

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

**RECEIVED**

AUG 05 2015

THE STATE,

RESPONDENT, of Appeals

V.

JOSEPH WILLIAMS DINKINS,

APPELLANT

APPELLATE CASE NO. 2014-001593

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA )  
 )  
VS. )  
 )  
JOSEPH WILLIAMS DINKINS, )  
 )  
DEFENDANT. )  
 )

VOLUME 1 OF 2

held before the Honorable Edgar W. Dickson  
Hilda Jordan, Circuit Court Reporter, 1st Judicial Circuit  
in the Orangeburg County Courthouse  
Orangeburg, South Carolina  
on November 6, 2012, Commencing at 9:42 a.m.

SUSAN "MIA" PERRON, CVR-CM-M  
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MARKED/ADMITTED

State's Exhibit Number 1  
[Letter]

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Jury Trial  
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## PROCEEDINGS

[Whereupon, the jury panel is duly sworn by the Court]

[Whereupon, the roll is called by the clerk of court]

[Whereupon, the jury panel is qualified by the Court]

[Whereupon, the jury panel exits the courtroom]

THE COURT: We need to go back on the record for a second on this case of The State versus Joseph Williams Dinkins, indictment 2012-GS-38-1754.

We have -- before I started questioning the jury, I was advised by defense counsel that Mr. Dinkins had not appeared. We went ahead and questioned the jury. But Mr. Wise, anything you want to put on the record about Mr. Dinkins prior to us continuing with this?

MR. WISE: He obviously is not present. I would ask the Court to continue the matter to find -- or make an effort to find out why he is not present.

THE COURT: Ms. Ford?

MS. FORD: Thank you, Your Honor.

Your Honor, the State would move to proceed with trial in Mr. Dinkins' absence. Mr. Dinkins was here in court yesterday. It was placed on the record that

MIA PERRON, CVR-CM-M

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1 he was going to -- his case was first up for trial.  
2 On his bond paperwork, it indicates that if he fails  
3 to appear -- he has a right and obligation to be  
4 present at trial and if he does not attend, the trial  
5 will proceed in his absence. That paperwork was given  
6 to him at his bond hearing, Your Honor, in addition to  
7 yesterday being told that the trial was going to start  
8 this morning.

9 Your Honor, the State would be opposed to  
10 continuing this matter and we would move to proceed.

11 THE COURT: Mr. Wise? I mean, he was in court  
12 yesterday.

13 MR. WISE: He was.

14 THE COURT: And we had conversations during the  
15 morning that I was hoping -- hopeful would resolve  
16 this matter but of course it clearly did not.

17 I believe he did not come back in the afternoon?

18 MR. WISE: That's correct, Your Honor. That's  
19 correct.

20 THE COURT: Did you ever tell him we were not  
21 going to have this trial today?

22 MR. WISE: No.

23 THE COURT: So he was aware we were going to  
24 start today; is that correct?

25 MR. WISE: Yes, Your Honor. He was aware that

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1 the trial could go forward.

2 I don't know what the situation is. I don't  
3 know if he's in some way incapacitated and can't be  
4 here. I would just like the opportunity to see if I  
5 can find out.

6 THE COURT: Well, what I'm going to do, as I've  
7 got the jury here, I'm going to go ahead and -- I'm  
8 going to go ahead and continue to pick the jury.  
9 After we pick the jury, you'll have some time to try  
10 and get in touch with him to see if he's going to  
11 show.

12 And y'all remind me. Rather than excuse the  
13 jury, I'll probably get them to call back this evening  
14 in case we have some issue, if he does decide to come  
15 in, okay, after we've picked the jury. Okay?

16 Do you need a minute now to try and call him, or  
17 is your staff trying to call him at the present time?

18 MR. WISE: They should be working on that now,  
19 Your Honor. If you'll give me a moment, I could call  
20 and --

21 THE COURT: If you would just call over there,  
22 and just find out where we are, during this fifteen-  
23 minute break.

24 All right. Thank y'all. Thank you, sir.

25 [Whereupon, a recess is taken from 10:24 to

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1 10:33 a.m.]

2 THE COURT: All right. Ms. Ford, is the State  
3 prepared to call the case?

4 MS. FORD: Yes, sir, we are, Your Honor.

5 Your Honor, the State would call the case of the  
6 State of South Carolina versus Joseph Williams Dinkins  
7 for an indictment true-billed October the 10th, 2012,  
8 for criminal domestic violence of a high and  
9 aggravated nature.

10 THE COURT: Thank you, ma'am.

11 Ms. Ford, you've had an opportunity to look at  
12 the defendant's voir dire?

13 MS. FORD: Yes, sir, I have.

14 THE COURT: Any objections?

15 MS. FORD: No, Your Honor.

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Jury Voir Dire  
November 6, 2012

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JURY VOIR DIRE

THE COURT: Ladies and gentlemen, I've got some questions that I need to ask y'all. And again let me caution you if some of my questions bring up something that you feel like you absolutely need to talk to me about but it's not framed in my question, I will give you an opportunity at the end of all of this to come back up here and talk to me like we did the last time.

But I need for you to really -- when you have to respond to these questions, I need for you to stand and respond -- let me rephrase the question to you and let you respond directly to that question only.

Now, as Ms. Ford told you, this is the case of the State versus Joseph Williams Dinkins. The State in this matter is represented by Ms. Ford and Mr. Clariday.

Ms. Ford, if you and Mr. Clariday would stand and introduce yourselves.

MS. FORD: Good morning. My name is Sarah Ford. I'm the assistant solicitor prosecuting this case. Mr. Rob Clariday.

And I'm the same, but my name is Rob Clariday.

THE COURT: And the names of the other attorneys in the solicitor's office here.

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1 MS. FORD: Yes, sir.

2 The attorneys in our office, Don Sorenson,  
3 Harrison Bell, Tommy Scott, Brian Jeffries, and  
4 Crystal Chapman is our juvenile prosecutor.

5 THE COURT: Thank you, Ms. Ford.

6 Is any member of the jury panel related by blood  
7 or marriage or a close personal friend of any of the  
8 attorneys in the solicitor's office? If so, please  
9 stand at this time.

10 [Whereupon, there is no response]

11 THE COURT: All right. No one standing.

12 The defendant, Joseph Williams Dinkins, is not  
13 present at this time.

14 Let me advise you, just so you will be aware,  
15 that the fact that he is not present is not an  
16 indication, nor may it be construed by any member of  
17 the jury panel, that he is guilty. He is just absent  
18 at this time.

19 He is represented by the public defender's  
20 office, Mr. Wise and Mr. Stroud. If you would stand  
21 up, introduce yourselves and provide the names of the  
22 other attorneys in your office, as well.

23 MR. WISE: Good morning. My name is Mark Wise.  
24 I'm with the public defender's office.

25 MR. STROUD: John Stroud. Public defender's

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1 office, as well.

2 MR. WISE: The other lawyers in our office are  
3 Peggy Hines, who is the supervisor of our office, Doug  
4 Mellard and Jillian Coleman.

5 THE COURT: Thank you, sir.

6 Is any member of the jury panel related by blood  
7 or marriage, or a close personal friend, of any of  
8 these attorneys that work with the public defender's  
9 office? If so, please stand at this time.

10 [Whereupon, there is no response]

11 THE COURT: No one is standing.

12 Going back to the solicitor's office: has any  
13 member of the jury panel or a member of their  
14 immediate family been represented by the solicitor's  
15 office in any manner -- in any matter before this  
16 Court? If so, please stand.

17 [Whereupon, there is no response]

18 THE COURT: No one is standing.

19 Has any member of the jury panel or a member of  
20 their immediate family been represented by the public  
21 defender's office? If so, please stand at this time.

22 [Whereupon, there is no response]

23 THE COURT: No one is standing.

24 THE COURT: Do we have -- do I have a jury list  
25 -- I mean, a witness list?

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1 [Off the record momentarily]

2 THE COURT: Show that to Mr. Wise and make sure  
3 there's nobody else --

4 MS. FORD: Mr. Wise has a copy, Your Honor.

5 THE COURT: Ladies and gentlemen, as we  
6 mentioned before, the defendant's name is Joseph  
7 Williams Dinkins.

8 Any member of the jury panel related by blood or  
9 marriage, or a close personal friend, of Joseph  
10 Williams Dinkins? If so, please stand at this time.

11 [Whereupon, there is no response]

12 THE COURT: No one is standing.

13 I'm going to go through some other possible  
14 witnesses. This does not mean that all these people  
15 will be called, but they are possible witnesses for  
16 this trial.

17 Any member of the jury panel related by blood or  
18 marriage, or a close personal friend, of Crystal  
19 Allen? If so, please stand at this time.

20 [Whereupon, there is no response]

21 THE COURT: No one is standing.

22 Any member of the jury panel related by blood or  
23 marriage, or a close personal friend, of Kara Dowling?  
24 Kara is K-A-R-A. Any member of the jury panel related  
25 by blood or marriage, or a close personal friend, of

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1 Kara Dowling? If so, please stand at this time.

2 [Whereupon, there is no response]

3 THE COURT: No one is standing.

4 Any member of the jury panel related by blood or  
5 marriage, or a close personal friend, of Desi McQueen  
6 of the Orangeburg County Sheriff's Office? If so,  
7 please stand at this time.

8 [Whereupon, there is no response]

9 THE COURT: No one is standing.

10 Any member of the jury panel related by blood or  
11 marriage, or a close personal friend, of Lieutenant  
12 Judy Walton of the Orangeburg County Sheriff's Office?  
13 If so, please stand at this time.

14 [Whereupon, there is no response]

15 THE COURT: No one is standing.

16 Any member of the jury panel related by blood or  
17 marriage, or a close personal friend, of Kim Pew  
18 [phonetic] of the Orangeburg County Sheriff's Office?  
19 If so, please stand at this time.

20 [Whereupon, there is no response]

21 THE COURT: No one is standing.

22 Any member of the jury panel related by blood or  
23 marriage or a close personal friend of Deputy Mike  
24 Fasesco [phonetic]? Did I pronounce that right?

25 MS. FORD: It's Fasesco.

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1 THE COURT: Fasesco?

2 MS. FORD: Yes.

3 THE COURT: He is now with the Horry County  
4 Sheriff's Office. If so, please stand at this time.

5 [Whereupon, there is no response]

6 THE COURT: No one is standing.

7 Any member of the jury panel related by blood or  
8 marriage, or a close personal friend, of Michael  
9 Moskal --

10 MR. CLARIDAY: Moskal.

11 THE COURT: -- Moskal, who is with the State Law  
12 Enforcement Division? If so, please stand at this  
13 time.

14 [Whereupon, there is no response]

15 THE COURT: No one is standing.

16 Any member of the jury panel related by blood or  
17 marriage, or a close personal friend, of any member of  
18 any law enforcement agency? If so, please stand at  
19 this time.

20 [Whereupon, there is no response]

21 THE COURT: No one is standing.

22 Has any member of the jury panel ever been  
23 employed by any civilian or military law enforcement  
24 agency? If so, please stand.

25 [Whereupon, there is no response]

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1 THE COURT: No one is standing.

2 Has any member of the jury panel been employed  
3 by, or a member of their immediate family been  
4 employed by, or a close personal friend, the  
5 solicitor's office, the Attorney General's Office, or  
6 any prosecuting attorney's office? If so, please  
7 stand.

8 [Whereupon, there is no response]

9 THE COURT: No one is standing.

10 Has any member of the jury panel worked with any  
11 of those above-named agencies, the solicitor's office,  
12 the Attorney General's office? If so, please stand.

13 [Whereupon, there is no response]

14 THE COURT: No one is standing.

15 Has any member of the jury panel read or heard  
16 anything about this case? If so, please stand.

17 [Whereupon, there is no response]

18 THE COURT: No one is standing.

19 Has any member of the jury panel or a member of  
20 their immediate family ever been the victim of a  
21 crime? If so, please stand at this time.

22 All right. Y'all bear with me one second.

23 Yes, ma'am. Your name?

24 MS. NESBETH: Shirley Nesbeth.

25 THE COURT: Shirley Nesbeth. Ms. Nesbeth, you

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1 are juror number 127.

2 Ms. Nesbeth, you or a member of your family has  
3 been the victim of a crime?

4 MS. NESBETH: A member of my family has.

5 THE COURT: A member of your family. Okay.

6 Ms. Nesbeth, the fact that a member of your  
7 family has been the victim of a crime, would that  
8 affect your ability to listen to the evidence in this  
9 case --

10 MS. NESBETH: No.

11 THE COURT: -- and render a fair and impartial  
12 verdict?

13 MS. NESBETH: No.

14 THE COURT: If you would please stay with me,  
15 please, Ms. Nesbeth. I appreciate it.

16 MS. NESBETH: All right.

17 THE COURT: Thank you, ma'am.

18 You name, please, ma'am? Ma'am?

19 MS. JACKSON: Anita Jackson.

20 THE COURT: Ms. Anita Jackson. Ms. Jackson,  
21 you're juror number 91.

22 You or a member of your family was a victim of a  
23 crime?

24 MS. JACKSON: Myself.

25 THE COURT: Yourself. Okay.

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1 Ms. Jackson, the fact that you were the victim  
2 of a crime, would that affect your ability to listen  
3 to the evidence in this case and render a fair and  
4 impartial verdict?

5 MS. JACKSON: I'm not sure.

6 THE COURT: You're not sure? Ms. Jackson, I  
7 need for you to be sure, so what I'm going to do is  
8 I'm going to excuse you. Okay? Now, what I'm going  
9 to do is just excuse you from this trial.

10 Because we have some issues that we may have to  
11 take up, I'm not excusing you from service this week.  
12 You'll need to call in tonight after 6:00 and find out  
13 what's going on. Okay? Thank you, ma'am.

14 Your name, please, sir?

15 MR. THOMPSON: Jeffery Thompson.

16 THE COURT: Mr. Thompson, were you or a member  
17 of your family a victim?

18 MR. THOMPSON: Both.

19 THE COURT: Both? Okay. Mr. Thompson, the fact  
20 that both you and a member of your family were victims  
21 of a crime, would that affect your ability to listen  
22 to the evidence in this case and render a fair and  
23 impartial verdict?

24 MR. THOMPSON: No.

25 THE COURT: Mr. Thompson, if you would stay with

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1 us, I would appreciate it. Thank you, sir.

2 And no one else is standing.

3 Is any member of the jury panel, or a member of  
4 your immediate family, a member of MAD, SAD, CAV, or  
5 other similar organization which has as a goal the  
6 promotion of law enforcement? Any member of the jury  
7 panel or a member of your immediate family in one of  
8 these organizations? If so, please stand.

9 [Whereupon, there is no response]

10 THE COURT: No one is standing.

11 As y'all have already been told, the charge in  
12 this case is criminal domestic violence of a high and  
13 aggravated nature. Is there anything in the nature of  
14 these allegations which would cause any member of the  
15 jury panel any problems in sitting as an impartial  
16 juror? If so, please stand at this time.

17 [Whereupon, there is no response]

18 THE COURT: All right. No one is standing.

19 Thank y'all.

20 Has any member of the jury panel ever received  
21 assistance from the victim's advocacy program? If so,  
22 please stand at this time.

23 [Whereupon, there is no response]

24 THE COURT: No one is standing.

25 Ms. Ford, any other questions from the State?

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1 MS. FORD: None from the State, Your Honor.

2 THE COURT: Mr. Wise, any other questions from  
3 the defendant?

4 MR. WISE: Could I have one moment, Your Honor?

5 THE COURT: Yes, sir.

6 MR. WISE: May we approach the bench?

7 THE COURT: Sure.

8 [Whereupon, an off-the-record bench conference  
9 is held]

10 THE COURT: Ladies and gentlemen, we are now  
11 getting to the point in the trial where we are going  
12 to pick a jury for this trial. What's going to happen  
13 is everybody who's still left is going -- your names  
14 are in the computer and the computer is going to now  
15 randomly choose your names in a different order. Once  
16 the computer has done that, we will call you up one at  
17 a time.

18 When you come up, you will come to this podium  
19 and turn and face the attorneys and they will decide  
20 whether they want to sit you as a juror or whether  
21 they're going to excuse you as a juror for this trial.

22 Now, it's going to take a few minutes to do  
23 this, so while we do that -- it's going to take about  
24 ten minutes to do that, so if anybody needs to stretch  
25 their legs, run to the restroom or something like

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1 that, now is the time to do it. I would ask you to be  
2 back in here at eleven o'clock. Okay? Thank y'all.

3 [Whereupon, a recess is taken from 10:48 a.m. to  
4 11:01 a.m.]

5 THE COURT: Be seated. I appreciate it.

6 [Whereupon, the Court and the court reporter  
7 confer as follows: just a note on the record that the  
8 defendant's objection to the failing to continue the  
9 trial and to picking the jury. We'll go back and put  
10 the rest of it on there. Okay. Thanks.]  
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State v. Dinkins  
Striking of the Jury  
November 6, 2012

- - -

STRIKING OF THE JURY

THE COURT: Getting ready to pick the jury in  
this case. The strikes are five and five.

Is the State ready to proceed?

MS. FORD: We are, Your Honor.

THE COURT: Is the defense ready to proceed?

MR. WISE: Yes, Your Honor. Thank you.

THE COURT: And ladies and gentlemen, as I  
mentioned earlier, when the clerk calls your name, I  
need for you to come up to the podium right here and  
turn and face the attorneys and then they will tell us  
whether they wish you to be seated or excused as a  
juror in this trial.

When you come forward, please bring everything  
with you. If you have a book or a coat or a  
pocketbook or something, please bring it all because  
if you get chosen as a juror, they will ask you to go  
ahead and sit in the jury box.

All right. Madam Clerk?

THE CLERK OF COURT: Juror Number 81, Howard M.  
Harris.

[Whereupon, Mr. Harris comes forward]

THE COURT: Mr. Harris, you've got to show them  
how to do this because everybody is going to be

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Striking of the Jury  
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1 following your direction. Thank you, sir.  
2 THE CLERK OF COURT: What says the State?  
3 MS. FORD: Please present Mr. Harris.  
4 THE CLERK OF COURT: What says the defense?  
5 MR. WISE: You may excuse Mr. Harris.  
6 THE CLERK OF COURT: Go back to your seat,  
7 Mr. Harris.  
8 THE BAILIFF: Go back to your seat, Mr. Harris.  
9 MR. HARRIS: Oh.  
10 THE BAILIFF: Go back to your seat.  
11 THE COURT: Yeah.  
12 MR. HARRIS: I thought he said I was excused.  
13 THE COURT: Yes. I can excuse you from the  
14 courtroom. He can only excuse you from the jury. So  
15 this has been a good learning experience for us all.  
16 Thank you. But I was glad to see you were anxious to  
17 get the vote.  
18 All right. Next up.  
19 [Whereupon, Mr. Harris returns to the audience]  
20 THE CLERK OF COURT: Juror Number 35, Michelle  
21 Craven.  
22 [Whereupon, Ms. Craven comes forward]  
23 THE CLERK OF COURT: What says the State?  
24 MS. FORD: Please present Ms. Craven.  
25 THE CLERK OF COURT: What says the defense?

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Striking of the Jury  
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1 MR. WISE: You may seat Ms. Craven.

2 THE CLERK OF COURT: Ms. Craven, have a seat in  
3 the jury box.

4 THE BAILIFF: Ms. Craven, right here.

5 [Whereupon, Ms. Craven is seated in the jury box  
6 as a juror]

7 THE COURT: Now y'all have had the two examples.  
8 All right. Next.

9 THE CLERK OF COURT: Juror number 167, Ann  
10 Stover.

11 [Whereupon, Ms. Stover comes forward]

12 THE CLERK OF COURT: What says the State?

13 MS. FORD: Please present Ms. Stover.

14 THE CLERK OF COURT: What says the defense?

15 MR. WISE: May I have one moment, Your Honor?

16 THE COURT: Yes, sir.

17 MR. WISE: You may seat Ms. Stover.

18 THE CLERK OF COURT: You may have a seat in the  
19 jury box.

20 [Whereupon, Ms. Stover is seated in the jury box  
21 as a juror]

22 THE CLERK OF COURT: Juror number 77, Elena  
23 Hair.

24 [Whereupon, Ms. Hair comes forward]

25 THE CLERK OF COURT: What says the State?

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1 MS. FORD: Please present Ms. Hair.  
2 THE CLERK OF COURT: What says the defense?  
3 MR. WISE: You may seat Ms. Hair.  
4 [Whereupon, Ms. Hair is seated in the jury box  
5 as a juror]  
6 THE CLERK OF COURT: Juror number 187, Kathleen  
7 Tyler.  
8 [Whereupon, Ms. Tyler comes forward]  
9 THE CLERK OF COURT: What says the State?  
10 MS. FORD: Please present Ms. Tyler.  
11 THE CLERK OF COURT: What says the defense?  
12 MR. WISE: You may seat Ms. Tyler.  
13 [Whereupon, Ms. Tyler is seated in the jury box  
14 as a juror]  
15 THE CLERK OF COURT: Juror number 108, Andrea  
16 Kinard.  
17 [Whereupon, Ms. Kinard comes forward]  
18 THE CLERK OF COURT: What says the State?  
19 MS. FORD: Please present Ms. Kinard.  
20 THE CLERK OF COURT: What says the defense?  
21 MR. WISE: Could I have one moment, Your Honor?  
22 THE COURT: Yes, sir.  
23 MR. WISE: Excuse Ms. Kinard.  
24 THE CLERK OF COURT: You may return to your  
25 seat.

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1 [Whereupon, Ms. Kinard returns to the audience]

2 THE CLERK OF COURT: Juror number 127, Shirley  
3 Nesbitt.

4 [Whereupon, Ms. Nesbitt comes forward]

5 THE CLERK OF COURT: What says the State?

6 MS. FORD: Please present Ms. Nesbitt.

7 THE CLERK OF COURT: What says the defense?

8 MR. WISE: One moment, Your Honor?

9 THE COURT: Yes, sir.

10 MR. WISE: You may excuse Ms. Nesbitt.

11 [Whereupon, Ms. Nesbitt returns to the audience]

12 THE CLERK OF COURT: Juror number 63, Moses  
13 Gathers.

14 [Whereupon, Mr. Gathers comes forward]

15 THE COURT: What says the State?

16 MS. FORD: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 MS. FORD: Please present Mr. Gathers.

19 THE CLERK OF COURT: What says the defense?

20 MR. WISE: You may seat Mr. Gathers.

21 [Whereupon, Mr. Gathers is seated in the jury  
22 box as a juror]

23 THE CLERK OF COURT: Juror number 70, Sammie  
24 Glover.

25 [Whereupon, Mr. Glover comes forward]

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1 THE CLERK OF COURT: What says the State?

2 MS. FORD: Please present Mr. Glover.

3 THE CLERK OF COURT: What says the defense?

4 MR. WISE: You may seat Mr. Glover.

5 [Whereupon, Mr. Glover is seated in the jury box  
6 as a juror]

7 THE CLERK OF COURT: Juror number 104, Shawn  
8 Jones.

9 [Whereupon, Mr. Jones comes forward]

10 THE CLERK OF COURT: What says the State?

11 MS. FORD: Please present Mr. Jones.

12 THE CLERK OF COURT: What says the defense?

13 MR. WISE: Please seat Mr. Jones.

14 [Whereupon, Mr. Jones is seated in the jury box  
15 as a juror]

16 THE CLERK OF COURT: Juror number 173, Andreanna  
17 Sumpter.

18 [Whereupon, Ms. Sumpter comes forward]

19 THE CLERK OF COURT: What says the State?

20 MS. FORD: Please present Ms. Sumpter.

21 THE CLERK OF COURT: What says the defense?

22 MR. WISE: You may seat Ms. Sumpter.

23 [Whereupon, Ms. Sumpter is seated in the jury  
24 box as a juror]

25 THE CLERK OF COURT: Juror number 182, Victor

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1 Thompson.

2 [Whereupon, Mr. Thompson comes forward]

3 THE CLERK OF COURT: What says the State?

4 MS. FORD: Please present Mr. Thompson.

5 THE CLERK OF COURT: What says the defense?

6 MR. WISE: You may excuse Mr. Thompson.

7 [Whereupon, Mr. Thompson returns to the  
8 audience]

9 THE CLERK OF COURT: Juror number 103, Kimberly  
10 Johnston.

11 [Whereupon, Ms. Johnston comes forward]

12 THE CLERK OF COURT: What says the State?

13 MS. FORD: Please present Ms. Johnston.

14 THE CLERK OF COURT: What says the defense?

15 MR. WISE: Could I have one moment, Your Honor?

16 THE COURT: Yes, sir.

17 MR. WISE: Please seat Ms. Johnston.

18 [Whereupon, Ms. Johnston is seated in the jury  
19 box as a juror]

20 THE CLERK OF COURT: Juror number 193, Mary Ruth  
21 Washington.

22 [Whereupon, Ms. Washington comes forward]

23 THE CLERK OF COURT: What says the State?

24 MS. FORD: Please present Ms. Washington.

25 THE CLERK OF COURT: What says the defense?

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1 MR. WISE: Please seat Ms. Washington.

2 [Whereupon, Ms. Washington is seated in the jury  
3 box as a juror]

4 THE CLERK OF COURT: Juror number 129, Mark  
5 Ocain.

6 [Whereupon, Mr. Ocain comes forward]

7 THE CLERK OF COURT: What says the State?

8 MS. FORD: Please present Mr. Ocain.

9 THE CLERK OF COURT: What says the defense?

10 MR. WISE: Please seat Mr. Ocain.

11 [Whereupon, Mr. Ocain is seated in the jury box  
12 as a juror]

13 THE CLERK OF COURT: Juror number 123, Clara  
14 Moore.

15 [Whereupon, Ms. Moore comes forward]

16 THE CLERK OF COURT: What says the State?

17 MS. FORD: Please present Ms. Moore.

18 THE CLERK OF COURT: What says the defense?

19 MR. WISE: You may seat Ms. Moore.

20 THE BAILIFF: Right here, Ms. Moore.

21 [Whereupon, Ms. Moore is seated in the jury box  
22 as a juror]

23 THE COURT: All right. That will be our jury  
24 panel.

25 We will now pick our first alternate. Strikes

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1 are one and one.

2 THE CLERK OF COURT: Juror number 71, Betty  
3 Goodwin.

4 [Whereupon, Ms. Goodwin comes forward]

5 THE CLERK OF COURT: What says the State?

6 MS. FORD: Please present Ms. Goodwin.

7 THE CLERK OF COURT: What says the defense?

8 MR. WISE: You may seat Ms. Goodwin.

9 [Whereupon, Ms. Goodwin is seated in the jury  
10 box as an alternate juror]

11 THE COURT: First alternate.

12 All right. And now we'll seat the second  
13 alternate.

14 THE CLERK OF COURT: Juror number 20, Ernest  
15 Brown.

16 [Whereupon, Mr. Brown comes forward]

17 THE CLERK OF COURT: What says the State?

18 MS. FORD: Please excuse Mr. Brown.

19 THE CLERK OF COURT: You may return to your  
20 seat.

21 [Whereupon, Mr. Brown returns to the audience]

22 THE CLERK OF COURT: Juror number 148, Leon  
23 Robinson.

24 [Whereupon, Mr. Robinson comes forward]

25 THE CLERK OF COURT: What says the State?

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1 MS. FORD: Please present Mr. Robinson.

2 THE CLERK OF COURT: What says the defense?

3 MR. WISE: You may excuse Mr. Robinson.

4 THE CLERK OF COURT: Return to your seat.

5 [Whereupon, Mr. Robinson returns to the  
6 audience]

7 THE CLERK OF COURT: Juror number 157, John  
8 Shivers.

9 [Whereupon, Mr. Shivers comes forward]

10 THE CLERK OF COURT: What says the State?

11 MS. FORD: Please present Mr. Shivers.

12 THE CLERK OF COURT: What says the defense?

13 MR. WISE: Please seat Mr. Shivers.

14 [Whereupon, Mr. Shivers is seated in the jury  
15 box as an alternate juror]

16 THE COURT: Thank you, ma'am.

17 Ms. Ford, any issues from the State regarding  
18 jury selection?

19 MS. FORD: None, Your Honor.

20 THE COURT: Mr. Wise?

21 MR. WISE: No, Your Honor.

22 THE COURT: All right. Those of you who were  
23 not lucky enough to be chosen as jurors, what I'm  
24 going to ask you to do today is -- I mentioned we only  
25 had one trial this week. Normally, I would release

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1 you but I am going to ask you to call in tonight after  
2 6:00 to find out if you are excused for the remainder  
3 of the week or not.

4 Now, there is a number that the clerk gave you.  
5 It is important that you call in after 6:00 tonight  
6 and receive your instructions for the remainder of the  
7 week.

8 You now have a few minutes before you go back to  
9 work. If you have not voted, I would ask that you go  
10 and vote before you return back to work.

11 And call in at 6:00. Thank y'all very much.  
12 You are excused.

13 [Whereupon, the jury panel exits the courtroom  
14 at 11:15 a.m.]

15 THE COURT: All right. Ladies and gentlemen,  
16 congratulations. I appreciate y'all joining me for  
17 this trial today and tomorrow.

18 Let me just mention something to you, just so  
19 you'll be aware of that, is the thing that I'm going  
20 to say over and over during the course of trial  
21 whenever we take a break is that you can't talk about  
22 this trial, even among yourselves, until I tell you  
23 you can begin your deliberations at the close of this  
24 case. So at different points in the trial you will  
25 hear some testimony, we'll take a break. You can't go

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1 back into the jury room at that point and begin  
2 talking about it among yourselves, okay, until I tell  
3 you to begin your deliberations.

4 I also need to tell you that no one shall come  
5 up and talk to you about this case. If anybody does,  
6 I need to be made aware of it.

7 And the final thing is I don't need for you to  
8 do any research in this case. I know it's so handy  
9 now with smart phones and computers and like that,  
10 that you can go and check your computer to see maybe  
11 where it happened or try and check an old news report  
12 or something like that. You are not to do any of  
13 that. Everything that you will need to know about  
14 this case you will find out in this courtroom from  
15 this witness stand. That's all you need to know, what  
16 you hear in court, not what you get from any other  
17 source.

