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STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY

Paul M. Burch, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JULIUS CURRY,

APPELLANT

APPELLATE CASE NO. 2014-000569

RECORD ON APPEAL

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| STATE OF SOUTH CAROLINA | ) |                          |
|                         | ) | COURT OF GENERAL SESSION |
| COUNTY OF CHESTERFIELD  | ) | 2013-GS-13-0697          |
|                         |   | 2013-GS-13-0698          |
|                         |   | 2013-GS-13-0699          |
|                         |   | 2013-GS-13-0700          |

|                         |   |                      |
|-------------------------|---|----------------------|
| STATE OF SOUTH CAROLINA | ) |                      |
| PLAINTIFF               | ) |                      |
| vs.                     | ) | TRANSCRIPT OF RECORD |
|                         | ) |                      |
| JULIUS CURRY            | ) |                      |
| DEFENDANT               | ) |                      |

March 3-5, 2014  
 Chesterfield, South Carolina  
 Volume Number 01 of 03

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THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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SHIQUAN WRIGHT, Victim

JIMMY COOMBS, Chesterfield County Sheriff's Office

DANA WALLACE, Chesterfield County Sheriff's Office

WAYNE JORDAN, Chesterfield County Sheriff's Office

BRIANNA DAVIS, Chesterfield County Sheriff's Office

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*Circuit Court Reporter*

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| 1  | STATE'S EXHIBITS |    |                 |        |
|----|------------------|----|-----------------|--------|
|    | 2                | NO | DESCRIPTION     | ID EV  |
| 3  | 1                | 1  | D.V.D.          | 38 100 |
| 4  | 2                | 2  | Knife           | 38 67  |
| 5  | 3                | 3  | Tazer Cartridge | 38 125 |
| 6  | 4                | 4  | Tazer Prong     | 38 125 |
| 7  | 5                | 5  | Tazer Prong     | 38 125 |
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| 10 | 8                | 8  | Photo           | 38 154 |
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| 25 | 23               | 23 | Photo           | 38 154 |

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**STATE'S EXHIBITS**

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| 24        | Photo              | 38        | 154       |
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**COURT'S EXHIBITS**

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COLLOQUY

THE COURT: Now, we're ready.

MR. SWILLEY: Your Honor, the motion that I have is regards to the motion to suppress or exclude the evidence in regards to jail phone calls that were utilized using Mr. Curry and one of the witnesses in the case, Marshall Wright who I think is one of -- potentially one of the victims.

Mr. Redmond alerted me last week that these, actually, calls were in existence. We were not able to listen to these calls and still do the -- due to the State's inability to produce them they never put them on a disk. We listened to them together for the first time yesterday, I believe.

The calls -- there are four calls that I think, and we listened to part of them. It's involves Ms. Marshall Wright and Mr. Curry discussing whether or not Ms. Wright and her daughter want to assist the State in the perpetuation of the case. He is charged with C.D.V.H.A.N. and assault and battery against her daughter, respectfully.

Your Honor, I haven't been able to listen to all of these tapes thus far, and Mr. Redmond hadn't either. These are calls from September -- I believe September the 13th and September the 17th and September the 21st of

1 2013. The first time I've been able to listen to them is  
2 yesterday, Your Honor.

3 Under Rule Five, you know, the State has to allow the  
4 Defense to copy, inspected any kind of statements of the  
5 defendant the State wants to use in their case in chief.  
6 I don't think I've been afforded that opportunity as the  
7 rule would mandate.

8 Judge, I have a case that I'd like to hand up. I  
9 have a copy for Mr. Redmond as well. It's the State v.  
10 Gary Thomas Hill, and in this case -- I only have one copy  
11 of this case. No, I have two. Here you go.

12 It discusses Rule Five with regards to a probation  
13 violation. And it does go on to say that knowledge of  
14 this even though it was not in the control -- it was never  
15 in the control of the Solicitor until yesterday, but it  
16 was in control of the State as far as the County Detention  
17 Center, the Sheriff's Office, was not produced or made  
18 known to the State until last week. And I don't doubt  
19 that. And the first time that I've been able to examine  
20 it just in part was yesterday.

21 And, essentially, the Sheriff's Office has  
22 unilaterally decided what may be relevant and they  
23 produced a summary giving it to Mr. Redmond. That was  
24 given to me last week. A summary of where the deputy  
25 listened to the tapes and summarized what was relevant and

1 maybe damaging to Mr. Curry. But I haven't been able to  
2 adequately inspect and listen to these recordings so that  
3 I can make any kind of substantive motion. I mean I don't  
4 know. I've never listened to the initial caveat by the  
5 assistant who says he called me to the Court.

6 I can't tell whether or not they violated the Wire  
7 Tap Act or not. I haven't had enough time to look at  
8 these recordings to see if there is undoubtedly cross  
9 examining potential witnesses in the case.

10 And so, Your Honor, I just ask the Court to look at  
11 Pages 6 through 8 of the case where it says that if the  
12 violation -- if the Rule Five violation is material it  
13 will prejudice the defendant in his ability to prepare the  
14 case, and I would move the Court to exclude these  
15 materials, these recordings, on that ground as well as  
16 under the Fifth Amendment that the defendant's right to  
17 due process -- well, the Sixth Amendment of the  
18 Constitution regarding his right to confront the witness  
19 against him and present a defense if necessary.

20 MR. REDMOND: May it please the Court, Your Honor.  
21 Obviously, the State would oppose said motion by the  
22 Defense on the grounds that -- well, just as further  
23 background. Last Thursday, to be clear, I met with my  
24 officers here and regarding the case in preparation. And  
25 at that time they actually reminded me that there was this

1 summary of those calls that was done by Chris Page while  
2 he was with the Sheriff's Office after listening to some  
3 of these calls. That summary, and I'll be honest with  
4 you, the summary got buried on my desk.

5 And after meeting with them we actually found it and  
6 got another copy so that we can give it to Mr. Swilley.  
7 And I actually made him aware of it as soon as I got it  
8 and brought it to him. Now, he is correct that we did not  
9 get a chance to actually listen to the recordings until  
10 yesterday, yesterday morning. The sections are not long.  
11 I think the longest section that we're look at is maybe  
12 three and a half minutes. It's four separate calls.

13 But with that said, Your Honor, the existence of  
14 these recordings did come to everyone's attention last  
15 week even though I had them previously. Like I said as  
16 soon as I got -- as I saw it on my desk I went and got it  
17 to Mr. Swilley. And it does outline in summary what those  
18 calls was about. So it's not like -- the reason I want to  
19 be clear on that the content of the calls is contained in  
20 the summary that was received by Mr. Swilley last  
21 Thursday.

22 Because of the way the system is set up and  
23 Lieutenant Jordan with the Sheriff's Office actually  
24 called me. He and I have been communicating back and  
25 forth. He actually cannot download this onto a disk or a

1 flash drive. So that is why we actually had to listen to  
2 it on his office computer. But from the discovery  
3 standpoint I just want to be clear that the Sheriff's  
4 Office had actually given us this summary previously.

5 So it wasn't a situation where they did not tell us  
6 about it. They did give us that information previously.  
7 But as it relates to being able to download it and play it  
8 the only way we can actually play it is through -- and  
9 they can explain it further. I've got Administrator  
10 Gillespie and Lieutenant Jordan here for any proffer that  
11 might be necessary. They can address those issues.

12 But with that said, Your Honor, we think that the --  
13 given the nature of the recordings, given the fact that at  
14 least the existence did become known to the Defense at  
15 this point -- I guess that would be about four or five  
16 days ago; that that is enough for us to still go forward.  
17 One of the things that I think is a misconception, I think  
18 it needs to be made clear, is that there is no rule that  
19 says the investigation of a case ends up to a certain  
20 point before trial. Sometimes we may find things the  
21 night before. That's just the nature of the beast,  
22 unfortunately, and the cases do continue to be  
23 investigated.

24 Now, with that said, Your Honor, I think that -- and  
25 we are prepared to make a proffer. But I don't think the

1 Defense has been any way prejudiced by this because they  
2 were aware of the existence of these recordings, like I  
3 said, last Thursday prior to us pulling the jury on this  
4 particular case. And I did provide, like I said, the  
5 written transcription or the written summaries that were  
6 provided by law enforcement up to them on Thursday as  
7 well.

8 So with that, Your Honor, we would submit that Rule  
9 Five has not been violated and that we should be entitled  
10 to have the jury hear this evidence. We do think that  
11 it's very substantive evidence as it relates to this  
12 trial. And, again, we are prepared to make a proffer at  
13 the appropriate time.

14 THE COURT: We talking about this past Thursday?

15 MR. REDMOND: Yes, sir, this past Thursday.

16 THE COURT: No, sir. You're not going to wait until  
17 the last second and turn information over to him like  
18 that. Now, I can understand with all this docketing we've  
19 got and all these pending cases why something like this  
20 would happen. But the best I can do here is I'm going to  
21 grant his motion unless you move for a continuance and we  
22 will try this case later on so he can have more time. But  
23 this mess, now, is waiting until the week before has got  
24 to stop.

25 MR. REDMOND: And, Judge, just to be clear, cause I

1 know a lot of times we have those issues as it relates to  
2 law enforcement getting stuff to us, but this is my fault  
3 because the documents were on my desk. I just did not see  
4 them. Actually, when Sergeant Coombs and Sergeants --  
5 Sergeants Coombs and Wallace came to the office they  
6 actually reminded me about it, and digging through, sure  
7 enough, yeah, I did have it. So that's on me. I'm not --  
8 you know, nobody else can be faulted for that in this  
9 circumstance but me. But with that said ---

10 THE COURT: That's just too close.

11 MR. REDMOND: Yes, sir.

12 THE COURT: If it was another week or something,  
13 that's fine, but that's four days before this case was up  
14 to seat that jury yesterday.

15 MR. REDMOND: Yes, sir. Now, with that said, Your  
16 Honor, and as much as I hate doing it, but the content of  
17 these recordings is important enough, Your Honor, that the  
18 State would request -- respectfully request a continuance.  
19 Our next term of Court is the 23rd of April. And this  
20 case, the Defendant has been in jail since August, I  
21 believe. So we have not reached the threshold under the  
22 new case management where we're dealing with an old case.

23 But since he is incarcerated that's one of the  
24 reasons why we are -- we wanted to go ahead and try the  
25 case here, I guess, six months in.

1           THE COURT: All right. That throws the ball back in  
2 your court. He's going to say in jail. We'll try it next  
3 time. If it's so important that you think that you need  
4 more time to review those cases you better take about a  
5 few minutes and discuss this issue with him. He knows who  
6 he's taking part in thi process that's seated on this  
7 jury. So before we make a final decision or I make a  
8 final decision you better sit down and talk with your  
9 client and make sure. I guess there is an old saying,  
10 'Sometimes you get more than what you asked for'. That  
11 could apply here. you better have a little discussion.

12           MR. SWILLEY: I understand, Your Honor. Thank you.

13           (WHEREUPON, a short break was taken.)

14           (WHEREUPON, State's Exhibit Nos. 1 THROUGH 26 were  
15 marked for identification only.)

16           MR. SWILLEY: Your Honor, I think the fact of the  
17 matter is I can't -- I don't believe that I can  
18 competently go forward without me being able to listen to  
19 these jail recordings and adequately prepare. I think  
20 that if I did there is a good chance that is going to come  
21 back on P.C.R. So I would consent to a continuance for  
22 Mr. Redmond if that's what they seek. But and that's -- I  
23 mean that's my position.

24           THE COURT: All right. We have a little time this  
25 morning, and what -- how many time of tapes do you intend

1 to present when and if you can?

2 MR. REDMOND: Approximately, not even -- I don't  
3 think it's ten minutes total for the tapes. Four calls,  
4 but most of them less than two minutes. Anywhere from 10  
5 to 12 minutes total, I think.

6 THE COURT: Can you sit down with the Defense and  
7 play exactly what you want to present and let them hear it  
8 and then they can make a final decision?

