. He was scared, so scared because he had thrown a bottle
4 at your mother ---

5 A. To go to jail for throwing a bottle that was, I guess,
6 in the trash. Again, I don't know the incident there, but
7 that's Tim's concern, why would he go to jail for something
8 that he says he didn't do?

9 Q. Yeah, and you don't know about what happened, ma'am,
10 but you mentioned the trash can. So you've talked to your
11 mother about this case, is that correct?

12 A. I haven't talked to her really about the case itself,
13 but I know the incidents that had happened from what she had
14 said.

15 Q. Yeah, that's what I'm saying. I mean, you wouldn't
16 have that information if you hadn't discussed this case with
17 her, is that correct?

18 A. I mean, we're family. We talked about it that night,
19 we've talked about it afterwards.

20 Q. You've talked about it since?

21 A. After that night?

22 Q. Okay. Yeah, that's what I'm saying.

23 A. Yes, sir.

24 Q. In anticipation of trial.

25 A. No.

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1 Q. You've not talked about this case in anticipation of
2 trial?

3 A. No, just the possibility of what could happen.

4 Q. Okay.

5 A. But ---

6 Q. Well, -- continue. I'm sorry, I interrupted you.

7 A. You're fine.

8 Q. Okay. The possibility of what could happen?

9 A. Um-hum (Affirmative).

10 Q. Okay. So you talked about the potential repercussions
11 on your mother's life, is that correct?

12 A. Not on her life, no, sir.

13 Q. Okay. And you were up here yesterday, is that correct?

14 A. Yes, sir.

15 Q. Okay. And Mr. Towe has already testified. You were up
16 here on an unrelated domestic violence case, is that
17 correct?

18 A. Yes, sir.

19 Q. Okay. Now, is it your testimony today that you did not
20 discuss with your mother exchanging favors on your two
21 cases?

22 A. No, sir.

23 Q. You did not do that?

24 A. (Negative nod).

25 Q. Okay. You don't recall having said that in the

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1 Solicitor's Office ---

2 MR. ALEXANDER: Objection, Your Honor. May we
3 approach?

4 THE COURT: No sir. Go ahead. If you have an
5 objection, state it.

6 MR. ALEXANDER: Your Honor, I thought Your Honor had
7 specifically excluded Mr. Tooker from going into that.

8 THE COURT: No, sir, the discussion was was taking that
9 up with a third witness. And the Court excluded for the
10 third witness, but not directly with regard to this witness.
11 I'm going to overrule your objection.

12 MR. ALEXANDER: Okay.

13 THE COURT: You may proceed.

14 MR. ALEXANDER: I understand, yes, sir.

15 Q. The case that you were a victim on with Mr. Towe, ---

16 A. Yeah.

17 Q. --- that was set for trial for tomorrow, is that
18 correct?

19 A. Yes, sir.

20 Q. Okay. And he pled guilty yesterday, is that correct?

21 A. Yes, sir.

22 Q. Okay. And you came into our office to talk to the
23 prosecutor that was handling your case, is that correct?

24 A. Yes, sir.

25 Q. Okay. And you talked to her about both this case and

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1 that case, is that correct?

2 A. Well, you were in there along with my solicitor at the
3 time, yes, sir.

4 Q. Okay. And is that Ms. Landsverk?

5 A. Courtney?

6 Q. Courtney. Okay. And do you recall having said that
7 you and your mother had talked about changing your stories
8 for each other because you both would have been witnesses in
9 your respective cases?

10 A. No, sir, that's not what was stated.

11 Q. That's not what you stated?

12 A. No. I said that it was causing conflict definitely
13 with our family because it was a lot of tension in this
14 whole thing. Both of us, of course, not wanting to see
15 anybody go to jail, especially for something that was blown
16 out of proportion like this.

17 Q. Well, how do you know it was blown out of proportion?

18 A. Well, I mean, from ---

19 Q. Did you ---

20 A. --- when I was there I don't feel like what he had done
21 deserves to go to jail.

22 Q. You just said that you weren't there when it happened.

23 A. No, sir, I wasn't.

24 Q. Okay. But you think it's all blown out of proportion?

25 A. I do feel like it's blown out of proportion.

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1 Q. Okay. After talking to your mom?

2 A. No, after everybody -- the fact that everybody was
3 drinking. I said that everybody was all heightened, what
4 Tim was feeling, what my mom was thinking, what -- or how
5 Ernie and Phillip reacted, I feel like was out of
6 proportion.

7 Q. Okay. So you're saying when people drink they make
8 mistakes?

9 A. Yes, sir.

10 Q. They do stuff they wouldn't do otherwise?

11 A. Yes, sir.

12 Q. Okay.

13 **MR. TOOKER:** No further questions, Your Honor.

14 **THE COURT:** Any cross examination?

15 **MR. ALEXANDER:** Yes, sir.

16 **Cross examination by Mr. Alexander:**

17 Q. All right. Katelyn, so when you were there it was you,
18 Phillip, Ernie, Mr. Ryder and your mother?

19 A. Yes, sir.

20 Q. And then y'all left and you returned after Phillip got
21 a call in the car you were in, you're saying?

22 A. Um-hum (Affirmative).

23 Q. Is that right? You've got to say yes or no.

24 A. Yes, sir.

25 Q. Okay. Any idea why Phillip would think y'all had left

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1 in separate vehicles?

2 A. No.

3 Q. Did y'all hang out at your mother's house at night on a
4 regular basis after work or something?

5 A. I go to my mom's regularly anyway.

6 Q. Did y'all ever go there in separate vehicles?

7 A. Yeah.

8 Q. Okay. So Phillip got the call. And in the written
9 statement that Mr. Tooker went over with you, that first
10 sentence that you went back after receiving a phone call
11 that Timothy Ryder was acting threatening toward my mom, you
12 wrote that statement based on what -- based on the phone
13 call only, right?

14 A. Um-hum (Affirmative).

15 Q. Is that a yes?

16 A. Yes.

17 Q. Okay. Not on anything you saw or heard yourself?

18 A. No.

19 Q. Okay. And then you arrived back and you said Tim was
20 yelling and trying to come after my mother. Do you recall
21 what he was saying?

22 A. I don't recall that part of that night at all.

23 Q. All right. You don't recall anything -- if he had made
24 any threatening statements to your mother do you think you
25 would remember that?

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1 A. Yes, sir.

2 Q. And you said he was trying to come after my mother.

3 What did you mean by trying to come after her? Where was he
4 at? Where was she at?

5 A. I believe I was talking about like when Ernie was
6 actually holding him down when my mom was telling him to
7 calm down and, I mean, he was wrestling with Ernie. I don't
8 know so much that I guess he was going to jump up and go
9 straight towards my mother. But, again, I think that's how
10 I perceived it.

11 Q. Okay. All right. And then I think you explained the
12 part of -- toward the end of your statement, threatening to
13 obtain a gun and use it against either himself or your
14 mother. So your testimony is that Mr. Ryder didn't make any
15 specific statement like I'm going to go get a gun and shoot
16 you?

17 A. No, the word gun never came out of Tim's mouth.

18 Q. Okay. You wrote that statement just based on what you
19 observed?

20 A. Based on what I observed and ---

21 Q. Okay.

22 A. --- how it went, yes, sir.

23 Q. All right. And you don't know ---

24 **THE COURT:** I'm sorry, what was the last thing you
25 said, based on what you observed and what?

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1 A. I said based on what I observed, I said and yes, sir.

2 **THE COURT:** Thank you.

3 Q. All right. Do you know where those guns were kept in
4 the house?

5 A. No. They are moved several times.

6 Q. Okay. So that night you don't know where they were?

7 A. No, sir.

8 Q. Okay. And you didn't reside in that home, did you?

9 A. Not at that time.

10 Q. Okay. All right. So Mr. Tooker asked you some
11 questions about whether you talked with your mom about this
12 case after this incident. I mean, you're mother and
13 daughter both involved in pending domestic violence cases,
14 correct?

15 A. Yes, sir.

16 Q. At some point y'all at least had -- y'all talked about
17 this to some degree, is that accurate to say?

18 A. Yes.

19 Q. Okay. And do you think there's anything wrong with you
20 and your mother just discussing your cases?

21 A. No. And any discussion, that wasn't based on going to
22 trial, it was merely talking to my mother.

23 Q. Okay. So you knew, based on your discussions with her,
24 you knew what she says happened in her case, right?

25 A. Yes, sir. And she knows what I've said had happened in

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1 my case.

2 Q. Okay. All right. And so y'all didn't -- Mr. Tooker
3 alluded to some agreement where y'all were going to swap out
4 testimony or something. Are you ---

5 A. No, there was no swap out of testimony.

6 Q. Okay.

7 A. I had expressed that this had caused like a lot of
8 problems feeling like, you know, like I -- I would hate to
9 say -- be the one -- I would hate to be the one to send Tim
10 to jail. Of course, she would hate to be that one. We're
11 family, you know. It would be like tearing us all apart, of
12 course. But does that mean like we're going to team up and
13 tag-team this? No.

14 Q. And y'all have not done that, is that correct?

15 A. No, sir.

16 Q. Do you understand the necessity of being truthful and
17 honest when you're testifying in proceedings like this?

18 A. Yes, sir.

19 Q. And have you done that here today?

20 A. Yes.

21 **MR. ALEXANDER:** One moment, Your Honor.

22 (Pause)

23 **MR. ALEXANDER:** That's all the questions I have, Your
24 Honor.

25 **THE COURT:** Is there redirect?

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1 **MR. TOOKER:** Your Honor, I've got something to take up
2 outside the jury's presence.

3 **THE COURT:** Go ahead. You may proceed if you have
4 questions for the witness.

5 **MR. TOOKER:** No further questions, Judge.

6 **THE COURT:** Counsel, you can step up if you wish. Just
7 one moment.

8 (Whereupon a bench conference was held off the record
9 in the presence of the jury, but out of their hearing)

10 **THE COURT:** Very good. You may proceed on redirect.

11 **Redirect examination by Mr. Tooker:**

12 Q. All right. Katelyn, you were up here yesterday in
13 court, is that correct?

14 A. Yes, sir.

15 Q. And you were up here in court for the plea of Mr. Towe,
16 is that correct?

17 A. Yes, sir.

18 Q. Okay. And in that plea you talked to the Court, is
19 that correct?

20 A. Yes, sir.

21 Q. You came up here and you swore to tell the truth and
22 took the oath as a witness, is that correct?

23 A. Yep.

24 Q. Okay. And when you swore to tell the truth and took
25 the oath of the witness what is it that you were going to

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1 talk about?

2 A. The incident that happened between Phillip and I.

3 Q. Okay. And what is it that you testified to in open
4 court?

5 A. That I had injured myself in the face.

6 Q. You injured yourself in the face?

7 A. Yes, sir.

8 Q. The allegations in that case were that he threw you
9 onto the ground ---

10 A. Which wasn't in my statement or anybody else's. He had
11 pushed me.

12 Q. He pushed you?

13 A. Yes, sir.

14 Q. Okay. So you're saying that you didn't give a written
15 statement in that case alleging him to have committed
16 domestic violence?

17 A. Yes, where he pushed me.

18 Q. Okay. And that you didn't say that the injuries he
19 caused you, caused those injuries to your face and to your
20 tooth?

21 A. I did, sir.

22 Q. You did say that in your written statement?

23 A. Um-hum (Affirmative).

24 Q. Okay. And then you came into court yesterday and took
25 the oath of a witness and said that you did all those things

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1 to yourself, is that correct?

2 A. I didn't do all of it to myself, no. I had injured my
3 cheek to myself, yes, sir.

4 Q. Okay. Yeah, isn't it the truth that you actually said
5 that you lied in your written statement when you came into
6 court yesterday?

7 A. Yes, sir.

8 Q. That you lied to the police?

9 A. Um-hum (Affirmative).

10 Q. That you lied to the police and then you came in here
11 and said that you violently beat yourself in the face with a
12 rock, is that correct?

13 A. I had hit myself in the face and scratched it with the
14 rock, yes, sir.

15 Q. Okay. All right.

16 **MR. TOOKER:** No further questions, Judge.

17 **THE COURT:** Any recross on those issues?

18 **MR. ALEXANDER:** Just briefly, Your Honor.

19 **Recross examination by Mr. Alexander:**

20 Q. Katelyn, whatever you told yesterday in your case with
21 -- Phillip Towe was the Defendant in that case, correct?

22 A. Yes, sir.

23 Q. Whatever you told yesterday, whatever happened in that
24 case, does that have anything to do with the case involving
25 your mother and Timothy Ryder?

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1 A. Not at all.

2 Q. All right. What you told yesterday in court, does that
3 have any impact on anything you said here today?

4 A. No, sir.

5 Q. Okay. Thank you.

6 **THE COURT:** Ladies and gentlemen of the jury, I want to
7 make sure that the jury understands, and I caution you that
8 these two incidents are completely separate and are not
9 related. The questions for the witness bore on her
10 credibility and believability if you deem those questions to
11 be probative on that point, but nothing in those questions
12 or in that incident in any way relate to whether or not the
13 Defendant committed the charges for which he is today on
14 trial. So please understand that distinction in this line
15 of questioning.

16 All right, ma'am, you may step down. And, counsel,
17 we're going to take -- we're going to take our lunch break
18 at this time. I believe it would be the best thing to do.
19 And what I'd ask you to do, ladies and gentlemen, we'll take
20 an hour and a half for lunch.