18 Now, it is 11:15. As is the way everything  
19 happens in a case, there are things that I have to  
20 take up with the attorneys before we can begin the  
21 trial. Now, if this was earlier in the morning, I  
22 would just have you go back into the jury room and  
23 wait a few minutes while we do that. But since we're  
24 getting close to lunchtime, what I felt would be  
25 easiest and best to do is to excuse y'all for lunch

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1 and ask y'all to meet back in the jury room at 1:30.

2 At 1:30, when you get back in the jury room, the  
3 twelve of you who are jurors will need to pick someone  
4 to be the foreperson of the jury. That's the person  
5 that's going to fill out the verdict form and preside  
6 over the jury deliberations. And if there are any  
7 questions that you have -- which I know you won't  
8 because these attorneys are going to do such a  
9 spectacular job that you're not going to have any  
10 questions. But should you have any questions, you'll  
11 have to write out the questions that come back to me  
12 while you begin your deliberations. But the twelve of  
13 you, when you get in, when you get back from lunch at  
14 1:30, if you will pick a foreperson, I would  
15 appreciate it.

16 Now, again, everybody, including the alternates,  
17 will need to be back at 1:30 so we can begin the  
18 trial. Until then, you are excused. Remember you  
19 can't talk about the case at all. Okay? Thank you.

20 If you will follow the bailiff, she'll show you  
21 how to get to the jury room and how to get back in.  
22 Thank y'all very much.

23 [Off the record momentarily]

24 THE COURT: All right. I understand we have a  
25 Jackson v. Denno?

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1 MS. FORD: That's correct, Your Honor.

2 THE COURT: Well, before we do that, let's just  
3 get a couple of things on the record.

4 Let's see. Mr. Dinkins was told to be here. He  
5 was present in court yesterday.

6 MR. WISE: He was.

7 THE COURT: He was in court.

8 Mr. Wise, you had made a motion that I continue  
9 the trial.

10 MR. WISE: Yes, sir.

11 THE COURT: And I have denied it. I want to  
12 make sure that I have found on the record that  
13 Mr. Dinkins received a notice of the trial date and  
14 that he was given a warning -- I believe Ms. Ford read  
15 it into the record -- that the trial would proceed in  
16 his absence. And he was on notice yesterday that we  
17 were beginning to start --

18 As I mentioned earlier to you, Mr. Wise, that I  
19 had denied your continuance. Is there anything  
20 regarding the continuance that you need to put in the  
21 record to preserve your client's rights?

22 MR. WISE: Your Honor, I would just reiterate  
23 the arguments that I had earlier. I don't have  
24 anything additional.

25 THE COURT: Well, I will note your objection to

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1 my ruling on that regard and that is preserved in the  
2 record.

3 Additionally, I believe you objected to going  
4 forward with picking the jury without having him  
5 present?

6 MR. WISE: Yes, Your Honor. That was part of  
7 the same motion.

8 THE COURT: Yes, sir, but just to clarify that  
9 on the record. And for the same reasons, I am denying  
10 that motion. But, again, I am preserving your  
11 objection to going forward.

12 I noted on the record, before we started picking  
13 the jury, your objection to both of those things so  
14 that they would be preserved before we did it. And  
15 noting that for the record, anything else regarding  
16 that we need to address?

17 MR. WISE: Not regarding that, Your Honor.

18 There was one other issue regarding jury  
19 selection.

20 THE COURT: Yes, sir?

21 MR. WISE: There were two jurors who indicated  
22 they had been victims of a crime.

23 THE COURT: Yes, sir.

24 MR. WISE: I asked the Court that the Court  
25 consider inquiring of those jurors the nature of the

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1 crime that they were victims of --

2 THE COURT: Right.

3 MR. WISE: -- to make the determination if it  
4 was a property crime they was a victim of or a  
5 personal crime.

6 THE COURT: Right.

7 MR. WISE: That would have assisted in the  
8 process of selecting the jury.

9 THE COURT: Yes, sir. And you did request that  
10 ahead of time and I advised you that I would not  
11 further inquire into that. And I will note your  
12 objection to my failure to do so, also, on the record.

13 MR. WISE: Thank you.

14 THE COURT: Thank you.

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- - -

JACKSON V. DENNO HEARING

THE COURT: Anything else we need to take up  
before we go to the Jackson v. Denno?

MS. FORD: Nothing, Your Honor.

THE COURT: Are you prepared to call your  
witness?

MR. CLARIDAY: Yes, sir.

MS. FORD: Mr. Clariday is going to do the  
Jackson v. Denno, Your Honor.

THE COURT: It's nice that Mr. Clariday is going  
to be doing something for you --

MS. FORD: Thank you, Your Honor.

THE COURT: Mr. Clariday?

MR. CLARIDAY: Yes, sir.

MR. WISE: Just one other -- the Jackson v.  
Denno, we would like to sequester any witnesses that  
would testify at the trial.

THE COURT: Are there any other witnesses in  
here that might -- are you going to have just one  
witness, or more than one?

MS. FORD: For the Jackson v. Denno, Deputy  
Fasesco will be testifying. Our investigating officer  
was Deputy McQueen. And our victim is present in the  
courtroom, Your Honor. I believe that's the only

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1 individuals that are here that would be testifying,  
2 Your Honor.

3 THE COURT: Anyone we would need to --

4 MR. WISE: The only person I recognize, that  
5 Ms. Allen can be here.

6 THE COURT: Right.

7 MR. WISE: I would request that Deputy McQueen  
8 be excluded from the courtroom.

9 THE COURT: Any objection to that?

10 MS. FORD: Your Honor, we would object, as  
11 Deputy McQueen is the chief investigating officer.

12 THE COURT: Since he is the chief investigating  
13 officer, I will allow him to stay.

14 MR. WISE: Thank you, Judge.

15 MR. CLARIDAY: Thank you, Judge. The State  
16 calls Deputy Fasesco.

17 [Whereupon, Mr. Fasesco comes forward]

18 THE CLERK OF COURT: Put your left hand on the  
19 Bible and raise your right hand.

20 [Whereupon, Mr. Fasesco is duly sworn by the  
21 clerk of court as follows: do you hereby swear or  
22 affirm that the testimony you're about to give is the  
23 truth, the whole truth, and nothing but the truth, so  
24 help you God]

25 THE WITNESS: Yes, ma'am.

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1 THE CLERK OF COURT: Thank you. You may have a  
2 seat.

3 [Whereupon, Mr. Fasesco takes the witness stand]

4 THE CLERK OF COURT: Please state your name for  
5 the record.

6 THE WITNESS: Michael Fasesco.  
7  
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Jackson v. Denno Hearing  
Michael Fasesco  
Direct Examination by Mr. Clariday

1

- - -

2

MICHAEL FASESCO [PHONETIC],

3

Having Been First Duly Sworn,

4

was Examined and Testified as Follows:

5

DIRECT EXAMINATION

6

BY MR. CLARIDAY:

7

Q. Deputy Fasesco, how long have you worked in law enforcement?

8

9

A. I began -- I was hired by the Orangeburg County Sheriff's Office October 1st of 2007, so a little over five years.

10

11

12

Q. And how long have you been with Horry County?

13

14

A. I was hired with Horry County in September of this year. I've just been there about approximately two months.

15

16

Q. Okay. What's your current rank with Horry County?

17

18

A. I'm a patrolman first class with Horry County Police Department.

19

20

Q. Where were you employed back on June 1st, 2012?

21

A. With the Orangeburg County Sheriff's Office.

22

23

Q. And did you become involved with this case that we're here for today? Mr. Joseph Dinkins.

24

A. Yes, I do. Yes, I was.

25

Q. And what was your role or your level of

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Michael Fasesco  
Direct Examination by Mr. Clariday

1 involvement with that case?

2 A. At the time when this call came out, I was a  
3 corporal on the shift. I was one of the supervisors on  
4 the shift, charged with the supervision of the other  
5 deputies on the shift.

6 My involvement came from -- after Deputy McQueen  
7 responded to it, did the initial investigation, we  
8 responded to the area in an attempt to locate the  
9 defendant..

10 Q. And were you made aware of what type of vehicle  
11 he may be driving?

12 A. Yes, I was.

13 Q. And what type of car was that?

14 A. It was a 2006 Pontiac V-6, green in color, and  
15 it was -- allegedly, it belonged to the victim in this  
16 case.

17 Q. And that's Ms. Crystal Allen; correct?

18 A. That's correct.

19 Q. Okay. Were you able to locate that vehicle?

20 A. Yes.

21 I believe it was a few hours later I spotted the  
22 vehicle on Old Edisto Drive, heading west on Old Edisto  
23 Drive. I initiated a traffic stop on it.

24 Q. Was anyone else in the vehicle?

25 A. No.

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1 Q. Just the driver?

2 A. Yes.

3 Q. Were you able to determine who was driving that  
4 vehicle?

5 A. It was Joseph Dinkins.

6 Q. And how did you determine who it was?

7 A. We positively -- I positively identified him  
8 then, after speaking with him and checking his ID.

9 Q. What did you do then after you performed a  
10 traffic stop of the vehicle and determined who was  
11 driving?

12 A. I took him into custody. The course of the  
13 traffic stop was a felony traffic stop. He was in custody  
14 before I ever spoke a word with him.

15 After I took him into custody, I provided him  
16 with his Miranda warnings and briefly questioned him about  
17 the incident.

18 Q. How did you advise him of his rights?

19 A. I gave him my standard Miranda warning.

20 Q. And just kind of go into that. What is --

21 A. Okay.

22 Q. -- how do you do that? Do you read it off? Do  
23 you --

24 A. No. I do it the same way every time. I have it  
25 memorized.

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1 I advised him; you have the right to remain  
2 silent. Anything you say can and will be used against you  
3 in a court of law. You have the right to an attorney. If  
4 you cannot afford an attorney, one will be appointed to  
5 you before any questions, if you wish. Also, while you're  
6 being questioned, you have the right to stop answering  
7 questions at any time until you talk to an attorney. Do  
8 you understand your rights..

9 Q. Okay. And that was the same --

10 A. It's the same every time.

11 Q. -- that you did that night on the 1st?

12 A. Yes, sir.

13 Q. Okay. And have you -- had you performed a  
14 traffic stop, or had you arrested individuals in the past,  
15 prior to that?

16 A. Yes.

17 Q. And did you read that same --

18 A. It's identical. I made a point -- some officers  
19 read it, some officers have a way they go about doing it.  
20 I made a point to memorize it so in the event I'm ever  
21 questioned about it I can say that that's how I did it  
22 because I do it that way every time.

23 Q. And where did you -- physically, where did you  
24 advise him of these rights? Was he in a vehicle? Where  
25 was it?

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1           A.     We were at the -- we're at -- we're on -- we  
2 ended up on Bamburg Highway, right at the Pit Stop called  
3 -- right at the corner there of that little side street.

4                     And I had taken him into custody. We moved into  
5 the back of my vehicle. My vehicle was behind the Pontiac  
6 that he was driving. We moved around to the rear of my  
7 vehicle. I had placed the property that I had gotten off  
8 of him on the trunk.

9                     And after -- you give them an opportunity to  
10 kind of calm down. You know, you've just taken a person  
11 into custody. You give them an opportunity to calm down,  
12 and then you speak with them. So after a few minutes at  
13 the back of my car, I spoke to him.

14           Q.     Okay. And when you read his Miranda rights or  
15 Miranda warning, did he appear to understand what you were  
16 saying?

17           A.     Yes.

18           Q.     Did he appear to be under the influence that  
19 night?

20           A.     No.

21           Q.     Did he appear to be high? Did he appear to --  
22 any defect that would have --

23           A.     I had no indicators that he was under any kind  
24 of influence.

25           Q.     How did he acknowledge to you that he

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1 understood?

2 A. That -- I would be reluctant to say exactly how  
3 he acknowledged it but I know that he did speak to me  
4 after providing him the Miranda warning, so -- and I know  
5 that because that's how I recorded it in my report.  
6 Whether he verbally stated he understood, or how, but I do  
7 know that he comprehended the Miranda warning and made the  
8 statement after I provided Miranda warning.

9 Q. So at that time you felt confident in going  
10 forward and speaking with him?

11 A. Yes.

12 I remember very clearly that he was very aware  
13 of what was going on. He was very cognizant of the  
14 situation.

15 Q. Specifically, did you inform him that he had a  
16 right to remain silent?

17 A. Yes.

18 Q. Did you inform him that he had a right to an  
19 attorney?

20 A. Yes.

21 Q. And, again, he seemed to understand those two  
22 rights?

23 A. Yes.

24 Q. Did you ever promise him anything for talking to  
25 you that night?

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1 A. No.

2 Q. Did you coerce him in any way to speak with you?

3 A. No.

4 Q. And did he eventually agree to speak with you?

5 A. Yes.

6 Q. Okay. Can you just briefly describe the nature  
7 of that conversation that you had with Mr. Dinkins?

8 A. He initially said that he didn't assault the  
9 victim at all. He acted like nothing took place, like  
10 there was no physical altercation whatsoever. Generally,  
11 when you interview someone that is -- that will be the  
12 very -- they'll say, I, you know, have no idea. But he  
13 acted like nothing happened at all.

14 I continued questioning him and he stated that  
15 he was holding a jug of gasoline during the incident and  
16 that the victim kicked it, causing gasoline to spill on  
17 both of them.

18 Q. So at that time he did admit to having in his  
19 possession a tank of gasoline?

20 A. Yeah. A jug is how he put it, so --

21 Q. Those are his words?

22 A. Right.

23 Q. At any point during the conversation that you  
24 had with Mr. Dinkins that night, did he ever stop you and  
25 request a lawyer to be present?

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1 A. No.

2 Q. Did he ever exercise his right to remain silent  
3 after you had engaged him with the Miranda warnings and he  
4 began to speak?

5 A. No.

6 Q. Okay. Was that the extent of the, I guess it's  
7 called a verbal statement, that he gave to you that night?

8 A. That's correct. That was pretty much it.

9 Q. Okay. And to the best of your knowledge, was  
10 that verbal statement given freely?

11 A. Yes.

12 He -- I remember clearly at the time he was  
13 perfectly happy with talking with me.

14 Q. So, again, it was made voluntarily?

15 A. Yes.

16 Q. It was willing?

17 A. Absolutely.

18 Q. And did you transport the defendant to the  
19 Orangeburg detention center at that time?

20 A. Yes.

21 I took him to Orangeburg Calhoun Regional  
22 Detention Center.

23 Q. And what was he booked for that night?

24 A. Criminal domestic violence of a high and  
25 aggravated nature.

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1 MR. CLARIDAY: Thank you, Deputy. Please answer  
2 any questions Mr. Wise may have.  
3 THE COURT: Oh. Mr. Stroud?  
4 MR. STROUD: Mr. Stroud.  
5 Good morning, Mr. Fasesco.  
6 THE WITNESS: Good morning.  
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CROSS-EXAMINATION

BY MR. STROUD:

Q. So a few hours after the incident, you initiated a traffic stop; correct?

A. The exact time I would not be able to say. There was -- I was looking for him for a while.

Q. And when you approached the vehicle, did you ask him to get out of the car?

A. No, I didn't approach the vehicle. I did what's called a felony traffic stop where you order him from his vehicle. You order him back to you. He came to me.

Q. So he -- is that where you tell him to face the other way and walk backwards --

A. Yeah.

He would face away from me and I would order him to walk backwards to me. And then once he got back past the threshold of my car, I would take him into custody then.

Q. Do you make him lay down on the ground --

A. Yes.

Q. -- and put his hands behind his back?

A. Yes.

Q. And handcuff him?

A. Yes.

MIA PERRON, CVR-CM-M

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1 Q. And then you take him back to around your  
2 vehicle; correct?

3 A. Yes.

4 Q. Now, earlier you said that you were reluctant to  
5 say how he acknowledged that he understood; correct?

6 A. That's correct.

7 Q. But correct me if I'm wrong. You memorized the  
8 question at the end. The last part is do you understand  
9 your rights; correct?

10 A. Right.

11 Q. It's pretty much a yes or no question; correct?

12 A. Yeah. Yes, sir.

13 Q. But you can't really remember that he said yes?

14 A. I don't remember his exact wording.

15 Q. Okay.

16 A. I know that he responded affirmatively, and I  
17 know that because I wouldn't have proceeded with any  
18 questioning if he didn't.

19 Q. Did you -- when you got to the station, did you  
20 offer -- did he want to make a written statement? Did you  
21 offer him that?

22 A. No, I didn't offer -- I didn't offer him the  
23 opportunity to do that, I don't believe.

24 Q. Why not?

25 A. My involvement in the case -- Deputy McQueen

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1 would have been the primary investigating officer. My  
2 involvement, my chief involvement, was actually to locate  
3 him. But while I had him and he was amiable, he was  
4 talking, I wanted to get the opportunity to talk with him  
5 and see what he had to say about it. But, no, I didn't  
6 collect any written statement.

7 Q. Was it just you that stopped him or --

8 A. I made the initial stop, and then a few minutes  
9 -- almost simultaneously as I'm taking him into custody,  
10 Lieutenant Walton arrived.

11 Q. So two patrol cars.

12 MR. STROUD: May I have a moment, Your Honor?

13 THE COURT: Yes, sir.

14 MR. STROUD: No further questions.

15 THE COURT: Thank you, sir.

16 Anything on redirect?

17 MR. CLARIDAY: No, sir.

18 THE COURT: Deputy Fasesco, you may step down.

19 THE WITNESS: Thank you, Your Honor.

20 [Whereupon, Mr. Fasesco is excused and exits the  
21 witness stand]

22 THE COURT: Any other witnesses?

23 MR. CLARIDAY: No, sir. That's the extent of  
24 the State's witnesses.

25 THE COURT: Any witnesses by the defense?

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1 MR. STROUD: No, Your Honor.

2 THE COURT: All right. Any arguments?

3 MR. CLARIDAY: Your Honor, it would be the  
4 State's position that when this verbal statement was  
5 given, Mr. Dinkins had been previously advised of his  
6 rights by the Miranda warnings that were just read  
7 into the record by Deputy Fasesco. He acknowledged  
8 that the defendant then willingly agreed to speak with  
9 him after being advised of these rights, which is  
10 necessary in this situation because Mr. Dinkins would  
11 have been under custody and this would have been a  
12 custodial interrogation at this time, Your Honor.

13 So the necessity for the Miranda warning, he  
14 then -- the officer then testified that this was -- he  
15 seemed to understand his rights, he wasn't  
16 incapacitated in any way, shape or form, and stated  
17 that the statement was given freely, voluntarily and  
18 willingly, which is the kind of the test in order for  
19 this Jackson v. Denno hearing, Your Honor.

20 And, also, there is no contrary testimony to  
21 Deputy Fasesco's testimony that it was given freely,  
22 voluntarily and knowingly, Your Honor.

23 So the State would ask that Mr. Dinkins' verbal  
24 statement to Deputy Fasesco, we be allowed to go into  
25 that during the trial.

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1 THE COURT: Thank you, sir.

2 Mr. Stroud?

3 MR. STROUD: Your Honor, the defense would argue  
4 that the statement was not given voluntarily. He was  
5 stopped. He was ordered to get out of his car, face  
6 away, walk backwards towards the sound of the voice,  
7 get down on the ground, handcuffed, and put in the  
8 back of the car. I can't see how that's not  
9 terrifying. When he is put in the back of the car and  
10 they asked him questions, he -- the officer can't  
11 remember exactly how he affirmatively said he  
12 understood his rights. When he was in the back of the  
13 car he said something, and they never offered to allow  
14 him to take a written statement -- or make a written  
15 statement. And that's the basis of our argument.

16 THE COURT: Thank you, Mr. Stroud.

17 Based on the preponderance of the evidence, the  
18 Court finds that the defendant was in custody and  
19 advised of his Miranda rights.

20 The Court further finds that he perceived,  
21 heard, understood said Miranda rights and his  
22 confession was voluntary and admissible and the jury  
23 will be charged accordingly.

24 I will make a charge to the jury that they will  
25 have to make a determination of voluntariness beyond a

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1 reasonable doubt based on the testimony that will be  
2 heard at trial.

3 MR. CLARIDAY: Thank you, Your Honor.

4 THE COURT: Anything -- any other motions before  
5 we get started?

6 MS. FORD: None from the State, Your Honor.

7 THE COURT: Anything?

8 MR. WISE: One moment, Your Honor.

9 THE COURT: Okay.

10 MR. WISE: No, Your Honor. Thank you.

11 THE COURT: All right. We'll get started at  
12 1:30.

13 I see that perhaps our taxi cab drivers have  
14 arrived, but they don't look like they bring good  
15 news. If y'all will come forward and tell me what's  
16 going on.

17 UNIDENTIFIED: We went to the house. There was  
18 two vehicles there. I knocked twice. Nobody  
19 answered. There may or may not have been somebody  
20 inside.

21 We talked to the neighbor at [REDACTED] He said he  
22 used to live there but he doesn't live there anymore  
23 since this incident, and he didn't know if he was home  
24 or not.

25 We just got -- talked with the bondsman and he

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1 seems to feel that he's at work and we're trying to  
2 get an address where he works.

3 THE COURT: The bondsman -- please advise the  
4 bondsman that he is either going to produce him or pay  
5 me \$5,000.

6 UNIDENTIFIED: Ms. Glenda pretty much said that.

7 THE COURT: Okay. Thank y'all for your efforts  
8 to get him here. I really do appreciate that. I do  
9 appreciate --

10 I was worried when y'all were going out there,  
11 you know, without any assistance from the police or  
12 anything. But I appreciate y'all going out there and  
13 trying to get him to come in. Okay?

14 All right. We'll be back at 1:30. Thank y'all.

15 MS. FORD: Thank you, Your Honor.

16 [Whereupon, a recess is taken from 11:39 a.m. to  
17 1:35 p.m.]

18 THE COURT: Is the State ready to proceed?

19 MS. FORD: We are, Your Honor.

20 THE COURT: Is the defense ready to proceed?

21 MR. STROUD: Yes, Your Honor.

22 THE COURT: And you've heard that Mr. Jones is  
23 the foreperson?

24 MR. WISE: Yes.

25 THE COURT: And before we proceed: we have not

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1 heard from Mr. Dinkins?

2 MR. WISE: We have not.

3 THE COURT: Have we had any contact, again, with  
4 the bondsman?

5 MR. WISE: Your Honor, they did speak with him  
6 right before we broke for lunch.

7 THE COURT: With the bondsman?

8 MR. WISE: Yes. And made him aware that court  
9 would be back in session at 1:30.

10 THE COURT: All right. I appreciate everything  
11 you're doing, Mr. Wise. I'm sorry that you're in this  
12 situation.

13 MR. WISE: We would just ask the Court for a  
14 continuance, to continue the sequestration of  
15 witnesses.

16 THE COURT: Yes. We don't have anybody --

17 MR. CLARIDAY: They're all outside.

18 [Off the record momentarily]

19 THE COURT: All right. If you'll bring the jury  
20 in.

21 [Whereupon, the jury enters the courtroom at  
22 1:37 p.m.]

23 THE COURT: Ladies and gentlemen, I hope y'all  
24 had a nice lunch. I had -- I also had the opportunity  
25 to vote, which surprised me. When I went by where I

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1 had to vote, there wasn't any kind of a line so I ran  
2 in and took advantage of the opportunity. So I hope  
3 some of y'all did, as well.

4 We're getting ready to start the trial of the  
5 State of South Carolina versus Joseph Dinkins. You  
6 were selected as jurors but you have yet to be sworn  
7 in as jurors, so if y'all will please stand and raise  
8 your right hand, the clerk is going to swear you in as  
9 a jury in this case.

10 [Whereupon, the jury is duly sworn by the clerk  
11 of court as follows: do you solemnly swear or affirm  
12 that you shall well and truly try and true deliverance  
13 make between the State of South Carolina and the  
14 defendant at the bar, whom you shall have at charge,  
15 and a true verdict give according to the evidence, so  
16 help you God]

17 THE CLERK OF COURT: Thank you. You may be  
18 seated.

19 THE COURT: Ladies and gentlemen, as you know,  
20 as we mentioned earlier Mr. Joseph Dinkins has been  
21 charged with crimes of criminal domestic violence of a  
22 high and aggravated nature.

23 As I have told you earlier, even though Mr.  
24 Dinkins is not present, you are not to judge, by the  
25 fact that he is not present -- you're not to make any

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1 thoughts or give any -- words elude me at this time  
2 and I apologize. You should not consider him --  
3 anything against him because he's not here. You're  
4 not to suppose he's guilty or anything. It's a very  
5 neutral position. He just happens not to be here.

6 The indictment that charged him with this crime  
7 is not evidence. It is simply the allegations that  
8 the State has. The defendant has pled not guilty to  
9 this charge and it's up to the State to prove every  
10 element of this crime to you beyond a reasonable doubt  
11 and it will be your duty to decide whether or not the  
12 State has met that burden.

13 Your duty as jurors is to find and determine the  
14 facts. You are the sole judges of the facts. If at  
15 any time during this trial I make a comment regarding  
16 the facts, I ask that you disregard it. You are to  
17 determine the facts from the testimony that you hear  
18 from this witness stand and from any other evidence  
19 that is introduced in court, and it is up to you to  
20 determine the inferences you feel you may properly  
21 draw from such evidence.

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

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1           The same law that makes you the judge of the  
2 facts makes me the judge of the law. The law as given  
3 by this Court is the only law that you may consider.  
4 You must accept it and follow it, even though you may  
5 disagree with it. I cannot tell you what the facts  
6 are and you cannot disagree with me about what the law  
7 is or should be. Your job is to take the law as I  
8 give it to you and apply it to the facts as you find  
9 them from the testimony of the witnesses and any other  
10 evidence that is introduced during this trial. After  
11 doing that, you will render your verdict, a true  
12 verdict, under the solemn oath that you just took as  
13 jurors.

14           As I told you at the beginning, you must not  
15 discuss this case with anyone, including your fellow  
16 jurors, friends, family members, or anyone involved in  
17 this case, until it is submitted to you. After it is  
18 submitted to you, you must discuss it only in the jury  
19 room with your fellow jurors. Do not read, listen to,  
20 or watch any news reports about this case. I don't  
21 anticipate that there will be any. If this case goes  
22 into tomorrow, there may be some article in the  
23 newspaper about it, but you cannot read that article  
24 in the newspaper. If there happens to be something on  
25 a local radio station about this, don't listen to it.

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1 Turn off the radio or change the channel.

2 Again, let me emphasize you are not to do any  
3 investigation. You don't need to go online to try and  
4 find out any old news reports on what happened or what  
5 was in the paper. Everything that you need to find  
6 out about this case you will find out here in this  
7 courtroom and that is the only evidence you are to  
8 consider.

9 You are to keep an open mind and not decide any  
10 issue in this case until all of the evidence has been  
11 presented, the parties have made their closing  
12 arguments, and I have instructed you on the law. Now,  
13 that is the reason why I don't allow you to talk about  
14 this case until you've heard everything.

15 It is your solemn responsibility to determine  
16 the guilt or innocence of Mr. Dinkins and your verdict  
17 must be based solely on the evidence presented to you  
18 in this trial and on the law as I instruct you during  
19 and at the close of the trial.

20 In just a moment the solicitor is going to make  
21 an opening statement, after which the attorney for the  
22 defendant may also make an opening statement but he is  
23 not required to do so. Their opening statements are  
24 not evidence. It is only their contention as to what  
25 the issues are in this case. Again, the evidence will

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1 be presented by sworn -- by the testimony of sworn  
2 witnesses and any exhibits that are made a party to  
3 this case.

4 Now, during this trial -- and you've already  
5 seen it a few times -- the attorneys may approach the  
6 bench and talk to me about a matter. They do that  
7 sometimes for no other reason than just to find out  
8 when we're going to have lunch. Sometimes there are  
9 other issues that we have got to take up and  
10 occasionally when we have to take up these issues, I  
11 will have to excuse you from the courtroom. The  
12 reason for that is sometimes during our discussions on  
13 the law, I will have to get into a discussion of the  
14 facts and since anything that I -- I don't want  
15 anything that I say about the facts to influence you,  
16 so you will be excused from the jury room while I  
17 discuss the facts.

18 Remember, you are the only people that can  
19 determine the facts in this matter. You are the only  
20 people who can determine the facts. In determining  
21 what the true facts are in this case, you must decide  
22 whether or not the testimony of a witness is  
23 believable. It is my responsibility to rule as a  
24 matter of law as to what certain testimony is  
25 admissible but once the testimony is admitted, whether

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1 or not you believe it is solely for you to determine.

2 In deciding whether to believe a witness, you  
3 have the right to consider the interest of any  
4 witness, the bias of any witness, the prejudice of any  
5 witness, the opportunity for the witness to have seen  
6 the matters and things about which the witness may  
7 testify, and the way the witness acts on the witness  
8 stand. You have the right to consider anything that  
9 is in the record that will help you evaluate the  
10 testimony of these witnesses. That means it is your  
11 duty to pay close attention to them, to observe them,  
12 to listen to them, and to pay close attention to the  
13 attorneys and the Court.

14 Please give strict attention to all the  
15 testimony in this case so at the end of all the  
16 testimony, after the arguments of counsel and after my  
17 charge to you on the law, you will then be in a  
18 position to determine what the true facts are and to  
19 apply those facts to the law and render a true verdict  
20 in this case.

21 Ms. Ford, are you ready?

22 MS. FORD: The State is ready, Your Honor. May  
23 it please the Court?

24 THE COURT: Yes, ma'am.

25

- - -

State vs. Dinkins  
Opening Statement by Ms. Ford  
November 6, 2012

OPENING STATEMENT

1  
2 MS. FORD: Nothing can be more terrifying than  
3 looking into the eyes of the person that you think is  
4 going to kill you; not the eyes of a stranger, but the  
5 eyes of someone you love, someone with whom you share  
6 a life, who you've lived with, had two children with  
7 the person; looking into the eyes of the person who  
8 pours gasoline on your body and flicks a lighter and  
9 you think they're going to set you on fire. Crystal  
10 Allen looked into the eyes of that man, and his name  
11 was Joseph Dinkins.

12 My name is Sarah Ford. I'm the assistant  
13 solicitor prosecuting this case, along with Rob  
14 Clariday. And as you've heard, Joseph Dinkins is  
15 charged with criminal domestic violence of a high and  
16 aggravated nature.