9 MR. REDMOND: Yes, sir, that's no problem. We've got  
10 it queued up.

11 THE COURT: Would that help any, counsel.

12 MR. SWILLEY: Yes, Your Honor. And I think I'm still  
13 going to move at the appropriate time to exclude the  
14 recording. It's actually under Rule 403 as well just to  
15 preserve the objection for the record.

16 THE COURT: You think you are, but you and your  
17 client sit down and listen to it and then make a final  
18 decision, okay?

19 MR. SWILLEY: Yes.

20 THE COURT: And if you do that's fine. I'm just --  
21 I'm trying to utilize our time the best we can. I do have  
22 a settlement that I can do while y'all do that.

23 MR. REDMOND: And I think there may have been a plea  
24 or something that can be done while we are doing that as  
25 well. And I apologize, like I said. That's on me. I

1     didn't get it to him, and I apologize.

2           THE COURT: All right. Can y'all quickly set up  
3     somewhere? The jury is in here. My chambers is  
4     available.

5           MR. REDMOND: I think we can go back to the multi  
6     purpose room.

7           THE COURT: Okay.

8           (WHEREUPON, other Court-related business was  
9     conducted on the record but not related to the trial  
10    of this case and not included in this transcript of  
11    record.)

12          MR. SWILLEY: Your Honor, I'd like let the record  
13    reflect that we went back and we listened to the jail  
14    recordings. And I'll go ahead and withdraw my objection  
15    under Rule Five being that I know you're inclined to let  
16    it in. And I still, just to protect myself on the record,  
17    move to exclude under Rule 403. I'm ready to proceed if  
18    that's the way you're going to rule.

19          THE COURT: You withdraw your Rule Five objection?  
20    All right, you're withdrawing your motion based on Rule  
21    Five?

22          MR. SWILLEY: Correct.

23          THE COURT: Okay. And tell me what you are going  
24    forward with.

25          MR. SWILLEY: Your Honor, I just, and I'll make a

1 contemporaneous objection when it comes in during the  
2 trial, but I just move to exclude the recordings under  
3 Rule 403 that they're more prejudicial than probative.  
4 And, you know, based upon my listening to the recordings  
5 they really touch on more ancillary issues in regard to  
6 the case rather than substantive matters.

7 And I think that the entry of this in the record, the  
8 recordings, is going to be -- the prejudicial impact will  
9 by substantially outweighed by any probative value that it  
10 may have. So it is under that reasoning I would move to  
11 suppress it there, but I will withdraw my Rule Five  
12 objection.

13 THE COURT: All right. We'll go forward and when the  
14 time comes be sure and renew your motions at the time they  
15 attempt to introduce comes, okay?

16 MR. SWILLEY: Yes, sir.

17 THE COURT: And then I'll have to handle it from  
18 there.

19 MR. SWILLEY: And, Your Honor, I also move to  
20 sequester the witnesses during the course of the trial.

21 MR. REDMOND: And, Your Honor, I don't know if there  
22 are any witnesses. I usually just ask that it be  
23 reciprocal. I do ask that my first witness be allowed to  
24 stay in. And, obviously, Officer Coombs, who is the  
25 victim -- well, one of the victims in this case, we ask

1     that he be allowed to remain in the courtroom.

2           THE COURT: The victim has a right to be present.  
3     Who is your lead investigator?

4           MR. REDMOND: Well, actually, technically, it's also  
5     Sergeant Coombs as well based on the nature.

6           THE COURT: Okay. If you will take care of the rest  
7     of them.

8           MR. REDMOND: And so, Your Honor, on my first witness  
9     is going to be Ms. Marshall Wright. And I just ask --  
10    usually I ask that my first witness and the lead person on  
11    the case or victim be allowed to remain in the courtroom.  
12    And, actually, and let me back up a minute. Based on the  
13    charges, actually, Shiquan Wright is also a victim because  
14    she is the victim of this A and B second charge.

15           And Ms. Marshall Wright is the victim on the C.D.V.  
16    H.A.N. charge. So I'd ask that they be allowed to remain.

17           THE COURT: Victims have a right to be here under the  
18    law as I understand it especially the victims.

19           MR. REDMOND: Thank you, Your Honor.

20           THE COURT: --- of Act -- whatever they call it.

21           MR. REDMOND: Thank you, Your Honor.

22           THE COURT: But the rest of the folks the motion is  
23    granted. All right. Ready for the jury.

24           MR. REDMOND: State is ready, Your Honor.

25           THE COURT: Bring them in please, Madam Bailiff.

1 (WHEREUPON, the jury panel enters the courtroom at  
2 10:13 a.m.)

3 THE COURT: Good morning, ladies and gentlemen.  
4 First of all I want to apologize to you for the delay this  
5 morning, and I want to thank you for your patience with  
6 us. We had some preliminary matters that we had to take  
7 care of, get the case ready to go. And also I had two  
8 other matters that had nothing to do with this case that  
9 were scheduled several weeks ago that we had to work in.

10 So wouldn't have been able to do that without y'all's  
11 patience, and I thank you for working with us. I know  
12 it's rather confined space back there, and hopefully we  
13 will be able to free up some larger area for you to work  
14 with later on. We're ready to get started with this case,  
15 and the first thing we've go to do is get you sworn. I'm  
16 going to -- is everybody has reported.

17 Mr. Garrell, if you will move down to this seat. I'm  
18 appointing you foreperson of the jury. You will need to  
19 keep that seat for the rest of the trial. The rest of you  
20 it doesn't matter where you sit except the alternates need  
21 to stay to the far right. All right, Madam Clerk.

22 CLERK OF COURT: Ladies and gentlemen, please stand  
23 and raise your right hand.

24 (WHEREUPON, the jury panel was sworn in at  
25 10:15 a.m.)

1           THE COURT: I'm going to make a few opening remarks  
2 to you let you know how we're going to proceed. Once  
3 again thank you for bearing with us this morning. We took  
4 up an hour of your time. And I won't belabor the point.  
5 I just need to let you know the stages of the trial and  
6 what sort of expect.

7           As soon as I finish my opening remarks to you I'll  
8 turn it over to counsel for opening statements. They're  
9 not mandatory, but they do have the option to make an  
10 opening statement to you, and it's basically to outline  
11 their position in the case if they so desire to do that.

12          After that will come the evidentiary portion of the  
13 case where you will receive the evidence. Evidence may  
14 take different forms. It maybe testimony from this  
15 witness stand. It maybe photographs, documents, physical  
16 type items. Whatever the evidence is I urge you and  
17 instruct you to carefully observe and listen to the  
18 evidence.

19          Why? Because you are the finders of the facts in  
20 this case. A jury listens to the evidence, decides what  
21 the true state of evidence is and then applies that to the  
22 law that I will give you at the conclusion of the case and  
23 thus reach a verdict.

24          Verdict is a Latin derivative word which in effect  
25 means a true saying. So if can be said that a jury seeks

1 the truth. This is a criminal case. The burden of proof  
2 is on the State of South Carolina to prove the guilt of  
3 the defendant beyond a reasonable doubt.

4 This defendant and all defendants in South Carolina  
5 and in the United States are presumed innocent until  
6 proven guilty. And that presumption lasts with them right  
7 through a trial until you the jury complete your  
8 deliberations and reach a decision. If you reach a  
9 decision, a verdict of guilty, then that presumption ends.  
10 But that presumption stays with them up until that point.

11 Now, after the evidentiary portion of the trial is  
12 over will come closing argument time when both sides, both  
13 attorneys, the attorneys involved will be given ample  
14 opportunity to try to persuade you to see the evidence as  
15 they see it.

16 Now, whatever they say is not evidence. They may  
17 repeat the evidence or quote evidence or refer back to  
18 evidence, but what they say is not necessary evidence. So  
19 you have to keep that in mind and keep that sorted out as  
20 you begin your deliberations.

21 Now, don't deliberate this case. Don't even discuss  
22 it amongst yourselves until deliberation time comes, okay.  
23 All right. After we get through with the closing  
24 arguments then it will be my time to do my job, and that  
25 is to give you the law of the State of South Carolina.

1 You are the triers of the facts. I am the judge of the  
2 law. I don't get involved in the facts. I neutral. I  
3 stay out of that.

4 I sit up here as a neutral referee, and I have to  
5 make sure that, to the best of my ability, that the rules  
6 of procedure and evidence are followed. So if an  
7 objection is entered, and I have to rule on it don't think  
8 that I side with one side or the other concerning guilt or  
9 innocence.

10 Sometimes I may have to send you out of the courtroom  
11 to handle matters of law because that's my job. And  
12 sometimes it may take a little time for me to do that. So  
13 please bear with us if that happens.

14 All right. Only after the Judge's charge given to  
15 you will you be asked to deliberate the case. Once again  
16 don't discuss this case with anyone. Don't even discuss  
17 it amongst yourselves until that time comes. When you are  
18 asked to reach a verdict you will have to reach a verdict  
19 on each and every indictment. Twelve jurors that  
20 deliberate will have to be in agreement on whatever the  
21 verdict may be on each and every indictment.

22 During this trial, please, don't fall asleep on me.  
23 If we need to take a break and get some coffee or Coca  
24 Cola or whatever to keep you awake let me know. We will  
25 do that. That normally doesn't happen in the morning, but

1 in the afternoon, especially if you've eaten a heavy  
2 lunch. I have had jurors start nodding off on me, and  
3 that can cause problems. So if you feel yourself nodding  
4 off let me know so we can try to take care of that. Okay.

5 All right. Other than that I don't have anything  
6 else to tell you except one other thing. That's notes. I  
7 don't forbid notes, but if you want to keep them, that's  
8 fine. But there is one rule you've got to go by. You  
9 can't share them with anybody else. They would be your  
10 personal notes.

11 From my college days if I were a juror I wouldn't  
12 keep notes because unless you can listen to two or three  
13 things or comprehend things more than I can, if you're  
14 listening -- if you're taking notes and you're trying to  
15 listen, and you've got your mind devoted to that note pad  
16 and something is said while you're writing that note down  
17 you may miss something important. If y'all's brain works  
18 like mine.

19 Some people are capable of listening to two or three  
20 things at one time and comprehending all of them, but I'm  
21 not that way. And I learned back in college days that  
22 you've got to be careful about note taking because that  
23 can happen to you so. You know, that will be up to you if  
24 you decide you want to do that. But you've got to keep  
25 them to yourself.

1 All right. The State has the burden of proof in this  
2 case. So that means the State's attorney which in South  
3 Carolina we call the Solicitor. On t.v. you usually hear  
4 State's attorney or the district attorney. In Virginia  
5 and in South Carolina it's Solicitor. He will have the  
6 right to go first in the opening statement.

7 OPENING STATEMENT BY MR. REDMOND

8 MR. REDMOND: Thank you, Your Honor. May it please  
9 the Court, ladies and gentlemen, Mr. Swilley. My name is  
10 Kernard Redmond. I'm a Deputy Solicitor here for the  
11 Fourth Circuit. I work at the pleasure of Will Rogers,  
12 our elected Solicitor. We cover Chesterfield, Darlington  
13 Marlboro and Dillon. I'm headquartered here in  
14 Chesterfield and in fact live here in chesterfield County.  
15 It's a pleasure to be here before you today.

16 Obviously, as a prosecutor if I am before you as a  
17 jury that means that the State is alleging that someone  
18 committed a crime. In this case we are doing exactly  
19 that. That person, the Defendant, Julius Curry, we submit  
20 on the 30th of August of last year did commit the crimes  
21 of criminal domestic violence high and aggravated, assault  
22 and battery second degree, resisting arrest and attempted  
23 murder. I'll get to some of the factual background in  
24 just a minute.

25 But let me just address the burden of proof that His

1 Honor indicated to you. The State has the burden of  
2 proving to you that beyond a reasonable doubt that the  
3 defendant in fact committed these crimes as charged. That  
4 burden is a burden which we welcome because, obviously,  
5 everybody has a right to a fair trial and we have no  
6 intention of denying the defendant that today.