21 And I'd ask you to be back -- it's 12:15 by that clock
22 on the wall. Let's be back at 1:45. And we will reconvene
23 at 1:45. Now, lunch is on your own with whomever you have
24 lunch. Then please don't discuss the case. Talk about the
25 weather, this beautiful day, whatever you wish to, but not

1 the case. And we'll see you back at 1:45.

2 And out of respect for you, we'll remain where we are
3 while you depart the courtroom. Have a good lunch, ladies
4 and gentlemen.

5 (Whereupon the jury exited the courtroom at 12:13 PM)

6 **THE COURT:** All right. Ms. Choiniere, ma'am, you have
7 twice come into this courtroom -- yesterday you told this
8 Court that you had lied to the police and then you told this
9 Court what this Court perceived to be yet another untruth
10 that you had yourself knocked out your own tooth and injured
11 your face.

12 Today you've come in and again you have in some
13 respects recanted your statement that you've made, ma'am.
14 And the Court finds that you either have been dishonest
15 today or dishonest in this statement in this case. And
16 that's on top of being dishonest yesterday, ma'am.

17 I did not react to it yesterday because I knew you were
18 in a -- you were a witness in this case today. But when you
19 take the oath of a witness, it means something, ma'am, and
20 swear an oath.

21 We're going to take you into custody at this time. And
22 after this hearing is over, after this case is over, we're
23 going to conduct a contempt hearing as to whether or not you
24 should be held in contempt by this Court with appropriate
25 punishment, therefore, for failing to be truthful during

1 your testimony.

2 So, please, go with the officer. And we are -- we will
3 talk with Mr. Alexander about having an attorney in this
4 proceeding for you. And I will tell you that you have -- if
5 you have another attorney of your choice, ma'am, you may
6 contact that attorney to have him come and represent you,
7 but we're going to hold you in custody until such time as
8 later today when we conduct the hearing. Good luck to you,
9 ma'am.

10 All right. We are going to be in recess now until
11 1:45.

12 (Whereupon court was in recess at 12:16 PM)

13 (Whereupon court resumed at 1:45 PM)

14 **THE COURT:** Counsel, step up a moment and let's talk
15 about the afternoon session, if we may.

16 **MR. TOOKER:** Yes, sir.

17 (Whereupon a bench conference was held off the record)

18 **THE COURT:** We're still waiting on our 13th -- the last
19 juror? All right. Very good.

20 **MR. ALEXANDER:** Your Honor, could we take up that
21 matter regarding the redirect -- what was in the redirect,
22 briefly?

23 **THE COURT:** Certainly. You -- and we should have
24 memorialized this at the end of the morning hour, but you
25 opposed Mr. Tooker being able to go into our last witness

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1 decision made here, I think counsel is going to call another
2 witness in your stead.

3 **MS. LANDSVERK:** Okay. Thank you, Your Honor.

4 **THE COURT:** All right. Thank you. Please call your
5 next witness.

6 **MR. TOOKER:** Thank you, Your Honor. The State calls
7 Keith Gilstrap.

8 **THE COURT:** All right. Sir, please come forward and
9 take the oath of a witness.

10 **MADAME CLERK:** Place your left hand on the Bible and
11 raise your right hand. Do you solemnly swear or affirm that
12 the testimony you're about to give is the truth, the whole
13 truth and nothing but the truth so help you God?

14 **MR. GILSTRAP:** I do.

15 **MADAME CLERK:** Have a seat and state your name for the
16 record, please.

17 **MR. GILSTRAP:** Keith Gilstrap.

18 **Direct examination by Mr. Tooker:**

19 Q. All right. And, Deputy Gilstrap, I want to make sure
20 you speak real clear right into this microphone, okay? So
21 that the very last person in this jury box can hear you nice
22 and clear. Where do you work?

23 A. Pickens County Sheriff's Office.

24 Q. Okay. And how long have you worked there?

25 A. 8 and ½ years.

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1 Q. Okay. And in what capacity are you employed by the
2 Sheriff's Office?

3 A. Uniform road patrol.

4 Q. Okay. What do your duties consist of?

5 A. Handle calls that come in, disturbances, things of that
6 nature.

7 Q. Okay. Do you know why you've been subpoenaed in this
8 case?

9 A. Yes, as a witness.

10 Q. Okay. And do you recall the incident that occurred on
11 February 1st, 2012?

12 A. Yes, sir.

13 Q. Okay. And what happened? Why were you dispatched?

14 A. I was en route to back-up a partner. Detective Raines
15 had made it to the scene prior to me for a domestic
16 disturbance in progress. And I was en route to back him up.

17 Q. And when you got on the scene what did you find?

18 A. Deputy Raines had already had Timothy Ryder already
19 handcuffed and secured next to the vehicle. And then we
20 went in and obtained statements from the other parties
21 involved.

22 Q. Okay. So you obtained statements in this case?

23 A. Yes, sir.

24 Q. I'm going to show you -- I'm going to show you what's
25 been marked as State's 3 through 6. If you would, will you

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1 please -- here, I'll take that from you. Would you please
2 look at those documents.

3 (Pause)

4 Q. Okay. And I'm just going to go through them one by
5 one. State's Exhibit 3, what is that document?

6 A. It's the voluntary statement by Erica Lynn Ryder.

7 Q. Okay. And do you recall witnessing that statement?

8 A. Yes, sir. I've also signed it at the bottom.

9 Q. You signed that statement?

10 A. Yes, sir.

11 Q. And you signed it that you witnessed that Ms. Ryder
12 gave that statement?

13 A. Yes, sir.

14 Q. Okay. Did she give it freely?

15 A. Yes.

16 Q. Did you coerce her, or force her, or threaten her or
17 anything?

18 A. No, sir.

19 Q. Okay. And after she finished, I mean, did she use her
20 own words or are those your words?

21 A. No, sir, she completely filled this out of her own and
22 then signed it once it was completed. And she was issued a
23 copy.

24 Q. Okay. And you also signed it after she signed it?

25 A. Yes.

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1 Q. Okay. And on what date did this occur?

2 A. This is February 1st, 2012.

3 Q. Okay. And where was the statement given?

4 A. At the incident location, [REDACTED] Six Mile.

5 Q. Okay.

6 **MR. TOOKER:** At this point, Your Honor, the State wants
7 to move State's 3 into evidence and publish to the jury.

8 **THE COURT:** And what says Defense?

9 **MR. ALEXANDER:** I would object, Your Honor. She
10 testified to the contents of the statement already. Ms.
11 Ryder testified. It's already in evidence through her
12 testimony. I believe it's not necessary. It's also
13 cumulative.

14 **THE COURT:** So your objection then is based on that
15 it's cumulative in nature?

16 **MR. ALEXANDER:** Cumulative and that she testified and
17 that she acknowledged writing this statement in her
18 testimony.

19 **THE COURT:** Very good.

20 **MR. ALEXANDER:** It's not like she's denying writing it.
21 And they're offering her statement to prove that she did, in
22 fact, write it.

23 **THE COURT:** All right. Thank you. And you want to
24 reply to that?

25 **MR. TOOKER:** Yes, Your Honor. I'll reply to her having

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1 not denied that she wrote the statement. I think to
2 introduce extrinsic evidence of hearsay, what the State has
3 to do is first afford the first witness the opportunity to
4 review the statement and then say, you know, when this was
5 made, where it was made and then have an opportunity to
6 affirm or deny making the statement.

7 I believe with Ms. Ryder's testimony she did
8 equivocate. It has to be an unequivocal assertion that she
9 did make the statement. And I believe specifically with a
10 couple of lines in that statement she equivocated saying I
11 don't recall saying that.

12 **THE COURT:** Very good. Of course, I'm going to
13 overrule your objection. First of all, rule 613 would
14 permit this statement to come into evidence. Secondly, on
15 your basis that it's cumulative, the Court overrules that
16 objection because there is some disparity between the
17 testimony and the statement.

18 And I believe the jury would benefit for whatever
19 weight they deem to give it to have -- having listened to
20 the testimony and also have before it the written statement
21 at that time. So for those reasons the objection is
22 overruled.

23 Now, are there going to be additional offers of
24 testimony, excuse me, of statements on other witnesses
25 coming right behind this?

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1 **MR. TOOKER:** I believe I will offer an additional two
2 statements.

3 **THE COURT:** All right. And your objection would be the
4 same, counsel?

5 **MR. ALEXANDER:** It would. And what -- I would go
6 further, if they're going to offer, there's four statements
7 there, if they're going -- if three are going to come in,
8 just have them all come in is what I would say.

9 **THE COURT:** Very good. Well, we'll let you supplement
10 the record if you wish to do so. I won't require the State
11 to put evidence in that they don't seek to put in, but with
12 regard to all of your evidence, excuse me, with all of the
13 statements, which I believe is three, that's one, there are
14 two more coming, the Court makes the same ruling, and
15 they're all admissible over objection.

16 **MR. TOOKER:** And, Your Honor, if Mr. Alexander will
17 stipulate to the admissibility of the fourth, we'll just
18 move to have them all admitted.

19 **THE COURT:** All right. Is there -- so stipulated that
20 this is as a State's exhibit?

21 **MR. ALEXANDER:** Clarify which one was the fourth, I
22 guess.

23 **MR. TOOKER:** Well, the fourth would have been Mr.
24 Ernest Baldwin's.

25 **MR. ALEXANDER:** Okay. No objection to Mr. Baldwin's.

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1 **THE COURT:** All right. Then let's make sure we have
2 that marked as well. Do we have Mr. Baldwin's marked?

3 **MR. TOOKER:** Yes sir, they're all marked. The State
4 would then at this point move State's exhibits 3, 4, 5 and 6
5 into evidence and seek to publish to the jury.

6 **THE COURT:** All right, then, without -- well, over
7 objection to three of them, by consent to the fourth one,
8 you may publish them to the jury. They're all in evidence.
9 (Whereupon State's exhibits 3, 4, 5 and 6 were admitted
10 into evidence)

11 **MR. TOOKER:** Okay. Thank you.

12 **THE COURT:** Meaning you can hand them to the jury for
13 them to review, if they wish. Ladies and gentlemen, any
14 exhibit in the record, you'll have with you when you retire
15 to deliberate. So you don't need to absorb it all at this
16 moment. You'll have them when you, again, when you begin
17 your deliberations. All right, counsel, please proceed.

18 **MR. TOOKER:** Yes sir, Your Honor.

19 **Direct examination by Mr. Tooker continued:**

20 Q. And you talked to the other witnesses in this case, is
21 that correct?

22 A. Yes, sir.

23 Q. So did you talk to Mr. Towe?

24 A. Yes, sir.

25 Q. Did you talk to Ms. Choiniere?

KEITH GILSTRAP - DIRECT EXAMINATION BY MR. TOOKER

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1 A. Yes.

2 Q. And did you talk to Mr. Baldwin?

3 A. Yes, sir.

4 Q. Okay. And when you talked to all those parties did you
5 force them to get them to say anything?

6 A. No, sir.

7 Q. Okay. Did you coerce them at all?

8 A. No, sir.

9 Q. Okay. Did you tell them what to say?

10 A. No.

11 Q. Okay. Did you let them use their own words?

12 A. Yes.

13 Q. And is that their own handwriting?

14 A. It's their own handwriting.

15 Q. Okay.

16 **MR. TOOKER:** No further questions.

17 **THE COURT:** Is there cross examination?

18 **MR. ALEXANDER:** No questions, Your Honor.

19 **THE COURT:** Then, sir, you are -- watch your step as
20 you leave. You're free to remain or you're free to leave if
21 you wish. Please call your next witness.

22 **MR. TOOKER:** Yes sir, Your Honor. The State calls
23 Anthony Raines to the stand.

24 **THE COURT:** Please come forward and take the oath of a
25 witness.

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 **MADAME CLERK:** Do you solemnly swear or affirm that the
2 testimony you're about to give is the truth, the whole truth
3 and nothing but the truth so help you God?

4 **MR. RAINES:** I do.

5 **MADAME CLERK:** Please state your name for the record.

6 **MR. RAINES:** Anthony Raines.

7 **Direct examination by Mr. Tooker:**

8 Q. All right. Mr. Raines, where did this incident occur?

9 A. At [REDACTED]

10 Q. Okay. Is that in Six Mile, South Carolina?

11 A. It's in Six Mile in Pickens County.

12 Q. In Pickens County. And about what time did you receive
13 dispatch to go out to the scene in this case?

14 A. I was -- according to our dispatch the call had come in
15 at 10:43 PM. And I received the call at 10:46 PM. I
16 arrived on the scene at 10:48 PM, approximately 2 minutes
17 after I received the call to be en route out there.

18 Q. Okay. And about five or six minutes after the call was
19 made?

20 A. About five minutes after the initial call was placed to
21 911.

22 Q. Okay. And what were you responding to?

23 A. A domestic altercation in progress. When I was given
24 the call over the radio it was given out that Timothy Ryder
25 was on scene causing a disturbance. And they gave it to us

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 as -- in our 10 codes as a 1082, which means a domestic
2 situation. It's not like brother and sister in a fight or
3 anything like two strange guys in a fight. This would be
4 either a husband, wife or someone cohabitating. And we get
5 that through our 10 codes. So it came out as a 1082 in
6 progress and that two people had, I guess, the subject in
7 that case, held at bay, they had him held down at that time.