17 The evidence is going to show first it starts  
18 back in May, May 30th of 2012, just a few months ago.  
19 Ms. Allen had some concerns about her relationship  
20 with Mr. Dinkins. She wasn't sure if she wanted that  
21 relationship to continue so she thought it would be  
22 best to talk to him about it. So Ms. Allen, on May  
23 30th, that afternoon, talks with Mr. Dinkins, let's  
24 her know -- lets him know of her concerns, and she  
25 decides to end their relationship.

State vs. Dinkins  
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1           Mr. Dinkins leaves the house that he shares with  
2           Ms. Allen and her two children on Valerie Drive here  
3           in Orangeburg. He leaves and Ms. Allen stays at the  
4           home with her kids. A friend of theirs, Kara Dowling,  
5           a friend of both Mr. Dinkins and Ms. Allen, she comes  
6           over to the house to comfort Ms. Allen, and they stay  
7           at the house with the kids. They actually all end up  
8           going to sleep later on that evening.

9           Well, at some point in the early-morning hours  
10          of May 31st, 2012, Mr. Dinkins returns to that home,  
11          the house he shared with Ms. Allen. He wants to talk  
12          to her, wants to talk about their breakup. So she  
13          complies. She talks to him. But Mr. Dinkins gets  
14          angry. He pushes her out of the room where they're  
15          talking. Ms. Allen is upset, but goes into the living  
16          room. She turns on her television, tries to go to  
17          sleep.

18          Mr. Dinkins goes out of that room where they had  
19          talked. Goes into the living room where she is, grabs  
20          a family picture off the wall, goes outside, throws it  
21          on the ground. Mr. Dinkins comes back in that house  
22          with a jug of gasoline, charges at Ms. Allen, who's  
23          trying to sleep in the chair. He pushes her back,  
24          pours gasoline on her body, and flicks a lighter  
25          threatening if he can't have her, no one can have her.

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1           Thankfully, their friend Kara Dowling was at the  
2           house. She was actually in the living room sleeping  
3           on the couch. She jumps up and is able to pull Ms.  
4           Allen away from Mr. Dinkins.

5           Ladies and gentlemen, the evidence that you are  
6           going to hear from this witness stand will prove to  
7           you beyond a reasonable doubt that Joseph Dinkins is  
8           guilty of criminal domestic violence of a high and  
9           aggravated nature.

10          Ms. Allen, she didn't suffer any physical burns  
11          on May 31st, 2012, but the memory of Joseph Dinkins  
12          pouring gasoline on her body, flicking that lighter,  
13          trying to set her on fire just feet from where her  
14          sleeping babies were laying down, will forever be  
15          burned in her memory.

16          Thank you.

17          THE COURT: Thank you, Ms. Ford.

18          Mr. Wise?

19          MR. WISE: Please the Court?

20          THE COURT: Yes, sir.

21          MR. WISE: Ms. Ford, Mr. Clariday.

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State v. Dinkins  
Opening statement by Mr. Wise  
November 6, 2012

OPENING STATEMENT

1  
2 MR. WISE: Very simply, I would submit the  
3 evidence is going to show a couple of things in this  
4 case. A simple case, a straightforward case. I  
5 submit the evidence is going to show this: that  
6 Joseph Dinkins, number one, loves his family, that he  
7 loves his wife, that he loves his children. I think  
8 the evidence is going to show that the night this  
9 incident happened, he was upset about losing his  
10 family. But I think the evidence is going to show  
11 that he would not have hurt her, he would never have  
12 hurt her. And he certainly, he certainly, would have  
13 never attempted to set his wife on fire, not in the  
14 living room of their home, not in front of their  
15 friends, not as the children he loves are sleeping  
16 next door. He would simply never have done that. But  
17 more importantly, the evidence will show that he would  
18 not have done anything intentionally to make her think  
19 that he would ever hurt her. I submit when the case  
20 is over and you've heard all the evidence, you will  
21 find that the appropriate verdict is not guilty.  
22 Thank you.

23 THE COURT: Thank you, Mr. Wise.

24 The State may call its first witness.

25 MS. FORD: Thank you, Your Honor.

State v. Dinkins  
Opening statement by Mr. Wise  
November 6, 2012

1 The State would call Crystal Allen.

2 [Whereupon, Ms. Allen comes forward]

3 THE CLERK OF COURT: If you would place your  
4 left hand on the Bible and raise your right hand,  
5 please.

6 [Whereupon, Ms. Allen is duly sworn by the clerk  
7 of court as follows: do you hereby swear or affirm  
8 that the testimony you're about to give is the truth,  
9 the whole truth, and nothing but the truth, so help  
10 you God]

11 THE WITNESS: Yes.

12 THE CLERK OF COURT: Thank you, ma'am. You may  
13 have a seat.

14 [Whereupon, Ms. Allen takes the witness stand]

15 THE CLERK OF COURT: And please state your name  
16 again for the record.

17 THE WITNESS: Crystal Allen.

18 MS. FORD: Thank you, Ms. Allen.

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Crystal Allen  
Direct Examination by Ms. Ford  
November 6, 2012

CRYSTAL ALLEN,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. FORD:

Q. Where do you live?

A. Columbia.

Q. Back on May 30th, May 31st of 2012, where did  
you live?

A. At [REDACTED] Valerie Drive, Orangeburg.

Q. Okay. And that's here in Orangeburg County;  
correct?

A. Yes.

Q. Who lives with you?

A. Me, Joseph, whom I call Doug, our two children.

Q. How old are your kids?

A. Three and four.

Q. How long have you known Joseph Dinkins?

A. For about five years.

Q. What type of relationship did you have?

A. We were boyfriend and girlfriend.

Q. And you lived together; correct?

A. Yes.

Q. How long did you --

A. For about five years.

Crystal Allen  
Direct Examination by Ms. Ford  
November 6, 2012

1 Q. Are you still in that relationship with Joseph  
2 Dinkins?

3 A. No.

4 Q. Who initiated the breakup?

5 A. Me.

6 Q. When did the relationship end?

7 A. On May 31st.

8 Q. Of 2012?

9 A. Yes.

10 Q. What happened?

11 A. I decided that I couldn't be with him no more  
12 and I decided to end things with him.

13 Q. And did you tell him that?

14 A. Yes.

15 Q. Where did this discussion take place?

16 A. At our residence.

17 Q. Okay. After you had that discussion, what  
18 happened?

19 A. He left.

20 Q. Did you see Mr. Dinkins anymore that night?

21 A. Yes.

22 Q. When did he return??

23 A. [No response]

24 Q. [Ms. Ford] Take your time, Ms. Allen.

25 A. Late night, early-morning hours.

Crystal Allen  
Direct Examination by Ms. Ford  
November 6, 2012

- 1 Q. Who all was present when he returned?
- 2 A. Me, Kara Dowling, her friend Cliff, and our two
- 3 children.
- 4 Q. What was everybody doing?
- 5 A. Sleeping.
- 6 Q. What happened when he came home?
- 7 A. He asked me to talk with him.
- 8 Q. Did you?
- 9 A. Yes.
- 10 Q. Where did you go?
- 11 A. In our bedroom.
- 12 Q. Did you talk with him?
- 13 A. Yes.
- 14 Q. How did that talk end?
- 15 A. By him physically pushing me out the room.
- 16 Q. Where did you go after he pushed you out of the
- 17 room?
- 18 A. On the chair in the living room.
- 19 Q. What were you doing in there?
- 20 A. Laying down watching TV.
- 21 Q. What happened next?
- 22 A. He came out the room and he grabbed our family
- 23 picture off the wall and took it and threw it outside on
- 24 the back deck.
- 25 Q. Did he come back inside the house?

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1 A. Yes.

2 Q. What did he do when he came back inside the  
3 house?

4 A. He went back in our bedroom.

5 Q. Did he ever leave the bedroom again that  
6 evening?

7 A. Yes.

8 He came back out and said, fuck this shit, and  
9 went outside.

10 Q. Did he come back inside the house?

11 A. Yes.

12 Q. And what did he do when he came back inside the  
13 house?

14 A. He had a gasoline jug in his hand and he came  
15 charging towards me and pushed me back in the chair and  
16 started shaking the gasoline --

17 MR. WISE: Objection, Your Honor.

18 I think at this point there's not been a  
19 foundation that what was in that jug was actually  
20 gasoline. I think the witness may be able to testify  
21 it smelled like gasoline, but I think there's not a  
22 foundation to say what the substance was.

23 MS. FORD: Your Honor --

24 THE COURT: Ms. Ford, I'll let you -- I'll let  
25 you --

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1 I'm going to overrule your objection and let her  
2 go forward with the questioning as is. I'll note your  
3 objection on the record.

4 MR. WISE: Thank you.

5 MS. FORD: Thank you, Your Honor.

6 A. And he started shaking it on me. And he then  
7 hold me down with his knee and starting flicking the  
8 lighter and saying, if I can't have you, no one can.

9 Q. [Ms. Ford] Ms. Allen, what did you think was  
10 happening to you?

11 A. I thought I was actually about to lose my life,  
12 I was going to either be burned or in the hospital.

13 Q. And what was Mr. Dinkins' demeanor?

14 A. Like he was crazy or a psychopath.

15 Q. How did you get away?

16 A. Kara yanked me from under him.

17 Q. What did he do after she yanked you

18 A. He ran.

19 Q. Did he leave the house?

20 A. Yes.

21 Q. Do you know how he left?

22 A. He left in my car.

23 Q. What kind of car was that?

24 A. A Pontiac V-6.

25 Q. What were you wearing that night?

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1 A. A tee-shirt and boxers.

2 Q. What kind of tee-shirt?

3 A. It's a black tee-shirt with writing on the  
4 front.

5 Q. Does this look like the tee-shirt you were  
6 wearing that night?

7 A. Yes.

8 Q. After Mr. Dinkins left, did he ever try and  
9 contact you?

10 A. Yes, by a letter.

11 Q. How did you know these letters were from him?

12 A. Because it was addressed from him.

13 Q. Were you familiar with his handwriting?

14 A. Yes.

15 Q. Had he ever written you any letters before?

16 A. Yes.

17 Q. About how many would you say?

18 A. Maybe about ten.

19 Q. Had you had any other occasion to see his  
20 handwriting?

21 A. Yes.

22 Q. How?

23 A. He used to write rap lyrics.

24 Q. Did he show you those lyrics?

25 A. Yes.

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- 1 Q. How many lyrics or songs did he show you?  
2 A. About twenty-five.  
3 Q. Would it be fair to say that you were very  
4 familiar with his handwriting?  
5 A. Yes.  
6 Q. Earlier, you said Mr. Dinkins had a nickname.  
7 What was --  
8 A. Doug.  
9 Q. Did he ever call you anything in particular, a  
10 nickname?  
11 A. Babe.  
12 Q. Take a look at what's marked State's 1. What is  
13 that?  
14 A. This is the letter that he written.  
15 Q. Is it in the same condition as the first time  
16 you saw that?  
17 A. Yes.  
18 Q. When was it sent?  
19 A. June 4th of this year.  
20 Q. Who was it addressed to?  
21 A. Crystal Dinkins.  
22 Q. Okay. Who is that?  
23 A. Me.  
24 Q. Mr. Dinkins called you Crystal Dinkins?  
25 A. Yes.

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- 1 Q. And who does it say it's from on that envelope?
- 2 A. Joseph Dinkins.
- 3 Q. That handwriting, is it familiar to you?
- 4 A. Yes.
- 5 Q. Whose handwriting is that?
- 6 A. Doug.
- 7 Q. Doug, also known as --
- 8 A. Joseph.
- 9 Q. Is there any doubt in your mind that Joseph
- 10 Dinkins is the one that wrote that letter?
- 11 A. No, there's no doubt.
- 12 Q. Will you take a look at what's inside that
- 13 envelope? Do you recognize that?
- 14 A. Yes.
- 15 Q. What is it?
- 16 A. It's the letter that he had written.
- 17 Q. Does it appear to be in the same condition as
- 18 when you first received it?
- 19 A. Yes.
- 20 Q. Do you recognize the handwriting on that letter?
- 21 A. Yes.
- 22 Q. Whose handwriting is that?
- 23 A. Joseph.
- 24 Q. Who signed the letter?
- 25 A. Joseph. But he signed Doug.

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1 Q. Any doubt in your mind that Joseph Dinkins is  
2 the one that wrote that letter?

3 A. No, there's no doubt.

4 [Whereupon, State's Exhibit Number 1 is marked  
5 by the court reporter]

6 MS. FORD: Your Honor, at this time the State  
7 would offer State's Exhibit 1 into evidence.

8 MR. WISE: May we approach the bench, please?

9 THE COURT: Yes, sir.

10 [Whereupon, an off-the-record bench conference  
11 is held]

12 THE COURT: The letter that has been identified  
13 by Ms. Allen is admitted into evidence without  
14 objection.

15 [Whereupon, State's Exhibit Number 1 is admitted  
16 into evidence by the Court]

17 MS. FORD: Thank you, Your Honor.

18 At this time we would ask Ms. Allen to publish  
19 the letter to the jury.

20 THE COURT: Okay.

21 MS. FORD: Ms. Allen, if you'll wait just one  
22 moment, okay?

23 THE COURT: Mr. Wise, have you seen this  
24 blow-up?

25 MR. WISE: Yes. Yes, Your Honor.

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1 THE COURT: Thank you, sir.

2 Q. [Ms. Ford] Ms. Allen, will you please publish  
3 that letter to the jury.

4 A. First off, Babe, I want to start off by saying  
5 sorry, and not just a sorry I did it but a really, really  
6 deep from-my-heart sorry. I want to let you know that day  
7 I would never do some crazy shit like set you on fire.  
8 Baby, I had more water than gas in that jug. My reason  
9 for doing that, baby, was to show you that I wanted you  
10 and that I don't want anybody else to have you. Was that  
11 a dumb way to let you know that? Yes, it was. That day I  
12 was hurt. You told me that you didn't want to be with me  
13 and that you didn't love me anymore. But Baby, what you  
14 don't understand is that you and our kids is my world.  
15 Since I been in here, I cry every night thinking about the  
16 hurt in your voice in that courtroom and you saying you  
17 feared for your life. Crystal, please believe when I say  
18 I will never take your life. I might say some crazy shit  
19 when I'm upset, but taking your life, hell no. Six years  
20 we've been together, Baby. I don't want to let that go.  
21 I miss you so much, Baby. I miss my kids. I even miss  
22 those big eyes of yours. I'm begging you, Babe, please  
23 don't give up on us, but most of all please don't give up  
24 on me. Baby, I need you in my life. You're the only  
25 reason I try to do good, because who else gives a damn if

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1 I do good or not. Crystal, I hate this place. I don't  
2 want to be here and deep down, Baby, you don't want me to  
3 be in here. Baby, I put this on -- there is no reason for  
4 you to be scared. And what about when the kids ask where  
5 is daddy. Baby, when the police got me, I was on the way  
6 home hoping you was there because I wanted to get all this  
7 cleared away, but they got me before we could talk. And  
8 that bullshit about Lisa, really, Babe, you know me better  
9 than that. I just want to be home with my family, Babe.  
10 I just want to smell your hair, Babe. Crystal, I'm  
11 hurting so bad about this whole situation that I'm crying  
12 all over this letter. Baby, I'm begging you please if you  
13 can drop these charges so I can get out of this hell hole.  
14 If you don't want me around you, I can understand that,  
15 but please let me out so I can be with my kids or at least  
16 put some time on the phone so I can talk to them and you,  
17 too, if you don't mind. And could you ask daddy to put  
18 something on my -- I have got that on the visitation list.  
19 I know you can't come but at least send my babies with  
20 J.J. Baby, I swear, hurting you like that I would never,  
21 ever do that again. I would never do that. It was just a  
22 dumb idea that I should never try. But once again, Baby,  
23 taking your life or harming you like that, I would never  
24 do, Babe. Baby, I just want to be with you and grow old  
25 with you. Don't you still want that? Don't you still

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1 want a family? I know I do. Baby, I want to come home.  
2 I just want to dedicate my life to making you the most  
3 happiest wife in the world. And like you tell me, Baby,  
4 some things that happen are a test. Are we going to fail  
5 or put this test -- put this test, Babe. It's up to you.  
6 But, Babe, please don't give up on us, Babe. We have so  
7 much into this, six years, two kids, a home. Don't give  
8 up, Babe. Please don't. If there's anything you could do  
9 to get me out of here, Babe, please do it. I can't sit in  
10 here until August. Baby, I can't. I can't sleep now from  
11 missing y'all so much. I just want to be with you in my  
12 arms watching a movie or something. Whatever it is you  
13 want me to do, Babe, it's done. Just let me know. But  
14 most of all, please forgive me, please. All I want is my  
15 family back and I'll do whatever it takes, Babe. Just  
16 don't give up on us, Babe. I love you and I miss you.  
17 Please write back and send me one of our family pictures.  
18 The big one is in the room beside the chair. Could you  
19 please, I'm begging, please set up the phone so I can talk  
20 to my kids. Love, Doug. P.S. Kiss my babies and tell  
21 them I love them also. I need the glasses because we  
22 can't wear contacts in here. Once again, Baby, don't give  
23 up. Love you. Write back, and don't put Allen, put  
24 Dinkins on the -- oh, and the phone is Paytell.

25 Q. [Ms. Ford] Thank you, Ms. Allen.

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1           So on that letter that Mr. Dinkins wrote to you,  
2           if there was more water than gasoline in that jug, what  
3           did you smell?

4           A.     Gasoline.

5           Q.     What did you smell on your clothes and in your  
6           house?

7           A.     Gasoline.

8           Q.     Is there any doubt in your mind that Joseph  
9           Dinkins wrote you that letter?

10          A.     No, there's no doubt.

11          Q.     Any doubt that he wrote you that letter to  
12          apologize for trying to set you on fire?

13          A.     No.

14          Q.     Ms. Allen, did you call law enforcement that  
15          night?

16          A.     Yes.

17          Q.     And did they come out to your house?

18          A.     Yes.

19          Q.     And did you tell law enforcement what you  
20          testified here today?

21          A.     Yes.

22                 MS. FORD: Thank you, Ms. Allen.

23                 Mr. Wise is going to ask you some questions.

24                 Please answer those questions.

25                 MR. WISE: Just a --

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1 THE COURT: Okay. Take your time.

2 MR. WISE: Thank you.

3 Good afternoon, Ms. Allen.

4 THE WITNESS: Hello.

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Crystal Allen  
Cross-Examination by Mr. Wise  
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CROSS-EXAMINATION

BY MR. WISE:

Q. Let's back up a little bit. You and Joseph have been together for five years; right?

A. Uh-huh.

Q. And am I correct that he -- one of the things he does to earn money is to work on cars?

A. Yes.

Q. Works on cars in the lot -- in the yard of where you used to live?

A. No.

Q. He didn't work on cars in the yard?

A. No.

Q. He worked on cars other places?

A. Yes.

Q. You testified at one point about the family picture that he took and he threw outside. There came a point when he went and got that family picture and you [sic] put it back into the house?

A. Did I? No.

Q. No, not you.

A. Oh.

Q. Joseph.

A. That's what he stated in the letter.

Q. Did you see the picture that he threw outside?

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1 A. No.

2 Q. Do you think it was the same letter [sic] that  
3 he asked you to send him in that letter? Same picture?

4 A. No.

5 Q. You said that he pushed you out of the bedroom.  
6 He was upset when that happened; right?

7 A. Yes.

8 Q. Was he angry with you?

9 A. No.

10 Q. Upset, but not angry?

11 A. Yes.

12 Q. So after that happened you went to the  
13 livingroom, the sofa, and kind of sat down or laid  
14 down on the sofa?

15 A. Yes.

16 Q. Did you leave the house?

17 A. No.

18 Q. So when all this happened, you were sitting in  
19 the living room?

20 A. Yes.

21 Q. Who else was in the living room?

22 A. Kara and her friend Cliff.

23 Q. Kara and her friend. What's his name?

24 A. Cliff.

25 Q. Cliff. Okay. You call him Antoine?

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- 1 A. No. I call him Cliff.
- 2 Q. Is his name Antoine?
- 3 A. I don't know.
- 4 Q. You don't know? Okay.
- 5 So Kara and Antoine -- Kara and Cliff are in the
- 6 living room. These are friends of yours?
- 7 A. Both me and him.
- 8 Q. So that means they're friends of yours, then,
- 9 doesn't it?
- 10 A. Yes.
- 11 Q. And they're sitting on -- you have another sofa
- 12 in your living room, don't you?
- 13 A. Yes.
- 14 Q. Very good.
- 15 And that sofa from -- the sofa you were sitting
- 16 on from the sofa they were sitting on is about how far?
- 17 A. From about --
- 18 Q. Let's go from you to me.
- 19 A. Yeah, that's about the distance.
- 20 Q. Okay. So about maybe ten feet?
- 21 A. Maybe, yes.
- 22 Q. It's close; isn't that correct?
- 23 A. Uh-huh.
- 24 Q. Now, there comes a point I think when you said
- 25 Joseph left the house --

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1 A. Uh-huh.

2 Q. -- and he goes outside and then he comes back  
3 inside. When he came back in, right when he comes in did  
4 you speak to him?

5 A. No.

6 Q. What were the first words you said to him and he  
7 said to you when he came back in the house?

8 A. Nothing. No one said anything.

9 Q. So it's your testimony that when he came back  
10 in, he just walked over to the sofa?

11 A. [No response]

12 Q. You have to answer.

13 A. Yes. Or, actually, he didn't walk, he charged.

14 Q. You -- Kara was asleep at the time?

15 A. When he came back in the house, no, she was  
16 already awoke.

17 Q. She was awake?

18 A. Uh-huh..

19 Q. Okay. And what about Cliff?

20 A. Cliff was awoke, too.

21 Q. So you and Kara and Cliff were all awake at the  
22 time --

23 A. Uh-huh.

24 Q. -- just sitting there?

25 A. Uh-huh.

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1 Q. What time was this?

2 A. I'm not sure. It was early-morning hours.

3 Q. About what time?

4 A. After -- I know it was after 12:00 a.m.

5 Q. About three o'clock in the morning?

6 A. Maybe. Maybe a little before that.

7 Q. You were watching TV? Talking?

8 A. In between talking and watching TV. Like she  
9 was just checking on me to make sure I was -- because I  
10 was kind of upset. Not upset upset, but like tears were  
11 coming because I was just thinking about, you know --

12 Q. You were thinking about what all was going on in  
13 your life at that time?

14 A. Uh-huh.

15 Q. You have to answer.

16 A. Yes.

17 Q. So Joseph comes back in the house. And you say  
18 he just runs over to you and starts pouring gasoline on  
19 you, basically?

20 A. Yes.

21 Q. That's what happened?

22 A. Yes.

23 Q. And when he comes over to you and he starts  
24 doing this, Kara and Cliff are still sitting there?

25 A. No.

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1 Q. They left?

2 A. In the middle of all that, she had jumped up and  
3 got in between us. But it just all happened so fast. He  
4 was shaking, but she jumped in between, but the gasoline  
5 had gotten on me.

6 Q. And when you say he was shaking -- so he's got  
7 this jug in one hand?

8 A. Uh-huh.

9 Q. And show us how he's shaking it.

10 A. He was shaking it. I don't know which hand he  
11 was shaking, but he was shaking.

12 Q. Shaking it like this [indicates]?

13 A. Uh-huh.

14 Q. While he's shaking it, is he saying anything to  
15 you?

16 A. Yes. If I can't have you, no one can.

17 Q. And how close is he to you when he's shaking  
18 this jug?

19 A. He's on me.

20 Q. Right over you?

21 A. Uh-huh.

22 Q. Okay. Shaking the jug?

23 A. Yes.

24 Q. Do you remember how often he shook it? Once,  
25 twice?

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1 A. I don't remember.

2 Q. When he's shaking the jug, where is the gasoline  
3 going?

4 A. On me.

5 Q. Just on you?

6 A. Uh-huh.

7 Q. Not on Kara or Cliff?

8 A. Huh-uh.

9 Q. Not on the sofa?

10 A. I don't know.

11 I mean, I was trying to fight. It wasn't like I  
12 was paying attention to see where it was going.

13 Q. When you say trying to fight, kicking?

14 A. Yes. Trying to get him off of me.

15 Q. So you're fighting him, you're kicking him. Did  
16 he get gasoline on himself?

17 A. I don't know.

18 Q. The jug, he's holding it in one hand; correct?

19 A. Uh-huh. Yes.

20 Q. Now, you say he takes out a lighter?

21 A. Uh-huh.

22 Q. From where?

23 A. I don't know where it come from. I don't know  
24 if it was still in his hand or -- I don't know if he had  
25 it in his hand. But it -- he had it in his hand. I don't

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1 know where it came from.

2 Q. You didn't see it before?

3 A. Yes.

4 Q. Did you see it when he walked over to the --

5 A. Oh. No. No. I seen it before.

6 Q. Yes. Yes.

7 A. Uh-huh.

8 Q. But the first time you saw it the evening this  
9 happened was when he --

10 A. Was trying to flick it.

11 Q. And you don't know exactly where he took it  
12 from?

13 A. No.

14 Q. Take it out of his pocket? Do you remember?

15 A. No.

16 Q. No, you don't remember?

17 A. No, I don't remember.

18 Q. So he's shaking the can. And at what point does  
19 Kara get up?

20 A. Right when he started shaking the gas can.

21 Q. Right when he started shaking it?

22 A. Uh-huh.

23 Q. So she gets up, goes over there right when he  
24 started shaking it?

25 A. Uh-huh.

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1 Q. So he hasn't started flicking yet?

2 A. No.

3 Well, he had the gasoline in one hand and  
4 shaking it, and he was flicking the -- I'm not sure which  
5 hand, but he was flicking the lighter.

6 Q. Doing two things at once?

7 A. Yes.

8 Because he was holding me down with his knee at  
9 that point.

10 Q. Holding you with his knee --

11 A. Uh-huh.

12 Q. -- shaking and flicking?

13 A. Yes.

14 Q. And then he stops; right?

15 A. Uh-huh. Yes.

16 Q. And when he stops, you leave and go into the  
17 bedroom?

18 A. No.

19 Q. Where do you go?

20 A. He ran.

21 Q. So he stops and then he leaves?

22 A. Uh-huh. Yes.

23 Q. You don't leave the room?

24 A. No. We're in the living room.

25 Q. All right. And he doesn't do anything to try to

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1 stop you from --

2 MR. WISE: Judge, may I have one moment?

3 THE COURT: Sure.

4 Q. [Mr. Wise] When you remember -- you remember  
5 giving a statement to the police, don't you --

6 A. Yes.

7 Q. -- a written statement? And I have it, if you  
8 want to take a look at it. In your statement you said: I  
9 was then able to grab the phone and call 911, and he flew  
10 out the house in my car and sped off.

11 A. Yes.

12 Q. That's an accurate statement?

13 A. Yes.

14 Q. So you get the phone, call 911, he leaves?

15 A. Uh-huh. Yes.

16 Q. And just so we're clear, he never hit you?

17 A. He held me down, so that's considering hitting.

18 Q. He never punched you?

19 A. No.

20 Q. He never slapped you?

21 A. No.

22 Q. When he -- when Joseph left the house, where was  
23 the gas can?

24 A. That night?

25 Q. Yes, ma'am.

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1 A. I don't know. I don't know if he took it with  
2 him when he fled, but I didn't --

3 Q. You don't know?

4 A. -- I didn't see it.

5 Q. Did there come a point, Ms. Allen, when -- if  
6 you know, he came, Joseph came, back to the house?

7 A. No, I don't know.

8 Q. You don't know.

9 Did you spend the night in the house?

10 A. Yes, I stayed.

11 Q. Did you ever see Joseph anymore after that  
12 night?

13 A. No. Only when he was arrested. I had to go get  
14 my vehicle.

15 Q. Right.

16 A. Uh-huh.

17 Q. But between the incident --

18 A. No.

19 Q. -- he never came back?

20 A. No.

21 Q. You and he had been having this problem pursuant  
22 to all this. Am I correct it began about whether or not  
23 you or he was seeing somebody else? Is that what started  
24 all this?

25 A. No, that's not what started it.

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1 Q. But there had been some problem between the two  
2 of you to cause this issue to come up about breaking up,  
3 wasn't there?

4 A. I was tired. That's why.

5 Q. You were tired of him?

6 A. Yes.

7 Q. Do you remember this conversation that evening  
8 about -- or talking to him about somebody named Lisa?

9 A. No, not -- I didn't talk to him when I broke up  
10 with him about that.

11 Q. Okay. In that letter I think he asked you to  
12 send him some pictures of the family.

13 A. Yes.

14 Q. You did that; right?

15 A. The kids.

16 Q. The kids. You sent him pictures --

17 A. Well, I didn't send them.

18 Q. You had them sent?

19 A. Yes.

20 MR. WISE: May I have one moment?

21 THE COURT: Yes, sir.

22 MR. WISE: Okay. Thank you, Ms. Allen.

23 THE COURT: Thank you, Mr. Wise.

24 Anything on redirect?

25 MS. FORD: Just briefly, Your Honor.

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REDIRECT EXAMINATION

BY MS. FORD:

Q. Did this whole incident happen very quickly,  
Ms. Allen?

A. Yes.

Q. When Mr. Dinkins was shaking that gas can, was  
gasoline getting on your body?

A. Yes.

Q. Where did the gasoline go on your body?

A. All in my hair. From there on down.

Q. Your face, your shirt?

A. Yes.

Q. Is there any doubt in your mind that it was  
gasoline that he was --

A. There is no doubt at all.

Q. Any doubt that he had a lighter in his hand?

A. No doubt.

Q. He was flicking that lighter?

A. No doubt.

Q. While you were covered in gasoline?

A. No doubt at all.

MS. FORD: Thank you.

THE COURT: Anything on recross?

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Crystal Allen  
Recross-Examination by Mr. Wise  
November 6, 2012

RECROSS-EXAMINATION

BY MR. WISE:

Q. Do you have any reason to believe Joseph is suicidal?

MS. FORD: Objection, Your Honor. Relevancy.

MR. WISE: She testified that there's no doubt in her mind that he's shaking a gas can and flicking a lighter. Obviously, if it's going to hurt her, it's going to hurt him.

MS. FORD: Further -- I apologize, Your Honor.