7 But it is not beyond all doubt. It's beyond a  
8 reasonable doubt. That doubt, that reasonable doubt, is  
9 instructed sometimes as a doubt that causes a reasonable  
10 person to hesitate to act. It's also been described as  
11 leaving you firmly convinced. In other words, if firmly  
12 convinced that the person is guilty then that satisfies  
13 the standard beyond a reasonable doubt.

14 We submit to you at the close of the case that you  
15 will feel exactly that way. Now, you may see -- right now  
16 I'm at the table by myself, but just so you will know  
17 Assistant Solicitor Zack Farr will probably be sitting  
18 with me during parts of the trial. We also have Assistant  
19 Solicitor Adam Foard who works with us part time who will  
20 probably be coming in and out as well during this case.

21 Now, I'm going to be brief in my opening statements  
22 because it's just that. An opening statement describing  
23 what happened, describing why it is we feel that the  
24 defendant is guilty. You will hear more of the details  
25 through testimony and exhibits which we will present to

1 you during the course of the case.

2 As I indicated the Defendant is charged with C.D.V.  
3 high and aggravated. Ms. Marshell Wright, who you will  
4 hear from shortly, was involved in a relationship with the  
5 defendant. On this particular day, in the evening, the  
6 Defendant and Miss Wright got involved in an argument.  
7 And you will find out and she will tell you what caused  
8 that argument.

9 That argument led to a physical confrontation. Not  
10 just with her, but also involving her daughter, Shiquan  
11 Wright, who's also here and you will hear from her today  
12 shortly as well. That physical confrontation escalated to  
13 a point where law enforcement had to be called, and where  
14 in fact a knife was presented. And you will hear the  
15 details of that.

16 Sergeant Jimmy Coombs with the Sheriff's Office  
17 responded to that incident, and at the time of his  
18 response, and you will hear from him, but at the time of  
19 his response and trying to defuse the situation ultimately  
20 caused him to be involved in the fight for his life.  
21 Because during that time the Defendant, armed with a  
22 knife, attempted to stab Sergeant Coombs, and he will be  
23 able to describe that for you. And he will also be able  
24 to describe to you the things that were being said to him  
25 even before the confrontation and during this

1 confrontation.

2 During the course of this confrontation fortunately  
3 Sergeant Dana Wallace responded to the scene as well and  
4 was able to assist Sergeant Coombs and in essence saved  
5 his life.

6 Ladies and gentlemen, this going to be a fairly short  
7 case given the serious nature of the charges, but it's  
8 nevertheless an important case based upon what occurred  
9 that night. Now, I indicated criminal domestic violence a  
10 high and aggravated, assault and battery second degree  
11 against Ms. Shiquan Wright because she was also hit during  
12 the course of this confrontation.

13 Resisting arrest: As Sergeant Coombs tried to arrest  
14 the defendant he engaged in resisting with a deadly  
15 weapon. And then the attempted murder because while armed  
16 with a knife, both through comments and through actions,  
17 again, Sergeant Coombs became involved in the fight for  
18 his life.

19 Let me just say this: We rely on law enforcement to  
20 protect and serve. There's a problem, we feel threatened,  
21 we call 911 and law enforcement arrives. We rely on them.  
22 But we also owe them, and by that I mean that in a  
23 situation like this when you have a defendant that  
24 endeavors to take the life of a law enforcement officer we  
25 all should regard that as a slap against all of us. As a

1 strike against all of us because we have asked them to  
2 serve and to protect us. And then we find ourselves faced  
3 in courtroom today because this defendant, rather than  
4 respecting the authority and submitting to an arrest, that  
5 was lawful decided to in essence take -- try to take the  
6 life of Sergeant Coombs.

7 So this is our chance to protect them and thank them  
8 for protecting us. And, again, you will hear the details  
9 of just what transpired during that time. You will hear  
10 in detail, obviously, from Sergeant Coombs and from  
11 Sergeant Wallace and you will hear again in just a few  
12 moments from Miss -- both Ms. Wrights.

13 I thank you in advance for your attention to this  
14 case. It will not be a long case, but let me stress it  
15 again. Length of a case does not equate to the importance  
16 of a case. Just because we're not going to be here, as  
17 the Court had indicated, for a long time as in some states  
18 does not make this case any less important.

19 And we ask that through your verdict at the  
20 conclusion of the case that you send a message to this  
21 defendant that we have asked gentlemen like Sergeant  
22 Coombs, Sergeant Wallace and others to protect and serve  
23 us. But when they find themselves in a situation with a  
24 citizen who decides to try to take -- I guess basically  
25 take the life of one of these that we've asked to protect

1 and serve us, this is our chance to stand up and, again,  
2 not just say thank you. But this is our chance and this  
3 is how we protect them. So, again, I thank you for your  
4 attention, and I look forward to addressing you further in  
5 my summation.

6 THE COURT: Counsel.

7 MR. SWILLEY: Thank you, Your Honor, Mr. Redmond.

8 MR. REDMOND: Mr. Swilley.

9 OPENING STATEMENT BY MR. SWILLEY

10 MR. SWILLEY: Good morning, y'all. My name is Matt  
11 Swilley. I'm from Greenville. I grew up in Greenville.  
12 I live here in Cheraw now and work here in Chesterfield.  
13 This here is Julius Curry as Mr. Redmond pointed out.  
14 Julius has lived here in Chesterfield County for about  
15 eight years.

16 What really happened on August the 30th of 2013. I'm  
17 going to go back a little far. Before this dispute ever  
18 happened Julius and Marshall Wright, as Mr. Redmond just  
19 mentioned, were drinking alcohol. A lot of it, and they  
20 were using cocaine. Both of them. That's right. Not  
21 covering anything up. My client was using cocaine on  
22 August 30th 2013.

23 Now, they live out on Hillian Edwards Road. 996  
24 Hillian Edwards Road. It's about between Chesterfield and  
25 Cheraw. A little closer to Cheraw, and you go down to a

1 trailer park. I'm still new here so I'm still trying to  
2 get my bearings, but they live on down on the right in the  
3 mobile home at 996 Hillian Edwards Road. And Marshall and  
4 Julius, they walked up the trailer park to get some more  
5 cocaine. And then on the way back they were walking back  
6 and Marshall -- I keep wanting to say Shiquan. Shiquan is  
7 her daughter.

8 Marshall Wright, Julius' fiance at the time, took a  
9 ride from somebody back to their house. Julius didn't  
10 take a ride, didn't want to get in the car. And quite  
11 frankly was very irritated with the fact that she got in  
12 the car with these two fellows just to get a ride. So he  
13 gets back to the house and him and Marshall get in an  
14 argument. And they get in the argument. Fairly bad. It  
15 was fairly bad.

16 But, so, needless to say you already know from Mr.  
17 Redmond, this argument got physical, okay. They started  
18 hitting each other. I'm not telling you my client didn't  
19 lay hands on his girlfriend because he did. Now, when he  
20 did that Shiquan, Marshall's daughter, got involved in it.  
21 They got into a affair of three people fighting physical.  
22 At that point Shiquan goes and calls the police. the  
23 police come. Officer Coombs comes over.

24 Julius and Marshall are still inside. You walk in --  
25 you walk in their mobile home. Here is the front door.

1 The bedroom door is about right back this way. It's a  
2 medium sized mobile home as far as mobile homes go. So  
3 what happened was, you know, first off, Julius was upset.  
4 He's up Shiquan went and called the police.

5 While we're on the subject, Mr. Coombs -- Officer  
6 Coombs gets -- Deputy Coombs, excuse me. Deputy Coombs  
7 gets in the house, goes back, goes back in the bedroom and  
8 finally gets to the door and sees Julius. And he sees  
9 Julius and he's holding a knife. Okay. And when he sees  
10 Julius holding that knife Deputy Coombs takes his tazer.  
11 Now, and you're going to learn about what a tazer is and  
12 this is important.

13 A tazer is what we call an electronic control device.  
14 Most police now a days have them. It's a fairly new  
15 invention. Well, not invention but it's a fairly new tool  
16 or instrument that officers use for about the past ten  
17 years. And what happens when you have a tazer is you take  
18 that tazer out and it shoots out these prongs. And when  
19 it hits you it connects.

20 The person who is on the other end of the tazer with  
21 the actual tazer gun can shoot a current of about 5,000  
22 volts into that person. And you don't have to be a  
23 scientist to know that that's really, really painful.  
24 Excruciating pain. And setting it off Sergeant Coombs saw  
25 Julius with that knife. Whipped it out. Shot him one in

1 the neck and I believe one hit him in the stomach.

2 At that point Julius hit the floor. At some point  
3 Officer Coombs comes over to Julius. He runs up the  
4 current on him a couple more times. He's not doing what  
5 he wants him to do right at that split second. That makes  
6 Officer Coombs angry the fact that he's not complying.  
7 Not complying with his demands. All right.

8 When he does that finally comes over to Julius. At  
9 some point the knife comes out of Julius' hand, and Julius  
10 didn't cooperate with him, struggled with them. Deputy  
11 Wallace comes around. There is another struggle. He puts  
12 Julius in handcuffs. They take Julius to the hospital.  
13 All right. He has to have prongs surgically removed from  
14 him, and he has to be treated for his injuries. I think  
15 Deputy Wallace also had to have his hand looked at because  
16 during the struggle the officers -- they beat him up  
17 pretty good, okay.

18 And you're going to see that, but I'm sitting here  
19 telling all this because I'm not sitting here telling you  
20 my client is a choir boy. I'm not telling you that he's  
21 the best person that ever lived. I'm not telling you that  
22 he's going to be elected the president of the United  
23 States. Okay. I'm telling you this story called Four  
24 Works For All, as my grandma used to say. I'm not telling  
25 you that Julius didn't break the law, but I am telling you

1     that Julius did not break the law for which he is indicted  
2     for. He didn't commit attempted murder on a deputy  
3     sheriff. He didn't resist arrest with a deadly weapon.  
4     He didn't commit C.D.V. high and aggravated against his  
5     fiance. He didn't commit assault and battery in the  
6     second degree against Shiquan Wright, his fiance's  
7     daughter.

8             He didn't break those laws, and that's why we're  
9     here. You see in real life you see on t.v. you get these  
10    impressions that, you know, you have these perfect people  
11    sometimes that are on trial and you have people that are  
12    -- often people that are on trial in real life situations  
13    like this.

14            In this situation Julius didn't commit the crimes  
15    that the State is saying that he committed. And that's  
16    important. That's why your job is going to be tough.  
17    It's going to be really important because you're going to  
18    have to see through all the stuff that makes him look bad.  
19    And there is going to be some stuff that makes him look  
20    bad. But once you get past that stuff and really get down  
21    to the facts and listen to the testimony and look to the  
22    evidence you're going to see that he's not guilty of the  
23    crimes as charge with.

24            And the C, and I won't go into this too much, but you  
25    need to know that when the defendant or a person is

1 arrested by the police they go -- they have got to get a  
2 warrant for them if the case is going to end up here in  
3 what we call General Sessions Court. When they get a  
4 warrant they go to a magistrate judge. The Magistrate  
5 with probable cause will sign the warrant and the person  
6 is formally charged with the crime.

7 In this case -- and then later on in order for that  
8 person to come before a judge and jury like y'all there  
9 has to be an indictment by a grand jury. Y'all are what's  
10 called a petit jury of a particular trial. But a grand  
11 jury goes over all the cases and has to decide whether  
12 there is probable cause a reason to think that the  
13 crimes -- a reason to think that the person did the crime.  
14 Very low standard.

15 Through that whole process Julius does not get to  
16 participate nor anybody else get to participate. Today or  
17 yesterday rather when we picked the jury was the first  
18 time he's gotten that participation to be himself in this  
19 whole process. And that's extremely important as well.

20 Now, what Mr. Redmond touched on is that the State  
21 has the burden of proof in this matter. Okay. And that's  
22 right. The State does have the burden of proof. We don't  
23 have to prove anything. Julius doesn't have to prove  
24 anything, okay. He is presumed innocent up until the  
25 State can, theoretically if they could, prove him guilty

1 beyond a reasonable doubt which they won't don.