8 Q. Okay. And I jumped ahead of myself a little bit, but
9 where do you work?

10 A. I work at Pickens County Sheriff's Office.

11 Q. Okay. And what do you do with the Sheriff's Office?

12 A. I'm a detective now. At the time of this case I was a
13 road patrol deputy.

14 Q. Okay. And what were your duties as a road patrol
15 deputy?

16 A. Answering calls whether it be a domestic, a burglary, a
17 larceny, whatever the call is that comes in. If someone
18 calls 911, the road patrol guys are your front-line guys.
19 That's the guys who initially answer the call.

20 Q. Okay. And on this occasion you said you responded to
21 the incident location. What did you find when you got
22 there?

23 A. When I got there I had to park at the top of the
24 driveway because there were two or three vehicles in front
25 of me. I got out. As I walked down I saw Ms. Erica Ryder

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 standing in the driveway. She identified herself as my
2 victim in this case. And she told me that they had Timothy
3 held down in the house.

4 So at that time I knew that I had a domestic
5 altercation. I didn't know all the circumstances, but I
6 needed to get the scene under control as quickly as
7 possible.

8 So I asked her if she lived there? Yes. Does he live
9 here? Yes. She was pointing me into the house. At that
10 point I have exigent circumstances. Also I have -- I have
11 permission basically to enter into the house. Only ---

12 Q. So you're saying inside the house is where he was being
13 held down?

14 A. Yes, sir. Yes, sir.

15 Q. Not in the driveway?

16 A. Not in the driveway, no, sir. He was inside the house.

17 Q. Okay. I'm going to show you what's been marked and
18 admitted as State's 1. Was it inside this part of the
19 building?

20 A. Yes, sir. It was right inside those doors there.

21 Q. Okay. It was inside these doors?

22 A. Correct.

23 Q. And inside those doors, is that where you found the
24 Defendant?

25 A. Correct.

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 Q. Where were the other parties?

2 A. Mr. Towe and the guy, Ernie Baldwin -- Mr. Baldwin had
3 him held down in that room. It appeared to me and I don't
4 know -- it's the only time I've ever been in that house, but
5 it appeared to be like a garage that had been enclosed and
6 made some type of a game room or a family room type. And
7 they were probably 6 feet, maybe 8 feet inside those doors,
8 and they both had him held down at that time. And he was
9 struggling to get up.

10 Q. Okay. And was he saying, or shouting, or what was his
11 emotional state?

12 A. He was very upset. He appeared to be angry, agitated.
13 And like I say, I didn't know all the circumstances at that
14 time. I just knew that I had an agitated fellow on the
15 ground being held down and the call had come in as a
16 domestic. So I assumed that's my suspect. So ---

17 Q. And so what did you do?

18 A. At that point, just for my own safety, being he's
19 wrestling with two guys, I handcuffed him, handcuffed him at
20 that time. He knew the police were there at that time. So
21 he did start to calm down.

22 I was able to kind of get him under control, removed
23 him from that scene, took him up to my car and placed him in
24 the rear of my car. He wasn't under arrest at that time
25 until I continued on with my investigation. But I did put

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 him in the back of the car just so I'd have him under
2 control because he was, in my estimation, intoxicated, for
3 lack of a better word.

4 Q. And did you talk to all the parties who were on the
5 scene?

6 A. I did, yes.

7 Q. And who was that, exactly?

8 A. It was Erica Ryder, oh goodness, Mr. Towe, Mr. Ernie,
9 let's see, Ernie Baldwin and Katelyn, I can't pronounce her
10 last name, but Katelyn was there as well at that time.

11 Q. Okay. And would you describe your encounter with Ms.
12 Ryder?

13 A. Ms. Ryder was very upset. I recall her being --
14 shaking. She was very shaky, very upset that all this had
15 gone on. She appeared to be in great fear at that time. I
16 mean, she was ---

17 **MR. ALEXANDER:** Objection, Your Honor. It calls for
18 speculation.

19 **THE COURT:** Counsel, I'm going to sustain the objection
20 and require you to lay a foundation for that comment. So,
21 ladies and gentlemen, at this moment, let's just disregard
22 that comment and let counsel lead the witness to that or
23 take the witness to that point in testimony with a
24 foundation. Go ahead.

25 **MR. TOOKER:** Yes sir, Your Honor.

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1 Q. Okay. So let's go back. You said she appeared shaky?

2 A. Yes.

3 Q. What do you mean by shaky?

4 A. She was just -- when people are upset, they're crying,
5 they're talking really fast. You can see their hands
6 shaking as they're making overt gestures as they're talking.
7 And you can see them as they're -- as they're doing things.

8 They're not like the normal, everyday, slow,
9 everything's going the way it should go, routine. You could
10 tell in just her personal demeanor that she was upset.

11 Q. Okay. When you say upset ---

12 **MR. ALEXANDER:** Your Honor, I object. I mean, he can
13 -- my position would be he can testify to what he observed,
14 but to draw a conclusion as to what her actual emotional
15 state was, that's pure speculation.

16 **THE COURT:** I'm going to overrule your objection.
17 That's only for the jury to determine. You have cross
18 examination on that point, if you wish. Go ahead.

19 **MR. TOOKER:** Thank you, sir.

20 Q. Now you mentioned tearful.

21 A. Yes.

22 Q. Was she crying or how would you describe her ---

23 A. It's ---

24 Q. Was she crying? Was she outwardly crying?

25 A. It's hard to describe the emotional state, I mean, but

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1 when -- I've handled numerous, numerous calls of this nature
2 at other parts of the County. And you can tell -- people,
3 when they're upset, they're very emotional. There may not
4 be tears that are coming at that time, and I can't recall
5 directly if she was -- if she had tears streaming down her
6 face, but she was in what I would call a crying state.

7 Q. Okay. And is it in that state that you talked to her
8 about what happened?

9 A. Yes.

10 Q. Okay. Now, about how soon after you arrived on the
11 scene did you actually talk to the victim in this case?

12 A. Less than five minutes.

13 Q. Okay. So in five minutes you were able to get the
14 Defendant in the back of your car?

15 A. Yes, sir. Yes, sir.

16 Q. Okay. And then within five minutes of that you were
17 able to talk to the victim?

18 A. Yes, sir.

19 Q. Okay. And you said you got on the scene after the call
20 was made in about five minutes?

21 A. Yes, sir.

22 Q. Okay. In that excited state what did the victim tell
23 you had happened to her?

24 A. She -- I can't remember her exact words, but she told
25 me that he had thrown a beer bottle at her, that it had just

ANTHONY RAINES - DIRECT EXAMINATION BY MR. TOOKER

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1 missed her and then he ran -- and was running into the
2 house. He had been tackled one time. Then they let him up.

3 As she was calling 911, they let him up.

4 And then that's when he ran into the house. She said
5 he was going in to get a gun. I remember her saying
6 something about he's got bullets, he's going to take me out,
7 you know, that that was what he had told her and that they
8 had tackled him again to keep him from getting at the guns
9 in the house.

10 She made sure -- she made it very clear that she did
11 have guns in the house for -- that she kept for protection
12 and that she was in fear that he would go and get those
13 guns.

14 Q. Okay. Anything else that you did, or observed, or saw
15 on scene that you think would be important for the jury to
16 hear about this case?

17 A. No, sir. I mean, that's -- the -- Mr. Ryder was, I
18 mean, he was very excited when I first got there. And I
19 could tell that he was intoxicated. You know, there's -- my
20 estimation of the facts of the case when I was there was
21 that there was some fear of peril and that's why I made the
22 arrest on scene.

23 Q. Okay. And you made the arrest, and got the warrants,
24 and that's how we ended up here?

25 A. Correct. Yes, sir.

ANTHONY RAINES - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. Okay.

2 MR. TOOKER: No further questions, Judge.

3 THE COURT: And cross examination.

4 MR. ALEXANDER: Yes, Your Honor.

5 Cross examination by Mr. Alexander:

6 Q. It's Detective Raines, right?

7 A. Yes, sir.

8 Q. Okay. All right. So when you arrived on the scene and
9 Ms. Ryder, Mr. Ryder, Mr. Baldwin, Katelyn and Phillip were
10 already -- they were all there, correct?

11 A. Yes, sir.

12 Q. Okay. And you're saying Phillip and Ernie were in --
13 just inside the doors of that playroom or whatever?

14 A. Yes, sir.

15 Q. And had Mr. Ryder?

16 A. Yes, sir.

17 Q. Okay. Did you, yourself, hear any statements that he
18 made during -- while they had him in that room, while he --
19 while you said they had him -- did Mr. Ryder make any
20 statements at that point?

21 A. No. He was yelling for them to let him up. That's
22 basically -- he made no threats or statements, you know,
23 about anything when I arrived on scene.

24 Q. You said he was upset?

25 A. Oh, yes.

ANTHONY RAINES - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. And he appeared to be upset?

2 A. Yes.

3 Q. Is it fair to say that it's possible someone like Mr.
4 Ryder in that situation can be upset just because someone
5 -- that he thinks he's being pinned down when it's not
6 necessary to pin him down?

7 A. Given no other circumstances in the case, then I --
8 that could be a possibility.

9 Q. All right. So you got Mr. Ryder and you put him in
10 your car, correct?

11 A. Correct.

12 Q. And he went -- he went with you into the car, didn't
13 fight you or anything like that, correct?

14 A. He walked with me, yes. Yes, sir.

15 Q. Okay. He walked with you, all right. Did you go look
16 in the little outbuilding at all that's in State's exhibit
17 2?

18 A. I did not look ---

19 Q. Did you look inside the building?

20 A. I did not go inside the building. I could see inside
21 the building from the outside through the front door.

22 Q. All right. And is that where Ms. Ryder said she was
23 sitting and the bottle went by her ---

24 A. She said that they had all been sitting there on the
25 porch. So she didn't go into specifics about being sitting

ANTHONY RAINES - CROSS EXAMINATION BY MR. ALEXANDER

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1 in the door, a crook of the door, however. She didn't go
2 into any specifics about that. There was no specifics
3 mentioned about the building other than that's where they
4 had been when the altercation took place.

5 Q. Okay. Did she tell you anything about where in the
6 house the guns were?

7 A. No, just that there were guns in the house and he
8 appeared to be heading toward them after she gave statements
9 that he had made threats to get the gun and kill her.

10 Q. Okay. Did -- were her words -- you said -- you
11 answered a question a while ago that -- well, ...

12 **MR. ALEXANDER:** One moment, Your Honor.

13 **THE COURT:** Yes, sir.

14 Q. And just to clarify it, there's no -- there was no
15 evidence of any physical injury, correct?

16 A. No, none.

17 Q. Now, lastly, when you were talking and testifying about
18 Ms. Ryder's -- your observations of her condition, shaking
19 and that, you can't -- you don't know for sure how she was
20 actually feeling in that scenario, do you?

21 A. I can only give you an opinion based on my -- my law
22 enforcement experience and then seven years with law
23 enforcement. I would -- my opinion would be that she was
24 -- she was upset, in a fearful state rather than an angry
25 state.

ANTHONY RAINES - CROSS EXAMINATION BY MR. ALEXANDER

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1 Q. Okay. But, again, you don't know that for sure?

2 Everybody reacts differently to every situation, correct?

3 A. Correct.

4 Q. And someone's mannerisms in one scenario can be
5 different than somebody else's, correct?

6 A. They can be, that's correct.

7 Q. All right.

8 **MR. ALEXANDER:** That's all the questions I have, Your
9 Honor.

10 **THE COURT:** Is there redirect?

11 **MR. TOOKER:** No, sir

12 **THE COURT:** All right, sir. Please watch your step.

13 A. Thank you, Your Honor.

14 **THE COURT:** You may step down. Please call your next
15 witness.

16 **MR. TOOKER:** At this point, Your Honor, the State
17 rests.

18 **THE COURT:** All right, ladies and gentlemen, the State
19 rests. And so at this point in every case the Court has
20 certain matters I need to take up with counsel. And what
21 I'd ask you to do while we're doing that is to elect your
22 own foreperson. Just one moment, please.

23 (Whereupon the Court was speaking with the clerk)

24 **THE COURT:** Mr. Bogan, you're the alternate juror, I
25 believe, am I correct?

1 **THE COURT:** All right. Ladies and gentlemen, welcome
2 back to the courtroom. And, Mr. Bogan, thank you for your
3 leadership to the jury in the choice of Mr. Roach as
4 foreperson.

5 And I say to you, sir, congratulations for the
6 confidence your colleagues has shown in you. And in the --
7 at the end of the case, in the charge on the law, I'll give
8 you a little more details about your role, but in advance I
9 wish to say thank you for serving in that important role.
10 All right.

11 Now, at the end of the first afternoon session the
12 State rested. We now move to the Defense case. And, Mr.
13 Alexander, please call your first witness.

14 **MR. ALEXANDER:** Thank you, Your Honor. At this time
15 the Defense would rest.

16 **THE COURT:** All right. The Defense rests. You may
17 recall, ladies and gentlemen, I told you when this case
18 began the Defendant was not required to put up a case, not
19 required to testify or controvert the allegations. It is up
20 to the State to prove those allegations beyond a reasonable
21 doubt.

22 And, thus, the Defendant has elected not to put up
23 testimony, which means we are at the close of all the
24 testimony in the case and now at the point in the case where
25 we will bring to you the closing arguments by counsel.

CLOSING ARGUMENTS - MR. TOOKER

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1 The way we're going to proceed is the State's going to
2 argue first. They had the burden of proof, they went first,
3 they're going to argue first. Then the Defense will argue.
4 Then I will give you the charge on the law, and you will
5 retire to deliberate.