THE COURT: Yes, ma'am?

MS. FORD: Further, Your Honor, he's asking the witness to speculate as to Mr. Dinkins' state of mind, his mental health. Certainly Ms. Allen is not able to do that.

THE COURT: I'll sustain the objection.

MR. WISE: That's all we have, Judge.

THE COURT: All right. You may step down.

Thank you, ma'am.

THE WITNESS: You're welcome.

[Whereupon, Ms. Allen is excused and exits the witness stand]

THE COURT: Is the State ready to call its next witness?

MS. FORD: Yes, sir, Your Honor.

Crystal Allen  
Recross-Examination by Mr. Wise  
November 6, 2012

1 THE COURT: All right.

2 MS. FORD: Your Honor, the State would call Kara  
3 Dowling to the stand.

4 [Whereupon, Ms. Dowling comes forward]

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

7 [Whereupon, Ms. Dowling is duly sworn by the  
8 clerk of court as follows: do you hereby swear or  
9 affirm that the testimony you're about to give is the  
10 truth, the whole truth, and nothing but the truth, so  
11 help you God]

12 THE WITNESS: Yes, ma'am.

13 THE CLERK OF COURT: Thank you. Will you please  
14 state your name again for the record. You may have a  
15 seat.

16 [Whereupon, Ms. Allen takes the witness stand]

17 THE WITNESS: Kara Dowling.

18 THE CLERK OF COURT: Thank you.

19 MS. FORD: Good afternoon, Ms. Dowling.  
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Kara Dowling  
Direct Examination by Ms. Ford  
November 6, 2012

KARA DOWLING,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. FORD:

Q. Where do you live?

A. I live in Columbia, South Carolina.

Q. Do you know Joseph Dinkins?

A. Yes, ma'am.

Q. How do you know him?

A. We met about eight years ago. And our daughters  
are first cousins.

Q. So your children are related?

A. Yes, ma'am.

Q. How did you meet Crystal Allen?

A. I met her through him.

Q. On May 30th, 2012, did you see Crystal Allen?

A. Yes, ma'am, I did.

Q. Where did you see her?

A. At home.

Q. At home? Okay. Where is that?

A. In the country. I can't think of the name of  
the road right now. I'm sorry.

Q. You don't need to tell me the address. Just  
what city?

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Kara Dowling  
Direct Examination by Ms. Ford  
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1 A. In Orangeburg.

2 Q. In Orangeburg. Okay. When did you go to her  
3 house?

4 A. Probably about 5:30, six o'clock that afternoon.

5 Q. Who all was at the house when you arrived?

6 A. When I got there it was just Crystal and the  
7 kids. And I had a friend with me.

8 Q. How long did you stay at the house?

9 A. I actually stayed the night there that night.

10 Q. So you slept at the house?

11 A. Yes.

12 Q. Where were you sleeping?

13 A. On the couch.

14 Q. What room is that located in?

15 A. In the living room.

16 Q. Did you see Mr. Dinkins at all that night or --

17 A. I saw him that night, but when I saw him it was  
18 when he was pouring the gasoline on Crystal.

19 Q. When you say he was pouring the gasoline on  
20 Crystal, what did you see? What did you observe?

21 A. By the time I saw what was happening, he was  
22 crossing in front of the TV, which was directly in front  
23 of where I was sitting. And he had the gas can in his  
24 right hand and I saw him lift it up and walk to her and he  
25 poured it -- started at the top of her body and was

Kara Dowling  
Direct Examination by Ms. Ford  
November 6, 2012

1 shaking it all over her.

2 Q. Did he have anything else in his hand?

3 A. A lighter.

4 Q. Did he do anything with that lighter?

5 A. He tried to flick it, but it wouldn't come on,  
6 wouldn't light.

7 Q. Did he flick it multiple times?

8 A. Yes.

9 Q. Did Mr. Dinkins threaten Ms. Allen?

10 A. Yes.

11 He told her that if he couldn't have her, then  
12 nobody could have her.

13 Q. What was Mr. Dinkins' demeanor?

14 A. All I saw in his face was anger. That's the  
15 only thing I saw.

16 Q. So you were in the living room --

17 A. Yes.

18 Q. -- you see him come towards Ms. Allen. What did  
19 you do?

20 A. At first I didn't really know what was going on,  
21 so I sat there. But as soon as I saw what was happening,  
22 I jumped up and I started screaming, you know, stop, it's  
23 not that serious, and I pulled her away from him.

24 Q. How was Ms. Allen?

25 A. She was very upset, crying, emotional.

Kara Dowling  
Direct Examination by Ms. Ford  
November 6, 2012

1 Q. After you pulled Ms. Allen away, what did  
2 Mr. Dinkins do?

3 A. I really don't know at what point he left -- but  
4 I do know that he left -- because I was focusing on her.

5 Q. Did anyone call law enforcement?

6 A. She did. Crystal did.

7 Q. Were you present when law enforcement arrived?

8 A. Yes.

9 MS. FORD: Beg the Court's indulgence for just a  
10 moment, Your Honor.

11 Q. [Ms. Ford] You said you don't know when  
12 Mr. Dinkins left; correct?

13 A. Yes.

14 Q. Do you happen to know how he left?

15 A. He took Crystal's car, if I'm not mistaken.

16 Q. What kind of car was that?

17 A. It's a green Pontiac V-6.

18 Q. So you just testified to what you observed that  
19 night --

20 A. Yes.

21 Q. -- at that home. Anything else that you want to  
22 add?

23 MR. WISE: Objection, Your Honor.

24 THE COURT: You can ask her questions,

25 Ms. Ford --

Kara Dowling  
Direct Examination by Ms. Ford  
November 6, 2012

1 MS. FORD: Yes, sir. No further questions at  
2 this time, Your Honor.

3 THE COURT: Mr. Wise?  
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Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

CROSS-EXAMINATION

BY MR. WISE:

Q. Ms. Dowling, are you employed now?

A. Yes.

Q. Where do you work?

A. Applebee's.

Q. Which Applebee's?

A. In Columbia, on Broad River Road.

Q. You used to work at Applebee's in Orangeburg?

A. Yes, sir.

Q. The night this incident happened, you and your  
boyfriend was at the house?

A. It was just a friend.

Q. Just a friend. Okay. What's his name?

A. Cliff.

Q. Cliff. Okay.

You and Cliff were at the house. Do you  
remember what time this happened?

A. About somewhere between 2:30 and three o'clock  
in the morning.

Q. So you would have been what -- well, what time  
did you get to the house?

A. I got there around six o'clock that afternoon, I  
think, and I just -- I never left again.

Q. So everything that happened, from six o'clock

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 until this thing happened, you would seen?

2 A. Yes.

3 Q. You saw the argument, then, between Crystal and  
4 Joseph?

5 A. No. I was asleep at the time.

6 Q. You were asleep. Okay.

7 Did you see this thing that happened where  
8 Joseph pushed Crystal out of the bedroom?

9 A. No.

10 Q. Did you see what happened with Joseph taking the  
11 picture and throwing it outside?

12 A. I remember him coming and taking the picture off  
13 the wall, but I didn't know what he did with it. But I do  
14 remember him taking the picture off the wall.

15 Q. So you saw him take the picture off the wall.  
16 You don't know what happened. Obviously, you're awake.  
17 What did Joseph do next?

18 A. After the picture, I remember him coming in and  
19 out of the house. I couldn't see him but I could hear the  
20 door opening and closing. And then there was one last  
21 time where he opened the door and that's when the incident  
22 happened.

23 Q. When he opened the door for the last time, the  
24 time that you remember, he's coming into the house from  
25 outside; correct?

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 A. Yes.

2 Q. Coming in the back door?

3 A. Yes.

4 Q. What, if anything, is he saying?

5 A. I remember him saying, fuck this, and then he  
6 walked up to Crystal and then that's when he said, if I  
7 can't have you, nobody can have you.

8 Q. And is that the only thing he said between the  
9 time he walked in the back door until the time he got over  
10 to Crystal?

11 A. That's the only thing I remember.

12 Q. Obviously, you're awake. Was Cliff awake?

13 A. I think so. I can't really remember.

14 Q. And when he is coming in the back door, what was  
15 Crystal doing?

16 A. She was laying on the chair.

17 Q. Doing what?

18 A. Just laying down.

19 She and I had been talking, so she was just  
20 laying down. I guess she was probably trying to go back  
21 to sleep because it was late.

22 Q. She was trying to go back to sleep. Okay.  
23 Okay.

24 Were you trying to go back to sleep, also?

25 A. Well, we were actually watching TV -- we were

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 watching TV and we had been talking, but I had plans on  
2 going right back to sleep.

3 Q. And how long had you been up that day?

4 A. Prior to?

5 Q. Yes, ma'am. Do you remember?

6 A. I really don't remember what time I woke up that  
7 day, and I honestly don't remember when I went to sleep.  
8 I think I went to sleep between 11:00 and 12:00, probably.

9 Q. So this happened at 3:00, 3:30 in the morning,  
10 so it had been a pretty long day?

11 A. Yes.

12 Q. Same thing for Crystal?

13 A. Yes.

14 Q. In your direct testimony, you said you saw  
15 Joseph pouring gas on Crystal?

16 A. Yes.

17 Q. He was shaking the can?

18 A. He was shaking it and it was coming out --

19 Q. There was some gas coming out of it?

20 A. Yes...

21 Q. Do you remember what the can looked like?

22 A. It was red with a black nozzle.

23 Q. So there was a kind of a nozzle that may have  
24 been coming out of the can?

25 A. Yes.

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 Q. Okay. But otherwise the can was sealed; do you  
2 remember?

3 A. I don't know.

4 Q. Now, do you remember at what point you got  
5 involved in this confrontation between Joseph and Crystal?

6 A. It was right after he started pouring the  
7 gasoline on her. But as soon as I saw the lighter and  
8 heard him trying to flick it, I reacted a lot quicker than  
9 initially.

10 Q. When he came through the trailer with this jug  
11 in his hand, did you see the jug in his hand?

12 A. Not until he crossed in front of the television,  
13 because that's when I actually saw him.

14 Q. So he crossed in front of the television and you  
15 see the jug in his hand?

16 A. Yes.

17 Q. And you just watched him come by? You watched  
18 him as he walked past you?

19 A. Yes.

20 Q. There came a point when you got in the middle of  
21 them. You separated them?

22 A. I don't exactly remember how the separation  
23 happened, but I just remember I grabbed her.

24 Q. You grabbed her. You grabbed her where? Where  
25 was she when you grabbed her?

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 A. She was standing over near him and I pulled her  
2 arm and pulled her towards me.

3 Q. So she was standing now face-to-face with him?

4 A. Yes.

5 Q. So she's on her feet and he's on his feet --

6 A. Yes.

7 Q. -- and you get up and you grab her --

8 A. Yes.

9 Q. -- pull her towards you?

10 A. Yes.

11 Q. What does he do?

12 A. I don't remember.

13 Q. Does he leave the house?

14 A. Yes.

15 Q. Immediately?

16 A. Yes.

17 Q. Came a point when she called 911?

18 A. Yes.

19 Q. Do you remember when that happened?

20 A. Pretty much right after the whole incident took  
21 place.

22 Q. When she called 911, where was Joseph?

23 A. I'm not sure. I think he may have still been  
24 there, but I'm not sure.

25 Q. So would it be, from your recollection, fair to

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 say you separated her, she got the phone, she called 911?

2 A. Yes.

3 Q. Okay. You don't know what was in the jug, do  
4 you?

5 A. [No response]

6 Q. It smelled like gasoline. That's the best you  
7 can tell; is that right?

8 A. Yes.

9 Q. When Joseph came in, walked across the room, did  
10 that startle you?

11 A. Somewhat.

12 Q. It startled her?

13 A. I think so.

14 MR. WISE: Your Honor, may I have one moment?

15 THE COURT: Yes, sir.

16 MR. WISE: Thank you. Thank you.

17 THE COURT: Thank you, Mr. Wise.

18 MR. WISE: It's good to see you again, Ms.

19 Dowling.

20 THE COURT: Anything on redirect?

21 MS. FORD: Nothing, Your Honor.

22 THE COURT: All right. You may step down.

23 Thank you, ma'am.

24 [Whereupon, Ms. Dowling is excused and exits the  
25 witness stand]

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 THE COURT: If it's alright with you, I'm going  
2 to take about a ten-minute break.

3 Ladies and gentlemen, I'm going to take a mid-  
4 afternoon break now. It'll be about ten minutes.  
5 You'll go back in the jury room. We'll be back out  
6 here at quarter till.

7 Remember the thing I'm going to tell y'all over  
8 and over, until you're tired of hearing it, is you've  
9 heard two of the witnesses but you haven't heard all  
10 the case so you may not begin talking about this yet.  
11 Okay?

12 Y'all are excused to go back into the jury room.  
13 Thank you.

14 [Whereupon, the jury exits the courtroom at  
15 2:35 p.m.]

16 THE COURT: Anything from the State?

17 MS. FORD: Nothing, Your Honor.

18 THE COURT: Anything from the defense?

19 MR. WISE: No, Your Honor.

20 THE COURT: We'll take a break until quarter  
21 till. Thank you.

22 [Whereupon, a recess is taken from 2:36 p.m. to  
23 2:47 p.m.]

24 THE COURT: We had a meeting back in chambers.  
25 It came to the Court's attention that Michelle Craven

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 is Tammy's sister-in-law?

2 MS. FORD: Yes, Your Honor.

3 Tammy Craven, our victim advocate, apparently  
4 she's the wife of Mr. Craven's brother.

5 THE COURT: Okay. And out of an abundance of  
6 caution in discussion in there, we're going to excuse  
7 Ms. Craven from remaining on the jury and per  
8 agreement we will seat as a replacement juror the  
9 first person chosen as an alternate, Ms. Betty  
10 Goodwin, juror number 71.

11 Is that correct, Ms. Ford?

12 MS. FORD: That would be correct, Your Honor.

13 THE COURT: Is that correct, Mr. Wise?

14 MR. WISE: Yes, Your Honor.

15 THE COURT: And would you mind just asking Ms.  
16 Craven to step out here for second? Thank you, ma'am.

17 [Off the record momentarily]

18 [Whereupon, Ms. Craven enters the courtroom at  
19 2:49 p.m.]

20 THE COURT: Ms. Craven, I'm sorry to pull you  
21 out of the jury room. We realized after we picked you  
22 that Tammy is your sister-in-law.

23 MS. CRAVEN: Yes.

24 THE COURT: And I forgot to ask questions  
25 regarding that, and so we're going to excuse you. You

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 are free to go.

2 MS. CRAVEN: Thank you.

3 THE COURT: Thank you, ma'am. I appreciate --

4 MS. CRAVEN: This way or that way?

5 THE COURT: Well, that way I guess would be just  
6 as easy. Thank you, ma'am.

7 MS. CRAVEN: Thank you.

8 THE COURT: I appreciate it.

9 And when Ms. Goodwin comes in, she's going to be  
10 sitting with the jury at this time.

11 THE BAILIFF: All right.

12 THE COURT: All right. Is the State ready to  
13 proceed?

14 MR. CLARIDAY: Yes, sir.

15 MS. FORD: We are, Your Honor.

16 THE COURT: Mr. Wise?

17 MR. WISE: Yes, Your Honor.

18 THE COURT: Okay. You can bring the jury on  
19 back out.

20 [Whereupon, the jury enters the courtroom at  
21 2:53 p.m.]

22 THE COURT: Ladies and gentlemen, just so y'all  
23 know, something came up regarding Ms. Craven so she  
24 had to leave. And as a result, Ms. Goodwin, you're  
25 now on the jury. Congratulations. Okay? Thank you,

Kara Dowling  
Cross-Examination by Mr. Wise  
November 6, 2012

1 ma'am. Appreciate it. I know you're glad. I can see  
2 that happy smile. That's okay. You can't hide it.

3 All right. Is the State ready to proceed?

4 MS. FORD: We are, Your Honor.

5 THE COURT: If you would call your next witness,  
6 please, ma'am.

7 MR. CLARIDAY: Thank you, Your Honor. The State  
8 calls Deputy Desi McQueen.

9 [Whereupon, Mr. McQueen comes forward]

10 [Whereupon, Mr. McQueen is duly sworn by the  
11 clerk of court as follows: do you hereby swear or  
12 affirm the testimony you're about to give is the  
13 truth, the whole truth, and nothing but the truth, so  
14 help you God]

15 THE WITNESS: Yes.

16 THE CLERK OF COURT: Thank you. Please have a  
17 seat.

18 [Whereupon, Mr. McQueen takes the witness stand]

19 THE CLERK OF COURT: State your name again for  
20 the record.

21 THE WITNESS: Deputy Desi McQueen, with the  
22 Orangeburg County Sheriff's Office.

23 THE CLERK OF COURT: Thank you.

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25 - - -

Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

DESI MCQUEEN,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Deputy McQueen, how long have you been employed  
in law enforcement?

A. I got hired with the Orangeburg County Sheriff's  
Office November of 2002.

Q. And have you worked exclusively for the  
sheriff's department here in Orangeburg since then?

A. Yes.

Q. What are some of your duties or what's kind of  
the nature of your employment with the sheriff's office?

A. Enforcing law enforcement. Responding to calls.

Q. Were you working the night of May 31st, 2012?

A. Yes.

Q. And did you respond to a Valerie address that's  
located here in the county?

A. Yes.

Q. And what was the nature of that call?

A. Domestic violence call.

Q. And have you -- had you responded to domestic  
violence cases in the past?

A. Yes.

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Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

1 Q. So you are familiar with kind of the protocol of  
2 what was going on?

3 A. Yes.

4 Q. When you arrived at the residence, were you the  
5 first officer there?

6 A. Me and two other officers kind of got there  
7 simultaneously. I probably pulled in the yard first.

8 Q. Did you enter the home?

9 A. Yes.

10 Q. When you entered the home, did you meet with  
11 anybody inside that home?

12 A. When I pulled in the yard, I saw a young lady at  
13 the front door and I started approaching the porch. When  
14 she opened the door and I stepped in, that I was speaking  
15 to the victim at the time -- I didn't know because she was  
16 hysterical, she was crying and yelling. I also smelled  
17 gasoline once I stepped inside.

18 Q. So let's talk about that. When you stepped  
19 inside the home, you were able to smell the gasoline?

20 A. Right off. Just fumigated right there.

21 Q. Did you know, entering the home, that that was  
22 kind of going to be the allegations?

23 A. Wasn't really sure because like I said, the  
24 victim was yelling and she was highly upset. And we tried  
25 to get her to calm down and explain what had happened.

Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

1 And once she started explaining, she was saying that she  
2 was laying on the couch and --

3 MR. WISE: Objection, Your Honor. That would be  
4 hearsay.

5 THE COURT: Just tell us what --

6 Q. [Mr. Clariday] Just limit it to what you  
7 observed and try not to say what she told you at this  
8 point.

9 A. Like I said, she was hysterical, very upset,  
10 crying.

11 Q. When you entered the -- was it the living room  
12 you walked into, or what?

13 A. The living room.

14 Q. Did you see anything else in there? What else  
15 did you observe in the living room?

16 A. It was two parties, a young lady and a young  
17 man, sitting on another couch.

18 Like I said, the victim tried to point out  
19 exactly where she was laying at and that it was also a gas  
20 can near that couch.

21 Q. And did you actually physically see a gas can in  
22 there?

23 A. Yes.

24 Q. And where was it located in reference to chairs  
25 and couches, the living room?

Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

1 A. Probably right at the corner of the couch.

2 Q. And, again, you could smell --

3 A. Gasoline.

4 Q. -- the smell of gasoline?

5 And the emotional state -- do you recognize the  
6 victim that you spoke with today --

7 A. Yes.

8 Q. -- here in the courtroom?

9 A. Yes.

10 Q. And can you point her out, please?

11 A. Right there [indicates]

12 Q. And that's Ms. Allen; correct?

13 A. Ms. Allen.

14 Q. And her emotional state was -- again, don't tell  
15 me what exactly she said. Just, you know, what did she  
16 appear? Did she appear to be upset, under duress?

17 A. Upset, crying.

18 You know, just trying to get her to calm down  
19 just to get -- find out what was going on.

20 Q. And given the nature of the call and her  
21 emotional estate, what was your chief concern that night?

22 A. Her safety. She really -- I really was  
23 concerned about whether she was safe, did she feel safe,  
24 did she feel she was going to be okay. Like I said, she  
25 was very hysterical, yelling and screaming.

Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

1 Q. Could you smell gasoline on her or did you just  
2 smell it, in general, in the house?

3 A. You could just smell it right there in the  
4 house.

5 Q. What else did you do that night in reference to  
6 this case?

7 A. I spoke to the victim, got a statement from the  
8 victim. Also BOLO'd out that information in reference to  
9 the vehicle that was taken from her yard possibly by the  
10 subject.

11 Q. And what was that victim -- I mean, the vehicle?  
12 I'm sorry.

13 A. It was a green-in-color Pontiac V-6.

14 Q. And did you learn who that vehicle belonged to  
15 at that time?

16 A. It belonged to the victim.

17 Q. You said she gave you a statement. Was this a  
18 written statement?

19 A. Yes.

20 Q. And did she write it or did you write it?

21 A. She wrote it.

22 Q. And was what she wrote down on her statement,  
23 was that the same thing that she told you verbally?

24 A. Yes.

25 Q. And was that that night?

Desi McQueen  
Direct Examination by Mr. Clariday  
November 6, 2012

1 A. Yes.

2 Q. So you said you put some information out there,  
3 BOLO. What exactly does that mean, for those that don't  
4 know?

5 A. That's when dispatch gets the information out to  
6 other officers, surrounding officers, and advise them of  
7 what we've got, what we're dealing with, whether we're  
8 trying to locate that vehicle or --

9 Q. Does BOLO stand for anything?

10 A. Be on the lookout.

11 Q. At that time -- I know you know what vehicle you  
12 were looking for. Did you know the subject's name?

13 A. Yes.

14 Q. And who was that?

15 A. Joseph Dinkins.

16 Q. Was that the extent of your involvement with  
17 this case at that time?

18 A. Yes.

19 MR. CLARIDAY: No further questions at this  
20 time, Your Honor.

21 Thank you, sir.

22 THE COURT: Anything on cross-examination, Mr.  
23 Wise?

24 MR. WISE: Good afternoon, Deputy. How are you?

25 THE WITNESS: Good afternoon.

Desi McQueen  
Cross-Examination by Mr. Wise  
November 6, 2012

CROSS-EXAMINATION

BY MR. WISE:

Q. When you walked into the house, did you see Joseph Dinkins?

A. No.

Q. Who was in the house when you went in?

A. The victim. And the young lady and the young man sitting on the couch.

Q. Okay. Three people?

A. Three people.

Q. The kids still in the house?

A. She said the kids was back in the bedroom asleep.

Q. The kids were asleep?

A. Yes.

Q. You said you saw the can?

A. Yes.

Q. Did you take the can into evidence?

A. No.

Q. Did you test the contents of the can?

A. No.

Q. And Ms. Allen did not have any visible injuries to her, did she?

A. No.

Q. And she didn't complain of any non-visible

Desi McQueen  
Cross-Examination by Mr. Wise  
November 6, 2012

1 injuries, did she?

2 A. No.

3 Q. The residence we're talking about is a single-  
4 wide trailer?

5 A. Yes.

6 Q. Relatively small area?

7 A. Yes.

8 Q. As you sit there now, do you know what happened  
9 to the gas can?

10 A. No.

11 Q. You answered on direct examination you wanted to  
12 make sure that Ms. Allen felt safe?

13 A. Yes.

14 Q. Did she stay in the house that night?

15 A. I'm assuming she did. She didn't want to leave,  
16 or go to a shelter, or anything of that effect.

17 Q. The clothes that she had on, did you take them  
18 into evidence? Or you --

19 A. Yes. The shirt right there.

20 Q. Did you send that to SLED to be analyzed?

21 A. It was sent to SLED, yes.

22 Q. Do you know when?

23 A. I'm not sure of the date.

24 Q. Was it within a couple of days after this  
25 happened?

Desi McQueen  
Cross-Examination by Mr. Wise  
November 6, 2012

1 A. Might have been a little longer.

2 Q. Did you do anything with the sofa that she was  
3 sitting on, regarding having it tested to see if there was  
4 gasoline on it?

5 A. No.

6 MR. WISE: Your Honor, may I have one moment?

7 THE COURT: You may.

8 MR. WISE: Thank you, Deputy.

9 That's all we have, Your Honor.

10 THE COURT: Thank you, sir. Anything on  
11 redirect?

12 MR. CLARIDAY: Your Honor, just briefly.

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Desi McQueen  
Redirect Examination by Mr. Clariday  
November 6, 2012

REDIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Deputy McQueen, the whole time you were there, when you interviewed the witness -- I mean, the victim in this case, Ms. Crystal Allen, did she appear to be in fear for her safety?

A. Yes.

Q. And her emotional state was -- can you describe it again?

A. Hysterical, crying; trying to get her to calm down; giving her, you know, napkins; saying, it's going to be okay; you know, need you to write this statement; and it's going to be fine.

Q. Who was she in fear of?

A. Mr. Joseph Dinkins.

Q. And, again, did you smell gasoline in that house?

A. Yes.

Q. Did you see a gas can?

A. Yes.

Q. Did you observe gas anywhere else? On her person or anything like that?

MR. WISE: Objection, Your Honor. I think the witness can say that he smelled gas and he can say that he saw a gas can, but I don't think he can

Desi McQueen  
Redirect Examination by Mr. Clariday  
November 6, 2012

1 testify he saw any gas.

2 THE COURT: Well, I think he was asking did he  
3 observe gasoline on anything else. Is that correct?

4 MR. CLARIDAY: Yes, sir.

5 MR. WISE: Right. That would be the same issue  
6 about whether or not any substance he saw was, in  
7 fact, gasoline.

8 THE WITNESS: I think he asked me --

9 THE COURT: Well, I'll note your objection. I'm  
10 going to let him answer that question. Thank you,  
11 sir. Go ahead.

12 A. Her clothing was dark. The furniture was dark.  
13 Really couldn't tell was there any splatter on the  
14 furniture or her clothing, to be honest with you.

15 Q. [Mr. Clariday] But, again, your chief concern  
16 that night was what?

17 A. Her safety.

18 MR. CLARIDAY: No further questions, Your Honor.

19 THE COURT: Anything on recross?  
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Desi McQueen  
Recross-Examination by Mr. Wise  
November 6, 2012

1                                    RECROSS-EXAMINATION

2            BY MR. WISE:

3            Q.     As you stand here right now, do you have any  
4            scientific, any kind of testing; anything, to say that the  
5            substance --

6            MR. CLARIDAY:    Objection, Your Honor.

7                        He's not a scientist.    He wouldn't be able to  
8            testify to that.

9            MR. WISE:    He can't testify to that point?

10           THE COURT:    No.

11           MR. WISE:    Very good.    No further questions.

12           THE COURT:    Thank you, sir.

13           MR. WISE:    No.    Let me see.

14           Q.     [Mr. Wise]    Do you have any proof that it's  
15           gasoline?

16           A.     Other than the smell.

17           Q.     Just the smell.    Very good.

18           MR. WISE:    Thank you.    Thank you, sir.

19           THE COURT:    You may step down.

20           MR. CLARIDAY:    Thank you, sir.

21                        [Whereupon, Mr. McQueen is excused and exits the  
22           witness stand]

23           THE COURT:    The State may call its next witness.

24           MR. CLARIDAY:    Yes, sir.    The State calls  
25           Lieutenant Walton.

Desi McQueen  
Recross-Examination by Mr. Wise  
November 6, 2012

1 [Whereupon, Ms. Walton comes forward]

2 THE CLERK OF COURT: Please place your left hand  
3 on the Bible and raise your right hand.

4 [Whereupon, Ms. Walton is duly sworn by the  
5 clerk of court as follows: do you hereby swear or  
6 affirm that the testimony you're about to give is the  
7 truth, the whole truth, and nothing but the truth, so  
8 help you God]

9 THE WITNESS: I do.

10 THE CLERK OF COURT: Thank you. You may have a  
11 seat.

12 [Whereupon, Ms. Walton takes the witness stand]

13 THE CLERK OF COURT: Please state your name  
14 again for the record.

15 THE WITNESS: My name is Lieutenant Judy Walton.  
16 W-A-L-T-O-N.

17 THE CLERK OF COURT: Thank you.

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Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

JUDY WALTON,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Lieutenant Walton, how long have you been in law enforcement?

A. For about twenty-two years.

Q. And has all of that been with the sheriff's department here in Orangeburg?

A. About seven years of it has been here in Orangeburg.

Q. Your current rank is lieutenant; correct?

A. Correct.

Q. Please explain your duties as a lieutenant.

Q. I'm responsible for the operations on my shift. My shift is Delta shift at the sheriff's department, and when I come in I'm responsible to be sure all my guys are taken care of. We take care of all the people, citizens, answering calls, complaints, and stuff like that.

Q. Yes, ma'am.

Specifically on May 31st of this year, were you on duty or on call that night?

A. I was. Our shift was working.

Q. And did you respond to a Valerie address within

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 the county?

2 A. I did.

3 Q. And what was the nature of that call?

4 A. It was a domestic call, and I responded as a  
5 back-up unit with Deputy McQueen.

6 Q. And had you responded to domestic calls in the  
7 past?

8 A. A lot.

9 Q. Yes, ma'am.

10 When you responded to that address, did you  
11 enter the residence?

12 A. I did.

13 Q. What did you observe when you entered the house?

14 A. When I entered the house the victim, who was  
15 there was sitting on the couch, she was hysterical,  
16 crying, shaking. There was a gas can, I believe it was  
17 red in color, sitting at the end of the couch kind of.  
18 And there were -- you could smell gasoline, and there were  
19 splatters of gasoline on the floor, on the couch --

20 MR. STROUD: Objection, Your Honor, as to  
21 splatters of gasoline.

22 It would be impossible for her to know that it  
23 was gasoline. If she had testified a wet spot --

24 THE COURT: I'll note your objection on the  
25 record, but I'm going to let her respond. Thank you.

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 Q. [Mr. Clariday] Go ahead.

2 A. Okay. It was splatters all over the place, and  
3 the splatters themselves were like gasoline. I mean, it  
4 was on her clothes, on the couch, on the floor.