2 And, third, and most important is that that burden of  
3 proof is beyond a reasonable doubt. I'm going to get into  
4 that later on in my closing, but you've got to understand  
5 that that's theory there. A very high burden that the  
6 State is not going to be able to meet. The State is not  
7 going to be able to meet it because he did not commit  
8 these particular crimes which he's charged with. For  
9 which he's charged with. Excuse me.

10 You know, I just want to emphasize how important all  
11 of y'all's jobs is collectively because every time I pick a  
12 jury, and I'm still young. I haven't been doing this that  
13 long. But you see people who want to get out of jury  
14 duty. They don't want to be here. They want to go on  
15 with their lives. And I always think of myself.  
16 Everybody knows how much power they're going to have if  
17 they get on the jury.

18 Unless y'all get elected to some office at some level  
19 today this -- unless you get on another jury, this is the  
20 most power any of y'all are going to have. Probably in  
21 your whole lives. It is very, very, very important and  
22 you're very, very, very powerful at this point. So we ask  
23 that you exercise that power very responsibly and pay  
24 attention during the course of this trial. And at the  
25 conclusive of this trial I'm going to ask you to find

1 Julius not guilty of the crimes for which he's charged and  
2 that's because he's not guilty. Thank you.

3 THE COURT: All right.

4 MR. REDMOND: May it please the Court, Your Honor.  
5 The State would first call Ms. Marshell Wright.

6 THE COURT: Ms. Wright, if you will come around and  
7 be sworn, please.

8 MARSELL WRIGHT, after being duly sworn,  
9 testified as follows:

10 CLERK OF COURT: You may be seated.

11 DIRECT EXAMINATION

12 BY MR. REDMOND:

13 Q. Ms. Wright, please state your name for the record.

14 A. Marshell Wright.

15 Q. And do you still reside at 996 Hillian Edwards Road?

16 A. I do.

17 Q. And that's I guess considered in the Cheraw area of  
18 Chesterfield County?

19 A. Yes, sir.

20 Q. And is Shiquan Wright your daughter?

21 A. Yes, she is.

22 Q. All right. And let me just get straight to it. And  
23 we heard it in opening statement, so let me ask you about  
24 the 20th of -- excuse me. The 30th of August 2013. Were  
25 you and the Defendant doing drugs that day?

1 A. Yes, we were doing drugs and drinking all day.

2 Q. Okay. Now, tell us leading up to the incident what  
3 happened to cause y'all to get into the altercation?

4 A. Well, we left the trailer park.

5 Q. Now, which trailer park is this?

6 A. Magnolia. Magnolia Lane. Two guys and a ---

7 Q. Hold on just a moment.

8 THE COURT: Can we turn the system up a little bit.

9 BY MR. REDMOND:

10 Q. And while we're doing that, Ms. Wright, if you could  
11 speak as loudly as you can. The acoustics in here aren't  
12 the best. Okay. You can continue, please.

13 A. I left the trailer park. Two dudes in a car stopped  
14 and asked did we want a ride. And we knew them, but  
15 Julius was complaining that his feet were hurting. So I  
16 told him let's go ahead and take the ride. We wasn't too  
17 far from being home. Julius didn't want to ride, so I got  
18 in the car with the guys. They come out their mailbox  
19 where Julius could see that I got out home.

20 When he got home -- when I got inside the house I was  
21 talking to my daughter. Julius came. He kicked the door  
22 in and started fussing with me. He slapped me the first  
23 one time then he slapped me again. And my daughter said,  
24 "Julius, I'm not going to let you keep hitting my mother  
25 like that." That's when he jumped on her.

1 Q. Let me stop you there, and I can tell that you are  
2 eager to go ahead and let this jury know what happened, but  
3 it's my fault. What's that nature of or what was the  
4 nature of your relationship with Julius Curry, the  
5 defendant, at that time?

6 A. His girlfriend.

7 Q. Okay. And how long had y'all been seeing each other?

8 A. A year and a half.

9 Q. Okay. And do you currently consider yourself in a  
10 relationship with him?

11 A. Now?

12 Q. Yes, now?

13 A. No.

14 Q. Okay. Now, let me ask you this. Getting back to the  
15 matter at hand, the incident, let's go back through a  
16 little bit. When you got back to the house what was it  
17 that he was mad about?

18 A. That I got in the car and I left him.

19 Q. Okay. And about how far did you go in the car with  
20 these guy before they dropped you off?

21 A. It wasn't far. He could see me whenever they dropped  
22 me off.

23 Q. So it wasn't like you went and rode around ---

24 A. No.

25 Q. --- town or anything like that. Okay. So that made

1 him mad?

2 A. Um hum.

3 Q. And so once you got back to the house tell me --  
4 again, tell this, the jury, what happened?

5 A. After he got to the house and he kicked the door in  
6 and he slapped me a couple times. My daughter jumped in  
7 it. He jumped on her. He choked her in the head, and he  
8 hit her upside her head. And I ran outside trying to  
9 distract him and get him off of her to come after me which  
10 he did.

11 I ran behind our house. And he seen my shadow and he  
12 came back in, and that's when he jumped on me. And she  
13 jumped on his back and I bit him.

14 Q. Okay. Now, let me stop you there. Was this during  
15 the time that he was attacking your daughter?

16 A. Um hum.

17 Q. Okay?

18 A. Yes.

19 Q. So you jumped on him and bit him?

20 A. Bit him in his back.

21 MR. REDMOND: And if the Court would indulge me.

22 This is marked as State's Exhibit Number Nine.

23 BY MR. REDMOND:

24 Q. Let me show you ---

25 MR. REDMOND: If I may approach the witness, Your

1 Honor.

2 BY MR. REDMOND:

3 Q. --- with what's been marked as State's Exhibit Number  
4 Nine.

5 A. I bit him.

6 Q. Okay.

7 A. I did it.

8 Q. Okay.

9 MR. REDMOND: I would move to admit State's Nine into  
10 evidence at this time.

11 MR. SWILLEY: No objection, Your Honor.

12 THE COURT: In without objection.

13 (WHEREUPON, State's Exhibit No. 9 was admitted into  
14 evidence.)

15 BY MR. REDMOND:

16 Q. And you said you did that. Is that the bite mark  
17 that you just described to the jury?

18 A. I did that.

19 Q. Yes. Okay. Now, at the time that you had to do that  
20 to I guess come to the aid of your daughter was that the  
21 end of this incident? Did it stop then or.

22 A. It kept going on.

23 Q. Okay. Tell us about that, Ms. Wright?

24 A. After that I told Shiquan to call the police cause he  
25 had took my cell phone.

1 Q. Let me stop you there. There was something you  
2 mentioned that I need to clarify. You said that he kicked  
3 the door in?

4 A. Uh huh.

5 Q. When you got back to the house did you lock the door?

6 A. I locked the door. The door was locked.

7 Q. Why did you do that?

8 A. Because I knew.

9 Q. Could you repeat that? Why did you do that?

10 A. Because I knew Julius was going to start something  
11 else.

12 Q. So you?

13 A. I knew.

14 Q. You knew he was going to be mad, and you locked the  
15 door?

16 A. Um hum.

17 Q. So that's why he had to kick the door in?

18 A. Um hum.

19 Q. Okay. And, now, I apologize. Okay, could you slow  
20 down. I know you're eager to go ahead and tell the jury  
21 but if you could just slow down.

22 COURT REPORTER: I just need her to say yes or no.

23 BY MR. REDMOND:

24 Q. Now, and I interrupted you. So we were talking about  
25 where you were I guess biting him to try to get him off of

1 your daughter.

2 A. Off of my daughter.

3 Q. Okay. And I asked you if that was the end of this  
4 incident?

5 A. No.

6 Q. Tell us what else occurred?

7 A. After that I told my daughter to call the police  
8 because he had took my cell phone. And she called the  
9 police, and he ended up getting her cell phone so she had  
10 to run to the neighbor's house to use her phone to call  
11 the police. And she waited outside in the driveway  
12 because she was scared. She didn't want to come back up.  
13 She said she had grabbed the Hypnotic bottle cause J had  
14 pulled a knife out on her.

15 Q. Okay. Let me stop you right there. Could you repeat  
16 what you just stated?

17 A. He had -- she Shiquan had grabbed the Hypnotic, the  
18 empty bottle. And J -- cause J had pulled a knife out on  
19 her.

20 Q. Okay because he had pulled a knife out on her. Let  
21 me approach what's been marked as State's Two.

22 MR. REDMOND: If may approach the witness, Your  
23 Honor.

24 BY MR. REDMOND:

25 Q. I'm sorry. Have you seen that exhibit before?

1 A. Um hum.

2 Q. And could you tell the ladies and gentlemen of the  
3 jury what is State's Exhibit Number Two.

4 A. That's Julius Curry's knife.

5 Q. That knife, is that the knife that he had that day?

6 A. Um hum. That's it.

7 Q. Okay.

8 MR. REDMOND: State would move to admit at this time.

9 MR. SWILLEY: No objection, Your Honor.

10 THE COURT: In without objection.

11 (WHEREUPON, State's Exhibit No. 2 was admitted into  
12 evidence.)

13 MR. REDMOND: Okay. So, and again, I stopped you to  
14 the point where he had the knife and Shiquan was leaving.  
15 Start from that point and continue telling the jury what  
16 happened?

17 A. After she got to the road she got down. She got a  
18 chance to get away to go use a neighbor's phone. And I  
19 was just talking to him and talking about -- I was telling  
20 him to walk back up to the house and talk about it for him  
21 to calm down just so he won't focus on her. So he walked  
22 back to me and me and him walked back to the house  
23 together. And we went inside.

24 He pushed one of the living room chairs to the door  
25 and he still had the knife in his hand, still sniffing

1 coke, drinking liquor, and I was on the other side of the  
2 chair.

3 When Jimmy Coombs got there he was talking to Julius  
4 telling him that ---

5 MR. SWILLEY: Objection, Your Honor. Hearsay what  
6 Mr. Coombs said.

7 THE WITNESS: He was just talking to Julius and ---

8 MR. REDMOND: Your Honor, I can phrase the question  
9 in such a way I think that it would -- the State would  
10 contend that actually constitutes an exception to the  
11 hearsay rule if I can rephrase the question.

12 THE COURT: Okay.

13 BY MR. REDMOND:

14 Q. You had just indicated that Sergeant Coombs arrived  
15 at the scene?

16 A. Um hum.

17 Q. And did Sergeant Coombs -- did he, I guess, say  
18 anything? Without saying what he said did he say anything  
19 when he arrived at the scene?

20 A. Yeah. He was just -- well, he knocked on the door.  
21 He knocked on the door and he called Julius' name for him  
22 to come out but he wouldn't come out.

23 Q. Okay. All right. Now, where were y'all at the time  
24 that Sergeant Coombs initially -- when you first heard  
25 him?

1 A. We were in the living room at first.

2 Q. Okay.

3 A. But when Jimmy was trying to get in he told me to get  
4 up and go in the bedroom.

5 Q. Okay. So let me make sure we're clear on this. When  
6 you say Jimmy are you talking about Sergeant Coombs?

7 A. Sergeant Coombs.

8 Q. Okay. So Sergeant Coombs was trying to get in, and  
9 at that time the defendant had you to go into the bedroom?

10 A. Um hum. Yes.

11 Q. Was the Defendant still armed with the knife at the  
12 time?

13 A. Yes.

14 Q. Okay. Now, was Sergeant Coombs able to get in at  
15 that time?

16 A. Yeah. He pushed the door open cause the chair was in  
17 front of the door.

18 Q. Okay. And so at some point was he able to get inside  
19 the house?

20 A. Yeah, he got in.

21 Q. All right. At the time that he was getting -- that  
22 he got inside the house did Sergeant Coombs give any  
23 commands to the defendant regarding him being a law  
24 enforcement officer regarding ---

25 A. Yeah. He was talking to Julius telling him to come

1 out.