6 Now, one point about closing arguments, and the same
7 really holds true for opening statements, please remember
8 that the evidence in this case is what the exhibits show and
9 what the witnesses testified to. A lawyer's argument, a
10 lawyer's advocacy is not evidence. The lawyers are not
11 under oath, they're not subject to direct and cross
12 examination.

13 I'm not saying they're going to be dishonest with you,
14 I'm just simply saying please appreciate the difference
15 between the evidence in the case, which you now have heard
16 and know what the evidence is versus the argument of
17 counsel. Now, with that understanding the Court recognizes
18 Mr. Tooker for the State's closing argument.

19 **MR. TOOKER:** Thank you, Your Honor. May it please the
20 Court.

21 **THE COURT:** Yes, sir.

22 **MR. TOOKER:** Mr. Alexander, Mr. Foreperson, ladies and
23 gentlemen of the jury, what you saw today was the reality of
24 domestic violence. Unfortunately, in this State and in our
25 Country, it's all too common a thing.

CLOSING ARGUMENTS - MR. TOOKER

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1 And it's the kind of thing that doesn't make real,
2 pretty court cases. You don't have a bunch of videotapes,
3 you know, like from a convenience store during an armed
4 robbery. And you don't have fingerprint evidence. You
5 don't have all these cool CSI things. I mean, what you have
6 is testimony. What you have is a bunch of people who say
7 one thing on the night something happens and then come into
8 court and say something different.

9 I'm going to start by talking about the elements of
10 domestic violence because ultimately your decision is
11 whether or not there's evidence proven to you that these
12 elements are satisfied. Now, in essence, -- and this is me
13 breaking it down. So if the Judge tells you anything
14 different than what I say, defer to the Judge. This is just
15 my sort of summary of the elements of domestic violence.

16 But in essence, we have to show three things, the State
17 has to show three things; that these parties, the victim
18 and the Defendant, are household members. Now, a household
19 member is anybody who's got kids in common, anybody who
20 lives together as a man and a woman who live together,
21 anybody who's married, or used to be married, or used to
22 live together. So those are the relationships that fall
23 into that category of a household member.

24 In this case there wasn't any dispute to that. I mean,
25 these are household members. The real issue in this case is

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1 whether or not we satisfied the next two, whether the
2 Defendant offers or attempts to cause harm or injury and
3 whether that's under a circumstance creating a reasonable
4 fear. And I want to talk about both those real quick, offer
5 or attempt.

6 So attempt is if I throw a punch when I'm within arms
7 reach, and I miss. That's the attempt. I don't actually
8 harm anyone, but I was close enough or capable of harming
9 them, and I tried to. So that's attempting to injure
10 somebody. Offering is getting close enough to punch someone
11 and saying I'm going to punch you. So offer or attempt.

12 And then under circumstances creating a reasonable
13 fear, that is, like I said, if I'm close enough to punch
14 you, if I know, you know, how to hurt you and I say I'm
15 going to hurt you in a particular way, well, that's
16 circumstances creating a reasonable fear.

17 And that term reasonable is a term of art we hear here
18 a lot in court because we oftentimes rely on reasonable
19 persons and certain standards in civil court. And when we
20 talk to you guys, the jury, you are our reasonable person
21 standing. You are the reasonable people who we give this
22 decision to and we entrust with making a reasonable
23 determination as to the facts in any given case. All right.

24 Now, the Judge also said something at the beginning of
25 the trial, and I'd like to echo it again, this is a case

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1 about credibility. So this entire case is about determining
2 credibility of the witnesses on the stand, of the evidence
3 and facts presented and figuring out what exactly is the
4 truth in this case.

5 Y'all will be asked to render a verdict at the close of
6 the case. After I'm finished, and Mr. Alexander's finished,
7 and after Judge Baxley reads you the charge on the law,
8 you'll be asked to render a verdict.

9 And verdict is essentially a Latin phrase, *veritas*
10 *dicere*. And it's a combination, but it means to say the
11 truth, a verdict that speaks the truth. And so the truth in
12 this case is what we're searching for. And the truth in
13 this case, of course, because it is domestic violence, has
14 become murky, I believe. But I'm going to go over that with
15 you.

16 When we talk about credibility one of the things that I
17 think is most important is trying to figure out what
18 somebody has to lose or to gain by testifying in a way that
19 may be inconsistent or may be untruthful. What do they have
20 to lose or gain? Why would they lie? And, again, I'll go
21 over that in just a second.

22 Also, something that's very important, circumstantial
23 evidence. Now, circumstantial evidence is evidence of
24 circumstances. It makes something more or less likely to be
25 true. So if the circumstances taken in aggregate indicate

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1 that something happened in a particular way, well, that's
2 circumstantial evidence. And that circumstantial evidence
3 is just as powerful as direct evidence.

4 Direct evidence being like eyewitness testimony or that
5 video from the convenience store. But circumstantial
6 evidence, too, like direct evidence can be used and relied
7 on by you in determining a defendant's guilt.

8 Now, in this case we've got essentially -- the way I'm
9 going to put it, we've got two sets of witnesses. We've got
10 witnesses as to the events as they transpired on February
11 1st, 2012 and we have witnesses who took the stand today in
12 court and said oh, no, no, no, no, it's a big
13 misunderstanding. So we have these two sets of witnesses.

14 That first set, the February 1st, 2012 set, well, that
15 set of witnesses were the witnesses who the officers
16 encountered on the scene that said -- were the witnesses who
17 provided written statements to law enforcement that said --
18 were the law enforcement officers who showed up that night
19 and observed the emotional state of the various parties, who
20 observed the intoxication of the Defendant and who took
21 those statements and proffered those to you into admission
22 into evidence in this court case.

23 Now, let's go over both of these stories. That second
24 set, of course, in that second story, those were the
25 witnesses who are saying, well, it was a big mistake, big

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1 accident, he's trying to throw that bottle in the trash can,
2 you know, he's tossing it in the trash can and that's how
3 this whole thing got started, and nobody meant to frighten
4 anybody, nobody was trying to throw anything at anybody,
5 it's one big horrible chain of events that never should have
6 happened.

7 And that set of witnesses, I think, and this is
8 something that's really interesting to me, they seem to not
9 be able to remember anything. Nothing.

10 What happened when the police got out there? What did
11 you tell them? Well, I don't know. What happened when you
12 talked to Detective Raines? Well, I don't know. What
13 happened when the Defendant got upset and started moving
14 toward the victim? Well, I don't know. Why did you stand
15 in between them? Well, I can't really remember. You can't
16 really remember?

17 Well, let me give you your statement, the thing that
18 you wrote that night when it's still fresh in your head.
19 Let me give you that to review. What do you think now? Can
20 you remember now? Is your recollection refreshed? No, I
21 still don't remember. I don't even remember writing it. I
22 can't even remember writing that.

23 They can't remember writing it because they're not
24 telling the truth. You know, it's funny, they say they
25 can't remember all this stuff. I can't remember these

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1 things. I can't remember making these statements. And I
2 can't remember why it is I thought it was necessary to pin
3 this man on the ground.

4 They can't remember all that stuff, but they do
5 remember, well, yeah, it was clearly an accident when he was
6 tossing that beer bottle in the trash can. You know, it was
7 clearly an accident. I don't remember that. I don't
8 remember anything else. I don't remember giving a written
9 statement to law enforcement, but I remember -- I remember
10 him tossing it into the trash can.

11 Now, another part of credibility, like I said, is why
12 do people lie? Let's think about why anybody would lie in
13 this case. You know, why would the victim in this case lie?
14 What would her motive be?

15 She's married to the man. You know, why do you marry
16 somebody? You marry them because you love them, because you
17 think that they are -- that they're great, that they're
18 special, you know, and you care for that person.

19 And people lie for each other when they care. They lie
20 for each other when they are household members. They lie to
21 protect each other. They lie to ensure that they're whole
22 domestic situation is not altered.

23 And that is why somebody who would have every reason to
24 be angry, to be upset, to get on the stand and say that guy
25 really did me wrong. That's why they have a reason to

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1 change their story because, like I said, in a burglary case,
2 the guy who is victimized is going to get up there and say,
3 yeah, that guy -- that guy took stuff out of my house.

4 But in a domestic case, that victim gets up there and
5 they see the person they love sitting in the Defendant's
6 chair at the Defendant's table and they think, man, what
7 have I done? I put that person in such a bad situation.
8 It's my fault. I need to fix it. I need to help them. I
9 need to do what I can do to ensure that nothing that I did
10 gets them in trouble. I want to protect them because I love
11 them, right? That's why people lie.

12 Now, I want to go back to these two stories and talk
13 about, you know, like I said, you know, nobody seems to be
14 able to remember anything except that he didn't do it, that
15 it was an accident. And why wouldn't they be able to
16 remember anything except he didn't do it, that he was
17 tossing a beer bottle into the trash can?

18 Well, let's think about the way their testimony went.
19 You know, there are a lot of inconsistencies, one car versus
20 two cars. You know, somebody getting on the scene first and
21 then, no, both people getting there at the same time. Both
22 people tackling the Defendant to the ground, Ernie and
23 Phillip, tackling him to the ground or, no, Phillip tackled
24 him to the ground, and I got pulled to the ground, right?

25 These are the small aspects of their testimony that all

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1 differed. And they differed because that's not the stuff
2 that they're going to talk about together in anticipation of
3 trial.

4 What do they talk about? They talk about he didn't
5 mean to do it, he was tossing the bottle into the trash can.
6 They don't talk about, you know, how it is that we fell to
7 the ground. They don't talk about did we get into one car
8 or two? They talk about he didn't do it, let's figure out
9 how we can say he didn't do it, right?

10 Well, what's consistent? What's really consistent in
11 this case? And you have these in evidence. We have the
12 statement of Ms. Erica Lynn Ryder from 2/1/12. Timothy
13 Ryder threw a 24 ounce beer bottle attempting to hit me with
14 it. The bottle missed hitting me.

15 I had a friend of mine present, and my daughter and
16 son-in-law had just come back. I immediately called my son-
17 in-law and daughter asking them to return to my home. At
18 this time, Tim threatened to kill me. I have bullets, I
19 will take you out. My son-in-law and friend, Ernie, then
20 tackled him to the ground and subdued him until police
21 arrived. That's one statement. This is Erica's statement.

22 Ernest Baldwin, 2/1/12, saw Tim Ryder throw a glass
23 bottle at Erica Ryder. Not saw him toss it into the trash
24 can, not he wasn't trying to hit her. Saw Tim Ryder throw a
25 glass bottle at Erica Ryder and was coming after her. Not

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1 was walking toward her nonchalantly as if not to harm her,
2 was coming after her. Me and Phillip Towe stopped him. He
3 also talked about killing himself and went for a gun. I am
4 Ernest Baldwin, Jr.

5 Phillip Spencer Towe. I, Phillip Towe, came back after
6 my mother-in-law called saying Tim threw a beer at her. I
7 came back home, getting out of my van and saw Tim running at
8 her.

9 What did he say on the stand? I got out and he came at
10 me. No, no, I saw Tim running at her. Just like Ernie
11 said, he came after her. I saw him running at her. I
12 subdued him, throwing him to the ground. A few minutes
13 later I let him up, and he ran in the house toward the guns.
14 So I stopped him again until the police showed up. What's
15 consistent here each time? Threw a beer bottle, went after
16 her, held him down, then he went up to get a gun.

17 Finally, Katelyn's statement, the victim's daughter.
18 I, Katelyn, age 21, daughter of Erica Ryder, arrived back at
19 my mom's house after receiving a phone call that Timothy
20 Ryder was acting threatening toward my mom.

21 When we arrived, Phillip Towe and I, Tim was yelling
22 and trying to come after my mother. Not Tim was doing
23 nothing toward my mom, and he was upset, and he was crying,
24 and he felt bad. Tim was yelling and trying to come after
25 my mother.

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1 Ernie and Phillip restrained Tim against the pavement
2 while my mom called 911. Tim then was let up and he ran to
3 my mother's house threatening to obtain a gun. Not the guns
4 are in the house and he was talking about killing himself.

5 Maybe he said he was going to kill himself. I mean, in
6 that kind of emotional state, it makes sense. I'm going to
7 kill you, I'm going to kill myself, my life is terrible,
8 this is awful.

9 But not -- not he ran to the house talking about
10 killing himself, we knew the guns were in the house, but
11 that Tim went up and he got -- ran into my mother's house
12 threatening to obtain a gun and use it either on himself or
13 my mom. It was then Ernie and Phillip restrained him again
14 until the police arrived.

15 So, again, what's consistent? He throws the bottle,
16 comes at them, gets restrained, he's let up, talks about
17 getting a gun and doing either harm to himself or to the
18 victim, right? That's the story. That's what happened in
19 this case.

20 This case is a case, a very sad case, because it's
21 clearly torn this family apart, but it is a case,
22 nonetheless, of domestic violence. It is a case that not
23 only is proven by their statements the night of the incident
24 when it's so clear, and so fresh, and so recollected, and
25 when they're so amped up emotionally from having just seen

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1 this thing happen from not having set for two years to think
2 about the potential repercussions on their family.

3 But it's also proven by the circumstantial evidence in
4 this case. It's proven by Detective Raines arriving on the
5 scene and talking to the victim, finding her shaky, and
6 teary and upset. Not mad, not I'm going to get him, but
7 shaky, and teary and upset. Why would she be shaky, and
8 teary and upset had this horrible thing not just put her in
9 fear of harm or injury, a reasonable harm or fear of harm or
10 injury?