5 Q. And when you say her clothes, who are you  
6 talking about?

7 A. The victim.

8 Q. And is that Ms. Allen?

9 A. Correct. I would have to see her. I can't  
10 remember all of her name. Yeah.

11 Q. Yes, ma'am.

12 Based on the emotional state of the victim that  
13 night, what was of primary concern?

14 A. My primary concern was her safety. Her concern  
15 was that she was -- feared for her life and she was  
16 begging for her life, because she said her boyfriend threw  
17 gas on her and was flicking a lighter and was threatening  
18 to set her on fire.

19 MR. STROUD: Objection, Your Honor, as to  
20 hearsay.

21 THE COURT: I'll note that and I'll let her  
22 answer it.

23 Q. [Mr. Clariday] Again, so did you meet with her?  
24 Did you take a statement from the victim at that point?

25 A. I just took a -- I listened to her verbally tell

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 us what was going on.

2 Like I say, I was a back-up officer to Deputy  
3 McQueen, so he took care of most of that. But, you know,  
4 being she was a female, she was upset, she was hysterical  
5 so being there, I did try to comfort her a little bit  
6 because she also had kids in the house and she was pretty  
7 devastated.

8 Q. Did she appear to be in fear?

9 A. Most definitely.

10 Q. What else did you do that night? Was that the  
11 extent of your involvement with the case? Did you do  
12 anything when she left that home?

13 A. Yes.

14 As soon as, you know, we made sure that she was  
15 okay and, you know, I made sure Deputy McQueen had what he  
16 needed, we left to go looking for the suspect. And so --

17 Q. Who was that suspect?

18 A. I do not remember his name right now, right off  
19 my head. I have to look at the report.

20 [Whereupon, the witness reviews documents]

21 A. Joseph Dinkins.

22 Q. [Mr. Clariday] Thank you.

23 And did you have -- how were you going to look  
24 for her -- look for him? I'm sorry.

25 A. At that point I think she -- well, she told us

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 that he left in her vehicle so we were actually trying to  
2 find -- you know, riding the streets, going up and down  
3 side roads, dirt roads, seeing if we could locate him in  
4 the vehicle. Because our goal was to try to get him that  
5 night, because due to her -- the way that she was acting  
6 and how upset she was, and due to the situation and what I  
7 saw in the home, we actually thought that it was a  
8 possibility he might try to come back and harm them. So  
9 we were trying to make sure we could get him to keep that  
10 from happening.

11 Q. Okay. Thank you.

12 A. Okay.

13 Q. What was the -- do you remember the type of  
14 vehicle you were looking for?

15 A. I just remember it was green in color.

16 Q. Were you ever -- were you there when, in fact,  
17 his car was stopped?

18 A. I responded as back-up unit to it.

19 The initial officer that stopped it was at that  
20 time Corporal Fasesco, who is no longer with us, and I  
21 responded to back him up.

22 Q. So you witnessed him take him into custody; is  
23 that correct?

24 A. I did.

25 Q. Did you witness Corporal Fasesco get a verbal

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 statement at that time?

2 A. What I remember is I remember him reading him  
3 his rights. And then I remember Mr. Dinkins agreeing to  
4 talk with him and then Mr. Dinkins started telling us  
5 about what was going on.

6 Q. So you did overhear Fasesco read him his rights?

7 A. I did.

8 Q. Did you ever collect any evidence in this case?

9 A. I did.

10 Q. And what was that?

11 A. It was a shirt that the victim had on.

12 Q. What was the color of the shirt?

13 A. I believe it was black.

14 Q. When you collected it, when did you collect it?

15 A. We had left the scene, and I went back and  
16 collected it. I think earlier that morning. I think -- I'm  
17 night shift, so I get my hours kind of mixed up. But it  
18 was after that. I didn't collect it as soon as we got  
19 there. I went back and got it.

20 Q. And how did you -- what did you put it in?

21 A. Well, she handed it to me in a plastic bag, and  
22 so I just kept it in the plastic bag and I placed it in  
23 the trunk of my car.

24 Q. Did you ever turn over that evidence to anybody?

25 A. Eventually I did. I turned it over to our

Judy Walton  
Direct Examination by Mr. Clariday  
November 6, 2012

1 evidence custodian at the sheriff's department, Miss Kim.

2 Q. And roughly how long after the incident was it  
3 from when the incident occurred to when you turned it in?

4 A. It did not get turned in until I think around  
5 the first of October.

6 Q. So almost four months?

7 A. Right.

8 Q. And, again, when you turned it in, what was it  
9 packaged in?

10 A. The same plastic bag that she handed it to me  
11 in.

12 Q. Now, when you turned it in, was it in the same  
13 condition as when you collected it?

14 A. It was.

15 MR. CLARIDAY: No further questions.

16 THE COURT: Anything on cross-examination,  
17 Mr. Stroud?

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Judy Walton  
Cross-Examination by Mr. Stroud  
November 6, 2012

## CROSS-EXAMINATION

BY MR. STROUD:

Q. Ms. Walton, you testified earlier that you went to the scene; correct?

A. I did.

Q. And you saw a gas can sitting at the end of the couch?

A. Right. Yes, sir.

Q. And you could smell gasoline?

A. Yes, sir.

Q. And there's two types of gasoline, isn't there?

A. I have no idea.

Q. Have you ever heard of diesel --

A. Well, I mean, I know diesel, and then gasoline you put in your car, and there's different types of unleaded gasoline, yes.

Q. Are you aware of whether or not diesel is flammable?

A. Diesel is flammable, but it doesn't explode like gasoline explodes. If you light diesel, diesel will ignite. If you light gasoline, it's going to explode.

Q. Let me ask you this. Do you know whether or not diesel engines have spark plugs?

MR. CLARIDAY: Your Honor, objection.

A. I don't know about cars --

Judy Walton  
Cross-Examination by Mr. Stroud  
November 6, 2012

1 THE COURT: Hold on. Hold on one second.

2 I'm sorry. What was the question?

3 MR. STROUD: I was asking if she knows whether  
4 or not diesel engines have spark plugs.

5 THE COURT: All right.

6 A. I think all engines have spark plugs, but I  
7 don't know.

8 THE COURT: Okay. It's been asked and answered,  
9 so I won't -- go ahead.

10 Q. [Mr. Stroud] Did you do any -- you testified  
11 earlier that there were splatters on the walls and the  
12 floor and the couch?

13 A. The floor and the -- I mean, the floor and the  
14 couch.

15 Q. Did you collect any evidence from those --

16 A. No.

17 Q. -- swabs or anything like that?

18 A. No.

19 Q. And you testified that you left the scene and  
20 then you came back later to get the black shirt; is that  
21 correct?

22 A. Correct.

23 Q. About how much time had passed between those two  
24 things?

25 A. I don't know. I would have to -- I would have

Judy Walton  
Cross-Examination by Mr. Stroud  
November 6, 2012

1 to see the report and see what time we were out there.

2 And I want to think it might have been a few hours later  
3 maybe. I couldn't give you an exact. I don't remember.

4 Q. So you didn't see -- and when you came, it was  
5 already in a plastic bag; correct?

6 A. Correct.

7 Q. So you didn't see her take it off and put it in  
8 the plastic bag?

9 A. I did not.

10 Q. Why was -- who decides when to send things to  
11 SLED in this case?

12 A. Well, we turn it into the evidence clerk. And  
13 then I guess we make recommendations like if we need  
14 fingerprints or if we need an analyze. And they do some  
15 analyzing at the sheriff's department and then I guess  
16 they send it off to SLED to do some. So I guess the  
17 evidence clerk would probably make that decision.

18 MR. STROUD: Can I have one moment, Your Honor?

19 THE COURT: You can.

20 MR. STROUD: No further questions, Your Honor.

21 THE COURT: Anything on redirect.

22 MR. CLARIDAY: No, sir.

23 THE COURT: Thank you, ma'am. You may step  
24 down. I appreciate it.

25 [Whereupon, Ms. Walton is excused and exits the

Judy Walton  
Cross-Examination by Mr. Stroud  
November 6, 2012

1 witness stand]

2 THE COURT: Is the State prepared to call its  
3 next witness?

4 MR. CLARIDAY: Yes, sir. The State calls Kim  
5 Pew. Kimberly Pew.

6 [Whereupon, Ms. Pew comes forward]

7 THE CLERK OF COURT: Please place your left hand  
8 on the Bible and raise your right hand.

9 [Whereupon, Ms. Pew is duly sworn by the clerk  
10 of court as follows: do you hereby swear or affirm  
11 that the testimony you're about to give is the truth,  
12 the whole truth, and nothing but the truth, so help  
13 you God]

14 THE WITNESS: I do.

15 THE CLERK OF COURT: Thank you. You may have a  
16 seat.

17 [Whereupon, Ms. Pew takes the witness stand]

18 THE CLERK OF COURT: Please state your name  
19 again for the record.

20 THE WITNESS: Kimberly Pew.

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Kimberly Pew  
Direct Examination by Mr. Clariday  
November 6, 2012

KIMBERLY PEW,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Ms. Pew, where are you employed?

A. The Orangeburg County Sheriff's Office.

Q. And what is your position with the sheriff's  
department?

A. I'm the evidence custodian.

Q. And how long have you been employed in that  
position?

A. Since 2008.

Q. Just briefly, one-sentence explanation, what is  
the -- over the evidence custodian?

A. To maintain and control the evidence that comes  
in and goes out of the sheriff's office.

Q. And specifically with this case that we're  
involved with today, did you ever receive any evidence?

A. I did.

Q. And what was that?

A. What I got was a silver can that was taped  
closed with evidence tape.

Q. Are you made aware of what's in the contents of  
that can?

Kimberly Pew  
Direct Examination by Mr. Clariday  
November 6, 2012

1 A. It was a shirt.

2 Q. Okay. Did you ever send that evidence on to be  
3 analyzed?

4 A. I did. To SLED.

5 Q. Did you -- how does it go there?

6 A. I took it up in a car and delivered it to the  
7 evidence people at SLED.

8 Q. And then from there on, they analyze it and then  
9 get back with you?

10 A. That's correct.

11 Q. Did you go back to SLED to recover this  
12 evidence?

13 A. I did.

14 Q. And have you had it since then?

15 A. I have.

16 Q. When was it that it was analyzed?

17 A. When was -- I'm not sure exactly when it was  
18 analyzed.

19 Q. What month?

20 A. In October.

21 Q. Of this year?

22 A. Yes.

23 MR. CLARIDAY: Your Honor, no further questions  
24 for Ms. Pew.

25 THE COURT: Anything on cross? Mr. Stroud?

Kimberly Pew  
Cross-Examination by Mr. Stroud  
November 6, 2012

CROSS-EXAMINATION

BY MR. STROUD:

Q. Ms. Pew, when you received the shirt, it was in a silver can?

A. Yes, sir.

Q. And do you know when it was requested that you sent it to SLED?

A. On -- if you don't mind me referring -- it was on October 3rd.

Q. Now, hold on, now. They requested that you send it to SLED October 3rd?

A. Yes, sir.

MR. STROUD: No further questions, Your Honor.

THE COURT: Thank you, sir. Anything on redirect?

MR. CLARIDAY: No, sir.

THE COURT: Thank you, ma'am. You may step down. Appreciate it.

[Whereupon, Ms. Pew is excused and exits the witness stand]

THE COURT: All right. Is the State ready to call its next witness?

MR. CLARIDAY: Yes, sir. The State calls Michael Moskal.

[Whereupon, Mr. Moskal comes forward]

Kimberly Pew  
Cross-Examination by Mr. Stroud  
November 6, 2012

1 THE CLERK OF COURT: Please place your left hand  
2 on the Bible and raise your right hand.

3 [Whereupon, Mr. Moskal is duly sworn by the  
4 clerk of court as follows: do you hereby swear or  
5 affirm that the testimony you're about to give is the  
6 truth, the whole truth, and nothing but the truth, so  
7 help you God]

8 THE WITNESS: I do.

9 THE CLERK OF COURT: Thank you. You may have a  
10 seat.

11 [Whereupon, Mr. Moskal takes the witness stand]

12 THE CLERK OF COURT: Please state your name  
13 again for the record.

14 THE WITNESS: Michael Moskal. M-O-S-K-A-L.

15 MR. CLARIDAY: Thank you, Mr. Moskal.

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Michael Moskal  
Direct Examination by Mr. Clariday  
November 6, 2015

MICHAEL MOSKAL,

Having Been First Duly Sworn,  
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Where are you currently employed?

A. I am currently employed with South Carolina Law  
Enforcement Division, or what's commonly known as SLED.

Q. And how long have you been employed with SLED?

A. For six and a half years.

Q. And what position do you hold at SLED?

A. I am a forensic scientist assigned to the trace  
evidence department.

Q. And can you just briefly explain what you do  
there at SLED as a forensic scientist?

A. Yes, sir. In the trace evidence department we  
analyze things such as fire-debris analysis, gunshot  
residue, paint from hit and runs, glass from burglaries,  
explosives, and then a broad group of things called trace  
others that may include things like duct tape or bank dye,  
those types of things. We get evidence in from the scene  
of a crime and analyze it for the purposes of bringing it  
to court.

Q. Thank you.

In your six and a half years, roughly how many

Michael Moskal  
Direct Examination by Mr. Clariday  
November 6, 2015

1 things have you analyzed, if possible?

2 A. Wow. That's a tough one. We rotate with what  
3 we do in the trace evidence department, so we don't  
4 necessarily specialize on one of those branches entirely.

5 But I would estimate I've probably done about  
6 1,000 gunshot residue cases. I've probably done about 30  
7 or 40 paint cases. And with fire debris, I'm up to about  
8 300, 315 cases and about 800 individual items in those  
9 fire-debris cases.

10 Q. And if I could back up briefly. Where did you  
11 attend college?

12 A. I went to the College of Charleston and received  
13 a bachelor of science in chemistry.

14 Q. So you have a degree in chemistry?

15 A. Yes, sir.

16 Q. When you decided to go to work at SLED, are  
17 there any additional qualifications or studies that you  
18 have to go do, any special training, to be hired with SLED  
19 as a forensic scientist?

20 A. Yes, sir.

21 The first thing we do when we get hired on as a  
22 forensic scientist is we attend the criminal justice  
23 academy for just a legal's point. That's as far as our  
24 law enforcement duties are concerned, is just  
25 understanding what the law is.

Michael Moskal  
Direct Examination by Mr. Clariday  
November 6, 2015

1 But outside of that, we then go through an  
2 intensive about a six-month training period for each one  
3 of those disciplines that I listed off: the gunshot  
4 residue, the paint, the glass, the fire debris. In that  
5 six-month period, we work cases, live cases, with a court-  
6 qualified analyst in those disciplines.

7 At the end of that six-month period, we're given  
8 a mock case that we take from receiving the evidence, work  
9 the evidence, write and report, and actually defend it in  
10 a mock trial.

11 In addition, during that six-month period we're  
12 reading literature in terms of what the evidence is and  
13 how it's interpreted and how the instrumentation works.

14 Once we complete that mock trial, SLED deems us  
15 competent and capable to analyze it and deems us a court-  
16 qualified expert.

17 Once I completed that, I also have attended  
18 courses put on by the ATL and SCI for fire-debris  
19 analysis.

20 Q. Thank you.

21 Have you ever testified in a criminal trial  
22 prior to this?

23 A. Yes, sir.

24 Q. Okay. Approximately how many times have you  
25 testified?

Michael Moskal  
Direct Examination by Mr. Clariday  
November 6, 2015

1 A. Eighteen times in state and federal court.

2 Q. Okay. Thank you.

3 And have you ever been qualified as an expert to  
4 testify?

5 A. Yes, sir.

6 Q. Thank you.

7 MR. CLARIDAY: Your Honor, at this time we would  
8 ask that Mr. Moskal be qualified as an expert and  
9 testify in the field of forensic science.

10 MR. STROUD: No objection, Your Honor.

11 THE COURT: He is so qualified as an expert in  
12 forensic science.

13 MR. CLARIDAY: Thank you, Your Honor.

14 Q. [Mr. Clariday] Mr. Moskal, I want to turn your  
15 attention to why we are here today. You had the  
16 opportunity to analyze and examine a piece of evidence  
17 from this case. Do you remember specifically what it was?

18 A. May I refer to my report?

19 Q. That's fine with me.

20 [Whereupon, the witness reviews documents]

21 A. I had a case referring to Crystal Allen as the  
22 victim, and my lab number was L12-12261, and in that case  
23 I analyzed a can that contained a piece of cloth.

24 Q. [Mr. Clariday] And how did you receive that?

25 A. It came to me packaged in a cardboard box and

Michael Moskal  
Direct Examination by Mr. Clariday  
November 6, 2015

1 then inside that cardboard box was a gallon can. It's a  
2 lined paint can that fire debris evidence is stored in.

3 Q. Okay. Thank you.

4 And can you just briefly describe how you  
5 analyzed and what you were supposed to be analyzing for?

6 A. Yes, sir.

7 When evidence comes in for fire debris analysis,  
8 what the law enforcement agency is looking for is to  
9 determine whether something known as an ignitable liquid  
10 is present or not. And an ignitable liquid is something  
11 that is very volatile, meaning it will evaporate very  
12 easily and it's also flammable or combustible. So we get  
13 evidence and our goal is to determine whether or not an  
14 ignitable liquid is present.

15 And there's about four or five steps in order to  
16 accomplish that. The first thing we're going to do is  
17 look at the container that the evidence is in. Since  
18 ignitable liquids are highly volatile or vaporize very  
19 easily, they need to be stored into a container that is  
20 vapor proof, meaning vapors can't exit and vapors can't  
21 enter. So that's the first thing we're going to look at  
22 when we get this evidence in is to determine the integrity  
23 of its container. Does it have any holes in it, is it in  
24 a can, is it in a nylon bag? As long as those  
25 requirements are met, then we're going to open up that

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1 container and look inside of it and get a brief  
2 description of what the evidence is.

3 The evidence often comes in a form of things  
4 like two-by-fours or pieces of cloth or soil. Those types  
5 of evidence aren't easily -- or cannot actually be put  
6 onto the instrumentation that we use and so the first  
7 thing we have to do is --

8 Q. Mr. Moskal, if I could. I'm sorry to cut you  
9 off.

10 A. Sorry.

11 Q. But specifically in reference to this case, how  
12 did you actually test this?

13 A. How did I test this? Yes, sir. I looked at the  
14 can and found that the can was intact and there was  
15 nothing -- the integrity of it was intact. There were no  
16 holes, no punctures, anything like that. Once we've done  
17 that, we try to extract the ignitable liquid and then we  
18 analyze that on something called a gas chromatographic rapid  
19 mass spectrometer, which we hyphenate as a GC and it's  
20 just a lot easier that way. And what that's going to do  
21 is allow us to determine if an ignitable liquid was  
22 present or not. And we performed that test on this item.

23 Q. And what were the results of that item?

24 MR. STROUD: Objection, Your Honor.

25 There's an insufficient chain-of-custody issue

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1 that I have before the Court.

2 THE COURT: Ladies and gentlemen, I'm going to  
3 let y'all step back into the jury room while I discuss  
4 a matter with the attorneys. As I told you before,  
5 this may come up.

6 Remember, you cannot begin talking about this  
7 case. Okay?

8 Y'all go back into the jury room, please.  
9 Thanks.

10 [Whereupon, the jury exits the courtroom at  
11 3:30 p.m.]

12 THE COURT: Mr. Stroud, let me hear from you.

13 MR. STROUD: Your Honor, Lieutenant Walton  
14 testified that she left Ms. Allen with the shirt, came  
15 back a few hours later and was given a shirt in a  
16 plastic bag. That's issue number one. Anything could  
17 have happened to the shirt between the alleged  
18 incident and when she was given the bag.

19 Issue number two is that Lieutenant Walton  
20 testified that she gave the shirt to evidence in a  
21 plastic bag.

22 All of a sudden, Ms. Pew testifies that she got  
23 it in a silver can. There's -- we have no idea how it  
24 came from the bag to the can. Obviously, something  
25 happened to it and we can't have the -- we can't have

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1 this come into evidence without that explained.

2 THE COURT: All right. Mr. Clariday, how did it  
3 get into the can?

4 MR. CLARIDAY: Your Honor, actually, might could  
5 save some time. We don't actually intend to put this  
6 piece of evidence into evidence. We just want him to  
7 -- Mr. Moskal to briefly explain the science of how  
8 you test things and would a test performed four months  
9 later still be good in relation to that.

10 THE COURT: And what is he going to tell me?

11 MR. CLARIDAY: He's going to specifically talk  
12 about if you could examine an item of evidence for  
13 these type of materials that they're looking for.

14 THE COURT: Yeah. I know that's -- but do you  
15 know what he's going to say? I'm just kind of  
16 curious. I'm just asking you.

17 MR. CLARIDAY: As to the results?

18 THE COURT: Yeah.

19 MR. CLARIDAY: Yes, sir.

20 THE COURT: What's he going to tell me? Is it  
21 still good?

22 MR. CLARIDAY: He's going to tell me that no  
23 evidence was found on the tee-shirt.

24 And the reason this is relevant to us is we want  
25 Mr. Moskal to explain what could have happened in

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1           those four months.

2           THE COURT: So you're not trying to introduce it  
3           into evidence?

4           MR. CLARIDAY: No, sir.

5           THE COURT: He's going to explain that -- he's  
6           just testifying that there is no gasoline on that  
7           shirt?

8           MR. CLARIDAY: Correct. And because of the  
9           nature of this case and the nature of gas in general.

10          THE COURT: Mr. Stroud, he's not going to  
11          introduce it into evidence, and he's going to testify  
12          to the fact that there's no gasoline on it and explain  
13          that.

14          MR. STROUD: Your Honor, the only reason I have  
15          -- and maybe I'm just misreading the sentence. The  
16          only reason I took issue with it at all was that the  
17          SLED report reports no ignitable liquids of  
18          evidentiary value is found. I understand that. And I  
19          wouldn't have a problem with that if that's all it  
20          said.

21          It contains the statement volatile components  
22          found are consistent with pyrolytic products generated  
23          from natural or synthetic material. Now, I don't know  
24          what that means, but I thought it kind of meant that  
25          there might be some byproducts that would be left over

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1 from gasoline after it had evaporated. Is that --

2 THE COURT: Well --

3 MR. STROUD: And that would be the basis of my  
4 objection. If he's going to say that there's no  
5 gasoline, there's no evidence whatsoever, I have no  
6 problem. But if there's any analysis performed that  
7 shows that --

8 THE COURT: If there is any gasoline on it,  
9 we're going -- you're objecting to it --

10 MR. STROUD: We've got a problem.

11 THE COURT: -- because of chain of custody?

12 MR. STROUD: Yes, Your Honor.

13 THE COURT: Any gasoline on that shirt?

14 THE WITNESS: No, sir.

15 THE COURT: Any evidence of gasoline on the  
16 shirt?

17 THE WITNESS: No, sir.

18 MR. STROUD: I have no problem.

19 THE COURT: All right.

20 MR. STROUD: Thank you, Your Honor.

21 THE COURT: Then you're withdrawing your  
22 objection? I know you --

23 MR. STROUD: I think for the record I probably  
24 should --

25 THE COURT: You're still objecting to the chain

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1 of custody.

2 MR. STROUD: Chain of custody.

3 THE COURT: Right. Right. But since the  
4 purpose of his testimony is this, you'll ask him to go  
5 forward with that testimony; is that correct?

6 MR. STROUD: I believe so, Your Honor.

7 THE COURT: Talk with Mr. Wise and make sure.  
8 I'm not trying to lead you down a primrose path.

9 MR. WISE: Yeah, that's it.

10 MR. STROUD: I think we're all right.

11 THE COURT: He just seemed anxious. That's why  
12 I wanted to make sure.

13 MR. WISE: May we approach the bench, Your  
14 Honor.

15 THE COURT: Even though the jury is not here --

16 MR. WISE: Oh. I'm sorry.

17 THE COURT: But that's okay.

18 MS. FORD: Just like to get --

19 THE COURT: I understand --

20 We're going to take a five-minute break. You  
21 may step down, but you may not talk to anybody.

22 THE WITNESS: Yes, sir.

23 THE COURT: Okay. Thank you, sir.

24 We're going to take a ten-minute break. Thank  
25 y'all.

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1 THE COURT: Yeah, you can step down but you  
2 can't talk to anybody about your testimony.

3 [Whereupon, a recess is taken from 3:35 p.m. to  
4 3:40 p.m.]

5 THE COURT: Mr. Stroud, are we ready to proceed?

6 MR. STROUD: Yes, Your Honor.

7 THE COURT: Mr. Clariday, do you remember where  
8 you were?

9 MR. CLARIDAY: I can go to --

10 THE COURT: Well, I mean, I --

11 MR. CLARIDAY: Yes, sir, I know where to pick  
12 up.

13 THE COURT: And, Mr. Moskal, you don't -- I'm  
14 sorry. You're back. I'm going to let you be seated  
15 and comfortable by the time the jury gets back. Okay?

16 THE WITNESS: Yes, sir.

17 [Whereupon, Mr. Moskal retakes the witness  
18 stand]

19 THE COURT: And remember you're still under  
20 oath.

21 THE WITNESS: Okay.

22 THE COURT: I'm going to bring the jury back in.  
23 Okay?

24 If you'll bring them back in, please, ma'am.

25 [Whereupon, the jury enters the courtroom at

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1 3:42 p.m.]

2 THE COURT: Ladies and gentlemen, while y'all  
3 were out, we decided to take a break, too, so that's  
4 why it took a little longer. Anyway, we are back.

5 Mr. Clariday, are you ready?

6 MR. CLARIDAY: Yes, sir.

7 Q. [Mr. Clariday] Mr. Moskal, if we could start  
8 back. What were the results of the test that you  
9 performed?

10 A. The results of this test were that I didn't find  
11 any ignitable liquids of evidentiary value. There were  
12 some materials on there that were consistent with  
13 pyrolytic products, but that was it.

14 Q. Thank you.

15 So there were no -- at this time, there were  
16 no -- there was no gas on the tee-shirt?

17 A. No, sir. Absolutely no gas on this tee-shirt.

18 Q. Can you conclusively say that there was never  
19 any gas on the tee-shirt?

20 A. No, sir.

21 My testing states that when I receive the  
22 evidence, the results of what I test at that time, there  
23 was not gas there.

24 Q. Why can you not conclusively say that there was  
25 never gas on the tee-shirt?

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1           A.     There could be several possibilities. First is  
2     that it was never there to begin with. The second is that  
3     it could have evaporated or burned off prior to me  
4     receiving it.

5           Q.     Let's focus on that second: evaporated. Is  
6     there a general rule of thumb about how long gasoline  
7     would stay on an item?

8           A.     There's no concrete data anywhere to say how  
9     long it's going to stay. But my general experience is  
10    that within a week, gasoline is going to have evaporated  
11    off if it's not sealed in a vapor-proof container.

12          Q.     Okay. Would a grocery bag be a vapor-proof  
13    container?

14          A.     No, sir.

15          Q.     How about if it was stored in a grocery bag for  
16    four months?

17          A.     I would not expect to find gasoline from an  
18    incident in a bag stored for four months -- in a grocery  
19    bag stored for four months.

20                 MR. CLARIDAY: Thank you.

21                 THE COURT: No other questions?

22                 MR. CLARIDAY: No, sir.

23                 THE COURT: Mr. Stroud, anything on cross?

24                         - - -

25                         - - -

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CROSS-EXAMINATION

BY MR. STROUD:

Q. What about a Ziploc bag?

A. I wouldn't expect to find it in a Ziploc bag,  
no, sir.

Q. Now, you got a general rule of thumb that  
gasoline evaporates in a week, but it could -- depending  
on the container and how much gasoline and how much, I  
mean, it could go much farther than a week. Isn't that  
true?

A. I would have a hard time saying much more than a  
week.

I would think if you had an open -- even if you  
had a glass of gasoline sitting in your garage, open, I  
would have a hard time thinking that less than half a  
gallon would last more than a week or two.

Q. Mr. Clariday -- earlier you testified that there  
was two possibilities why there's not gas; correct?

A. Yes, sir.

Q. Mr. Clariday asked you to focus on the second  
one. But the first one is that there's no gas to begin  
with. Isn't that true?

A. That could be a possibility, yes, sir.

Q. You didn't find gas?

A. No, sir, no gas.

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1 MR. WISE: No further questions.

2 THE COURT: Anything on redirect?

3 MR. CLARIDAY: No, sir.

4 THE COURT: Thank you, sir. You may step down.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Is the State prepared to call its  
7 next witness?

8 MS. FORD: We are, Your Honor.

9 MR. CLARIDAY: Your Honor, we ask to call Deputy  
10 Fasesco.

11 [Whereupon, Mr. Fasesco comes forward]

12 [Whereupon, Mr. Fasesco is duly sworn by the  
13 clerk of court as follows: do you hereby swear or  
14 affirm that the testimony you are about to give is the  
15 truth, the whole truth, and nothing but the truth, so  
16 help you God]

17 THE WITNESS: Yes, ma'am.

18 THE CLERK OF COURT: Thank you. You may have a  
19 seat.

20 [Whereupon, Mr. Fasesco takes the witness stand]

21 THE CLERK OF COURT: Please state your name  
22 again for the record.

23 THE WITNESS: My name is Michael Fasesco.

24 - - -

25 - - -

Michael Fasesco  
Direct Examination by Mr. Clariday  
November 6, 2012

1                   MICHAEL FASESCO [PHONETIC],  
2                   Having Been First Duly Sworn,  
3                   was Examined and Testified as Follows:

4                   DIRECT EXAMINATION

5                   BY MR. CLARIDAY:

6                   Q.     Deputy Fasesco, how long have you been in law  
7                   enforcement?

8                   A.     Approximately five years.

9                   Q.     And where have you been employed as a law  
10                  enforcement officer?

11                  A.     I started in October of 2007 with the Orangeburg  
12                  County Sheriff's Office, and I was there up until about  
13                  two months ago. Now I work for the Horry County Police  
14                  Department.

15                  Q.     What was your rank before you left?

16                  A.     I was a corporal with the Orangeburg County  
17                  Sheriff's Office. I was a shift supervisor, and I also  
18                  managed the training program.