2 MR. SWILLEY: Objection, Your Honor, that's hearsay  
3 again.

4 BY MR. REDMOND:

5 Q. Let me ask you like this.

6 THE COURT: Be careful with the hearsay.

7 BY MR. REDMOND:

8 Q. Did Sergeant Coombs, as it relates to the manner that  
9 he was speaking. Not what he was saying, but with regard  
10 to the manner he was speaking, did Sergeant Coombs threaten  
11 the defendant or anything like that?

12 A. No. No.

13 Q. How would you describe, not with what he said, but  
14 how would you describe how Sergeant Coombs was talking?

15 A. Well, when knew Julius. When he came in he knew  
16 Julius had a knife. He was telling him to drop the knife  
17 and come out and he was going to talk to him.

18 Q. Okay. So with that did that end the incident? In  
19 other words after the -- after Sergeant Coombs got in the  
20 house did the Defendant comply with the request?

21 A. No.

22 Q. Okay. Did more things happen?

23 A. Yes.

24 Q. Could you tell us about that?

25 A. Yes. After -- well, when Mr. Coombs kicked the door

1 in and tazed Julius I ran out the room.

2 Q. Okay. Now, we're talking about in the bedroom?

3 A. In the bedroom.

4 Q. Okay. Now, Sergeant Coombs had to kick the door into  
5 the bedroom. What was holding?

6 A. The door was locked.

7 Q. The door was locked. Okay. So he kicks in the door.  
8 And he had to taze him?

9 A. Um hum.

10 Q. And what did you do at that point?

11 A. I ran out the room.

12 Q. Now, at the time Sergeant Coombs tazed him did the  
13 defendant still have the knife in his hand?

14 A. Yes.

15 Q. Okay. And so he got tazed and you ran out the room?

16 A. Um hum.

17 Q. And after that what do you recall? What took place  
18 to the best of your recollection from your observation  
19 once you ran out the room?

20 A. I didn't see nothing else. I ran out the room.

21 Q. Okay. Now, did you see when -- did you see any  
22 struggle take place between Sergeant Coombs and the  
23 defendant?

24 A. No.

25 Q. Okay. In fact I believe at one time did you think

1     that he had been shot?

2     A.    I thought he had been shot.

3     Q.    As opposed to tazing him?

4     A.    Um hum.

5     Q.    Now, let me ask you this.  Was your daughter also  
6     there?

7     A.    She was.

8     Q.    And was your daughter actually closer to what was  
9     going on that you were?

10    A.    She was.

11    Q.    And did Sergeant Dana Wallace subsequently come into  
12    the house?

13    A.    Yes.

14    Q.    Okay.  And did you see what took place while Sergeant  
15    Wallace ---

16    A.    Yes.

17    Q.    Okay.  And tell us what took place?

18    A.    I saw him beating him.

19    Q.    Now, did you see -- did Julius still have the knife  
20    while this was going on?

21    A.    I can't recall.

22    Q.    And so when Sergeant Wallace came in was Julius, from  
23    what you could see, still resisting or whatever, tussling  
24    ---

25    A.    Yes.

1 Q. --- with the Sergeant Coombs?

2 A. Yes.

3 Q. And from what you saw was Sergeant Wallace going in  
4 trying to assist Sergeant Coombs?

5 A. Yes.

6 Q. And when you talk about the fact that he was hitting  
7 the defendant had the defendant been aggressive towards  
8 law enforcement in ---

9 MR. SWILLEY: Objection, Your Honor. I think that's  
10 leading.

11 MR. REDMOND: I can rephrase.

12 THE COURT: Okay.

13 BY MR. REDMOND:

14 Q. How was the defendant's demeanor towards Sergeant  
15 Coombs and law enforcement in general that night? We're  
16 talking about Sergeant Coombs and Sergeant Wallace. What  
17 was his demeanor towards them? What was his -- how was he  
18 acting towards them?

19 A. He was enraged. He was just enraged.

20 Q. All right. Now, did the defendant subsequently give  
21 up the fight?

22 A. No.

23 Q. Okay. Was he -- were they subsequently, and when I  
24 say 'they' were Sergeant Wallace and Sergeant Coombs  
25 subsequently able to get him in custody? Get Julius in

1 custody?

2 A. No.

3 Q. Okay. Now, when I say 'in custody' did the fight  
4 stop at some point?

5 A. After Dana Wallace got in it.

6 Q. Okay. So that's what I mean.

7 A. Yes.

8 Q. Once Dana Wallace got there, and I might have  
9 confused you. I apologize. Once Dana Wallace got  
10 there -- after Dana Wallace got there and had to hit him  
11 did the fight stop?

12 A. It stopped.

13 Q. Okay. Thank you. Now, let's move forward a little  
14 bit, and did you in fact tell law enforcement what took  
15 place? I think on a couple of occasions you had the  
16 opportunity to talk with them and tell them basically what  
17 happened that night?

18 A. Yeah. Well, Julius also said that he was -- we were  
19 getting high. He was real high, and he said that, "I feel  
20 like I'm going to die tonight and I'm going to take ---

21 MR. SWILLEY: Objection, Your Honor.

22 THE COURT: Overruled. Go ahead.

23 BY MR. REDMOND:

24 Q. And let me be clear. Who said this?

25 A. Julius.

1 Q. Okay. And tell us again what the defendant said.

2 A. He said, "I feel like I'm going to die tonight, and  
3 you know, if I do I'm going to take me a police with me."

4 Q. Okay. And at what point did he say that?

5 A. He said that before the police even got there.

6 Q. Okay. And this was while he was holding the knife?

7 A. Yeah. On me.

8 Q. On you. Now, when -- while he was in jail did the  
9 defendant make any calls to you while he was incarcerated?

10 A. Yes.

11 Q. All right. Now. What -- in any of those calls did  
12 the Defendant try to get you to not go forward with this  
13 case?

14 A. Yes.

15 Q. Okay. Did the defendant try to get you to encourage  
16 and even paid Shiquan Wright not to go forward with this  
17 case?

18 MR. SWILLEY: Objection, Your Honor.

19 THE WITNESS: Yes.

20 MR. SWILLEY: I think he's leading the witness. He  
21 eliciting yes or no questions.

22 MR. REDMOND: I can rephrase.

23 BY MR. REDMOND:

24 Q. Did he make any comments regarding Shiquan Wright?

25 A. Yes.

1 Q. And I'll just ask you. What was Julius Curry, the  
2 defendant, trying to get you and -- to get you not to do  
3 and to get Shiquan Wright not to do?

4 A. Drop charges.

5 Q. Okay. In other words he didn't want you to go  
6 forward with this case?

7 A. No.

8 Q. Did he want Shiquan to go forward with this case?

9 A. No.

10 Q. Were there -- was it one phone call to that effect or  
11 were there several phone calls?

12 A. I'll say about two or three.

13 Q. Okay. And on some of those calls did you indicate a  
14 willingness to cooperate with him and if you did why was  
15 that?

16 A. I can't remember.

17 Q. Okay. Now, were you still doing drugs at that time?

18 A. I was, but I'm not any more. I'm getting help.

19 Q. Okay. And we congratulate you on that and appreciate  
20 you on that. And let me ask you this in conclusion. Is  
21 what you told this jury to the best of your recollection  
22 the truth based on what your recollection is of that  
23 incident?

24 A. Yes.

25 Q. Did the defendant attack you and your daughter?

1 A. Yes.

2 Q. Did the defendant, I guess, try to avoid being  
3 arrested by Sergeant Coombs?

4 A. Yes.

5 Q. And did he attack Sergeant Coombs? Did the defendant  
6 attack Sergeant Coombs?

7 A. I didn't see that.

8 Q. You didn't see that part, but did you see -- had the  
9 defendant been aggressive that whole evening?

10 A. Yes.

11 Q. And, lastly, did the defendant make a comment  
12 regarding what was going to happen to the police?

13 A. Yes.

14 Q. And tell us again what he said?

15 A. That he was going to kill a police.

16 MR. REDMOND: Beg the Court's indulgence, Your Honor.  
17 That will be all the questions at this -- I have at this  
18 time. Permission to publish State's Nine and State's Two  
19 to the jury.

20 THE COURT: Granted.

21 MR. REDMOND: Thank you. That would be all the  
22 questions I have at this time. I may have one  
23 jurisdiction question that I forgot to ask. I always  
24 forget to ask it.

25 BY MR. REDMOND:

1 Q. Is 996 Hillian Edwards Road in Chesterfield County?

2 Is that located within Chesterfield County?

3 A. Yes.

4 Q. Okay. Thank you.

5 MR. REDMOND: That would be all the questions that I  
6 have.

7 CROSS-EXAMINATION

8 BY MR. SWILLEY:

9 Q. Marshall, you were with Julius that whole day, right?

10 A. Um hum.

11 Q. Okay. And you testified that he had been aggressive  
12 that whole evening, right?

13 A. Yes.

14 Q. Okay. And you never called the police, did you?

15 A. No.

16 Q. Right. And until today you never mentioned that  
17 Julius -- you never mentioned to anyone that Julius took  
18 yours or Shiquan's cell phone, did you?

19 A. No, but that night I talk to ---

20 Q. But you never mentioned that before?

21 MR. REDMOND: Your Honor, she didn't complete her  
22 answer. She's entitled to finish her answer.

23 THE WITNESS: That night Jimmy Coombs and Dana  
24 Wallace know Julius took my cell phone.

25 Q. All right?

1 A. He ended up with both of our cell phones that night.

2 Q. Okay. Are you saying that Shiquan -- and then later  
3 on after y'all got into that tussle Shiquan grabbed a  
4 Hypnotic bottle, right?

5 A. Yes.

6 Q. And that's a liquor bottle, correct?

7 A. That's correct.

8 Q. And that's a very heavy liquor bottle, right?

9 A. Yes, it is.

10 Q. And subsequent to that is when Julius had that --  
11 pulled a knife, right?

12 A. Um hum.

13 Q. Okay. After that, all right. And then after that  
14 you guys go back in the house to try to calm Julius down,  
15 right?

16 A. Um hum.

17 Q. Okay. It seems to be working at that point, right?

18 A. Yes.

19 Q. So and based upon your observations Julius was angry  
20 that Shiquan had interjected herself into this argument,  
21 correct?

22 A. That is correct.

23 Q. All right. And based upon your observations at that  
24 point Julius goes back in the house and moves a chair in  
25 front of the door, right? Okay. And then y'all go back

1 into the back bedroom and y'all were discuss -- you were  
2 trying to calm him down still, right?

3 A. I was still trying to calm him down.

4 Q. And he is calming down, right?

5 A. He was calming down.

6 Q. He's holding the knife still, right?

7 A. Um hum.

8 Q. Never not once did he try to stab you that night?

9 A. No.

10 Q. Never not once did he threaten you with that knife,  
11 did he?

12 A. No.

13 Q. Never not once did he point that knife at you, did  
14 he?

15 A. No.

16 Q. Okay. And based upon your recollection he never  
17 pointed that knife at anybody, correct?

18 A. I'm not going to say that.

19 Q. Okay. Now, Marshall, without pointing you said that  
20 the first thing, and then when Jimmy Coombs gets to the  
21 door, right, and Jimmy Coombs -- Mr. Coombs -- Deputy  
22 Coombs, that is, he kicks the door in, doesn't he? Okay.  
23 And the first thing Mr. Coombs does is he pulls that tazer  
24 out and shoots, Julius, right?

25 A. I had ran from the room so I don't know about the

1 knife part or him pointing it at Jimmy Coombs. He could  
2 have. I'm not going to say that he didn't, but he could  
3 have.

4 Q. Well, I'm not asking you that. I'm asking you what  
5 you recall. Is the first thing that you remember when you  
6 were in that room is Jimmy shot him with the tazer?

7 A. And I ran out.

8 Q. Right. And, Marshell, when you ran out you could  
9 hear Julius being tazed, right?

10 A. Um hum.

11 Q. I mean he was screaming, you remember?

12 A. He was calling my name.

13 Q. Was that a painful scream?

14 A. A little.

15 Q. Okay. Well, I mean -- all right. Was it a -- it  
16 frighten you?

17 A. Yeah.

18 Q. Okay. And then you said you ran out the house,  
19 right?

20 A. I ran into the kitchen.

21 Q. You ran into the kitchen, okay. And at that time  
22 isn't it true you saw when Julius called your name, you  
23 saw into that room, didn't you?