11 Ernie Baldwin, now he likes to say, yeah, I didn't
12 mean, you know, I didn't know why he was coming at her, so I
13 felt like I just had to get up and had to diffuse the
14 situation. As a man I would never -- I would never feel
15 obliged to put hands on another man unless I knew that
16 person was about to do harm to someone else. He tries to
17 mitigate and to minimize, but on that date when this is all
18 going on he thought the threat was real enough that he had
19 to put himself between a man and his wife.

20 Phillip Towe, the threat is real enough that Phillip
21 Towe has to come and tackle this man to the ground with
22 Ernie and hold him there, hold him there preventing him from
23 doing something potentially dangerous to the victims, to the
24 other parties or to himself. He finally calms down. What
25 do they do? They let him up. He talks about getting a gun.

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1 Again, they feel it necessary to physically restrain him, to
2 physically restrain him until law enforcement can arrive.

3 Law enforcement finds him being physically restrained
4 as this is happening. Why would they have to do that, you
5 know, if you're just tossing a beer bottle? If he's a
6 little upset? Well, he's not that mad.

7 Y'all are reasonable people. And reasonable people can
8 certainly disagree. And I encourage you to talk about all
9 these issues at length in the jury room. Y'all need to talk
10 about each witness, and what they testified to, and what you
11 think their testimony meant and what it meant to you.

12 But ultimately it's the State's position that the two
13 stories in this case, the bottle toss and the events of
14 2/1/12 are dramatically different. And the events of 2/1/12
15 are the events that are proven by facts and evidence.

16 When you deliberate you talk about what each witness
17 says. And you can afford a certain amount of weight to each
18 witness' testimony. You can say, you know, I believe that
19 witness exclusively because they seem very honest, they
20 don't have a dog in the fight. Detective Raines doesn't
21 have a dog in this fight. Shows up on the scene, talks
22 about what he saw, gets a warrant, we're here now.

23 You can assess their credibility and say I don't
24 believe anything that person told me. I believe their
25 statement, but I don't believe anything they had to say.

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1 That is entirely within your purview. And that's what I
2 would encourage you to do.

3 Ultimately, what you saw was domestic violence as it
4 exists in our County. And what I would ask you to do is
5 take all the evidence and facts, discuss it, but discuss it
6 in light of what we saw on the stand, what we saw these
7 people doing, what we saw them trying to do, and look at the
8 statements, and think about the testimony, and think about
9 what Detective Raines said, and think about all the other
10 motives in this case, and at the end of your deliberation
11 return a verdict of guilty. Thank you.

12 **THE COURT:** And for the Defense.

13 **MR. ALEXANDER:** Thank you, Your Honor, Mr. Tooker, ---

14 **MR. TOOKER:** Yes, sir.

15 **MR. ALEXANDER:** --- ladies and gentlemen. Thank you
16 for your attention. I'm just going to go over what I think
17 at least are some important points in the testimony.
18 Obviously, you'll determine what you think is important
19 yourself, but I agree with some of what Mr. Tooker said.

20 The Judge told you about credibility. He'll tell you
21 again in your instructions. Credibility is an important
22 issue in this case, but it goes both ways, credibility in
23 the courtroom, credibility when these original statements
24 were written.

25 So you've got to judge not only the witnesses'

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1 testimony, the credibility of their testimony, but the
2 credibility of when they gave these statements because the
3 State can't have it both ways. They can't be lying now and
4 automatically they're telling the truth then or lying then
5 and telling the truth now. You know, you've got to judge
6 that for yourself. You've got to determine what the facts
7 are based on everything.

8 So let's kind of go through the witnesses one at a
9 time. So let's -- you have Katelyn, and I apologize I can't
10 pronounce her last name. So I'll just -- Erica Ryder's
11 daughter. What reason would she have to lie February 1st,
12 2012 or in the courtroom here today? She's the alleged
13 victim's daughter. That's her reason. It existed then and
14 it exists now.

15 So if she's called to the scene and her mom tells her
16 this is what happened, you know, is it natural for a
17 daughter to believe her mother? Yes. And they provided the
18 testimony you heard. It seems they had a close
19 relationship. Nothing strained there, no reason to think
20 they despise each other. So certainly she had a motive to
21 lie, you know, or whatever in her statements and in her
22 testimony. But you've got to judge that for yourself.

23 So let's look at hers, you know. So you've just got to
24 read the statements. You can take them back there and
25 remember what she testified to and just reconcile for

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1 yourself what, if anything, she said that you can believe.

2 She wasn't there when the bottle was thrown. So she
3 can't say anything about that. She arrives back on the
4 scene and her statement talks about she hears yelling, you
5 know, nothing specific about what was said. And then having
6 to be restrained, threatening to obtain a gun and use it on
7 either himself or her mom.

8 And, you know, I heard her testimony versus her
9 statement a little different than the solicitor did,
10 perhaps. Maybe you heard it a completely different way.
11 But I would submit her testimony is consistent with her
12 statement in the aspect that in the first sentence she talks
13 about, you know, what was heard over the phone.

14 She admits, I didn't hear any threats myself, I didn't
15 take the phone call. She says she implied what he was doing
16 by going to the house just based on what was going on. Is
17 it reasonable for her to write a statement -- the police are
18 asking her, I need your statement as to what happened. You
19 know, she's giving a statement to the police of what she
20 thinks happened. So she does that. So, you know, that's
21 her statement.

22 Her boyfriend/fiancé, Phillip, he comes back with her.
23 He gave a written statement as well. And that's in
24 evidence. You'll have it. And his statement -- in his
25 written statement doesn't say anything about what he heard

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1 as far as any threats or statements of threats made by Mr.
2 Ryder. It's just basically what he observed going on.
3 Talks about tackling him to the ground.

4 And what, you know, what motive then or now would he
5 have to, you know, exaggerate the truth in his statement?
6 Then what he thinks favorable to Ms. Ryder, well, he's
7 dating, engaged, involved with Katelyn. So he's naturally
8 going to support what she says. So that's his statement.

9 And he testified on the stand all he heard as far as
10 what came from Mr. Ryder that could even be perceived as a
11 threat was I'm going to end it all. That's what he said.
12 And I think another witness said that as well. I may be
13 mistaken on that. Use your own recollection for that.

14 And he told you what his interpretation of it was, that
15 he was going to harm himself. He was there. He would be
16 the one to know what he felt anyway. Now he's not in Mr.
17 Ryder's mind, but that's what he heard and that was his take
18 on it.

19 So then you have Erica Ryder, herself. And you have
20 her witness statement. And there certainly are
21 inconsistencies between her witness statement and what she
22 testified to, you know. You know, specifically she says at
23 this time Tim threatened to kill me, I have bullets and I
24 will take you out is what she wrote.

25 Now the solicitor, you know, he's submitting that at

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1 least some of these witnesses, you know, denied even writing
2 these statements or remembered even writing them. I heard
3 the testimony a little differently. You decide for
4 yourself, but they all admitted writing the statements.

5 I think Ms. Ryder said I wrote that, certainly that's
6 my statement, I wrote that, but I don't remember saying that
7 to the police. She doesn't remember verbalizing it is the
8 way I heard her testify. And we may be talking about
9 semantics, but in these kind of cases it's -- when you're
10 judging credibility, you've got to kind of weigh those
11 things in there -- so -- or I would submit to you.

12 So she says this in her statement, Tim had threatened
13 to kill me, I have bullets and I will take -- take you out.
14 But when you read her statement, nothing in the statement
15 -- nowhere in the statement does she say I was afraid, you
16 know, I thought he was going to harm me, you know, I thought
17 he was actually going to go get a gun and take me out.

18 She's just saying what he said. That's it. And saying
19 what he did, threw a bottle at her and threw the bottle,
20 went by her head into the trash can, you know. She
21 acknowledged, multiple witnesses acknowledged that's where
22 the trash can was. That's where they put trash while they
23 were there on other occasions.

24 But even if, you know, you've got concerns about her
25 credibility, it still existed then and it exists now. She

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1 has, you know, could've had a motive then to exaggerate the
2 truth. She didn't want him in her house anymore. So she
3 exaggerated what happened so she made sure the police took
4 Mr. Ryder away. And he was, in fact, arrested.

5 She got on the stand and said I exaggerated the truth.
6 I wrote that statement. I don't remember saying this, I
7 don't remember saying that, I did say this, I did say that.
8 Regardless of what you decide, she admits she exaggerated
9 the truth. So she certainly had the motive to lie then and
10 decided she had a motive to lie now, but somehow she wants
11 him to get out, you know. How does that benefit her, you
12 know? So that's Erica's statement.

13 So then you have Mr. Baldwin's statement. What motive
14 does Mr. Baldwin have in this case to lie or misrepresent
15 anything? I'd submit that he has no motive. He said I went
16 over there a few times hanging out, I mean, acquaintances.
17 I guess I'd call them friends. I haven't been over there
18 since this happened, you know.

19 He's not related to these people. He's not over there
20 every day. He's not benefitting in any way at all. He
21 didn't want to be here to testify. Probably didn't want to
22 give this three-sentence statement to the police.

23 Look at these statements and compare them to how long
24 they are, the three other ones versus Mr. Baldwin's
25 statement. It's a three-sentence statement. Saw Tim Ryder

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1 throw a glass bottle at Erica Ryder. He was coming after
2 her. Me and Phillip Towe stopped him. He was talking about
3 killing himself and went for a gun. I am Ernest Baldwin,
4 Jr.

5 That sounds like somebody writing a quick statement
6 because he didn't want to be there and be involved in this
7 incident, perhaps because he might get called into court at
8 a later time. So he writes a short statement, doesn't
9 explain very much very good.

10 I didn't ask him his education background or what he
11 even did for a living, but, you know, a simple worded guy.
12 So he gets on the stand and tries to explain what he meant
13 in his short statement. I think that's very reasonable to
14 do, you give a short statement. He was obviously testifying
15 longer than it took to read that statement. You know, you
16 would expect him to be able to explain what he meant in his
17 own words.

18 He's the one that wrote that statement. That's
19 undisputed. Those are his words. Why should he not be
20 allowed to get on the stand and say, well, this is what I
21 meant? This is what I was talking about. You know, we all
22 write different ways, write something -- thinking something
23 in our head and somebody else reads it and, you know, could
24 be appalled by -- that's what our position is. But when you
25 explain it to them, okay, well, that makes sense.

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1 So I submit to you Mr. Baldwin is perhaps the most
2 credible witness in this whole case. So what did he tell
3 you? Well, looking at his statement and his testimony he
4 says he saw a bottle go by Erica's head. Didn't see the
5 actual throw and no physical injury there.

6 He said that they were bickering, I think he said,
7 about it. She calls the police, that he started to walk
8 over towards her and he simply got between them. Did not
9 have to put any hands on him. If he thought there was some
10 kind of threat there, you would imagine that he would grab
11 the guy and have to restrain him. He said I didn't have to
12 restrain him at that point.

13 And then Phillip arrived and says Phillip tackled him
14 and he somehow got wrapped up in that. Somebody -- I don't
15 think he distinguished which one, but Tim or Phillip grabbed
16 him and he got kind of rolled into it. So he's struggling
17 with him at that point.

18 And at some point, and this is in his written
19 statement, says that Tim, Mr. Ryder, threatened to kill
20 himself and made that statement. And at some point Ms.
21 Ryder said, well, there was guns in the house, you know, as
22 he was going that way. So what's the natural thing to do?
23 You don't want someone to kill themselves, do you,
24 regardless even if you know the person? So you prevent that
25 person from going to get the guns.

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1 And he never made it there. You know, they said he was
2 in the yard and the officer says that they were a few feet
3 inside the door, you know. Mr. Tooker, himself, said -- I
4 think he said, he may not have, but somebody at some point
5 said you're going to remember stuff differently. Nobody's
6 going to tell the same version of the facts the same. So
7 certainly there's going to be some differences in different
8 people's testimony.

9 So -- but he never made it to the gun. He said that he
10 thought it was necessary to hold him down at that point
11 because he didn't want him to hurt himself, he didn't want
12 him to go harm himself. It certainly sounds necessary to
13 me. And then the police arrived.

14 So in looking at all that, I want you to just -- the
15 solicitor's version of it, I think he left out a few words
16 that I think are important. And the Judge will go over this
17 with you. Bear with me while I write this.

18 (Pause)

19 I apologize. I've never used this before. All right.
20 If you can read my handwriting -- my office will tell you I
21 have terrible handwriting.

22 But offer or attempt to cause physical harm or injury
23 with the present ability under circumstances reasonably
24 creating imminent fear. So he has to offer or attempt to
25 cause physical harm. And I think that goes without saying

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1 what physical harm is, some physical injury with the
2 apparent present ability to do so.

3 So let's look at the facts. The beer bottle, offer or
4 attempt, certainly a throw in certain circumstances can be
5 an offer or attempt to cause physical harm. Was it in this
6 situation? Ms. Ryder, herself, said it went by her head,
7 she didn't flinch, she got angry when it went by her. She
8 didn't get mad, she got angry.

9 With the present ability and circumstances to do so.
10 So that's one quick incident. It's over with. She wasn't
11 afraid of it. You know, it's my position that that's not
12 criminal domestic violence here.

13 So then you have the, I guess, coming after her where
14 Mr. Baldwin stood in front of him. He says I didn't have to
15 restrain him. Is that an offer or an attempt? I submit
16 absolutely not. And just because someone walks towards
17 somebody, there's no signs, no threatening statements made.
18 Mr. Baldwin said he never heard him make any threatening
19 statements to Ms. Ryder. So it's not an offer or attempt,
20 no present ability to do so.