19                  Q.     Were you employed on June 1st, 2012, with the  
20                  sheriff's office?

21                  A.     Yes.

22                  Q.     And what was your level of involvement with this  
23                  case that we're here for today?

24                  A.     I was -- obviously, I heard the call when it  
25                  came out on the radio. Deputy McQueen was dispatched to

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1 the call and I responded to support him. My main purpose  
2 for responding was to try to help locate the suspect in  
3 the case.

4 Q. Did you know who you were looking for?

5 A. I had the name and a description and also a  
6 description of the vehicle.

7 Q. What was the name?

8 A. Joseph Dinkins.

9 Q. And what was the description of the vehicle?

10 A. I was told he was going to be driving a green-  
11 in-color Pontiac V-6 that was supposed to belong to the  
12 victim in the case.

13 Q. Okay. Thank you.

14 Were you ultimately able to find that vehicle?

15 A. Yes, I located it.

16 It was traveling west on Old Edisto Drive. I  
17 was able to stop it. I stopped it at the Pit Stop Pub on  
18 Bamburg Road right near Edisto Drive.

19 Q. And what was the nature of that stop?

20 A. We did what's called a felony traffic stop.  
21 When we have reason to believe a person is dangerous, or  
22 something like that, we do a felony stop. It's not like a  
23 normal stop where we walk up and talk to them. We stop  
24 them. Once we get the car stopped, we order them to come  
25 out of the car and come back to us. That's a safety

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1 measure.

2 Q. And did he do that?

3 A. Yeah. He complied with all my commands and came  
4 back to me.

5 Q. Was he the only person in the vehicle?

6 A. He was the only person.

7 Q. And was he the driver?

8 A. Yes.

9 Q. Were you able to take the driver, Mr. Dinkins,  
10 into custody that night?

11 A. Yes.

12 He came along without incident. No struggle or  
13 anything.

14 Q. When you took Mr. Dinkins into custody, did you  
15 advise him of his rights that night?

16 A. Yes.

17 After I took him into custody, I moved him  
18 around to the back of my vehicle. After we secured the  
19 vehicle and the whole situation basically calmed down, I  
20 advised him of his Miranda rights and took a verbal  
21 statement from him.

22 Q. How did you advise him of those rights?

23 A. I gave them to him from memory. I memorized it.  
24 You want me to give it how I --

25 Q. Sure.

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1           A.     Okay. I advised him: you have the right to  
2 remain silent. Anything you say can and will be used  
3 against you in a court of law. You have the right to an  
4 attorney. If you can't afford an attorney, one will be  
5 appointed to you before any questioning, if you wish.  
6 Also, while you're being questioned you have the right to  
7 stop answering questions at any time until you talk to an  
8 attorney. Do you understand your rights.

9           Q.     And that's what you read that night? Or that's  
10 what you recited to him that night?

11          A.     Yes, that's what I told him, word-for-word.

12          Q.     And did he acknowledge that he understood that?

13          A.     Yes.

14          Q.     After you performed the stop on the vehicle, how  
15 long was it, kind of time frame, in between the felony  
16 stop that you described and when you actually gave him  
17 those advice of rights?

18          A.     I wouldn't be able to -- I couldn't say an exact  
19 amount of time. I stopped him, got him into custody. We  
20 secured the vehicle. That takes a few minutes. You have  
21 to make sure no one else is in the car or anything like  
22 that. And then we do the search. I got his personal  
23 belongings. I had to set all those on the trunk. I may  
24 estimate around ten minutes after initially taking him  
25 into custody. I was talking to him probably within ten,

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1 or at the most fifteen, minutes after that.

2 Q. So you didn't yank him out of the car and throw  
3 the Miranda rights at him like that?

4 A. No. No.

5 We have a lot of other business we have to take  
6 care of before we talk to any suspects.

7 Q. And when you spoke to him -- I know you said he  
8 acknowledged that he understood -- did he appear to be  
9 under the influence of anything at that time?

10 A. No.

11 Q. Did he appear to be hard of hearing or not  
12 understand what you were saying to him?

13 A. No.

14 Q. Did he have any other physical or mental  
15 function, that wouldn't allow him to understand, that you  
16 could notice that night?

17 A. No.

18 Q. And did he ultimately -- did he agree to speak  
19 with you that night?

20 A. Yes.

21 Q. What, if anything, did he tell you?

22 A. He told me that he didn't assault the victim in  
23 this case. He initially told me that nothing happened, no  
24 kind of altercation, no kind of fight or anything took  
25 place.

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1 Normally when you interrogate someone, that'll  
2 be the first thing out of their mouth. They'll say  
3 nothing happened.

4 MR. STROUD: Objection, Your Honor.

5 He's testifying as experience of a law  
6 enforcement officer. Speculative, Your Honor.

7 THE COURT: Well, I understand the arguments.  
8 I'm going to overrule your objection. He's already  
9 asked and answered the question.

10 If you'll just go over what happened that night  
11 and not on his --

12 MR. CLARIDAY: Experience.

13 THE COURT: -- experience. I appreciate it.

14 Q. [Mr. Clariday] Just keep it to that night.  
15 Thank you, sir.

16 A. He initially, like I said, acted like nothing  
17 took place. Continued questioning. And he conceded that  
18 he was -- at the time of the incident, he was holding a  
19 jug containing gasoline and that the victim in question  
20 kicked the jug causing it to spill on both of them.

21 Q. So at the time you questioned him, he admitted  
22 that he had a tank of gas or a jug of gasoline?

23 A. Yeah. A jug of gasoline is how I --

24 Q. He said that he was holding it?

25 A. Yes.

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1 Q. Anything else? Did he say anything else that  
2 night?

3 A. No.

4 After that, we didn't do much more talking after  
5 that. I took him on to the jail and that was the end of  
6 that.

7 Q. As part of your advice of rights and Miranda  
8 warnings, did you specifically tell him that he had a  
9 right to an attorney?

10 A. Yes.

11 Q. Did you specifically tell him that he had a  
12 right to remain silent?

13 A. Yes.

14 Q. And that he didn't have to speak with you at  
15 that time?

16 A. That's correct.

17 Q. Did he ever invoke his right to have an attorney  
18 present?

19 A. No.

20 Q. Did he ever invoke his fifth amendment right to  
21 remain silent?

22 A. No.

23 Q. So did he voluntarily speak with you that night?

24 A. Yes.

25 Q. Do you promise him anything for talking to you?

Michael Fasesco  
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1 A. No.

2 Q. Do you coerce him in any way?

3 A. No.

4 Q. So was this statement, in your opinion, freely  
5 given?

6 A. Yes.

7 Q. And was it voluntary?

8 A. Yes.

9 Q. Was anyone else -- and when I say anyone else,  
10 was there any other law enforcement officer there at the  
11 time of the stop?

12 A. I made the stop. And right about the time I'm  
13 taking him into custody, Lieutenant Walton arrived and she  
14 assisted me with making sure no one else was in the other  
15 car, and securing that other car.

16 Q. So did she witness your advice of rights?

17 A. She was probably back and forth. She was  
18 probably standing there at the beginning of interrogation.  
19 And it would be hard for me to say. I don't know what she  
20 heard or what she witnessed. But she was around, but I  
21 wouldn't be certain if she heard the whole interrogation.

22 Q. Yes, sir.

23 You say you transported the defendant and you  
24 took him to jail that night; is that correct?

25 A. Yes, sir.

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1 Q. And what was he booked in for?

2 A. Criminal domestic violence of a high and  
3 aggravated nature.

4 Q. And just once again, just for the record, did he  
5 admit to having a gas can that night?

6 A. Yes.

7 MR. CLARIDAY: Okay. Thank you.

8 THE COURT: Anything on cross-examination,  
9 Mr. Stroud?

10 MR. STROUD: Briefly.

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Michael Fasesco  
Cross-Examination by Mr. Stroud  
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CROSS-EXAMINATION

BY MR. STROUD:

Q. You testified earlier that you put his -- when you were patting him down, you put all his personal belongings on the car?

A. After I searched him, yes.

Q. Did he have a lighter on him?

A. I couldn't say whether he had a lighter on him or not.

Q. But you were aware of the nature of the call; correct?

A. Yes.

Q. So as an experienced police officer, wouldn't you think it would be important to write that down in your report in this case if you found one?

A. I didn't find anything of evidentiary value on him. A lighter would be common in peoples pockets, but I can't say whether he had a lighter or not.

Q. And he said he didn't assault the victim; correct?

A. He did say that, yes.

Q. And he said that she kicked the jug?

A. He did say that, yes.

Q. Deputy Fasesco, when you brought him back to the station, did you give him a chance to write down a

Michael Fasesco  
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1 statement?

2 A. No. I didn't take him -- you mean to the police  
3 station?

4 Q. Uh-huh.

5 A. No. I booked him straight into the detention  
6 center.

7 Q. Okay. The detention center.

8 A. Uh-huh.

9 Q. Do they have written-statement pieces of paper  
10 there?

11 A. Well, I have them -- I have them in my vehicle.  
12 I don't know about the detention center.

13 Q. Okay. So you even have them in your vehicle?

14 A. Yes.

15 Q. And you never offered to let him write it down?

16 A. No, I didn't take a written statement from him.

17 Q. So this is all from your memory that you wrote  
18 down?

19 A. Yes.

20 MR. STROUD: No further questions, Your Honor.

21 THE COURT: Anything on redirect?

22 MR. CLARIDAY: Just one question.

23 - - -

24 - - -

25 - - -

Michael Fasesco  
Redirect Examination by Mr. Clariday  
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REDIRECT EXAMINATION

BY MR. CLARIDAY:

Q. Officer Fasesco, when you ultimately stopped the vehicle, was this about a day later after -- from the initial incident?

A. No. It was within -- it's within the same shifts. Or I would say within a --

Let me catch myself there. I don't have listed down my time of the stop. I know I completed this report. I stopped him on June 1st. I don't have the exact times.

But I can recall that from the moment that we received the call about this incident, when I became involved I did not stop -- I did not stop looking for him. I didn't do anything but look for him. The exact amount of time that took place during that I don't know, but I -- it was still I guess you would say freshly committed, given the nature of the offense. I was looking the entire time.

Q. Right. Clearly he had enough time to get rid of a lighter?

A. Yeah. Just a few seconds you can get rid of anything.

Q. Sure.

MR. CLARIDAY: No further questions.

THE COURT: Anything on recross?

Michael Fasesco  
Redirect Examination by Mr. Clariday  
November 6, 2012

1 MR. STROUD: No, Your Honor.

2 THE COURT: All right. Thank you, sir. You may  
3 step down.

4 THE WITNESS: Thank you.

5 [Whereupon, Mr. Fasesco is excused and exits the  
6 witness stand]

7 THE COURT: Is the State ready to call its next  
8 witness?

9 MS. FORD: Your Honor, the State would rest at  
10 this time.

11 THE COURT: Ladies and gentlemen, you have heard  
12 the State's case. I'm going to excuse you to go back  
13 into the jury room for a moment.

14 Remember, you've just heard some of the  
15 testimony in this case. Again, you cannot talk about  
16 this among yourselves or anyone else. Okay?

17 Go back into the jury room, please. Thank you.

18 [Whereupon, the jury exits the courtroom at  
19 3:57 p.m.]

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State v. Dinkins  
Motion for a Directed Verdict by Mr. Stroud  
November 6, 2012

1 MOTION FOR A DIRECTED VERDICT

2 THE COURT: Anything from the defense?

3 MR. STROUD: Your Honor, we have a motion for a  
4 directed verdict.

5 THE COURT: All right. Is there any basis for  
6 that?

7 MR. STROUD: Your Honor, one of the elements  
8 that's required to be proven is serious bodily injury.  
9 There's no evidence to indicate enough gas to cause  
10 substantial risk of that or serious permanent  
11 disfigurement or a protracted loss of -- for  
12 impairment of a bodily member or organ. To argue that  
13 the extent of possible injuries could be -- could  
14 satisfy that element is speculation, Your Honor.

15 We don't even really have proof that it was  
16 gasoline. They haven't proved that it smelled like  
17 gasoline. There's no indication that she would have  
18 been disfigured. There's no indication she would have  
19 protracted loss for impairment. I'm sorry. I already  
20 said that, Your Honor. I apologize. Your Honor,  
21 there has to be a substantial risk of death or a --  
22 risk of death. It must be substantial. Must be  
23 serious permanent disfigurement, not just a  
24 disfigurement. Your Honor, there must be protracted  
25 loss for impairment, not just loss of impairment.

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Motion for a Directed Verdict by Mr. Stroud  
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1           As for the deadly weapon, Your Honor, in this  
2 case we have -- the model penal code says it's a  
3 substance within the manner it is used or it is  
4 intended to be used is known to be capable of  
5 producing death or serious bodily harm.

6           Your Honor, our argument is that we don't know  
7 how -- we don't know if it was gas. How much -- if  
8 there was gasoline in there, how much water was in  
9 with the gas. We don't know how flammable the gas  
10 was. We don't know if there ever was gas on her  
11 shirt. And, therefore, there's no probable cause -- I  
12 mean, there's no proof of a deadly weapon in this  
13 case.

14           And that's about it, Your Honor.

15           THE COURT: Thank you, sir.

16           All right. Did you want to respond, Ms. Ford?

17           MS. FORD: Yes, sir, just briefly.

18           I believe what Mr. Stroud indicated as the law  
19 is a mischaracterization of the law. Under criminal  
20 domestic violence of a high and aggravated nature, an  
21 assault with or without a battery which would cause  
22 the individual to fear imminent serious bodily injury  
23 or death certainly would be sufficient for the high  
24 and aggravated nature of the charge.

25           Additionally, the proof Mr. Stroud is looking

State v. Dinkins  
Motion for a Directed Verdict by Mr. Stroud  
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1 for came from the defendant himself in both the letter  
2 that was admitted into evidence where he indicated he  
3 had more, quote, water than gas in that jug.  
4 Obviously, he's saying that there was gasoline in the  
5 jug. Further, he admitted to Deputy Fasesco that he  
6 was -- he did have a jug in his hand that was filled  
7 with gasoline.

8 So, Your Honor, for those reasons the State  
9 feels that there is more than enough evidence not only  
10 to prove the case but certainly to go to the jury,  
11 Your Honor.

12 THE COURT: Thank you, ma'am.

13 Mr. Stroud, I find that there is evidence. As  
14 to the weight of that evidence, that's going to be a  
15 jury matter. I believe there is evidence meeting the  
16 elements under code section 16-25-65, an assault with  
17 or without accompanying battery which would reasonably  
18 cause a person to fear imminent, serious bodily injury  
19 or death is present in the testimony that I've heard  
20 here today.

21 I am going to deny your motion for a directed  
22 verdict. Thank you, sir.

23 MR. STROUD: Your Honor, if I may, just for the  
24 record?

25 THE COURT: Sure --

State v. Dinkins  
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1 MR. STROUD: I'm not sure if I was clear in my  
2 initial -- I understand. But as for that charge, an  
3 assault with or without accompanying battery which  
4 would reasonably cause a person to fear imminent  
5 serious bodily injury or death --

6 THE COURT: Yes, sir.

7 MR. STROUD: -- there's no indication as to the  
8 serious part of that charge.

9 THE COURT: Well, I'm going to let -- that's up  
10 to the jury as to whether or not spilling gasoline on  
11 them and threatening to burn them is serious or not.  
12 I think that's a jury question.

13 I'll note your objection to my ruling on the  
14 record. Okay? Thank you, sir.

15 Now, any other motions from the defense?

16 MR. STROUD: No, Your Honor.

17 THE COURT: Are y'all going to call -- do y'all  
18 have anybody to call, or do you want me to wait until  
19 in the morning to find out if he's going to testify?

20 MR. WISE: I think we would like the opportunity  
21 to look at this in the morning to visit that issue.  
22 If we could give the Court our decision first thing,  
23 we would appreciate it.

24 THE COURT: That will be no problem. If you  
25 happen to get here by 9:15, it'll be good. I'm going

State v. Dinkins  
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1 to tell the jury to be back at 9:30.

2 And what I plan on doing is going ahead and  
3 taking a break for today and then tomorrow morning you  
4 can either rest or if you have some testimony you want  
5 to put in, we'll do that then.

6 MR. STROUD: Very good.

7 THE COURT: Is that all right with the State?

8 MS. FORD: Yes, sir.

9 We would just ask that the defense would provide  
10 us with a witness list as soon as they're able to  
11 provide one to us, if there's going to be one.

12 THE COURT: They can give you a proposed witness  
13 list before they leave.

14 MS. FORD: Yes, sir.

15 THE COURT: But whether somebody is going to  
16 show or not will be a different story. Is that  
17 correct?

18 MR. WISE: That is absolutely correct, Your  
19 Honor.

20 THE COURT: Thank you, sir.

21 I'm assuming that the only witness that you  
22 might possibly have would be Mr. Dinkins?

23 MR. WISE: Yes, sir.

24 THE COURT: We don't have any surprise witnesses  
25 for the State, do we?

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1 MR. WISE: If there are any, it will be a  
2 surprise to both sides.

3 THE COURT: I'm going to call the jury back out  
4 here, excuse them, ask them to come back at 9:30  
5 unless there's anything else we need to discuss before  
6 I bring them back in.

7 MS. FORD: Nothing further from the State, Your  
8 Honor.

9 THE COURT: Then we can go over a little bit  
10 with the jury charges if y'all want to.

11 MS. FORD: Yes, sir.

12 THE COURT: If you would bring the jury back out  
13 for me.

14 [Whereupon, the jury enters the courtroom at  
15 4:04 p.m.]

16 THE COURT: Ladies and gentlemen, as y'all can  
17 see, it's a little after 4:00. Depending on how we  
18 would go this afternoon, we would be here probably  
19 fairly late into the evening. Rather than go forward  
20 and keep y'all here late into the evening, we're going  
21 to break now. Okay? Let y'all go home. Y'all can be  
22 back at 9:30 in the morning. We'll be prepared to go  
23 forward then.

24 If you haven't voted, since y'all are exercising  
25 most of your civil duties today and you haven't voted,

State v. Dinkins  
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1 you need to go ahead and vote today before you go  
2 home.

3 Again, remember you cannot talk about this case  
4 to anyone. If anybody asks you what you're doing, you  
5 tell them that you got lucky and were chosen on the  
6 jury today and because your luck is running good, this  
7 might be a good time to stop by the grocery store and  
8 buy a lottery ticket.

9 Now, again, let me remind you do not do any  
10 investigation about this case. Don't try -- if there  
11 happens to be something on the radio or an article in  
12 the newspaper, you can't listen to it, you cannot read  
13 it, nobody can talk to you. If somebody tries to  
14 contact you to talk about this case, I need to know  
15 about it first thing in the morning. You can't talk  
16 to them. But be sure to get their name for me. Okay?

17 Y'all are excused. If y'all would be back in  
18 the jury room at 9:30, I would appreciate it. I hope  
19 y'all have a wonderful evening. Thank y'all. I  
20 appreciate it.

21 [Whereupon, the jury exits the courtroom at  
22 4:07 p.m.]

23 THE COURT: Anything else we need to put on the  
24 record, Ms. Ford?

25 MS. FORD: Nothing from the State, Your Honor.

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1 THE COURT: Anything, Mr. Wise, we need to put  
2 on the record?

3 MR. WISE: No, Your Honor.

4 THE COURT: We're in recess until 9:15 in the  
5 morning for y'all. 9:30 is when the jury is coming  
6 back.

7 [JURY TRIAL ADJOURNS AT 4:08 P.M.]

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State v. Dinkins  
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C E R T I F I C A T E

STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Edgar W. Dixon, on November 6, 2012.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 28th day of January, 2015.

  
Mia Perron, CVR-CM-M  
Circuit Court Reporter  
9th Judicial Circuit

MIA PERRON, CVR-CM-M

-179-

STATE OF SOUTH CAROLINA     ) COURT OF GENERAL SESSIONS  
                                   ) FIRST JUDICIAL CIRCUIT  
 COUNTY OF ORANGEBURG        ) CASE NO.: 2012-GS-38-1754  
                                                           TIA

STATE OF SOUTH CAROLINA     )  
                                   )  
 VS.                                )  
                                   )  
 JOSEPH WILLIAMS DINKINS,     )  
                                   )  
                   DEFENDANT.     )  
 \_\_\_\_\_

**JURY TRIAL - TIA**

**VOLUME 2 OF 2**

**and**

**SENTENCING - JULY 15, 2012**

held before the Honorable Edgar W. Dickson  
 Hilda Jordan, Circuit Court Reporter, 1st Judicial Circuit  
 in the Orangeburg County Courthouse  
 Orangeburg, South Carolina  
 on November 7, 2012, Commencing at 9:36 a.m.

---

**SUSAN "MIA" PERRON, CVR-CM-M**  
**Circuit Court Reporter - 9th Judicial Circuit**  
**Post Office Box 31865**  
**Charleston, South Carolina 29417-1865**  
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---

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EXHIBITS

[None]

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## PROCEEDINGS

THE COURT: Y'all can be seated. Thank you.  
Thank you.

Yesterday evening at the close of the case, we went back in chambers and discussed the charges in this case. The State requested -- I mean, the defense requested that I charge, in addition to criminal domestic violence of a high and aggravated nature, that I charge criminal domestic violence as a lesser included offense.

The State was kind enough to give the Court the recent Court of Appeals decision of State vs. Golston. G-O-L-S-T-O-N. Mr. Wise, have I -- have you been able to find any other cases, other than this case, that you want me to review?

MR. WISE: No, Your Honor.

If the Court is going to rely on that, I would just trust that the State uses this case, which I think we discussed briefly.

THE COURT: But for the record, do you want to go ahead and get those on the record right now?

MR. WISE: Sure. Your Honor, since I'm going to be doing it, can I put some of my reasons for wanting the Court to consider --

THE COURT: Yes. That's what I want you to do.

1 MR. WISE: The issue before the Court as to  
2 whether or not the Court should charge the CDV as a  
3 lesser included I think brings up two issues.  
4 Obviously, based on the evidence presented and  
5 comments that have been made during the course of this  
6 trial, the State is relying on 16-25-65(a)(2), and  
7 that is the provision of the CDVHAN statute that says  
8 an assault -- an accompanied battery which would  
9 reasonably cause a person to fear imminent serious  
10 bodily injury or death is the nature of what happened  
11 here.

12 So I would submit to the Court that the issue is  
13 whether or not Ms. Allen had a reasonable fear of  
14 serious bodily injury. And I would submit to the  
15 Court briefly that those two elements in this case are  
16 jury issues. Obviously -- Judge, obviously in this  
17 case Ms. Allen did not suffer any injuries.

18 The testimony was, from Deputy McQueen, that she  
19 didn't complain of any injuries and he did not see any  
20 injuries. So what the Court is left with -- what the  
21 jury is left with is the issue of potential injuries,  
22 basically what we're getting at.

23 Now, before we talk about those injuries, I  
24 would submit to the Court that one of the fundamental  
25 issues is the nature of the substance that's involved

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1 in this case. The testimony is that the substance  
2 smells like gas. Obviously, the substance was never  
3 tested, therefore there is no indication that, in  
4 fact, what was involved in this, the substance that  
5 was involved in this, is gas and is therefore  
6 flammable. And the fact that it's flammable becomes  
7 important because if it's not flammable, then it's  
8 obvious it cannot injure Ms. Allen.

9 Now, there is evidence in the case that -- and  
10 that comes from this letter that they put in that the  
11 substance in the case is more water than gas, which is  
12 an indication that it is not flammable.

13 We know from the evidence in the case that this  
14 can was outside and exposed to the elements. And we  
15 know from the testimony of the expert what happens  
16 when gasoline is put in a non-airtight can, which this  
17 can obviously was because it was being shaken and gas  
18 was coming out. We know from the expert that gas can  
19 get out of the can, and I submit to the Court that  
20 water can condense in the can, which is consistent  
21 with what Mr. Allen wrote -- I'm sorry -- Mr. Dinkins  
22 wrote to Ms. Allen in his letter.

23 So the issue, then, is was it reasonable for  
24 Ms. Allen to believe there was a flammable substance  
25 in that can. And that issue of whether or not that

1 was a reasonable belief I submit is a jury issue.

2 The next thing I think that makes this a jury  
3 matter is the injuries that that substance would  
4 cause. The key here is, since we're talking about  
5 potential injuries, that the potential has to be to  
6 cause serious bodily injuries.

7 Now, we know the can was shaken by Joseph.  
8 That's the way Ms. Allen described what happened and  
9 Mr. Allen [sic] described it. They described -- they  
10 used both these terms shaken. If the Court remembers  
11 when Ms. Allen testified, she demonstrated the shaking  
12 by holding up one of her hands around shoulder length  
13 and waving kind of left and right, okay, which  
14 indicates almost like a waving motion but obviously  
15 holding the can.

16 So that's the motion, that's the shaking, that  
17 we're talking about. And the issue or the problem is  
18 the amount and the location of this substance on  
19 Ms. Allen. Was it a lot, or was it a little? Was it  
20 drops, or was it more? Now, the evidence I think is  
21 pretty clear that there was no evidence of gasoline  
22 found on Ms. Allen's clothing, on her person, or on  
23 her skin.

24 So whether or not there was enough gasoline on  
25 her to start a fire I submit is a jury issue because

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1 it still becomes an issue about whether or not it was  
2 reasonable to believe that the injuries would be a  
3 serious bodily injury.

4 So it's not enough that the substance would  
5 burn, but was it enough of the substance on her that,  
6 [a], would burn her and not just injure her but cause  
7 serious bodily injury. Now, obviously there was no  
8 medical testimony, so we don't know if there --  
9 depending on the amount of a flammable substance, if  
10 it was flammable, being on the person, would that  
11 cause serious bodily injury.

12 So I would submit to the Court that that issue  
13 of whether or not, based on what happens here, there's  
14 a reasonable belief of serious bodily injury is a jury  
15 issue.

16 The other thing is we've looked at the evidence  
17 in this case and there's no indication that Joseph  
18 ever attempted to light the substance. Now, I  
19 recognize there is testimony that Joseph was standing  
20 up there, he had a can in one hand, he had a cigarette  
21 lighter in the other hand. I think the term used was  
22 he was flipping the cigarette lighter. And that's  
23 exactly what we have.

24 The assumption has always been that for some  
25 reason he couldn't get the lighter to light and

1           therefore he couldn't, you know, try to create a fire.  
2           However, I submit that that evidence is consistent  
3           with Joseph not attempting to get the lighter to  
4           light. In other words, if he was not making an effort  
5           to light the substance, then Ms. Allen was not in any  
6           harm. If he is standing up and not acting -- if he's  
7           acting, but not out of a genuine desire to hurt  
8           Ms. Allen, then her fear of serious bodily injury is  
9           unreasonable. And I submit that the issue of whether  
10          or not he was generally attempting to light the  
11          substance is a jury issue.

12                 And I think the Court thought I was being funny  
13          about that when I asked was he suicidal. But the  
14          issue is this. You have a guy who is apparently  
15          standing and shaking a can of gas with one hand and  
16          flicking a lighter with the other hand. And he is --  
17          depending upon what you believe, that's some distance  
18          from her. But in any event, he is -- you know, he is  
19          right there, and that's basically endangering himself  
20          more than anyone else. So I would submit to the Court  
21          that that evidence is consistent with him not  
22          genuinely attempting to light it and, therefore, it  
23          becomes a jury issue about whether or not her fear was  
24          reasonable or not..

25                 So I think there's a number of issues that

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1 should go in front of the jury as to whether or not  
2 this is a CDVHAN or a CDV. I recognize a jury can  
3 come back and say, you know, her fear was reasonable  
4 and, you know, we're done. But I do think the jury  
5 can come back and say, we understand why she would be  
6 concerned but we think that the potential here was not  
7 the serious bodily injury but her injury, which would  
8 be a CDV, and the fear was not a reasonable fear of  
9 serious bodily injury. And that's why we think that  
10 that matter should -- CDV, a simple criminal domestic  
11 violence, should be submitted to the jury.

12 THE COURT: Thank you, Mr. Wise.

13 Ms. Ford, would you like to respond?

14 MS. FORD: Yes, sir, just briefly.

15 Your Honor, obviously the State is opposed to  
16 the lesser jury instruction of criminal domestic  
17 violence.

18 Your Honor, I have to take obviously a different  
19 position from Mr. Wise. If I have a lighter and I  
20 light this piece of paper, it's going to burn.  
21 There's no gasoline on here. If I light my jacket on  
22 fire, I have a lighter and I light it, it's going to  
23 burn. So the fact that was there gasoline, was there  
24 not gasoline, obviously that's critical to our case  
25 but it's not the only part of our case.

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1           The point of our case is that Mr. Dinkins had a  
2 lighter and was attempting to light our victim,  
3 Ms. Allen, on fire. The fear of either death or  
4 bodily injury, great bodily injury, she thought she  
5 was going to be set on fire. That's what she  
6 testified to. It goes to the key word in the law,  
7 which would reasonably cause a person to fear.

8           Now, if, God forbid, she were set on fire, do we  
9 know what type of injuries she would have? No, we  
10 don't. Do we know that she would die? No, we don't.  
11 But would that reasonably cause her to fear?

12           And, Your Honor, I think the testimony from  
13 Ms. Allen, from Ms. Dowling, from the law enforcement  
14 officers who were there, she was absolutely in fear  
15 that she was going to sustain great bodily injury,  
16 serious bodily injury and/or death. And because of  
17 that -- there is no testimony obviously to the  
18 contrary.

19           And because of that, the State's position is  
20 that the defense is not entitled to a criminal  
21 domestic violence first offense as a jury instruction  
22 because part of criminal domestic violence of a high  
23 and aggravated nature is CDV. There's that additional  
24 element of either an assault and battery involving a  
25 deadly weapon, which actually causes serious bodily

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1 injury. We can concede that perhaps there was no  
2 serious bodily injury that she sustained. But that  
3 second part, or an assault occurred which would  
4 reasonably cause a person to fear imminent serious  
5 bodily injury or death, Your Honor, that's what the  
6 entire testimony that was taken here yesterday showed.  
7 There was no evidence to the contrary. And, Your  
8 Honor, because of that, the State would rely on State  
9 vs. Golston that the defense is not entitled to the  
10 lesser included charge because there was no evidence  
11 that would contradict the statement that she did fear,  
12 fear for her life, fear that she would suffer great  
13 bodily injury.