24 A. Um hum.

25 Q. Okay. You saw that room, and at no time did you ever

1 witness Julius trying to stab anybody, right?

2 A. No.

3 Q. Okay. You never witnessed that. And you're aware of  
4 the rod that's in Julius' right arm, right?

5 A. Yes.

6 Q. And it's it true that based upon your knowledge that  
7 he can't move his wrist very well, is that true?

8 A. That's true.

9 Q. Okay. And based upon your understanding it would  
10 make it very difficult for him to maneuver that wrist to  
11 stab anybody, correct? Is it yes or no?

12 A. Yes.

13 Q. Okay. So and then you said you recall after a short  
14 time Deputy Wallace got there, right?

15 A. Yeah.

16 Q. Dana Wallace there, right? And then based upon your  
17 recollection Deputy Wallace proceeds into the room, right?

18 A. Yes.

19 Q. And then you could see -- you saw Deputy Wallace taze  
20 Julius with his tazer, too, right?

21 A. I didn't see that. No.

22 Q. Okay. You could hear it though, right?

23 A. I heard it.

24 Q. Okay. You heard the zilt, the jolt, right?

25 A. Um hum.

1 Q. Okay. And then you saw Dana Wallace punching Julius  
2 repeatedly, right?

3 A. Yes.

4 Q. Huh?

5 A. Yes, sir.

6 Q. And you saw Jimmy Coombs head butting Julius, too,  
7 right?

8 A. I didn't see Jimmy, Jimmy Coombs, head butt him. I  
9 didn't see that.

10 Q. Okay. But you saw Dana Wallace punching him?

11 A. I saw Dana. I sure did.

12 Q. And you saw him put Julius in the handcuffs after  
13 that?

14 A. Yes.

15 Q. A short time later. Okay. And then later on you saw  
16 him put Julius into the ambulance, right?

17 A. Um hum.

18 Q. Okay. And at that time you recall Julius needing his  
19 inhaler?

20 A. Yeah.

21 Q. Okay. Did you give his inhaler to the medical staff?

22 A. No. I took it to the jailhouse a couple of days  
23 after that.

24 Q. Okay. So you took it a few days after that. All  
25 right. And, Marshell, you --

1 MR. SWILLEY: Beg the Court's indulgence.

2 BY MR. SWILLEY:

3 Q. So you made a statement to Mr. Redmond's during his  
4 direct examination that Julius said that he was going to  
5 die tonight and he was going to take a police with him?

6 A. Yes, sir.

7 Q. And today is the first time that you ever said he  
8 said that, right?

9 A. No.

10 Q. That's not in any of your prior interviews, is it?

11 A. Sir?

12 Q. That's not -- you're saying -- that's not in any of  
13 your prior interviews, is it?

14 A. Well, when he -- well, a couple of times the  
15 Sheriff's Office came out to the house and I mentioned  
16 that.

17 Q. Okay. So you said the Sheriff's Office has been out  
18 to your house several times, right?

19 A. About twice.

20 Q. Okay. And did that make you uncomfortable?

21 A. No.

22 Q. Okay. So they hadn't made contact with you after  
23 that night?

24 A. No.

25 Q. In regards to what your story was going to be? Yes

1 or no.

2 A. Yes.

3 Q. Okay. And during that night, too, Julius never  
4 stabbed Shiquan, did he?

5 A. No.

6 Q. Never pointed -- never tried to stab Shiquan, did he?

7 A. No.

8 Q. Never pointed the knife at Shiquan, did he?

9 A. He pulled the knife out and then he turned towards  
10 her.

11 Q. Just took it out?

12 A. He took it out.

13 Q. Okay. Thank you, Marshell.

14 A. Um hum.

15 MR. REDMOND: Briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. REDMOND:

18 Q. Was the defendant angry this night during everything  
19 that you've described?

20 A. Yes.

21 Q. And during a large portion of that was he angry and  
22 had a knife?

23 A. Yes.

24 Q. Okay. And you were in the bedroom. When you went in  
25 the bedroom, and I think you testified to it previously,

1 did he lock the door or lock the bedroom so that you  
2 couldn't get out?

3 A. Yes.

4 Q. So -- and did he do this while he was holding a  
5 knife?

6 A. Yes.

7 Q. Okay. So did you feel that you could leave the  
8 bedroom?

9 A. No.

10 MR. REDMOND: That's all I've got, Your Honor.

11 THE COURT: Anything further?

12 MR. SWILLEY: Briefly, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. SWILLEY:

15 Q. Marshall, you never told anybody previous to today  
16 that you didn't feel like you could leave the bedroom, did  
17 you?

18 A. No.

19 Q. Right. Because that's the truth. You didn't feel  
20 that way, did you? You just testified earlier when I was  
21 asking questions that you recall you were in there calming  
22 Julius down?

23 A. I was.

24 Q. Okay. And based upon your observations he locked  
25 that door because he was scared, right?

1 A. Yes.

2 Q. Okay. Thank you.

3 MR. REDMOND: Just briefly to clarify.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. REDMOND:

6 Q. When you say he was afraid, and let me make sure  
7 we're clear on this. At the time he went inside what is  
8 it that he was afraid of since he was asked on recross?

9 A. Nothing.

10 MR. SWILLEY: Objection, Your Honor. That calls for  
11 speculation.

12 THE COURT: You opened the door on it so she can  
13 explain it.

14 BY MR. REDMOND:

15 Q. Was this also during the time that he made the  
16 comment about the police -- him dying and taking a police  
17 with him?

18 A. Yes.

19 Q. Okay. So when you were talking -- when you were  
20 asked questions concerning that was it while the door was  
21 locked that he made that comment concerning the police and  
22 dying, too?

23 A. It was before they got there. He had said that back  
24 in the bedroom.

25 Q. Okay. And who was the only person talking about law

1 enforcement -- you talked to law enforcement. You talked  
2 with Mr. Curry, but you were asked this. Who is the only  
3 person that asked you to change your story in this case?

4 A. Julius.

5 MR. REDMOND: I have nothing further, Your Honor.

6 THE COURT: Anything further?

7 MR. SWILLEY: Nothing else, Your Honor.

8 THE COURT: You may step down. Be careful with that  
9 step.

10 MR. REDMOND: State would next calls Ms. Shiquan  
11 Wright.

12 THE COURT: Ms. Wright, come around and be sworn,  
13 please.

14 SHIQUAN WRIGHT, after being duly sworn,  
15 testified as follows:

16 CLERK OF COURT: Please be seated. Please make sure  
17 you answer all your questions with a yes or no.

18 DIRECT EXAMINATION

19 BY MR. REDMOND:

20 Q. Could you state your name for the record, Ms. Wright?

21 A. Shiquan Wright.

22 Q. Okay. And do you still reside at 996 Hillian Edwards  
23 Road?

24 A. Yes, sir.

25 Q. Do stay with your mother?

1 A. Yes, sir.

2 Q. And let me ask you this. Do you know the defendant,  
3 Julius Wright [sic]?

4 A. Yes, sir.

5 Q. And did he previously date your mother?

6 A. Yes.

7 Q. Now, do you recall the events of August 30th 2013?

8 A. Yes.

9 Q. And I guess was it after ten o'clock in the evening  
10 when the incident we were going to refer to took place?

11 A. Yes.

12 Q. And could you tell the ladies and gentlemen of the  
13 jury what happened in -- you know why you're here today,  
14 right?

15 A. Right.

16 Q. Could you still us what happened in relation to the  
17 reason that we're here today?

18 A. Okay. Well, I was sleeping at my mother and J was at  
19 the trailer park. She told me that she had walked. They  
20 were walking, and a couple of guys had picked them Like to  
21 take them home. J feet was hurting cause I guess he got  
22 some calluses on his feet. And so she was trying to  
23 reason with him to get him in the car so won't have to  
24 walk because his feet was already hurting.

25 So J didn't want to get in the car, and mom, she

1     didn't want to walk anymore. So she got in the car. The  
2     people dropped her off at the end of our dirt road, and  
3     she walked on the rest of the way to the house. And she  
4     got to the door and I let her in. And she locked the door  
5     immediately and telling me that -- was telling me what had  
6     happened.

7             And so after that, a couple of minutes, he kicked the  
8     door. And so he started hitting my momma, and I jumped in  
9     front of him so he won't keep on hitting her. So instead  
10    he just go around me and was slapping her. And I was -- I  
11    pushed her and I told J not to hit my mother anymore. And  
12    so he asked me what was I going to do, and immediately he  
13    hit her again.

14            And I pushed him again and he swung off on me. And  
15    so after that me and J was tussling on the floor. And my  
16    mother, you know, she was screaming. So she unlocked the  
17    door and ran out the door and to get J off of me. And  
18    then so after that I grabbed my shoes cause I knew I  
19    wouldn't be able to call the police in my house.

20            And so I immediately grabbed the Hypnotic bottle and  
21    I was making my way to go and call the police at my  
22    neighbor's house.

23    Q.     Why -- let me stop you there. Why did you grab the  
24    Hypnotic bottle? Why did you feel that you needed to grab  
25    the Hypnotic bottle?

1 A. Cause I knew he was going to stop me if I didn't.

2 Q. Okay. He being the defendant? Okay. Go ahead.

3 Continue. I'm sorry.

4 A. So I continued to walk down the dirt road. And J  
5 pulled a knife on me. So I was like, okay, I got a bottle  
6 in my hand. There is not too much he can do to me if I  
7 swing at him with the bottle.

8 Q. Okay, and let me stop you right there. How was he  
9 holding the knife? When you say he was holding the knife  
10 how was he holding the knife?

11 A. Like this.

12 Q. Okay. Was it clear -- so in other words, cause it  
13 was obvious that he was make ---

14 A. Yeah. It was obviously at me.

15 Q. Okay. Now, go ahead and continue. I'm sorry.

16 A. Okay. So I was -- we was just going back and forth,  
17 you know, arguing. And so eventually he got the bottle  
18 out of my hand and he threw it across the field. And so  
19 my mom was sitting there, and she was talking and talking  
20 and trying to get J's attention. And by that time I had  
21 jetted down there to Diane's house. That's our neighbor.  
22 And when I got to the door of her house I asked her could  
23 I call the police off of her phone.

24 Q. Okay. And let me just ask you to repeat that, and if  
25 I could get you to talk a little bit louder. The

1     acoustics here are bad and I just want to make sure that  
2     everybody at this end can hear you.

3     A.    After I got away from J I called the police.  And I  
4     went to the door and called the police at Diane's house  
5     cause I thought it was an emergency.

6     Q.    And the last thing you said you thought it was an  
7     emergency?

8     A.    Yes.

9     Q.    Go ahead.  So you called from Diane's house?

10    A.    Yes.

11    Q.    Tell us what took place?  Well, let me back up real  
12    quick just to clarify.  During the time, I think you  
13    talked about when you intervened because he was hitting  
14    your mother, did you -- and again, clarify what took place  
15    with you and the Defendant and I guess your mother once  
16    you intervened.  Did he hit at you?

17    A.    Yes.

18    Q.    And did y'all subsequently, I think, end up on the  
19    floor ---

20    A.    Yes.

21    Q.    --- involved and who initiated the whole altercation?

22    A.    J.

23    Q.    Okay.  Now, just I wanted to make sure that was  
24    clear.  Now, let's move forward to, again, you made the  
25    911 call from Diane's house.  Tell us what took place from

1 there?

2 A. Okay. I started walking back down there. I didn't  
3 see either one of them so I -- they were at the house.  
4 And so wasn't dare going back in that house. I sit there  
5 and I waited on Jimmy to arrive, and I didn't get him on  
6 ---

7 Q. And Jimmy being Sergeant Coombs?

8 A. Yes.

9 Q. Okay. All right?

10 A. And so I directed him where, you know, where the  
11 house was. And so at that time I was, you know, with  
12 Jimmy the whole time cause I was outside the door with him  
13 when he was trying to reason with J to let him in.