21 The same thing with the gun. Went in the house -- even
22 if, I submit to you, which based on Mr. Baldwin's statement,
23 there was no threat involving a gun to Ms. Ryder. But if
24 you determine in your factual findings that he did make some
25 threat, you still have to determine that he had the apparent

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1 present ability to cause the fear of imminent peril. So he
2 would have to have access to the gun is my interpretation of
3 that. Did he have access to it? No.

4 Mr. Baldwin said he never made it to the house. Deputy
5 Raines said he made it 6 feet into the house. Either way,
6 he never made it anywhere near the guns. Ms. Rydér,
7 herself, said he didn't know where the guns were. And there
8 was no evidence that he did know where the guns were. There
9 was no evidence that he actually even knew there was a gun
10 in that house. No evidence whatsoever.

11 So -- and I end with this. You know, certainly
12 domestic violence cases are personal in nature just by the
13 very virtue of what we're dealing with. We're dealing with
14 family members, you know. But certainly -- there are
15 certainly other cases.

16 Mr. Tooker is trying to make a big deal about witnesses
17 recanting, alleged victims recanting, and that always
18 happens in criminal domestic violence cases. I'd submit to
19 you that's certainly not the case.

20 But certainly there are other cases where family
21 members are -- they are very personal in nature. Certain
22 criminal sexual conduct cases often involve family members.
23 And they go and have family members testifying against
24 family members. You have property crimes, children on drugs
25 robbing their parents, you know. These people still do

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1 that.

2 Now, I only say that -- that, yes, this is a crime of a
3 personal nature, but it's not exclusive to domestic violence
4 cases. The State still has to prove their case. And I
5 submit to you when you take these witnesses' testimony, and
6 I would submit focus on Mr. Baldwin's testimony, and
7 certainly when you weigh all the testimony together, I
8 submit to you you should return a verdict of not guilty
9 regarding Mr. Ryder. Thank you for your service in this
10 case.

11 **THE COURT:** All right. Ladies and gentlemen of the
12 jury, and Mr. Foreman, the State of South Carolina, as you
13 are aware, has charged the Defendant, Timothy Carson Ryder,
14 with one count of criminal domestic violence. And now
15 please remember that the Defendant has denied all of the
16 charges against him by entering a plea of not guilty, but is
17 presumed innocent of these charges.

18 The charges, as I've stated to you previously, are
19 based on an indictment. And that indictment is simply an
20 accusation against the Defendant. The evidence which you
21 are to consider is not the indictment, but it is the
22 witnesses who have come in and testified as long as such --
23 along with such exhibits as have been placed in the record
24 during the course of this trial. And you'll have those with
25 you in the jury room when you retire to deliberate.

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1 Please remember, the Defendant comes into this
2 courtroom clothed with the presumption of innocence. And
3 that innocence continues throughout this case and entitles
4 the Defendant to a verdict of not guilty unless and until it
5 is dispelled by evidence that satisfies you, the jury,
6 beyond a reasonable doubt that the Defendant is guilty of
7 the offense charged and the State has proved each and every
8 element of that offense beyond a reasonable doubt.

9 As I mentioned to you at the beginning of the case, you
10 are the judges of the facts under the Constitution of this
11 State, which makes you the judges of the credibility and the
12 believability of the witnesses who came in and testified
13 during the course of this proceeding.

14 And you may recall that I discussed with you at the
15 beginning of the case considerations of credibility and
16 believability that we take into account every day in talking
17 with people. I won't repeat the various factors that I
18 discussed with you. And I'll simply say you employ those
19 factors that you employ in everyday life in determining
20 credibility and believability.

21 And when you decide the facts of this case, ladies and
22 gentlemen, you may believe as much or as little of any one
23 witness' testimony you think proper. You can believe the
24 testimony of one witness against a whole group of witnesses
25 or you can do just the opposite. You may believe part of

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1 what a witness says and completely disbelieve the rest.

2 I would further say to you that the fact that certain
3 testimony is not controverted doesn't mean you have to
4 accept it as true and undisputed because you must still
5 first gauge credibility and believability of the witness to
6 determine the truth of the facts offered through that
7 testimony. Keep in mind throughout this process you have
8 one objective, and that is to seek and find the truth
9 regardless from which witness or from which side of the case
10 that may come.

11 Now, there are two types of evidence in cases such as
12 these. I want to discuss that with you. There's direct
13 evidence and there's circumstantial evidence. Direct
14 evidence is the testimony of a person who asserts or claims
15 to have actual knowledge of a fact such as an eyewitness who
16 would testify about what they saw, or heard, or did. That's
17 direct evidence.

18 Circumstantial evidence, on the other hand, is indirect
19 evidence. Circumstantial evidence is truth of a set or
20 chain of facts that then indicate the existence of yet
21 another fact. I would tell you that the law makes no
22 distinction between the weight or value to be given to
23 either direct or circumstantial evidence. Nor is a greater
24 degree of one required over the other.

25 You should weigh all the evidence in this case, both

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1 direct and circumstantial. And after weighing all the
2 evidence, if you're not convinced of the guilt of the
3 Defendant beyond a reasonable doubt, then you must find the
4 Defendant not guilty.

5 Now, ladies and gentlemen, throughout this trial you
6 have listened closely to the evidence because every time
7 I've looked up to observe you, as I'm doing now, you've sat
8 there with close focus and what I call rapt attention. And
9 I'm grateful for your level of commitment to this case.

10 And when you go back in the jury room to weigh the
11 evidence, I'm sure you've noticed, there's not some set of
12 scales back there to weigh the evidence. Obviously, that's
13 because this is entirely a mental process. But on that
14 point I would say to you that evidence that weighs with you
15 is evidence that convinces you of its truth, again,
16 regardless from which witness or for which side of the case
17 that may come.

18 Now, the same Constitution that makes you the judge of
19 the facts makes me the judge of the law. And I will tell
20 you from living in a small town like many of you do as well
21 that I know that out on the street there's a lot of bad
22 information about the law no matter what particular area of
23 the law you may be discussing.

24 And so I simply would ask you to please set aside any
25 preconceived notions that you may have about what the law is

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1 or even what you or I think might be a better idea. Just
2 simply accept the law as I give it to you, apply it to the
3 facts as you find it. And if you do that, ladies and
4 gentlemen, then you will reach a verdict which is just and
5 which is fair.

6 Now, in a criminal prosecution of this type, as I've
7 already stated, the burden is on the Prosecution at all
8 times. The Defense has no burden. And the Defendant is
9 presumed innocent. And in this State, according to our
10 Constitution, the Prosecution must prove its case to the
11 standard of proof we call beyond a reasonable doubt before a
12 finding of guilt may occur.

13 If the State fails to meet this high burden, then the
14 Defendant is entitled to an acquittal. So you say, well,
15 okay, well, then what is a reasonable doubt? Well, I'm
16 going to start by telling you what it's not. It's not an
17 imaginary or a fanciful doubt or a weak doubt. It's a
18 substantial doubt. It's a doubt that the words imply, a
19 doubt for which you can give or assign a reason based on the
20 testimony and the evidence in this case.

21 A reasonable doubt is not any sort of a doubt. You and
22 I know from everyday life experience that we may have some
23 kind of a doubt about any matter that arises such as what
24 tie to wear to an event or what pair of shoes to wear to an
25 event, no matter how trivial that matter may be. That's not

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1 a reasonable doubt.

2 A reasonable doubt is a doubt that makes an honest,
3 sincere, conscientious juror in search of the truth hesitate
4 to act. Proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of the Defendant's guilt. If
6 you have a doubt for which you can give or assign a reason
7 as to the guilt of the Defendant, then he is entitled to a
8 verdict of not guilty in this case.

9 I tell you that reasonable doubt may arise from the
10 evidence that's in the case or the lack or absence of
11 evidence in the case. And you, the jury, must make a
12 determination of whether or not reasonable doubt exists in
13 this case.

14 I will tell you, though, the fact that you go back and
15 engage in a full and free discussion in your deliberation
16 room on the issue of guilt or non-guilt in this case with a
17 conversational ebb and flow on those issues doesn't
18 automatically mean that reasonable doubt exists in this case
19 or in any other case for that matter.

20 Now, ladies and gentlemen, I further charge you under
21 South Carolina law that criminal intent is a necessary
22 element of each crime that must be proved by the State
23 beyond a reasonable doubt. Criminal intent is always a
24 matter that must be determined by the jury from the
25 circumstances that surround a situation.

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1 There's no way to prove intent to some mathematical
2 certainty. You and I know that medical science would not
3 permit us to open someone's brain and look in and determine
4 what they had in mind at a particular time. So the law
5 states that criminal intent may be inferred from the
6 circumstances shown to have existed both before and after
7 the fact. And this is how you, the jury, determine whether
8 or not the element requiring intent has been proved, that's
9 criminal intent.

10 Now, criminal intent is a state of mind that operates
11 jointly with an act or omission, act or omission in the
12 commission of a crime. Criminal intent is a mental state of
13 conscious wrongdoing. So it's up to you, the jury, to
14 determine whether the State has proved the element of
15 criminal intent based on the circumstances shown to have
16 existed in this case. I tell you the State must prove
17 criminal intent beyond a reasonable doubt just as the State
18 must prove every other element in the case beyond a
19 reasonable doubt.

20 Now, I further instruct you and emphasize to you,
21 ladies and gentlemen, that the fact that the Defendant did
22 not testify is not a factor to be considered by you in your
23 deliberations of this case and in your consideration of the
24 question of guilt or innocence in this case. It must not be
25 considered by you in any matter whatsoever. A defendant has

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1 a constitutional right to remain silent. And the assertion
2 of this right must not be considered by you in your
3 deliberations.

4 And I repeat, under the oath you took when we began
5 this case you are to draw no conclusion whatsoever from the
6 fact the Defendant did not testify. And the fact the
7 Defendant did not testify should not even be discussed in
8 the jury room because the burden of proof, as I've stated to
9 you, is on the State, always on the State. The Defendant is
10 not required to prove his innocence, and the burden of proof
11 remains on the State to prove the Defendant guilty beyond a
12 reasonable doubt before a finding of guilt may occur.

13 Now, let's talk about the specific charge here. The
14 Defendant in this case is charged with criminal domestic
15 violence. To prove this charge the State must prove beyond
16 a reasonable doubt that the Defendant caused physical harm
17 or injury to a member of the Defendant's own household, or
18 the Defendant offered or attempted to cause physical harm or
19 injury to a member of the Defendant's own household with the
20 apparent present ability to cause harm or injury under
21 circumstances that reasonably create a fear of imminent
22 danger.

23 A household member, for purposes of this statute, is a
24 spouse, a former spouse, a parent, a child, a grandparent,
25 brother, sister, grandchild, a person with whom the

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1 Defendant has a child in common and a person of the opposite
2 sex with whom the Defendant is living or has lived in the
3 past.

4 I further charge you, ladies and gentlemen, that
5 insanity which may be caused by the use of drugs or alcohol
6 may be a defense if the insanity is permanent and destroys
7 the Defendant's ability to understand right from wrong.
8 However, when voluntary intoxication has not produced
9 permanent insanity, it is not a defense to a crime. A
10 person who voluntarily becomes intoxicated is just as
11 responsible for his acts committed while intoxicated as when
12 a person is not intoxicated.

13 I further charge you that mere presence at the scene of
14 some incident is not sufficient to prove somebody guilty of
15 a crime. A defendant's presence where a crime is committed
16 or mere association with people who may commit a crime does
17 not make the Defendant an accomplice, or an aider, or
18 abetter or responsible for the commission of a crime.

19 The burden's on the State to prove every element of a
20 crime charged in every case. If you find, after reviewing
21 all the evidence, that the State has only proved here that
22 the Defendant was present at the scene of some incident, and
23 that they have not proved beyond a reasonable doubt any
24 other participation or crime by the Defendant, then you must
25 find the Defendant not guilty of this charge. The law is

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1 that proof of presence at the scene of a crime or an
2 incident is not sufficient to find someone guilty of a
3 crime. All right.

4 Now, Mr. Foreman, and ladies and gentlemen, in a moment
5 you're going to retire to begin your deliberations. And I
6 want to express to you the importance of your
7 responsibility. And I know that you are aware of that.

8 You're not called upon to serve as jurors very often.
9 In fact, you may remember Judge Welmaker told you yesterday
10 that you can't be required to serve in the same court more
11 than one time in three calendar years. And there's a reason
12 for that.

13 And the reason for that is because it's a difficult
14 task. And it requires you and I to reach the height of
15 freeing our minds from all outside or improper influences
16 because we are acting for the community here to see that
17 every person tried, that the verdict is just and that the
18 trial is fair.

19 Now, you've observed throughout this case, I'm sure,
20 that the presiding officer, which is me, is referred to as
21 Your Honor. And I know you know that's not some title given
22 to me, it's a title that's assigned to the position I'm
23 privileged to hold because this Court is entrusted with the
24 honor of this community, this County, this State and indeed
25 this Nation to see to -- to see to it that every person

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1 tried here receives fair and impartial justice.

2 Now, in a few moments you're going to take the care and
3 the preservation of the honor of this community, County,
4 State and Nation with you into the jury room when you decide
5 this case. Now, please understand, when I say that, ladies
6 and gentlemen, I'm not telling you how you should decide
7 this case. That is not my point at all. That would be
8 improper.