14 And for those reasons, Your Honor, we would be  
15 opposed to that additional jury charge.

16 THE COURT: All right. I've read the Golston  
17 case and I have reread both of the statutes. And to  
18 me, charging both statutes would be somewhat confusing  
19 to the jury. And the way the Golston cases mentions  
20 is the mere existence of evidence that defendant  
21 committed these acts, in addition to other acts which  
22 would constitute CDVHAN, does not warrant a jury  
23 charge on simple CDV.

24 I'm going to go along with that reasoning. I'm  
25 just going to charge CDVHAN.

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1 I'll note your objection to that, so that will  
2 be preserved on the record, Mr. Wise.

3 Since I've gotten a preview of your arguments, I  
4 think you can use all your arguments just on that case  
5 to say not guilty, as well.

6 Is the State ready to proceed?

7 MS. FORD: We are, Your Honor.

8 THE COURT: Is the defense ready to proceed?

9 MR. WISE: Actually, Mr. Stroud will be doing  
10 the closings, just to let the Court know.

11 THE COURT: Mr. Stroud is going to do the  
12 closing?

13 MR. STROUD: Yes, sir.

14 [Off the record momentarily]

15 THE COURT: If you would bring them on out.

16 [Whereupon, the jury enters the courtroom at  
17 9:51 a.m.]

18 THE COURT: Good morning, ladies and gentlemen.  
19 I hope y'all didn't read anything or listen to  
20 anything about this? Okay. Nobody tried to contact  
21 you?

22 All right. We're getting ready to proceed with  
23 the trial.

24 Mr. Wise, is the defense ready to proceed?

25 MR. WISE: We are, Your Honor.

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1 THE COURT: Okay.

2 MR. WISE: The defense is not going to present  
3 any witnesses. We would rest.

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

5 Ladies and gentlemen, the defense has advised  
6 the Court that they are resting. That means that you  
7 have heard all of the testimony and evidence in this  
8 case. What's going to happen is right now I have to  
9 take up a couple of matters outside of your presence  
10 and then, after we have taken care of those matters, I  
11 will bring you back out. We will begin with the  
12 closing arguments of the attorneys, then I will charge  
13 you with the law. After I have charged you with the  
14 law, I'll excuse you to go back into the jury room.  
15 At that time when you go back into the jury room, you  
16 will not begin your deliberations at that time because  
17 when I send you back in I have to go back over my  
18 charge on the law with the attorneys. They will tell  
19 me whether I misspoke or left something out or said  
20 something I didn't need to say and if I need to make  
21 any corrections or additions, I'll bring you back out  
22 for that. If everything I told you is okay, then the  
23 verdict form and the exhibits will go back into the  
24 jury room with you and the bailiff will tell you you  
25 can begin your deliberations at that time.

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1                   So if y'all would give me just a few minutes to  
2                   take up some matters with the attorneys, I'll bring  
3                   you back out here and we'll begin closing arguments.  
4                   Thank y'all.

5                   [Whereupon, the jury exits the courtroom at  
6                   9:53 a.m.]

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Renewed Motion for Directed Verdict by Mr. Stroud  
November 7, 2014

1 RENEWED MOTION FOR DIRECTED VERDICT

2 THE COURT: For the record, who's going to put  
3 the directed verdict request --

4 MR. WISE: Mr. Stroud.

5 THE COURT: Yes, sir.

6 MR. STROUD: Your Honor, we would like to renew  
7 our motion for a directed verdict, if I could just  
8 briefly again explain why.

9 THE COURT: Yes, sir.

10 MR. STROUD: I think it's pretty obvious in 16-  
11 25-20 (a)(1) is not an issue because there's no  
12 serious bodily injury. I believe what the State is  
13 going for is 16-25-20(a)(2) --

14 THE COURT: Well, Mr. Stroud, just out of  
15 curiosity, do y'all want me to leave that out of my  
16 instructions?

17 Ms. Ford?

18 Y'all can talk about it. I'll let him -- y'all  
19 can come back to that. Go back on with your directed  
20 verdict motion.

21 MR. STROUD: What we're looking at is an assault  
22 with or without an accompanying battery which would  
23 reasonably cause a person to fear imminent serious  
24 bodily injury or death.

25 The issue that we take is a lot of the argument

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1 for our CDV charge, very similar. We do not believe  
2 that an amount -- we believe that the amount of  
3 gasoline and whether or not the gasoline was mixed  
4 with a certain amount of water is an issue that we  
5 believe the State has not proved. And because we have  
6 no idea if it was sprinkles of gasoline or, you know,  
7 a gallon of gasoline and whether or not the gasoline  
8 was flammable at all, because there was evidence that  
9 it was mixed with water, puts her or anyone in  
10 reasonably [phonetic] fear of imminent serious bodily  
11 injury.

12 THE COURT: As I mentioned earlier, I believe  
13 there is evidence. It's up to the jury to determine  
14 the weight of the evidence as to whether or not they  
15 believed that she was in serious -- in reasonable --  
16 if she believed she -- let's see -- could reasonably  
17 cause a person to fear imminent serious bodily injury  
18 or death.

19 So I think there's evidence there, so it's a  
20 jury question as Mr. Wise had mentioned earlier.

21 Regarding whether or not I'm going to charge --  
22 leave out one or not, my take on that is I've got to  
23 charge them on the full law and let y'all argue it  
24 either way, okay, unless y'all really want me not to  
25 do it. And y'all will have to agree to that.

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1 MS. FORD: We would agree with that, if the  
2 defense would.

3 MR. WISE: That's fine. That's on the (a)(2).

4 THE COURT: I'm going to leave out one.

5 MS. FORD: So, Your Honor, just to clarify, this  
6 would be leaving out an assault and battery occurred  
7 which involved the use of a deadly weapon which  
8 resulted in serious bodily injury to the victim?

9 THE COURT: Yes.

10 MS. FORD: So it would just be moving forward on  
11 the an assault occurred with or without a battery  
12 which would reasonably cause a person to fear serious  
13 bodily injury or death?

14 THE COURT: That's correct.

15 MR. WISE: If I may, in charging the jury, since  
16 we're talking about this: how do you intend to charge  
17 them, if you do, on serious bodily --

18 THE COURT: Serious bodily injury?

19 MR. WISE: Uh-huh.

20 THE COURT: I don't have -- I don't have any  
21 answer, just -- you know, there is some statements in  
22 the Golston case about they pulled the definition.

23 But my take on that is it would be better luck  
24 for y'all to argue. It's not taken -- there is no  
25 definition I'm supposed to use.

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1 And basically I give the -- and just so y'all  
2 will know exactly what I'm planning to do: you know,  
3 I give the State must prove beyond a reasonable doubt  
4 defendant caused physical harm or injury, the initial  
5 part which is just the CDV language. I define the  
6 household members. And then I'll read, the State must  
7 prove beyond a reasonable doubt that the following  
8 occurred: that the defendant committed an assault,  
9 with or without an accompanying battery, which would  
10 reasonably cause a person to fear imminent serious  
11 bodily injury or death. And then I go -- I define --

12 [Off the record momentarily]

13 THE COURT: I had the deadly weapon charge in  
14 there, which is out. Okay? And that's where I'll  
15 stop.

16 Ms. Ford?

17 MS. FORD: Beg the Court's indulgence, Your  
18 Honor.

19 THE COURT: Take your time. Do you want me to  
20 read it back to you?

21 MS. FORD: Yes, sir, if you don't mind.

22 THE COURT: I'll read the entire charge to both  
23 of y'all.

24 MS. FORD: Thank you.

25 THE COURT: The defendant is charged with

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1 criminal domestic violence of a high and aggravated  
2 nature. The State must prove beyond a reasonable  
3 doubt that the defendant caused physical harm or  
4 injury to a member of the defendant's own household,  
5 or that the defendant offered or attempted to cause  
6 physical harm or injury to a member of defendant's own  
7 household, with the apparent present ability to cause  
8 harm or injury under circumstances reasonably creating  
9 a fear of imminent danger. A household member is a  
10 spouse, a former spouse, a parent, a child, a  
11 grandparent, a brother or sister, a grandchild, a  
12 person with whom the defendant has a child in common,  
13 and a person of the opposite sex with whom the  
14 defendant is living or has lived in the past. The  
15 State must further prove beyond a reasonable doubt  
16 that the following occurred: that the defendant  
17 committed an assault, with or without an accompanying  
18 battery, which would reasonably cause a person to fear  
19 imminent serious bodily injury or death.

20 MR. CLARIDAY: Yes, sir.

21 THE COURT: Are we okay?

22 MS. FORD: Yes, sir.

23 THE COURT: Is the defense okay?

24 MR. WISE: We are, Your Honor. Thank you.

25 THE COURT: Ms. Ford, are you going to do this?

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1 Are you going to make Mr. Clariday do this the way  
2 Mr. Wise is making --

3 MS. FORD: No, sir. I'm going to do closing.

4 THE COURT: Okay.

5 MS. FORD: Your Honor, is it possible for us to  
6 have a short two-minute break?

7 THE COURT: We can. That way I can get coffee.  
8 Not that I won't be entertained enough by your  
9 arguments, but caffeine I find helps me early in the  
10 morning.

11 MS. FORD: Yes, sir. Thank you.

12 THE COURT: All right. We'll take about ten  
13 minutes.

14 [Whereupon, a recess is taken from 10:01 a.m. to  
15 10:15 a.m.]

16 THE COURT: Ms. Ford, is the State ready?

17 MS. FORD: We're ready to proceed, Your Honor.

18 THE COURT: Have you got everything --

19 MS. FORD: Yes, sir. Yes, sir.

20 THE COURT: Mr. Stroud, is the defense ready?

21 MR. STROUD: Yes, Your Honor.

22 THE COURT: If you would bring the jury on out.  
23 Thank you, ma'am.

24 [Whereupon, the jury enters the courtroom at  
25 10:16 a.m.]

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1 THE COURT: All right. Ladies and gentlemen, I  
2 appreciate y'all's patience.

3 We are now getting ready to go through the final  
4 part of this trial. You've heard all the evidence in  
5 this case. Now we're going to hear from the closing  
6 arguments of the attorneys. After they have done  
7 their closing arguments, I will charge you on the law  
8 and go over the verdict for with you.

9 All right. Ms. Ford?

10 MS. FORD: Thank you, Your Honor.

11 THE COURT: Yes, ma'am.

12 MS. FORD: May it please the Court.

13 THE COURT: Yes, ma'am.

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State v. Dinkins  
Closing Argument by Ms. Ford  
November 7, 2012

CLOSING ARGUMENT

MS. FORD: Good morning.

First off, Babe, I want to start by saying I'm sorry, and I'm just sorry I did it. Joseph Dinkins wrote those words to Crystal Allen. Not just sorry I did it. Did what? Did what he was charged with, criminal domestic violence of a high and aggravated nature.

Well, what is criminal domestic violence of a high and aggravated nature? Look to our board here. And I apologize I need -- but bear with me.

It's unlawful to cause physical harm or injury to person's own household member. That can be your spouse, former spouse, a person who has a child in common, people who live together or formerly lived together. In this case there was testimony that Crystal Allen had two children with Joseph Dinkins, that they had lived together for five years. She was a household member.

It is unlawful to cause physical harm or injury to a person's household member or -- I want you to focus on number two -- offer or attempt to cause physical harm or injury to a person's own household member, mother of your children would qualify, with the apparent present ability, the ability under the

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1 circumstances, reasonably creating fear, fear of  
2 imminent peril.

3 Well, Webster's Dictionary defines peril as  
4 exposure to the risk of being injured. So put another  
5 way, does a person offering or attempting to harm have  
6 the ability to do that harm causing that victim to  
7 fear, to fear that danger, the risk of danger? And  
8 the next part, "and" -- so it must be one or two --  
9 and an assault occurred with or without a battery,  
10 which is an unwanted touching which would reasonably  
11 cause a person to fear serious bodily injury or death.

12 When someone threatens a life with the ability  
13 to take that life and it would cause that victim to  
14 believe that they would seriously be injured or could  
15 die, that, ladies and gentlemen, is criminal domestic  
16 violence of a high and aggravated nature. And it's  
17 the State's position that after hearing all of the  
18 evidence from this witness stand over here, all that  
19 you heard yesterday, that is exactly what Joseph  
20 Dinkins is guilty of.

21 Let's talk about the evidence you heard from the  
22 witness stand. Crystal Allen testified that she lived  
23 with Joseph Dinkins for five years, she had children  
24 in common with him. And she testified that during the  
25 early-morning hours of May 31st, 2012, just a few

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1 months ago, she believed that she was going to be set  
2 on fire by the father of her children in her home,  
3 down the hall from where her sleeping children lay.  
4 She believed that she was going to be set on fire  
5 because he doused her with gasoline. He held her down  
6 with his knee and flicked a lighter. She testified  
7 she thought she was going to die. She feared her own  
8 death. What can be more reasonable, what can be more  
9 reasonable, when someone pours gasoline on you and  
10 stands over you with a lighter?

11 Kara Dowling testified that she met Crystal  
12 through Joseph Dinkins, that their kids were actually  
13 related. She testified that she saw such anger in  
14 Joseph Dinkins' face that night. She testified that  
15 she saw him come into that room with that gas can and  
16 douse Crystal Allen with the gas, and she testified  
17 that he repeatedly tried to flick that lighter, get  
18 that fire started.

19 Both Crystal and Kara testified that Joseph  
20 Dinkins had threatened if I can't have you, no one can  
21 have you. What does that mean? We can look to what  
22 Joseph Dinkins did. Joseph Dinkins's actions show  
23 exactly what that meant. He tried to set her on fire  
24 so no one would have her.

25 It doesn't matter what excuses he writes in his

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1 I'm-sorry letter that he sends to Crystal. My reason  
2 for doing that, Babe, was to show you I want you and I  
3 don't want anyone else to have you. That's what he  
4 writes to her. I don't want anyone else to have you.  
5 You'll have the letter with you back in the jury room  
6 when you start your deliberations. You'll be able to  
7 read it.

8 How was he going to make sure no one else could  
9 have her? He was going to kill her. What else can  
10 someone mean when they douse her with gasoline and  
11 flick that lighter? Flicks his lighter again. Babe,  
12 I would never do some crazy shit like set you on fire.  
13 Really? Then why are you going to douse Crystal Allen  
14 in gasoline and flick that lighter standing over her  
15 body? But this is after the fact. Three or four days  
16 later he writes this letter: I'm sorry. I'm sorry I  
17 did it.

18 Both Deputy McQueen and Lieutenant Walton both  
19 testified that Crystal Allen was hysterical, crying,  
20 panic stricken. Certainly understandable for a woman  
21 in fear for her life. There can be nothing more  
22 terrifying, horrible, than looking into the eyes of  
23 that person you think is going to kill you, is going  
24 to set you on fire.

25 Yesterday the defense tried to make an argument

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1 that whatever was in that jug wasn't gasoline and if  
2 it wasn't gasoline, what Joseph Dinkins did, it wasn't  
3 quite so bad, that Crystal Allen's fear wasn't  
4 reasonable because maybe it wasn't gasoline in there.  
5 Ladies and gentlemen, it's our position that's  
6 ludicrous.

7 What did every witness that was in that house  
8 testify to yesterday? Crystal Allen testified that  
9 Joseph Dinkins poured gasoline on her. Kara Dowling  
10 testified that Joseph Dinkins poured gasoline on  
11 Crystal Allen and saw a red gas can in his hand.  
12 What's in the gas can? Gasoline. Deputy McQueen  
13 testified that when he entered that home, not only did  
14 he see a gas can but he was overwhelmed with the smell  
15 of gas. Lieutenant Walton testified that not only did  
16 she smell the gas but she saw gas on the couch and on  
17 the floor.

18 But let's look to even what Joseph Dinkins told  
19 Deputy Fasesco. Deputy Fasesco testified that he gave  
20 Joseph Dinkins his Miranda warnings and Joseph Dinkins  
21 admitted he had a jug with gasoline in it. And then  
22 in the I'm-sorry letter: I had more water than gas in  
23 that jug. There was gasoline in that jug, ladies and  
24 gentlemen. The evidence is overwhelming that shows  
25 that.

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1           The defense also wants you to consider, well, if  
2           it was gasoline, why was there none on the tee-shirt,  
3           the shirt that was doused in gasoline? Well, Michael  
4           Moskal from SLED explained that to us yesterday.  
5           There was no gasoline that was found on that shirt.  
6           Why? That shirt was in a plastic bag in the back of  
7           Lieutenant Walton's patrol vehicle for four months.  
8           Mr. Moskal testified that gas evaporates. Gas in a  
9           tee-shirt, or anything, for that matter, is going to  
10          evaporate within days. So certainly testing that tee-  
11          shirt four months after it had been soaked in  
12          gasoline, stored in the back of a patrol vehicle in  
13          the middle of the summer, there's no surprise that  
14          there's no gasoline on there.

15               Does it mean that there was never any gasoline  
16               on it? No. Mr. Moskal testified that gasoline, in a  
17               situation like this stored in a plastic bag would  
18               likely evaporate within days. So that's why there was  
19               no gasoline. It doesn't mean that there wasn't.

20               Ladies and gentlemen, the evidence shows that  
21               there was gasoline on her shirt. There was gasoline  
22               on her body and her hair. And Joseph Dinkins used a  
23               lighter, flicked a lighter, and tried to set her on  
24               fire.

25               Ladies and gentlemen, Ms. Allen didn't suffer

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1 any bruises or broken bones, she didn't suffer a black  
2 eye, not a physical injury. Your Honor, it doesn't  
3 have to -- ladies and gentlemen, it doesn't have to be  
4 a physical injury for it to be criminal domestic  
5 violence of a high and aggravated nature. If there is  
6 an offer or an intent to cause physical harm or injury  
7 to a victim that would cause that person to fear that  
8 they are going to suffer serious bodily injury, or  
9 even death, ladies and gentlemen, that is exactly what  
10 criminal domestic violence of a high and aggravated  
11 nature is.

12 In a few minutes the judge is going to charge  
13 you on the law, and if anything I said or Mr. Stroud  
14 may say conflicts with him and what he states the law  
15 is, you've got to follow the judge. He's the judge.

16 I ask that when you get to the jury room and you  
17 consider all the evidence, that you hold Joseph  
18 Dinkins responsible for what he did on May 31st, 2012.

19 There may not be a broken bone, a bruise that I  
20 can show you a picture of. The mental and emotional  
21 injury that Ms. Allen suffered is burned in her memory  
22 forever. Bones heal. Bruises heal, they mend. But  
23 that memory will be with her forever.

24 And when you get back to that jury room, I want  
25 you to consider her fear, the threat of Joseph

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1 Dinkins. And then he committed an act so intimidating  
2 and terrifying, trying to light her on fire, burn her,  
3 down the hall from where her sleeping babies were.  
4 Her only thought was that she was going to die at the  
5 hands of the father of her kids, at the hands of  
6 Joseph Dinkins.

7 I ask you to return a verdict of guilty against  
8 Joseph Dinkins for criminal domestic violence of a  
9 high and aggravated nature. Thank you.

10 THE COURT: Thank you, Ms. Ford.

11 Mr. Stroud?

12 MR. STROUD: Thank you, Your Honor.

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State v. Dinkins  
Closing Argument by Mr. Stroud  
November 7, 2012

CLOSING ARGUMENT

MR. STROUD: Good morning.

Ladies and gentlemen, at the beginning of this trial you heard Ms. Ford say that there is nothing more terrifying than looking into the eyes of your lover while she -- while that person tries to harm you. That's why I thank God that Mr. Dinkins wasn't here yesterday to sit and watch Crystal get on the stand, would have had to look her in the eye, while she make -- told you a story that makes no sense.

Let me explain why I said that. Her testimony is is that after a long day that had ran down to three o'clock in the morning, and suddenly he comes charging at her -- she kept using the word charge -- with a can of gasoline. What did she do? She just laid there. She doesn't say anything, she doesn't do anything. It's her testimony that he put his knee down and just started shaking the can. But remember her friend that was there never saw that. Her friend that was there saw him walk him front of the TV and then she jumped up and they're both on their feet looking at each other.

You know from Mr. Dinkins' statement, it's his position that she kicked the can. No one ever said that he poured gasoline. It was always that he shook

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1 it. And, ladies and gentlemen, I submit to you that  
2 if you're holding a can of gasoline and somebody kicks  
3 it, it's going to go like that. It's going to look  
4 like you're shaking it.

5 She kicked the can and it splashed on her and it  
6 was at that time, it was at that point, when Ms. Allen  
7 saw an opportunity. You heard her testify that she  
8 had just broken up with Mr. Dinkins and that she was  
9 tired of him, she wanted him out of her life, she  
10 wanted him out of her children's lives. And so she  
11 made up this story.

12 Let's talk about the lighter. Common sense.  
13 Either two things happened: either it wasn't gas; or  
14 he didn't have a lighter. Because if you believe her  
15 statement, he poured gasoline all over the place and  
16 was flicking the lighter. Use your common sense.  
17 What happens if you spark right next to a bunch of  
18 gasoline? I submit to you if one of those things --  
19 if both those things were true, neither one of them  
20 would be here today.

21 He would never put his children or his wife in  
22 that much danger. Look at the letter. You're going  
23 to have it back there. He loves his children, and he  
24 still loves Ms. Allen. He would never -- the children  
25 were in the next room over. He would never do that.

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1 He would never set himself on fire, he would never set  
2 her on fire, and he would never put his children in  
3 harm's way like that.

4 And remember that when they arrested him, he  
5 didn't have a lighter on him. Now, obviously he could  
6 have thrown it away. But it's just a lighter. You  
7 know, what are you going to do?

8 As far as the gasoline itself, there is no proof  
9 it was gas. The solicitor said that there's  
10 overwhelming evidence that it was gas. No. It would  
11 be overwhelming evidence if they tested it. But they  
12 didn't. They waited four and a half months and then  
13 decided, well, let's -- we need to see if this really  
14 was gasoline. What does that say about the officers?  
15 I mean, what does that say about the police? Why did  
16 they wait four and a half months?

17 Dinkins says that there's more water than gas.  
18 You heard that he had to go outside to get it. You  
19 heard the lab, SLED lab, guy say that if you leave gas  
20 out for a week, it pretty much will evaporate. It was  
21 outside, it was exposed to the elements, and it was  
22 open.

23 We have no proof of what the ratio of gas to  
24 water was. It could have been a can that used to have  
25 gas in it that was now full of water and probably

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1 would still smell like gas but could be completely  
2 harmless. It could have more gas. We don't know.  
3 And that's not our burden. That's the State's burden  
4 to prove to you that it was a flammable substance.

5 More importantly, there's conflicting testimony  
6 about how much gas actually came out of the can.  
7 Everyone says it's sprinkled. We don't know how much  
8 got on her, we don't know how much got on the couch,  
9 and we don't know how much got on the floor. It was  
10 testified that there were dots all over the floor I  
11 think. And she says that it was all over her. But  
12 Deputy McQueen didn't testify about seeing gasoline on  
13 her. He didn't even say he could smell it on her. He  
14 just said, I could smell it in the house. Keep in  
15 mind this is a single-wide trailer. It's a very  
16 confined space. If you bring a gas -- a can of  
17 gasoline in there without spilling it, I submit to you  
18 the whole place is going to smell like gasoline.

19 Now, speaking of that can, it was still there.  
20 They didn't test that, either. I don't even think  
21 they collected it into evidence.

22 There's some -- you're going to go back there  
23 and you're going to have the elements of the crime.  
24 The elements are going to be -- and don't hold me to  
25 this. Whatever the judge tells you the elements are,

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1 are going to be what they are. But I believe the  
2 judge is going to say that there's going to have to be  
3 an assault. Well, there's no assault when she kicked  
4 the can. He didn't do it. She kicked the can, it  
5 splashed on her.

6 There must be reasonable fear of serious injury.  
7 Serious injury. If there are four drops of gasoline  
8 on her, that's not serious injury. You need to know  
9 how much gas was spilled. Just remember that it was  
10 shaken, not poured. Nobody ever said poured. Nobody  
11 ever used the word poured. It was always shaken. Gas  
12 could go all over the place. We have no idea how much  
13 got on her. And that's something you need to know.  
14 So if it bothers you that you have no idea how much  
15 gas got on her, they failed to prove that element of  
16 the crime.

17 I wish that it was easier. I wish that there  
18 was another charge that was charged to you, but in  
19 this case it's either all or nothing. And if you  
20 can't find that there is reasonable fear of serious  
21 bodily injury because you have no idea how much gas  
22 got on her, and whether or not that gas is flammable,  
23 then you have to find him not guilty. And that's what  
24 we ask you to do. Thank you.

25 THE COURT: Thank you, Mr. Stroud.

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CHARGE OF THE COURT

THE COURT: Ladies and gentlemen, it is now my turn to charge you the law in this case.

The indictment in this case charges the defendant with criminal domestic violence of a high and aggravated nature. The fact that the defendant was arrested, charged, and indicted in this case is not evidence and that cannot be considered by you as evidence of guilt in this case, nor does it create any presumption or inference of guilt. The indictment is simply the formal written instrument which contains the charges made against the defendant. It is the formal document by which this case is brought into this Court. The defendant has pled not guilty to this indictment and that plea puts the burden on the State to prove the defendant guilty beyond a reasonable doubt.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of law that the defendant in a criminal trial, no matter how serious the charges, is always presumed to be innocent of the crime for which the indictment was issued unless guilt has been proven by evidence satisfying you, the jury, of that guilt beyond a reasonable doubt. The presumption of innocence does not end when you begin your

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1 deliberations but it accompanies the defendant throughout  
2 the trial until you reach a verdict of guilt based on  
3 evidence satisfying you of that guilt beyond a reasonable  
4 doubt. The presumption of innocence is like a robe of  
5 righteousness placed about the shoulders of the defendant  
6 which remains with the defendant until it has been  
7 stripped from the defendant by evidence satisfying you of  
8 the defendant's guilt beyond a reasonable doubt. The  
9 presumption of innocence is not a mere legal theory. It  
10 is not just a legal phrase. It is a substantial right to  
11 which every defendant is entitled unless you, the jury,  
12 are satisfied from the evidence of the defendant's guilt  
13 beyond a reasonable doubt.

14 What is reasonable doubt in the law? A  
15 reasonable doubt is the kind of doubt that would cause a  
16 reasonable person to hesitate to act. The State has the  
17 burden of proving the defendant guilty beyond a reasonable  
18 doubt. Some of you may have served as jurors in civil  
19 cases where you were told that it is only necessary to  
20 prove that a fact is more likely true than not true, such  
21 as by the greater weight or preponderance of the evidence.  
22 In criminal cases, the State's proof must be more powerful  
23 than that. It must be beyond a reasonable doubt. Proof  
24 beyond a reasonable doubt is proof that leaves you firmly  
25 convinced of the defendant's guilt. There are very few

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

10 During this trial you and I have certain duties  
11 to perform. As the trial judge, it is my responsibility  
12 to preside over the trial of this case and to rule on the  
13 admissibility of evidence offered during this trial. You  
14 are to consider only the evidence before you. You are to  
15 consider only the testimony which has been presented from  
16 this witness stand and any exhibits which have been made a  
17 part of the record in this case.

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

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1 state it to you.

2 In every case, you, the jury, are the sole and  
3 exclusive judge of the facts in a case.. A trial judge  
4 cannot state, comment on, or make any statement to a trial  
5 jury about the facts in a case. Since you, the jury, are  
6 the sole judges of the facts, you are not to infer from  
7 what I have said during the progress of this trial in  
8 ruling upon the admissibility of evidence or otherwise, or  
9 anything that I now say during the course of this  
10 instruction to you, that I have any opinion about the  
11 facts in this case. The law does not allow me to have an  
12 opinion about the facts. This is a matter solely for you,  
13 the jury, to determine.

14 As jurors, it is your duty to determine the  
15 effect, value, weight, and truth of evidence presented  
16 during this trial. There are two types of evidence which  
17 are generally presented during a trial: direct evidence  
18 and circumstantial evidence. Direct evidence is the  
19 testimony of a person who claims to have actual knowledge  
20 of a fact, such as an eyewitness. It is evidence which  
21 immediately establishes the main fact to be proved.  
22 Circumstantial evidence is proof of a chain of facts and  
23 circumstances indicating the existence of a fact. It is  
24 evidence which immediately establishes collateral facts  
25 from which the main fact may be inferred. Circumstantial

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1 evidence is based on inference and not on personal  
2 knowledge or observation. The law makes absolutely no  
3 distinction between the weight or value to be given to  
4 either direct or circumstantial evidence, nor is a greater  
5 degree of certainty required of circumstantial evidence  
6 than of direct evidence. You should weigh all of the  
7 evidence in this case. After weighing all of the evidence  
8 if you are not convinced of the guilt of the defendant  
9 beyond a reasonable doubt, you must find the defendant not  
10 guilty.

11 Necessarily, you must determine the credibility  
12 of the witnesses who have testified in this case.  
13 Credibility simply means believability. It is your duty  
14 as jurors to analyze and to evaluate the evidence and to  
15 determine which evidence convinces you of its truth. In  
16 determining the believability of witnesses who have  
17 testified in this case, you may believe one witness over  
18 several witnesses or several witnesses over one witness.  
19 You may believe a part of the testimony of a witness and  
20 reject the remaining part of the testimony of that same  
21 witness. You may believe the testimony of a witness in  
22 its entirety or reject the testimony of a witness in its  
23 entirety. You may consider whether any witness has  
24 exhibited to you any interest, bias, prejudice, or other  
25 motive in this case. You may also consider the appearance

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1 and manner of a witness while on the witness stand.

2           The rules of evidence ordinarily do not permit  
3 witnesses to testify to opinions or conclusions. An  
4 exception to this rule exists for witnesses we call expert  
5 witnesses, a witness who by education and experience has  
6 become expert in some art, science, profession, or calling  
7 may state an opinion as to relevant and material matters  
8 in which the witness claims to be an expert and may also  
9 state the reasons for that opinion. You should consider  
10 any expert opinion received in evidence in this case and  
11 like any other evidence, give it the weight you think it  
12 deserves. If you decide that the opinion of an expert  
13 witness is not based on sufficient education and  
14 experience, or if you conclude that the reasons given in  
15 support of the opinion are not sound, or that the opinion  
16 is outweighed by other evidence, you may disregard the  
17 opinion entirely. An expert witness' testimony is to be  
18 given no greater weight than that of other witnesses  
19 simply because the witness is an expert. Further, you are  
20 not required to accept an expert's opinion even though it  
21 is not contradicted.