14 Q. Okay.

15 A. And so after, you know, after a while he kept telling  
16 J to let him in. I guess him and my momma went from the  
17 living room to the bedroom. And I told Jimmy that the  
18 door was already kicked in and that maybe just try to push  
19 it in the way it was. It might be easy to open since it  
20 was already kicked in.

21 Q. Okay.

22 A. And so that's what he did. He just pushed his way on  
23 in. And we walked through about to the table where the  
24 kitchen is. The bedroom is like right there.

25 Q. Okay. Now, at that point did Sergeant Coombs

1 continue to try to reason with the defendant?

2 A. Yes.

3 Q. Did the defendant comply with those requests?

4 A. No.

5 Q. Okay. And could you tell us then after y'all are in  
6 the house were the defendant and your mom in the bedroom?

7 A. Yes.

8 Q. And tell us what happened from that point forward?

9 A. Okay. Well, he was keep on trying to get J to come  
10 out and surrender. And so he walked on to the door and  
11 told him to surrender and he just kicked the door in. And  
12 he saw J left hand and he shot the tazer in him.

13 Q. Okay. Did J have the knife in his hand? At the time  
14 he was shot with the tazer was J holding the knife still?

15 A. Yes.

16 Q. All right. Now, so J is holding the knife. Sergeant  
17 Coombs kicks in the door. J is holding the knife. Your  
18 mom was still in the bedroom?

19 A. She ran out as soon as the tazer hit.

20 Q. Okay. So he gets tazed and she runs out?

21 A. She runs out.

22 Q. Now, once the tazer -- once he's tazed did the  
23 Defendant subsequently fall to the floor?

24 A. Yes.

25 Q. All right. And did Sergeant Coombs at that point

1 attempt to, I guess, attempt to initiate the arrest?

2 A. Yes.

3 Q. Did that to smoothly?

4 A. No.

5 Q. And tell us why it didn't go smoothly?

6 A. Well, he was telling J to, you know, lay down on the  
7 ground. He was already on the ground. He didn't really  
8 want to give up to the officer.

9 Q. So let me stop you. So despite being tazed was the  
10 defendant still holding on to the knife?

11 A. Yes.

12 Q. Okay. Please continue.

13 A. Okay. So Jimmy probably tazed him like one more time  
14 after that. Like he was already shot so he just pushed  
15 the button on the tazer. So he walked over and tried to  
16 get the handcuffs out of, you know, his pocket. And J had  
17 took to the ground and they were struggling with the knife  
18 on the floor.

19 Q. So when J turned around was he still holding the  
20 knife?

21 A. Yes.

22 Q. And, in other words, well, Sergeant Coombs was trying  
23 to initiate the arrest. The defendant turns around and is  
24 still holding the knife when he turns around?

25 A. Yes.

1 Q. All right. And tell us what you saw and what you  
2 observed from that point forward?

3 A. I saw them struggling with the knife. And then after  
4 a couple of minutes Dana comes in the door. Our door was  
5 already open, so he comes in the door and immediately  
6 comes to help his partner.

7 Q. Okay. Could you repeat that, and again, I think your  
8 voice is tailing off just a bit. Could you repeat that  
9 last part?

10 A. Dana rushed in immediately because -- and come to the  
11 aide of his partner.

12 Q. Okay. And so during the course of, I guess -- well,  
13 let me just ask you like this. Based on your observations  
14 who was the aggressor in this even as it relates to what  
15 was taking place with Sergeant Coombs?

16 A. J was.

17 Q. Okay. And did the defendant at some point -- well,  
18 was he holding the knife the entire time? Was he holding  
19 the knife?

20 A. Yes.

21 Q. And how would you characterize, if you could -- well,  
22 let me ask you this. During your observation and from  
23 your observation and opinion did you view this as a  
24 dangerous situation for Sergeant Coombs?

25 A. Yes, sir.

1 MR. SWILLEY: Objection, Your Honor. I would move to  
2 strike that.

3 MR. REDMOND: I didn't ask to speculate. I asked  
4 whether or not she viewed it as a dangerous situation for  
5 the Sergeant.

6 THE COURT: I'll have to overrule that.

7 MR. REDMOND: Thank you.

8 BY MR. REDMOND:

9 Q. Did you -- let me repeat it. Did you view this as a  
10 dangerous situation based on your observations of  
11 everything for Staff Sergeant Coombs?

12 A. Yes.

13 Q. And I think you made the comment that Sergeant  
14 Wallace came in to help his partner. Based on your  
15 observations did Sergeant Coombs -- was he in need of  
16 assistance at that time?

17 A. Yes.

18 Q. Okay. Any doubt in your mind about that?

19 A. No.

20 Q. Okay. Now, Sergeant Wallace, once he got in tell us  
21 what took place. What finally ended up concluding this  
22 whole sad situation?

23 A. Well, after that he had to, you know, get roughed up  
24 to get the handcuffs on him.

25 Q. So in essence before he got roughed up was he

1 complying with them?

2 A. No.

3 Q. Okay. And based on your observation once they  
4 were -- I mean once that had to hit him was that to try to  
5 get the knife away from him and get him in custody?

6 A. Yes.

7 Q. Okay. Did he finally comply?

8 A. Yes.

9 Q. Okay. And at that point was he taken into custody?

10 A. Yes.

11 Q. Okay. Now, I think you also gave statements to law  
12 enforcement on a couple of occasions as well?

13 A. Yes.

14 Q. Describing what happened?

15 A. Yes.

16 Q. And, again, the defendant actually attacked you in  
17 this situation. Are you a victim in this situation?

18 A. Yes.

19 Q. Okay. Has anybody encouraged you -- has anyone in  
20 law enforcement encouraged you to lie or change your story  
21 in order to try to convict this defendant?

22 A. No.

23 Q. I think you testified earlier that when you called  
24 911 you felt this was a dangerous situation?

25 A. Yes.

1 Q. Okay. Now, when the -- were you aware of any  
2 discussions between your mom and the defendant to try to  
3 get you to change your story?

4 A. No.

5 Q. No, okay. If he had asked you to change your story  
6 or if she had asked you to change your story would you  
7 have changed your story?

8 MR. SWILLEY: Objection. I think that's bolstering.

9 MR. REDMOND: I can rephrase. I don't think it's --  
10 I don't understand the objection, but I'll just rephrase  
11 the question.

12 THE COURT: Go ahead. Rephrase it.

13 BY MR. REDMOND:

14 Q. Is what you're testifying to the truth?

15 A. Yes.

16 Q. And would you -- is there any way you would be  
17 encouraged to change what happened?

18 A. No.

19 Q. Or to change what your testimony is?

20 A. No.

21 Q. Why the that Ms. Wright?

22 A. Because I feel like I'm doing the right thing.

23 Q. Okay. And is that telling the truth?

24 A. Yes.

25 Q. Okay.

1 MR. REDMOND: Beg the Court's indulgence just one  
2 moment. And I shown this, and we've listened to the tape  
3 and including the 911 call. I have State's Exhibit Number  
4 One that -- beg the Court's indulgence.

5 MR. SWILLEY: No objection, Your Honor.

6 MR. REDMOND: We would move to admit State's One at  
7 this time if the Court would indulge me. Thankfully, Mr.  
8 Farr has returned cause I have no clue.

9 (WHEREUPON, State's Exhibit No. 1 was admitted into  
10 evidence.)

11 MR. REDMOND: If we can set this up real quickly,  
12 Your Honor, and play the 911 tape. It's pretty brief.  
13 And once the 911 tape plays, Your Honor, that will be all  
14 the questions I have for the witness.

15 (WHEREUPON, State's Exhibit Number One was played in  
16 open Court.)

17 MR. REDMOND: Again, that would be all the questions  
18 I have.

19 THE COURT: Your witness, counsel.

20 CROSS-EXAMINATION

21 BY MR. SWILLEY:

22 Q. Shiquan, you said that you recall when Julius and  
23 your mother was arguing. You interjected yourself into  
24 that confrontation?

25 A. Yes.

1 Q. And later on you said you picked up a bottle, the  
2 Hypnotic bottle, and Julius and -- when you did that he  
3 took a knife out, right?

4 A. Yes.

5 Q. Okay. And then later on you said you go to call the  
6 police and the police get there. When you saw the police  
7 get there you watched Jimmy Coombs go into the room,  
8 right? You watched your mother come out, right?

9 A. Yes.

10 Q. You saw Jimmy Coombs taze Julius the first thing  
11 before he even walked in the door, right?

12 A. Yes. You said before he walked in the door?

13 Q. Right when you walk in the door, right?

14 A. Yeah.

15 Q. You saw Julius go down face first, right?

16 A. Yes.

17 Q. You saw the prongs sticking inside of Julius, didn't  
18 you?

19 A. Yes.

20 Q. And you saw Jimmy Coombs shock him a couple more  
21 times?

22 A. Yes.

23 Q. All right. You say you saw Jimmy Coombs pull his  
24 trigger on his tazer and you saw Julius' body react to  
25 those shocks?

1 A. Yes.

2 Q. Right. And you saw Jimmy Coombs walk over to him,  
3 right?

4 A. Yes.

5 Q. And then you saw him struggle with Jimmy Coombs?

6 A. Yes.

7 Q. Never not one time did Julius attempt to stab Jimmy  
8 Coombs based upon your observations; isn't that right?

9 A. Yes, right.

10 Q. That is correct? Mr. Coombs didn't get stabbed, did  
11 he?

12 A. No, he didn't get stabbed.

13 Q. Okay. And based upon what you saw -- you saw the  
14 whole thing, right?

15 A. Right.

16 Q. You never saw Mr -- you never saw Julius try to stab  
17 anybody, right?

18 A. No. I just saw them struggle over a knife.

19 Q. Okay. And you couldn't tell if the knife -- you  
20 couldn't tell whether or not the knife was out of Julius'  
21 hand, and it wasn't, right?

22 A. Yeah, as far as I can tell.

23 Q. Okay. Nobody ever got stabbed? Nobody ever  
24 attempted to be -- attempted to stab anybody, right?

25 A. I can't really say that.

1 Q. Okay. Well, you just told me that you -- that Julius  
2 didn't try to stab anybody based on your observations?

3 A. I mean they struggled over the knife so ---

4 Q. Just yes or no? Yes or no question.

5 MR. REDMOND: Your Honor.

6 THE COURT: No, no, no. Let her answer.

7 THE WITNESS: To me they were struggling over the  
8 knife, I guess, so that if something -- I guess he was  
9 trying to stab him if they were struggling.

10 BY MR. SWILLEY:

11 Q. You didn't see Julius try to stab anybody, did you?

12 A. No. I just saw them struggling.

13 Q. Okay. You just saw a struggle, right?

14 A. Um hum.

15 Q. And you saw Deputy Wallace arrive?

16 A. Yes.

17 Q. Deputy Wallace went straight for Julius and started  
18 tazing him with the tazer gun, right?

19 A. Yeah.

20 Q. Not with the prongs of the gun, right?

21 A. Yeah.

22 Q. You saw Dana Wallace shocking Julius, right?

23 A. Yeah.

24 Q. Right? Over and over again, right?

25 A. Right.

1 Q. And you saw Dana Wallace start beating on Julius,  
2 too, right?

3 A. Yeah. He was trying to get him settled down.

4 Q. Right. After Julius sat down he kept beating on him?

5 A. No.

6 Q. Okay. But you saw Dana Wallace start beating on  
7 Julius with his fist, right?

8 A. Yes.

9 Q. All right. And they got Julius in the handcuffs,  
10 right?

11 A. Right.

12 Q. And the prongs were still stuck in Julius' neck and  
13 Julius' stomach, right?

14 A. Yes.

15 Q. The prongs from Mr. Coombs' tazer, right?

16 A. Right.

17 Q. Okay. And this whole thing took about 45 seconds,  
18 right?

19 A. What took place?

20 Q. From -- well, isn't it true that this whole incident  
21 took about from the point of Mr. Coombs shocked Julius  
22 with the tazer to the point where they got him in  
23 handcuffs about a minute, 15 seconds?