9 I'm simply saying this, as the presiding officer of
10 this courtroom it is of vital importance that whatever
11 verdict you reach will be the result of your going back into
12 the jury room, confining your consideration and
13 deliberations to the evidence that was put forth here in
14 this courtroom, weighing that evidence fairly and
15 impartially, and applying it to the law that I've given you
16 here in this charge. And if you do that, you will reach a
17 verdict which represents justice.

18 And I'll tell you, ladies and gentlemen, everyone in
19 this case, both sides are entitled to justice, nothing more
20 and nothing less. We owe no support to any party. We owe
21 no sympathy to any party. And I am of the confirmed
22 impression that if you follow the Court's instructions and
23 the law in this charge that you will reach a verdict which
24 represents truth and justice as you deliberate the evidence
25 in this case.

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1 Now, remember, Mr. Foreman, your verdict in this case
2 must be unanimous. It cannot be a split decision. It must
3 be a unanimous decision. And I have here in my hands the
4 verdict form, which you can't see from that distance, but it
5 has one question. And the question is simply this, it says
6 as to the charge of criminal domestic violence, we, the
7 jury, unanimously find the Defendant, Timothy Carson Ryder,
8 beyond a reasonable doubt and then: and you have two
9 choices.

10 Now, let me say when I have two choices to give you on
11 a piece of paper, I can't give them to you at the same spot
12 on the paper. One must come in front of the other. But
13 there's no priority, there's no preference. It's just the
14 first one simply says not guilty and the second one says
15 guilty. Whatever the unanimous verdict is, please mark
16 beside the correct answer.

17 And then below that it says this, Mr. Foreman, it says
18 I certify that this verdict is the unanimous decision of the
19 jury. And when you sign there, sir, you are telling us, you
20 are certifying that this is, indeed, a unanimous decision.

21 So in your jury room, if some are seated at the table,
22 some standing over by the wall, if someone wishes to be
23 heard on a particular point, please give them that
24 opportunity so that your verdict is not only a consensus
25 verdict, but, indeed, it is a unanimous verdict.

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1 Now, what I'd ask you to do, ladies and gentlemen, is
2 I'm going to let you step back to the jury room and just
3 take a break for a moment and not begin deliberations until
4 I send the exhibits and the jury form back to you. And then
5 you should begin deliberations. It'll take us a moment to
6 make sure we have everything organized, we have it in
7 appropriate -- that it is appropriate and the appropriate
8 order. And then when we send it in to you, we would ask you
9 to begin deliberations.

10 Now, when you reach a verdict, please knock on the
11 door. We'll be here to receive that knock and respond to
12 the verdict or should you have some question or need to
13 contact the Court, knock on the door. If there's some
14 comment or question, please put it in writing and give it to
15 the bailiff. And we will respond in writing so that any
16 communications between us will be preserved for our record.

17 Now, out of respect for you, again, we'll remain where
18 we are while you return to the jury room. Please do not
19 begin deliberations until we send the exhibits in to you.
20 Thank you.

21 (Whereupon the jury exited the courtroom at 3:51 PM)

22 **THE COURT:** All right. The jury is clear. We'll bring
23 our alternate back out whenever we send the evidence in.
24 But let me ask, ladies and gentlemen, other than those that
25 were mentioned prior to the final arguments in the closing,

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1 **MR. FOREMAN:** We have.

2 **THE COURT:** All right. Would you, please, give your
3 verdict form to Mr. Evans. Thank you. All right. Let's
4 let the record reflect that the verdict form is
5 appropriately filled out and signed by the Foreperson, Mr.
6 Charles S. Roach. And, Ms. Garrett, if you would, please,
7 publish the verdict. Defendant, please stand. Thank you.

8 **MADAME CLERK:** In the case 2012-GS-39-2339, the State
9 of South Carolina versus Timothy Carson Ryder, as to the
10 charge of criminal domestic violence, we, the jury,
11 unanimously find the Defendant, Timothy Carson Ryder, beyond
12 a reasonable doubt, guilty. Is this your verdict and still
13 your verdict? If so, please raise your right hand.

14 (Whereupon all the jurors raised their right hand)

15 **MADAME CLERK:** Thank you.

16 **THE COURT:** Let's let the record reflect that all of
17 the jurors have raised their right hands in response to the
18 clerk's question. And, now, while we are in the presence of
19 the jury, Mr. Stewart, [sic] is there a jury question or a
20 motion for which a jury response would be necessary?

21 **MR. ALEXANDER:** No, Your Honor.

22 **THE COURT:** All right. Very good. You may be seated
23 then. All right. Ladies and gentlemen of the jury, we are
24 going to enter into a sentencing proceeding at this time.

25 And what I'm going to do, though, is I'm going to

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1 respond. And we also, under the Victims' Bill of Rights,
2 we'll also hear from Ms. Ryder again, if she wishes to
3 speak. She's not required to, but she's given that
4 opportunity as well. And, Mr. Tooker, what do you have to
5 say, sir, about sentencing?

6 **MR. TOOKER:** Thank you, Your Honor. May it please the
7 Court. First, I'd like to just address his prior criminal
8 history. 2004, conviction out of Tennessee for simple
9 assault, later, 2004, in Pickens County, South Carolina,
10 criminal domestic violence, first offense, 2008, criminal
11 domestic violence, second offense, and resisting arrest.

12 2011, DUI with great bodily injury for which he
13 received five years of probation. I believe he is currently
14 on probation and his supervision end date is 7/13/2016.

15 And then, finally, February 2nd of 2012 -- this is the
16 one I kind of want to address. He has a conviction for
17 assault and battery, third. Now, that conviction for
18 assault and battery, third, was pled down by me as -- from
19 a criminal domestic violence, third offense. I prosecuted
20 the case.

21 And like this case, Ms. Ryder, the Defendant's wife,
22 came in, told me that she had lied about what had happened,
23 told me that it didn't happen the way she said it happened
24 initially. And so I decided to take her at her word. We
25 worked out a deal whereby he pled to a much smaller charge

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1 potentially in terms of penalty. And when this charge came
2 I was aware of that prior circumstance, concluded that I
3 would not take her at her word again and that we would go
4 forward at trial.

5 The State's of the opinion that this case is a prime
6 example of -- and like we saw with Ms. Choiniere, too, that
7 cycle of domestic violence, how these victims are victimized
8 and then things get hunky-dory again, they get back
9 together, they change their story, but then that abuse
10 happens again, and it happens again, and it happens again.
11 And that's why we're here before Your Honor on a criminal
12 domestic violence, third offense.

13 So the State would request a period of incarceration to
14 reflect not the severity of the act, but the severity of
15 this continuing chain of circumstances.

16 **THE COURT:** Very good. Thank you. And let me respond,
17 if I may, to the jury. The first thing I'm sure you must
18 think is why didn't we know that there was a prior history
19 and also specifically a prior history for domestic violence?
20 I will tell you that simple domestic violence, that is first
21 offense, is typically handled in the Magistrate's Court.

22 And in order to get to this level of court it has to
23 have -- to be either a high and aggravated incident or one
24 where there had been multiple CDVs. But that does not come
25 into evidence under our rules of evidence unless the

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1 Defendant takes the stand. And then it becomes an issue as
2 to the Defendant's credibility and believability.

3 The question before the Court in this case is did the
4 Defendant commit CDV in this incident? If you let in a long
5 history of whether there's one or maybe five, that -- of
6 previous incidents, then it tends to prejudice the Defendant
7 because the jury would believe as the finders of the fact
8 that if it happened before, well, it must have happened
9 again.

10 So to prevent that prejudice to the Defendant, those
11 priors do not come into evidence, again, unless the
12 Defendant takes the stand to defend himself or to testify to
13 whatever he wishes to testify. And then it comes in only on
14 the issue of the witness' credibility and believability.

15 So this may be a reason that the Defendant chose not to
16 testify. I don't know that. That's not for the Court to
17 decide. That's for the Defendant to decide. But I
18 discussed that with him prior to the Defendant's closing
19 their case. He had told me he had made the decision himself
20 not to testify in this case.

21 Now, in response, Mr. Alexander, do you have something
22 you wish to say?

23 **MR. ALEXANDER:** Yes, Your Honor. We would ask Your
24 Honor -- we understand, of course, this is a CDV, third, and
25 it carries a minimal/mandatory of one year. And I've

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1 explained to Mr. Ryder that it's, at least to my
2 understanding, that that's a day-for-day sentence even in
3 the Department of Corrections for at least the first year of
4 that. And he's certainly aware that it carries up to five
5 years, is my understanding.

6 We would ask Your Honor to consider a house arrest
7 sentence, Your Honor. He certainly is on probation for this
8 DUI, felony DUI, I think is what it is. He had a revocation
9 hearing on that last June or, actually, two Junes -- June of
10 2012, a few months after this was pending.

11 And it was based primarily on the fact that as Your
12 Honor heard the testimony is that he acknowledged that he
13 was intoxicated that night which was, of course, a violation
14 of his probation. He was revoked on that and got six months
15 of home incarceration -- the Home Incarceration Program,
16 which he completed successfully, to my knowledge. Is that
17 correct, Mr. Ryder?

18 **MR. RYDER:** Yes, sir.

19 **MR. ALEXANDER:** He is currently working, Masters
20 Electric in Six Mile. He can certainly afford the house
21 arrest. He would either live with his sister at 202 Butler
22 Road in Easley or possibly with his wife. But he certainly
23 could live with his sister if there was some type of
24 restraining order or something. I don't think Ms. Ryder is
25 seeking one.

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1 He has three kids that, I believe, all reside in the
2 home with him that he takes care of and helps support. This
3 -- his record is what it is. I won't belabor the point on
4 that.

5 But I would ask Your Honor to look at the facts that
6 were presented. And, obviously, I'm not in the jury's head
7 as to what exactly they convicted him on, but you have a
8 bottle, there was no physical injury in this case, there was
9 no gun present. And I would ask Your Honor to consider
10 that.

11 **THE COURT:** And as I'm sure you're aware, ---

12 **MR. ALEXANDER:** Yes, sir.

13 **THE COURT:** --- Mr. Alexander, of course, no injury is
14 required at this ---

15 **MR. ALEXANDER:** Yes, sir.

16 **THE COURT:** --- for this CDV, and all that's required
17 is that the Defendant [sic] be placed in a reasonable fear
18 of imminent harm. And there was overwhelming evidence of
19 that in this case in spite of the fact that multiple
20 witnesses recanted their story that they told to the police
21 or their initial statement. But the Court finds that the
22 jury's decision was proper. There was overwhelming evidence
23 against the Defendant.

24 **MR. ALEXANDER:** I was not arguing that at all, Your
25 Honor. I was simply arguing, trying to -- Your Honor heard

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1 the facts for himself and that there was no -- there was no
2 physical injury in this case is all I was saying. I'm not
3 arguing ---

4 **THE COURT:** Well, and ---

5 **MR. ALEXANDER:** --- with the jury's verdict at this
6 point. It is what it is.

7 **THE COURT:** And I would respond and say for that the
8 Defendant's fortunate. He's fortunate that the other family
9 members stopped him before he got a weapon and hurt someone.
10 He's fortunate he didn't hit her in the head with a beer
11 bottle that he threw because that could be a fatal injury as
12 well.

13 **MR. ALEXANDER:** Yes, sir.

14 **THE COURT:** And so while your Defendant may not feel
15 this way, he has many blessings that he should be counting
16 because it could be far -- far much -- it could be much more
17 worse. Go ahead, sir.

18 **MR. ALEXANDER:** That's all I have to say. Mr. Ryder,
19 do you want to say anything?

20 **THE COURT:** All right, sir. Mr. Ryder, remember, you
21 remain under oath from our previous discussion about your
22 decision not to testify. If you have something you wish to
23 say, I'll be glad to hear from you.

24 **MR. RYDER:** Yes sir. I'm in a skilled job. I've got a
25 job as an electrician. I've been working for a while there.

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1 And I've worked for this guy for years. And right now it's
2 just me and another guy that actually works for him. So,
3 you know, I like what I do.

4 I've been keeping my, you know, keeping clean. I've
5 actually -- I was supposed to complete my CDV class tonight.
6 I was going to graduate from my class tonight for that. I
7 did do my 26 weeks for a CDV class. And, like I said, I was
8 supposed to graduate tonight.

9 And I've got three kids that I support and help clothe
10 and feed them and everything. And, you know, if I can do a
11 year of house arrest and be able to continue to work, and
12 support my family, and my kids and everything, I would be
13 grateful for that.

14 And I've been going to church. My pastor is actually
15 here now with me. And I've been trying to get myself right
16 with the Lord and stay on the path that I need to be and
17 keep out of trouble. I've been doing everything that I can
18 to help support my family and do what I need to do.

19 **THE COURT:** Anything further?

20 **MR. ALEXANDER:** I don't believe so, Your Honor. And
21 that would be all that we would have.

22 **THE COURT:** All right. And, Ms. Ryder, ma'am, are you
23 present still?

24 (Whereupon Ms. Ryder stood)

25 **THE COURT:** Do you have something that you wish to say?

SENTENCE OF THE COURT

230 ~

1 **MS. RYDER:** Not at this time.

2 **THE COURT:** All right. Very good. Please be seated.

3 Mr. Ryder, what I found missing from your comments was,
4 first of all, an apology to your wife, really to the
5 citizens of Pickens County, but specifically to this jury
6 who's had to invest now two days of their life in this. All
7 the resources of this court all stopped and focused on you,
8 sir, because you repeatedly and continually commit criminal
9 domestic violence against your spouse.