22           Under the laws of this state, a defendant may be  
23 tried even if the defendant does not attend the trial, but  
24 the fact that the defendant is not present may not be  
25 considered against the defendant in any manner whatsoever.

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1 As here, when a defendant is tried in his absence, you may  
2 not construe or consider his absence as an admission of  
3 guilt.

4 I further instruct you and emphasize that the  
5 fact that the defendant did not testify is not a factor to  
6 be considered by you in any way in your deliberation and  
7 in your consideration on the question of the guilt or  
8 innocence of the defendant. It must not be considered by  
9 you in any manner whatsoever. A defendant has the  
10 constitutional right to remain silent, and the assertion  
11 of this right must not be considered by you in your  
12 deliberations. I repeat, under your oath you are to draw  
13 no conclusion whatsoever from the fact that the defendant  
14 in this case did not testify. The fact that this  
15 defendant did not testify should not even be discussed in  
16 the jury room. The burden of proof, as I have told you,  
17 is on the State. The defendant is not required to prove  
18 his innocence. The burden of proof remains on the State  
19 to prove guilt beyond a reasonable doubt.

20 In order to establish criminal liability,  
21 criminal intent is required. For example, the mental  
22 state required to be proven by the State for a particular  
23 crime might be purpose, intent, knowledge, recklessness,  
24 or criminal negligence. Criminal intent must be proven by  
25 the State beyond a reasonable doubt. Criminal intent is

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1 always a matter that must be determined by the jury from  
2 the circumstances surrounding a situation. There is no  
3 way to prove intent to a mathematical certainty. There is  
4 no way medical science can dissect a person's brain and  
5 determine what the person had in mind, so the law says  
6 that criminal intent may be inferred from the  
7 circumstances shown to have existed. It is not necessary  
8 to establish intent by direct and positive evidence but  
9 intent may be established by inference in the same way as  
10 any other fact, by taking into consideration the acts of  
11 the parties and all the facts and circumstances of the  
12 case. Criminal intent is a mental state, a conscious  
13 wrongdoing. It is up to you to determine what the  
14 defendant intended to do based on the circumstances shown  
15 to have existed. Criminal intent can arise from action or  
16 a failure to act. It may arise from negligence,  
17 recklessness, or an indifference to duty, or to  
18 consequences that is considered by the law to be the  
19 equivalent of criminal intent..

20 A statement alleged to have been made by the  
21 defendant has been admitted into evidence in this case.  
22 While the Court has determined that the statement is  
23 admissible, I instruct you that you make the ultimate  
24 decision of whether or not the defendant made the  
25 statement. If the defendant did make the statement, you

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1 must determine whether the statement was made by the  
2 defendant voluntarily and of his own free will. This  
3 means that the statement was not caused by pressure,  
4 force, fear, threats, coercion, or intimidation, or by  
5 hope or a promise of leniency or a reward of any kind. In  
6 determining whether the statement was voluntary, you  
7 should consider both the characteristics of the defendant  
8 and the details of the questioning. Some of the factors  
9 you must consider are the age of the defendant, the  
10 defendant's education or lack of education, the  
11 defendant's mental ability or capacity, the defendant's IQ  
12 or intelligence, the defendant's background and  
13 environment, the place and length of detention, the nature  
14 of the questioning, and the advice or lack thereof to the  
15 defendant of his constitutional rights, including but not  
16 limited to the right to remain silent, that any statement  
17 could be used against him in a court of law, the right to  
18 have a lawyer present and that if he could not afford a  
19 lawyer, a lawyer would be appointed to represent him  
20 without any cost and that he could stop making a statement  
21 at any time. You must carefully consider all of the  
22 surrounding circumstances before you give any weight to an  
23 alleged statement. The State has the burden of proving  
24 beyond a reasonable doubt that the alleged statement was  
25 voluntary. If you determine it was, you can give the

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1 statement any further consideration you deem proper. You  
2 must decide what weight, if any, should be given to the  
3 alleged statement. If you determine the alleged statement  
4 was not a free and voluntary statement of the defendant,  
5 you should not consider the statement at all.

6 The defendant is charged with criminal domestic  
7 violence of a high and aggravated nature. The State must  
8 prove beyond a reasonable doubt that the defendant caused  
9 physical harm or injury to a member of the defendant's own  
10 household, or that the defendant offered or attempted to  
11 cause physical harm or injury to a member of the  
12 defendant's own household, with the apparent present  
13 ability to cause harm or injury under circumstances  
14 reasonably creating a fear of imminent danger. A  
15 household member is a spouse, a former spouse, a parent, a  
16 child, a grandparent, a brother or sister, a grandchild, a  
17 person with whom the defendant has a child in common, and  
18 a person of the opposite sex with whom the defendant is  
19 living or has lived in the past. The State must further  
20 prove beyond a reasonable doubt that the defendant  
21 committed an assault, with or without an accompanying  
22 battery, which would reasonably cause a person to fear  
23 imminent serious bodily injury or death.

24 I have declared the law to you through these  
25 instructions to help guide you to your verdict. Whether

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Charge of the Court  
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1 some of these instructions will apply will depend upon  
2 what you find to be the facts. The fact that I have  
3 instructed you on various subjects in this case must not  
4 be taken by you as indicating an opinion of this Court as  
5 to what you should find to be the facts or as to what your  
6 verdict should be. Your verdict must represent the  
7 considered judgment of each juror.

8 In order to return a verdict, it is necessary  
9 that each juror agree. Your verdict must be unanimous.  
10 All twelve of you must agree on this verdict.

11 Your verdict cannot be based on sympathy,  
12 passion, prejudice, emotion, or any other consideration  
13 that is not in evidence in this case. Remember, you are  
14 not partisans favoring one party over another. You are  
15 judges, the judges of the facts in this case, and your  
16 sole interest is to seek the truth from the evidence in  
17 this case.

18 Now, what I'm going to do now is go over the  
19 verdict form with you, Mr. Foreman. And remember I told  
20 you you're not to take it with you right now. I'll look  
21 over it with you to make sure you understand it.

22 This is the verdict form. It tells you where we  
23 are, in the County of Orangeburg, State of South Carolina.  
24 This is the indictment number on the case. The case is  
25 State of South Carolina versus Joseph Williams Dinkins.

State v. Dinkins  
Charge of the Court  
November 7, 2012

1 It is the verdict form and it has instructions. It says,  
2 please circle the appropriate verdict below and follow the  
3 accompanying instructions carefully. You have one  
4 question to decide. That question: we, the jury,  
5 unanimously find the defendant, as to the charge of  
6 criminal domestic violence of a high and aggravated  
7 nature, either guilty or not guilty. That's up for y'all  
8 to decide.

9 After you have made that decision, Mr. Foreman,  
10 you will sign and date this document and advise the  
11 bailiff that y'all have reached a unanimous verdict.

12 Now, as I told you, at this point in the trial  
13 I'm going to excuse you to go back into the jury room. I  
14 have gone through the charges on the law with you. The  
15 attorneys will tell me whether or not I have misspoken,  
16 left something out, or need to add something to the charge  
17 on the law. If I have to do any of those things, I will  
18 bring you back out and make those corrections or  
19 additions. If not, the bailiff will bring the verdict  
20 form and the exhibits back into the jury room and tell you  
21 you can begin your deliberations at that time. Until you  
22 get the verdict form and the bailiff says you can begin  
23 your deliberations, you cannot begin talking about this  
24 case -- say this over and over.

25 If y'all will bear with me just a few minutes, I

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Charge of the Court  
November 7, 2012

1 want y'all to go back into the jury room and then we'll  
2 see where we are. Thank y'all very much.

3 [Whereupon, the jury exits the courtroom at  
4 10:56 p.m.]

5 THE COURT: All right. Anything from the State?

6 MS. FORD: Nothing from the State, Your Honor.

7 THE COURT: Anything from the defense?

8 MR. STROUD: No, Your Honor.

9 THE COURT: All right. Thank y'all. We'll make  
10 sure the exhibits are in line.

11 And I believe y'all both looked over the verdict  
12 form and it was okay?

13 MS. FORD: Yes, Your Honor.

14 MR. WISE: Yes.

15 THE COURT: Is that the only -- that's the only  
16 exhibit?

17 MS. FORD: Yes, sir.

18 THE COURT: If you would take that back out  
19 there, tell the jury to begin their deliberations, and  
20 send the alternate out and I'll let him go.

21 [Whereupon, the alternate is released by the  
22 Court]

23 [Whereupon, evidence goes to the jury at  
24 10:58 p.m.]

25 THE COURT: All right. We're going to be in

State v. Dinkins  
Charge of the Court  
November 7, 2012

1 recess. Thank y'all.

2 [Whereupon, a recess is taken from 10:58 a.m. to  
3 12:07 p.m.]

4 THE COURT: If you'll bring the jury on out.

5 [Whereupon, the jury enters the courtroom at  
6 12:09 p.m.]

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State v. Dinkins  
Verdict  
November 6, 2012

VERDICT

1  
2 THE COURT: Mr. Foreman, has the jury reached a  
3 verdict?

4 THE FOREPERSON: We have, Your Honor.

5 THE COURT: Is that verdict unanimous?

6 THE FOREPERSON: It is.

7 THE COURT: Would you mind giving the verdict to  
8 the Court?

9 THE BAILIFF: Your Honor, may I approach?

10 THE COURT: Yes, ma'am.

11 [Whereupon, the bailiff proffers documents to  
12 the Court]

13 THE COURT: Thank you, ma'am.

14 All right. Madam Clerk, if you wish to -- thank  
15 you, ma'am.

16 [Whereupon, the Court proffers documents to the  
17 clerk of court]

18 THE CLERK OF COURT: I bring the Court's  
19 attention to indictment number 2012-GS-38-1754.

20 We, the jury, unanimously find the defendant as  
21 to the charge of criminal domestic violence of a high  
22 and aggravated nature guilty. And this is signed by  
23 presiding juror -- can't understand his handwriting.

24 THE COURT: That's okay, as long as he signed it  
25 and dated it?

State v. Dinkins

Verdict

November 6, 2012

1 THE CLERK OF COURT: 11/7/2012.

2 THE COURT: Okay. Thank you, ma'am.

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MIA PERRON, CVR-CM-M

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State v. Dinkins  
Polling of the Jury  
November 11, 2012

1 POLLING OF THE JURY

2 THE COURT: Anything from the State?

3 MS. FORD: Nothing from the State, Your Honor.

4 THE COURT: Anything from the defense.

5 MR. WISE: Could the clerk poll the jury,  
6 please.

7 THE COURT: Be happy to.

8 Ladies and gentlemen, what's going to happen now  
9 is the defendant has requested that the jury be  
10 polled. What's going to happen is the clerk is going  
11 to call your name, ask you if this was your verdict  
12 and it is still your verdict. Will you get ready --  
13 when she calls your name, if you would stand and  
14 respond to her questions, I would appreciate it.  
15 Okay? Thank you.

16 Madam Clerk?

17 [Off the record momentarily]

18 THE CLERK OF COURT: Howard M. Harris -- sorry.  
19 Ann C. Stover, is this your verdict?

20 MS. STOVER: Yes.

21 THE CLERK OF COURT: And is it still your  
22 verdict?

23 MS. STOVER: Yes.

24 THE CLERK OF COURT: Thank you. Elena Hair, is  
25 this your verdict?

State v. Dinkins  
Polling of the Jury  
November 11, 2012

1 MS. HAIR: Yes.

2 THE CLERK OF COURT: And is it still your  
3 verdict?

4 MS. HAIR: Yes.

5 THE CLERK OF COURT: Thank you. Kathleen Tyler,  
6 is this your verdict?

7 MS. TYLER: Yes.

8 THE CLERK OF COURT: And is it still your  
9 verdict?

10 MS. TYLER: Yes.

11 THE CLERK OF COURT: Thank you. Moses Gathers,  
12 is this your verdict?

13 MR. GATHERS: Yes.

14 THE CLERK OF COURT: And is it still your  
15 verdict?

16 MR. GATHERS: Yes.

17 THE CLERK OF COURT: Thank you. Sammie Glover,  
18 is this your verdict?

19 MR. GLOVER: Yes.

20 THE CLERK OF COURT: And is it still your  
21 verdict?

22 MR. GLOVER: Yes.

23 THE CLERK OF COURT: Thank you. Shawn Jones, is  
24 this your verdict?

25 MR. JONES: Yes.

State v. Dinkins  
Polling of the Jury  
November 11, 2012

1 THE CLERK OF COURT: Is it still your verdict?

2 MR. JONES: Yes.

3 THE CLERK OF COURT: Thank you. Audreanna  
4 Sumpter, is this your verdict?

5 MS. SUMPTER: Yes.

6 THE CLERK OF COURT: Is it still your verdict?

7 SUMPTER: Yes.

8 THE CLERK OF COURT: Thank you. Kimberly  
9 Johnston, is this your verdict?

10 MS. JOHNSTON: Yes.

11 THE CLERK OF COURT: Is it still your verdict?

12 MS. JOHNSTON: Yes.

13 THE CLERK OF COURT: Thank you. Mary Ruth  
14 Washington, is this your verdict?

15 MS. WASHINGTON: It is.

16 THE CLERK OF COURT: Is it still your verdict?

17 MS. WASHINGTON: Yes.

18 THE CLERK OF COURT: Thank you. Mark Ocain, is  
19 this your verdict?

20 MR. OCAIN: Yes.

21 THE CLERK OF COURT: Is it still your verdict?

22 MR. OCAIN: Yes.

23 THE CLERK OF COURT: Thank you. Clara Moore, is  
24 this your verdict?

25 MS. MOORE : Yes.

State v. Dinkins  
Polling of the Jury  
November 11, 2012

1 THE CLERK OF COURT: Is it still your verdict?

2 MS. MOORE: Yes.

3 THE CLERK OF COURT: Thank you. And Betty  
4 Goodwin, is this your verdict?

5 MS. GOODWIN: Yes.

6 THE CLERK OF COURT: Is it still your verdict?

7 MS. GOODWIN: Yes.

8 THE CLERK OF COURT: Thank you.

9 THE COURT: Thank you, ma'am.  
10 Anything else from the defense?

11 MR. WISE: Not related to the jury, Your Honor.

12 THE COURT: Thank you. Ladies and gentlemen, I  
13 appreciate y'all serving as jurors. I appreciate you  
14 paying attention and your deliberations during this  
15 trial.

16 As I mentioned at the beginning, this is the  
17 only trial we have this week so you don't have -- you  
18 don't run the risk of being called again. But I want  
19 to thank you for service. You know, if y'all had  
20 taken a little bit longer, you could have gotten lunch  
21 in addition to the big check. But since y'all  
22 finished, you get to go home now. Okay? Thank y'all.  
23 I appreciate it.

24 [Whereupon, the jury is excused and exits the  
25 courtroom at 12:13 p.m.]

State v. Dinkins  
Renewed Motions by Mr. Wise  
November 7, 2012

RENEWED MOTIONS

THE COURT: All right. Mr. Wise?

MR. WISE: Thank you. Please the Court.

Your Honor, at this point we would renew our motions we made at the end of the State's case.

I have a particular concern about the issue of the CDV that I would like -- I would like the opportunity to submit maybe a motion into a memoranda about whether or not he should be granted a new trial related to that issue.

THE COURT: When do you want to submit that?

MR. WISE: I'll probably submit it within the next week or so.

THE COURT: Okay. I'll give you ten days to submit it.

MR. WISE: That will be fine.

THE COURT: All right. Anything else?

MR. WISE: No, Your Honor. Nothing from the defense.

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State v. Dinkins  
Renewed Motions by Mr. Wise  
November 7, 2012

1 TIA SENTENCING - NOVEMBER 7, 2012

2 THE COURT: Even though I know that with my  
3 sentencing I'm going to seal this, anything you want  
4 to tell me, Ms. Ford? You don't have to, but you're  
5 welcome to address the sentencing if you would like  
6 to.

7 MS. FORD: Your Honor, may I just have one  
8 moment to speak with --

9 THE COURT: Sure.

10 MS. FORD: Your Honor, I just spoke with  
11 Ms. Allen, the victim in this case. The only thing  
12 she asked me to express to the Court: she obviously  
13 testified during the trial and just asks that I ask  
14 the Court on her behalf for the maximum sentence in  
15 this charge.

16 Your Honor, I would state Mr. Dinkins' criminal  
17 history on the record. He has, from 2004, a  
18 conviction for possession of a stolen pistol; from  
19 2006 he has two forgery convictions, Your Honor; from  
20 2008 he has a couple of possession of marijuana  
21 convictions; and an additional conviction for forgery  
22 in 2008, Your Honor.

23 THE COURT: All right. Thank you, ma'am.

24 Mr. Wise, anything you want to say on your  
25 client's behalf before?

State v. Dinkins  
Renewed Motions by Mr. Wise  
November 7, 2012

1 MR. WISE: Very briefly, Your Honor.

2 THE COURT: Yes, sir.

3 MR. WISE: Obviously, Mr. Dinkins is not here  
4 and hasn't been here so what I'm going to relate is  
5 some interactions with him.

6 THE COURT: Yes, sir.

7 MR. WISE: And I think I had this conversation  
8 with Ms. Ford where I indicated that I don't think, I  
9 really don't think, he was going to set fire to  
10 Ms. Allen. But certainly his conduct with a can that  
11 was a gas can, and everything that he did, was  
12 certainly dangerous and inappropriate and I think  
13 reflects just a strong -- a large amount of immaturity  
14 in him.

15 He has always been -- in my conversations with  
16 him regarding Ms. Allen, he's never said anything mean  
17 about her, never said anything harmful about her. I  
18 think the Court saw the letter that he wrote, and I  
19 don't think he just wrote that to try to get out of  
20 trouble. I think he really had genuine care and love  
21 for Ms. Allen. But certainly he acted in a way that  
22 was inappropriate.

23 So I would like the Court -- the jury found him  
24 guilty, and we don't know exactly what -- certainly he  
25 could have created the fear in Ms. Allen that he was

State v. Dinkins  
Renewed Motions by Mr. Wise  
November 7, 2012

1 going to set her on fire. But I don't think he really  
2 was, but, you know, he acted in a way that obviously  
3 gave her that impression that he would. And so I  
4 would like the Court to I guess consider that in  
5 mitigation of the sentence.

6 As I indicated, I think in one of my arguments,  
7 he never actually tried to, you know, put the lighter  
8 to her or anything. But he's in there, he's right on  
9 top of her, he's got a gas can, and it obviously was a  
10 bad situation.

11 THE COURT: Yes, sir. Thank you, Mr. Wise.

12 All right. I'm going to order -- I have  
13 sentenced Mr. Dinkins. I am going to have the  
14 sentencing sheet placed in a sealed envelope and  
15 requesting that we issue a bench warrant so we have  
16 him picked up. Okay?

17 MR. WISE: Thank you.

18 MS. FORD: Thank you, Your Honor.

19 MR. CLARIDAY: Thank you, Your Honor.

20 THE COURT: I appreciate it.

21 [JURY TRIAL CONCLUDES AT 12:19 P.M.]

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State v. Dinkins  
Sentencing - July 15, 2012

SENTENCING - JULY 15, 2012

1  
2 MS. FORD: Your Honor, this is Mr. Joseph  
3 Dinkins. Mr. Dinkins was originally charged with  
4 criminal domestic violence of a high and aggravated  
5 nature. He was placed on the trial docket for  
6 November 5th, 2012. Mr. Dinkins was not present for  
7 his trial but he was convicted in his absence on  
8 November 7th, 2012. He was found guilty of criminal  
9 domestic violence of a high and aggravated nature and  
10 the sentence was sealed. We are here today to have  
11 that sentence published, Your Honor.

12 - - - - -

13 MOTION FOR A NEW TRIAL

14 MS. FORD: And I believe that Mr. Wise had made  
15 a motion previously that he would be asking the Court  
16 to rule on.

17 THE COURT: Mr. Wise, you made a motion for a  
18 new trial?

19 MR. WISE: That's correct, Your Honor.

20 THE COURT: Did you want me to hear that before  
21 I unseal it?

22 MR. WISE: Well, Your Honor, I didn't know what  
23 the Court's preference would be.

24 THE COURT: Go ahead and make your motion.  
25 We'll save the -- we'll save the sentencing for later.

State v. Dinkins  
Sentencing - July 15, 2012

1 MR. WISE: Your Honor, I don't know how much of  
2 the facts of the case the Court remembers.

3 THE COURT: Actually, you'll be happy to know I  
4 found my -- with my notes on it.

5 MR. WISE: Very good.

6 THE COURT: -- we actually had some talks  
7 beforehand about him making a plea.

8 MR. WISE: Yes.

9 THE COURT: Yes, sir.

10 MR. WISE: Then I will skip to just the issues  
11 related to the motion for a new trial.

12 THE COURT: Yes, sir.

13 MR. WISE: Your Honor, the thing I asked the  
14 Court to do during the course of the trial was to  
15 submit to the jury the issue of criminal domestic  
16 violence in addition to the charge of criminal  
17 domestic violence of a high and aggravated nature. I  
18 felt that charge was appropriate under the facts of  
19 this case, as the Court remembers. The issue was --  
20 the facts of this case relate to Mr. Dinkins being  
21 accused of having a can of gasoline and kind of waving  
22 the can back and forth in front of the complaining  
23 witness while he flicked a cigarette lighter. And the  
24 different arguments that we -- the contests --  
25 disputes that we had during the course of the trial

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1 was related to whether or not we really knew what was  
2 in the can. The substance was never tested.  
3 Obviously, a fire was never lit and indeed the lighter  
4 that was flicked was never lit. As a result, there  
5 were no injuries sustained by the complaining witness.

6 My recollection of the testimony was that there  
7 was no indication that gasoline actually got on her  
8 during the course of this incident. So we submitted  
9 to the Court the issue of whether or not there was a  
10 reasonable belief that there was gasoline in the can.  
11 I submit to the Court that was a jury issue, that  
12 there was an issue about whether there was a  
13 reasonable belief that she should have been in fear of  
14 serious bodily injury. That should have been a jury  
15 issue. The fact that she was never injured I think  
16 allowed the Court to submit to the jury the charge of  
17 criminal domestic violence. The Court declined to do  
18 that. The jury came back with a verdict of criminal  
19 domestic violence of a high and aggravated nature.

20 My motion asks the Court to reconsider that and  
21 allow Mr. Dinkins to be retried and allow the jury to  
22 consider the charge of criminal domestic violence.

23 THE COURT: And I pulled up my notes. I  
24 remember that you covered those when you were asking  
25 me -- and you put it back on the record at the end of

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1 the case out of the jury's -- out of the presence of  
2 the jury you made that argument to me again when we  
3 were going over the charges to the jury.

4 MR. WISE: Yes, sir. The Court was very  
5 generous in allowing me to lay all this out.

6 THE COURT: Mr. Wise, I have looked over the  
7 notes. This trial did last at least two days, as I --  
8 a day and a half, and then the verdict came back at  
9 mid day.

10 I am going to deny your request for a new trial.  
11 He was indicted under criminal domestic violence of a  
12 high and aggravated nature. I think that's a decision  
13 for the jury to make based on the evidence, and I do  
14 not feel that criminal domestic violence was a proper  
15 verdict to come back with, based on the facts that  
16 were testified to. Okay? But I will note your  
17 objection to my ruling so that it will be preserved  
18 for appeal.

19 MR. WISE: Thank you, Your Honor.

20 THE COURT: Do you have the -- have you got  
21 anything to open it with, because you sealed it very  
22 well.

23 [Off the record momentarily]

24 THE COURT: All right. Mr. Dinkins, we tried  
25 this case November 6th and 7th of 2012. At the

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1 conclusion of the case, the jury came back with a  
2 unanimous verdict that you were guilty. Based on the  
3 jury's verdict, I signed the sentencing sheet and the  
4 sentence of this Court is that you are committed to  
5 the State Department of Corrections for a period of  
6 ten years. And I'll give you credit for any time that  
7 you served. Good luck to you.

8 MS. FORD: Thank you, Your Honor.

9 THE COURT: Thank you.

10 [SENTENCING CONCLUDES AT 229 P.M.]

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C E R T I F I C A T E

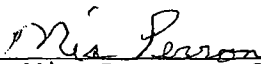
STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the jury trial held before the Honorable Edgar W. Dickson, on November 7, 2012.

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.

Dated this 28th day of January, 2015.

  
\_\_\_\_\_  
Mia Perron, CVR-CM-M  
Circuit Court Reporter  
9th Judicial Circuit

MIA PERRON, CVR-CM-M

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**WITNESSES**

Desi McQueen

Orangeburg County Sheriff

**ARREST WARRANT NUMBER**  
2012ORB35

Arrested: June 1, 2012

**ACTION OF GRAND JURY**  
**TRUE BILL**

OCT 01 2012

Foreperson of Grand Jury

Date: October 10, 2012

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2012GS38-1754**

**The State of South Carolina**

**County of ORANGEBURG**

**COURT OF GENERAL SESSIONS**

**October 8, 2012 TERM**

**THE STATE**  
**vs.**

Joseph Williams Dinkins

**Indictment for**

**CRIMINAL DOMESTIC VIOLENCE OF A  
HIGH AND AGGRAVATED NATURE**

SC Code: 16-25-65

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I  
hereby appear in my own proper person  
and plead guilty to the within indictment  
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

WEST TRUE BILL  
Wing B. Clark  
CLERK OF COURT  
ORANGEBURG COUNTY, SC

PA 12 00

STATE OF SOUTH CAROLINA )  
COUNTY OF ORANGEBURG )

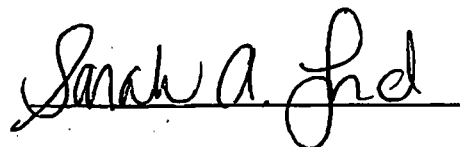
INDICTMENT  
2012GS38-1754

At a Court of General Sessions, convened on October 8, 2012 the Grand Jurors of Orangeburg County present upon their oath:

**CRIMINAL DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE**

That in Orangeburg County, South Carolina, on or about May 31, 2012, the Defendant, Joseph Williams Dinkins, did assault and/or cause physical harm or injury or offer or attempt to cause physical harm or injury to Kristal Allen, a household member of the defendant with apparent present ability under circumstances reasonably creating fear of imminent peril. Said assault was accompanied by one or more circumstances of aggravation described as the use of a deadly weapon, the infliction of serious bodily injury or reasonably caused the victim to fear imminent serious bodily injury or death in that the defendant did pour gasoline on the victim while she was laying on the couch and began flicking a lighter. This offense in violation of Section 16-25-65 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Sarah A. Ford, Solicitor



first off babe I wanna start by saying sorry. And not just a sorry I did it  
out a really really deep from my heart sorry. I wanna let you know that babe  
I would never do some crazy shit like set you on fire. Babe I had more  
water then gas in that jug. My reason for doing that babe was to show you  
that I want you and that I dont want anybody else to have you. Was  
but a dumb way to let you know dat, yes it was. But babe I was hurt,  
you told me that u didn't wanna be with me and that you didn't love  
me anymore. But babe what you don't understand is that you and our  
kids is my world. Since I been in here I cry every night thinking bout the  
hurt in your voice in that court room and you saying you fear for your  
life. Kristal please believe me when I say I ~~would~~ <sup>would</sup> never take your life, I  
might say some crazy shit when I am upset but taken your life hell no.  
Six years we been together babe I dont wanna let that go. I miss you so  
much babe I miss my kids I even miss those big eyes of yours. ~~I miss you~~  
I'm begging you babe please don't give up on ~~us~~ but most of all please don't  
give up on ~~me~~. Babe I ~~need~~ <sup>need</sup> you in my life, you're the only ~~one~~ reason I  
try to do good cause who else gives a damn if I do good or not. Kristal  
I hate dis place I don't wanna be here and ~~deep down~~ <sup>deep down</sup> babe you don't  
want me to be in here. Baby I put this on my kids there is no reason  
for you to be scared, and what about when the kids ask wheres  
daddy. Babe when the police got me I was on the way home ~~home~~  
crying your eyes there cause I wanted to get all this cleared away. But  
they got me before we could talk. And that bullshit bout Lisa really, babe  
you know me better then that. I just want to be home with my family but  
I just want to smell your hair babe. Kristal im hurting so bad about  
this whole situation that im crying all over this letter. Baby I'm begging  
you, please if you can drop these charges so I can get out this

hell hole. If you don't want me around you I can understand that but please let me out so I can be with my kids. Or atleast ~~put~~<sup>put</sup> some time on the phone so I can talk to them and u to if you don't mind and could you ask Bettye to put something on my books. I have yall down on the visition list. I know you can't come but atleast send my babysuit J.J. Baby I swere hurting you like that I would never ever do, that was just a ~~dumb~~<sup>dumb</sup> idea that I should have never tried. But once again babe taken your life or harming you like that I would never do babe. Babe I just want to be with you and grow old with you, don't you still want that, don't you still want a family, I know I do. Babe I just wanna come home, I just wanna dedicate my life to making you the most happiest wife in the world. Like you tell me babe some things that happen are a test. Are we going to fail or past this test babe it's up to you. But babe please don't give up on us babe we have to much into this six years, two kids, a home, don't give up babe please don't. If there is anything you could do to get me out of here babe please do it I cant sit in here till August babe I cant, I cant sleep now for missing yall so much. I just want to be home with you in my arms watching a movie or something. What ever it is you want me to do babe it's done, just let me know but most of all please forgive me please. All I want is my family back and ill do what ever it takes babe. Just dont give up on us babe I love you and I miss you. Please write back and send me one of our family pics. oh the big one is in the room beside my chair. and could you please I'm begging please set up the phone so I can talk to my kids. Love,

Ab

P.S./ Kiss my babys and tell em I love em also I need the glasses cause we cant where contacts in here and once again babe don't give up love you. write back and don't put Allen put Dinkins oh and the phone is pay tell

## 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."

August 5<sup>th</sup>, 2015,

  
\_\_\_\_\_  
John H. Strom  
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