10 And you said that you're responsible for three
11 children. Now, let me ask you, what kind of example are you
12 setting for them? And we've seen it clearly what the
13 example is because just yesterday Ms. Choiniere, who's in
14 custody in the back now and her, not husband, but the person
15 with whom she lives, victim of a criminal domestic violence,
16 sir, it's all around you. And the reason it's all around
17 you is because you set the role model here for this group
18 and this family.

19 So why do you want to have everyone subjected to this
20 kind of violence and intimidation in a household?

21 **MR. RYDER:** I don't, Your Honor. I don't. That's why
22 I say -- I'm doing what is -- what I need to do to prevent
23 that any further from my kids and from any of my family
24 members. And I'm sorry that I didn't apologize to the
25 Court, and to the jury, and to my wife and everything.

SENTENCE OF THE COURT

231

1 **THE COURT:** Well, this just has to do with a mind-set,
2 sir. And it's unfortunate that Ms. Ryder has to come in
3 here and lie for you because I felt, although I'm not the
4 judge of the facts, I think the jury rejected her testimony
5 in the jury's verdict.

6 And it's unfortunate that she would be put in that
7 situation to be victimized first when it happens and this
8 would be at least the fourth time, and that's just the four
9 times that the police have been called, and then victimized
10 again when she comes in here and faces the loss of
11 livelihood, support for children and all the other things
12 that go along with criminal domestic violence, sir.

13 And it's unfortunate because it's not an act of power
14 or strength, it's an act of cowardice, it's an act of
15 weakness. And someone who cannot control their anger and
16 cannot control their -- really their intimate relations with
17 people with whom they live, then they subject their
18 children.

19 If we could fast-forward 20 years down the road, I
20 hesitate to say it, I'm sorry to say it, sir, but your
21 children would be here in one sense or another either as a
22 victim or a perpetrator because this is the endemic nature
23 of criminal domestic violence.

24 And based on that, sir, and the repetitive nature of it
25 I find it appropriate to sentence you to 30 months, that's

SENTENCE OF THE COURT

232

1 two and a half years in the Department of Corrections.
2 We'll credit you for any time that you served while you were
3 awaiting this proceeding, but that is the sentence of the
4 Court. I'm going to remand you now to the custody of the
5 Detention Center. Good luck to you, sir.

6 **MR. ALEXANDER:** Thank you, Your Honor.

7 **MR. TOOKER:** Thank you, Judge.

8 **THE COURT:** Thank you.

9 (Whereupon the Defendant exited the courtroom)

10 (Hearing ended at 4:57 PM)

11 (End of requested transcript of record)

VOLUNTARY STATEMENT

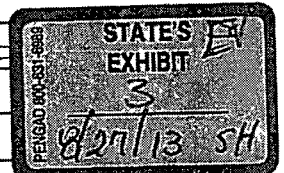
DATE 2/1/12 PLACE [REDACTED] TIME STARTED 11:00g MI, the undersigned, Erica Lynn Ryder, am _____ years of age, my date and place ofbirth being the _____ day of _____ at Franklin County, MASSI now live at aboveBefore answering any questions or making any statements, K.E. Gikring

a person who identified himself as a Deputy
 duly warned and advised me, and I know and understand that I have the following rights: That I have the right to remain silent and I do not have to answer any questions or make any statements at all, that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make, that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime during any questioning or statements that I make, without cost or expense to me, that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements.

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever.

Timothy Ryder threw a 24oz beer bottle attempting to hit me with it. The bottle missed hitting me. I had a friend of mine present my daughter & son in law had just left the house. I immediately called my son in law and daughter asking them to return to my home. At this time Tim threatened to kill me "I have bullets" "I will take you out" My son in law & friend Ernie then tackled Tim to ground & sub (ER) subdued him till police arrived. E. Ryder



I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of a statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in a statement.

This statement was completed at _____ M on the _____ day of _____ 20____

WITNESS Ked E. [Signature] E-34

WITNESS _____

Erica L. Ryder
 Signature of person giving voluntary statement

VOLUNTARY STATEMENT

DATE 2-11-13 PLACE Ernest Ballard TIME STARTED 11:11 M
 I, the undersigned, Ernest Ballard am 29 years of age my date and place of
 birth being the [REDACTED] at New York
 I now live at [REDACTED]

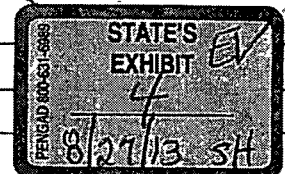
Before answering any questions or making any statements, KE. Gilstrap

a person who identified himself as a Deputy
 duly warned and advised me and I know and understand that I have the following right: That I have the right to remain silent and I do not have to answer any
 questions or make any statements at all, that any statement I make can and will be used against me in a court or courts of law for the offense or offenses
 concerning which the following statement is hereinafter made, that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning
 or statements I make that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime
 during any questioning or statements that I make, without cost or expense to me that I can stop answering any questions or making any statements at any time that I
 choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already
 answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make
 the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer
 present with me before answering any more questions or making any more statements, if I choose to do so

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm without
 coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever

Ernest Ballard Tina glass bullet at Ernest Ballard Thun
was a man after her. He was Phillip Tom stopped him. He was also
talking about killing himself and went for a gun. I am Ernest
Ballard Jr.



have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify
 at the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of
 is statement, nor at any time before it was finished did I request that this statement be stopped I also declare that I was not told or prompted what to say in
 is statement.

his statement was completed at _____ M on the _____ day of _____, 20____

ITNESS: KE. Gilstrap E-34

ITNESS: _____

Ernest Ballard Jr.

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

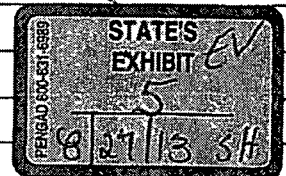
DATE 2/1/12 [REDACTED] TIME STARTED 11:00 P
 I, the undersigned, Phillip Spencer Towne, am 26 years of age, my date and place of
 birth being the [REDACTED] at Easton
 I now live at [REDACTED] six mile SC 29082
 Before answering any questions or making any statements K.F. Gilstrap
Deputy

a person who identified himself as a
 duly warned and advised me, and I know and understand that I have the following rights That I have the right to remain silent and I do not have to answer any
 questions or make any statements at all, that any statement I make can and will be used against me in a court or courts of law for the offense or offense
 concerning which the following statement is hereinafter made that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning
 or statements I make; that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority, before or at anytime
 during any questioning or statements that I make without cost or expense to me that I can stop answering any questions or making any statements at any time that I
 choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already
 answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make
 the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer
 present with me before answering any more questions or making any more statements, if I choose to do so

I declare that the following voluntary statement is made of my own free will without promise of hope or reward without fear or threat of physical harm, without
 coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whomsoever

I, Phillip Towne came back after my Mother-in-law
 law called saying "Tim" throw a Beer At her
 I came back to the Home getting out my Van
 An tim Running at her I step In An stop him
 throwing Him to the ground about a few min
 later I let him up an he runs in the
 house toward the guns So I Stop him
 again till the Police show up. End of statement



I have read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify
 at the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of
 a statement, nor at any time before it was finished did I request that this statement be stopped I also declare that I was not told or prompted what to say in
 a statement.
 is statement was completed at _____ M on the _____ day of _____, 20____

WITNESS:

WITNESS:

Signature of person giving voluntary statement

VOLUNTARY STATEMENT

DATE 2-1-12 PLACE [REDACTED] TIME STARTED 11:00 P.M.
 I the undersigned, Katelyn Chainiere, am 21 years of age, my date and place of
 birth being the [REDACTED] at Franklin Medical Center
Central SC
 I now live at [REDACTED]

Before answering any questions or making any statements

K.E. Gilson
Deputy

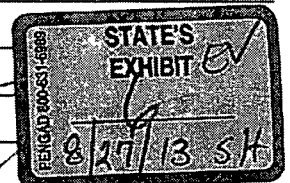
a person who identified himself as [REDACTED] duly warned and advised me, and I know and understand that I have the following rights. That I have the right to remain silent and I do not have to answer any questions or make any statements at all; that any statement I make can and will be used against me in a court or courts of law for the offense or offenses concerning which the following statement is hereinafter made; that I have the right to consult with a lawyer of my own choice before or at anytime during any questioning or statements I make that if I cannot afford to hire a lawyer, I may request and have a lawyer appointed for me by the proper authority before or at anytime during any questioning or statements that I make, without cost or expense to me, that I can stop answering any questions or making any statements at any time that I choose, and call for the presence of a lawyer to advise me before continuing any more questioning or making any more statements, whether or not I have already answered some questions or made some statements

I do not want to talk to a lawyer, and I hereby knowingly and purposely waive my right to remain silent, and my right to have a lawyer present while I make the following statement to the aforesaid person, knowing that I have the right and privilege to terminate any interview at any time hereafter and have a lawyer present with me before answering any more questions or making any more statements, if I choose to do so

I declare that the following voluntary statement is made of my own free will without promise of hope or reward, without fear or threat of physical harm, without coercion, favor or offer of favor, without leniency or offer of leniency, by any person or persons whatsoever.

I Katelyn Chainiere age 21 Daughter of Erica Ryder
arrived back at my mother's house after receiving a
phone call that Timothy Ryder was acting threatening toward
my mom. When we arrived (Phillip Touse & I) Tim was
yelling and trying to come after my mother. Ernie +
Phillip restrained Tim against the pavement while my
mom called 911. Tim then was let up and he
ran into my mother's house threatening to obtain a
gun and use it on either himself or my mom.
It was then Ernie + Phillip restrained him again
until police arrived.

END STATEMENT



I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct. I further certify that I made no request for the advice or presence of a lawyer before or during any part of this statement, nor at any time before it was finished did I request that this statement be stopped. I also declare that I was not told or prompted what to say in this statement.
 This statement was completed at 11 P.M. on the 1st day of Feb, 2012.

WITNESS: Kate E. Gilson E-34

WITNESS:

Katelyn Chainiere
 Signature of person giving voluntary statement

DOCKET NO. 2012-GS-39-^{SBT}2339

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUL 23 2013 TERM 2012

THE STATE

vs.

TIMOTHY CARSON RYDER

ARREST WARRANT NUMBER

M386729

ACTION OF GRAND JURY

TRUE BILL
Date: 7/23/2013

Steven Richardson
Foreperson of Grand Jury

VERDICT

GUILTY
John S. R. H.
Aug 27, 2013

Foreperson of Petit Jury

Date:

Indictment for

3055

DOMESTIC VIOLENCE 3RD OR ABOVE

VIOLATION § 16-25-0020

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
DOMESTIC VIOLENCE 3RD OR ABOVE

At a Court of General Sessions, convened on

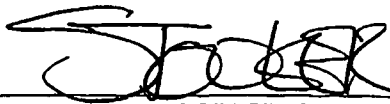
JUL 23 2013

the Grand Jurors of Pickens

County present upon their oath:

That TIMOTHY CARSON RYDER did in Pickens County, on or about the 1st day of February, 2012, unlawfully cause, offer, or attempt to cause physical harm or injury to a household member, ERICA RYDER, with apparent present ability under circumstances reasonably creating fear of imminent peril, after having been previously convicted of at least two (2) violations of Criminal Domestic Violence within a period of ten years including and immediately preceding the foregoing date. This is in violation of §16-25-20(A), (D) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Pickens

VS.

Timothy Carson Ryder

AKA:

Race: WHITE Sex: M Age: 35

DOB: SS#:

Address:

City, State, Zip: Easley, SC 29642

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Domestic/Criminal Domestic Violence; 3rd offense within 10 yrs ; or 2 prior convictions of any combination of 16-25-0020 wit

in violation of § 16-25-0020 of the S.C. Code of Laws, bearing CDR Code # 3055

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The 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:

Tooker, Sam

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

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: \$ _____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114(BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90 5 (SCCJA Surcharge)

3% to County (if paid in installments)

TOTAL

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

\$

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: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

IN THE COURT OF GENERAL SESSIONS

187

INDICTMENT/CASE#: 2012GS3902339

A/W#: M386729

Date of Offense: 2/1/2012

S.C. Code § : 16-25-0020

CDR Code #: 3055

SENTENCE SHEET

1-5

☒ CONVICTED OF or ☐ PLEADS

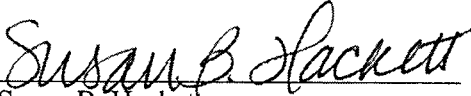
Handwritten signature: Harold P. Welborn Jr.
Handwritten signature: Susan Hudgens

Handwritten signature: [Signature]
Handwritten date: 8/27/13

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."

November 4th, 2014


Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

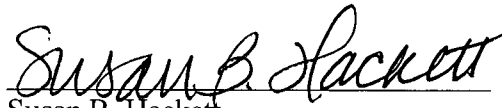
NOV 04 2014

SC Court of Appeals

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."

November 4th, 2014


Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED

NOV 04 2014

SC Court of Appeals

9

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

RECEIVED
NOV 04 2014
SC Court of Appeals

Appeal from Pickens County

J Michael Baxley, Circuit Court Judge

THE STATE,

RESPONDENT,

V

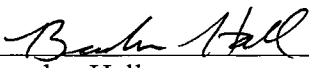
TIMOTHY CARSON RYDER,

APPELLANT

APPELLATE CASE NO. 2013-001916

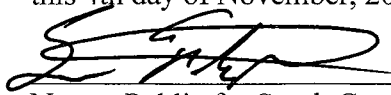
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Mark R. Farthing, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 4th day of November, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of November, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.