24 A. No, it took more than a minute, 15 seconds.

25 Q. A little bit over?

1 A. Um hum.

2 Q. Not very long?

3 A. Not very long.

4 Q. Okay. And subsequent to that you stayed at the house  
5 that night, right?

6 A. Yes.

7 Q. And Julius never -- and just to make sure. Julius  
8 never tried to stab you with the knife, right?

9 A. No.

10 Q. And you didn't need any medical attention after this  
11 whole incident, did you?

12 A. No.

13 Q. You were fine, right?

14 A. Right.

15 Q. You didn't need to go to the doctor afterwards, did  
16 you?

17 A. No.

18 Q. Didn't have any bruises that you can tell after, did  
19 you?

20 A. Oh, yeah.

21 Q. Okay. But you didn't need any kind of bandages or  
22 anything like that, did you?

23 A. No.

24 Q. You weren't bleeding, were you?

25 A. No.

1 Q. Okay. Thank you, Shiquan.

2 MR. REDMOND: Real briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. REDMOND:

5 Q. Just to be clear, and you had started to answer, but  
6 you were interrupted. I think you finished it, but I want  
7 to make sure it's clear. The struggle that you saw, and I  
8 asked you, did that struggle appear to be a dangerous  
9 situation for Staff Sergeant Coombs?

10 A. Yes.

11 Q. And did it appear to you that the defendant did not  
12 want to let go of that knife and as a result Sergeant  
13 Coombs was struggling with him regarding the knife?

14 A. Yes.

15 Q. And just from your observation, just talking about  
16 your feelings, how you felt ---

17 MR. SWILLEY: Objection, Your Honor. I don't think  
18 the way she felt about it is relevant.

19 THE COURT: It's according to what ---

20 MR. REDMOND: Let me ask the question first.

21 BY MR. REDMOND:

22 Q. Based on how you felt did it appear -- well, let me  
23 just ask you like this. Did it appear that Sergeant  
24 Coombs was trying to keep him -- did it appear that  
25 Sergeant Coombs was trying to avoid letting his hand go

1 with the knife?

2 A. Yes.

3 Q. And you had mentioned something earlier about I think  
4 you said common knowledge regarding the struggle with the  
5 knife?

6 A. Right.

7 Q. Were you concerned about what would happen if his  
8 hand was let go, the defendant's hand was let go while he  
9 was holding the knife?

10 MR. SWILLEY: Objection, Your Honor. What she's  
11 concerned with is not relevant to the facts.

12 THE COURT: I disagree. Overruled.

13 BY MR. REDMOND:

14 Q. Were you concerned? In other words, he's holding the  
15 knife. Sergeant Coombs is struggling with the knife.  
16 Were you concerned about what would happen if he let it  
17 go?

18 A. Yes.

19 Q. Were you concerned for Sergeant Coombs' safety?

20 A. Yes.

21 MR. REDMOND: That's all the questions I have.

22 THE COURT: Your witness.

23 MR. SWILLEY: Nothing further.

24 THE COURT: You may step down. Watch your step.

25 Anything further? Solicitor, we've been going at it since

1 9:30. Even though the jury hasn't been out here since  
2 9:30, but my Court staff needs a brief recess.

3 MR. REDMOND: Yes, sir. And I was going to say that  
4 my next witness is going to be Staff Sergeant Coombs, so I  
5 was going to ask if we could take a break because we  
6 actually have to set up some things for his testimony.

7 THE COURT: All right. Let's take about ten minutes.  
8 My Court staff has not had a break this morning. Y'all  
9 step back.

10 (WHEREUPON, the jury panel was excused from the  
11 courtroom at 11:50 a.m.)

12 (WHEREUPON, Court was in recess at 11:50 a.m. and  
13 reconvened at 12:10 p.m.)

14 THE COURT: Are we ready?

15 MR. REDMOND: State is ready, Your Honor.

16 MR. SWILLEY: Ready, Your Honor.

17 (WHEREUPON, the jury panel enters the courtroom at  
18 12:11 p.m.)

19 THE COURT: All right. Solicitor.

20 MR. REDMOND: Thank you, Your Honor. May it please  
21 the Court. The State next calls Staff Sergeant Jimmy  
22 Coombs.

23 THE COURT: Come up and be sworn, please.

24 JIMMY COOMBS, after being duly sworn, testified  
25 as follows:

DIRECT EXAMINATION

BY MR. REDMOND:

Q. Staff Sergeant Coombs, I guess I've given away some of it. What is your rank with the Sheriff's Department?

A. Staff Sergeant.

Q. And how long have you worked with the Sheriff's Department?

A. Around 13 years.

Q. Okay. And here in Chesterfield County?

A. Only in Chesterfield County.

Q. All right. And let me ask you. Well, I guess let me just get directly into it with you. Did you respond to an incident on Hillian Edwards Road on the outskirts of Cheraw on the 30th of August 2013?

A. I did.

Q. Okay. And could you tell the ladies and gentlemen of the jury what took place? How you ended up being dispatched to the scene, and what your observations were once you got to the scene?

A. Okay. On August the 30th about 1049 I was radio call dispatched to 996 Hillian Edwards Road in reference to a domestic dispute and an assault involving a knife. I arrived on the scene and went up and I exited my car and went and knocked on the door to try to make contact with anybody inside. I could hear voices coming from inside.

1 I couldn't make out what was being said. It went on for  
2 several seconds, half a minute.

3 I heard a female voice somewhere from my rear saying,  
4 "here I am," and I found her in my flashlight. It was  
5 Shiquan Wright. So I walked over to her and asked her  
6 what was going on and she told me that Julius ---

7 MR. SWILLEY: Objection, Your Honor. Hearsay.

8 BY MR. REDMOND:

9 Q. All right. Without saying what she said. She's  
10 already testified. Did you have a discussion about the  
11 situation with Shiquan Wright?

12 A. I did.

13 Q. And based upon your discussions with her what actions  
14 did you take?

15 A. I went back to the front door and again at this point  
16 I tried to open the door, and from my past experiences I  
17 knew something was pressed up against the door to prevent  
18 my entry. I attempted several times to, you know, push  
19 the door open.

20 I stepped back. I radioed for Sergeant Wallace cause  
21 I knew he would be the only one available to come to me.  
22 I called and asked for him to meet me at the location. I  
23 went around to the back door. I can't remember exactly,  
24 but I immediately noticed that I couldn't get into the  
25 door. I remember it was wired shut or something like

1 that.

2 So I went around to the front and at that time I  
3 tried to again more forcefully to push the door open, and  
4 the door came open at that point. I stepped inside. I  
5 pulled my tazer out and I looked to my right and didn't  
6 notice anything. So I went through the kitchen and into  
7 the little hallway left of the bedroom door.

8 Q. Let me ask you this. Why did you hae the tazer out?  
9 Before I ask you this question. You had an opportunity to  
10 talk with Shiquan Wright, right?

11 A. Yes.

12 Q. Before you went into the house?

13 A. Yes.

14 Q. Were you advised of what the situation was leading up  
15 to your getting there?

16 A. I was.

17 Q. And were you advised of any possible weapons that  
18 might be available?

19 A. I was.

20 Q. That may have been ---

21 A. A knife.

22 Q. Okay. And based on that is that why you had your  
23 tazer?

24 A. I chose the tazer because I knew there was another  
25 lady, another innocent, inside the house. So I chose my

1 tazer over my pistol more for safety of the other lady.

2 Q. Okay. And understandable. In other words,  
3 non-lethal force?

4 A. Yes.

5 Q. Now, when you had, and I interrupted you. And I  
6 apologize about that. I have that habit, unfortunately.  
7 But we were at the point where I think you were at the  
8 door to the bedroom. Start there and take us forward.

9 A. I hammer fisted the door cause I never make that  
10 mistake outside. I announced several more times,  
11 "Sheriff's Office," and I could hear still voices inside.  
12 I could hear a female voice, and I could hear a male  
13 voice. I couldn't make out exactly what they were saying.

14 And I was beating on the door again telling them that  
15 I'm going to kick the door in. And I grabbed the door  
16 knob and turned it, and opened it about 4 inches, four or  
17 five inches, and it stopped and I could see a face. It  
18 turned out to be the defendant, Mr. Curry. He was looking  
19 at me and holding the door shut. And I was telling him,  
20 you know, "Look, man, come on out and talk to me, and you  
21 know, let's get this over with."

22 And I kept trying to reason with him. I said, "You  
23 know you're in trouble, but at this point it's not so  
24 bad." And I said, "But if I have to come into the room  
25 it's going -- you're going to be in a lot more trouble."

1 And he told me, "If you come through this door it will be  
2 the last thing you ever do. Do will never do anything  
3 again."

4 And I stepped back and again called for Sergeant  
5 Wallace. And after I called for help again I could hear  
6 acknowledgement. He heard me. I took a step back and  
7 booted the door and kicked the door open.

8 Q. Okay. Now, once you kicked the door open did you  
9 enter the bedroom?

10 A. No, sir.

11 Q. Okay. Tell us what you did?

12 A. The time -- the moment my foot planted back on the  
13 ground the door flew open, stayed open. Mr. Curry was  
14 standing in -- directly in front of me approximately  
15 7 feet. He was -- I seen a fighting stance, a blade  
16 position, semi bladed position. And he wasn't squared off  
17 with me. He was kind of turned, and he had his -- I  
18 remember his fist was clenched, and he had a knife in his  
19 left hand about waist level.

20 In my training it's -- in my training it's a deadly  
21 force encounter with a person with an edged weapon within  
22 30 feet. That means if somebody is closer than 30 feet,  
23 inside that 30-foot distance, I am well within my right to  
24 use deadly force. He was about 7 feet from me, but it was  
25 also fast there was no way I could transition from my

1 tazer to my duty weapon before he would be on top of me.

2 The door came open. He was standing there. And when  
3 his -- I say when his shoulders flinched in my direction I  
4 discharged my tazer. One prong caught him somewhere  
5 around the Adam's apple. The next one about 4 inches  
6 above his belly button. Immediately the tazer took  
7 effect.

8 He folded up like the mummy position and fell onto  
9 the floor. I let my tazer cycle the 5 seconds as it  
10 should and it shuts off after 5 seconds or you can  
11 manually turn it off. I let it cycle the full 5 seconds,  
12 and during the 5 seconds I was giving commands, "When the  
13 tazer stops show me your hands. Let me see the knife."

14 The tazer cycled. He's still lying in the mummy  
15 position. He would not pull his hands out, and the floor,  
16 it was clean, you know. I could see if the knife would  
17 have fell, but I knew he had it because I watched him fall  
18 with it. So he was in like the mummy position and he  
19 wouldn't pop his hands, so I delivered another you know 2  
20 second burst of it, and I would manually turn it off.

21 All I want to do was get his attention. Let him, you  
22 know, to show me your hands. And he would say stuff like,  
23 "Man, I can't move. I'm paralyzed. I don't have  
24 anything." And this -- and in my report I couldn't  
25 remember how many times, whether it was two or three times

1 of, you know, about 2 second bursts. Finally, he popped  
2 both of his hands out in kind of a push up position. The  
3 knife was under his right hand.

4 And I was telling him still, you know, "Toss the  
5 knife. Throw the knife. Get rid of the knife." And he  
6 was, "I can't move. I can't move." So I hit my radio  
7 again, and again called for assistance. And I walked  
8 over. I put my right foot on his wrist and reached back  
9 pulled my handcuffs out. Laid the tazer on the floor.

10 And when I bent down to go ahead and cuff him it  
11 was -- when I knelt down it was like all in one fluid  
12 motion he brought his left hand under his body across,  
13 grabbed the knife, rolled, and thrust it. And at that  
14 time we were belly to belly but I caught his wrist with  
15 the knife in it.

16 And we were belly to belly at that point, and  
17 whenever he was trying to push it into my rib cage, and I  
18 was trying to press it to the floor. And his came up with  
19 his other hand trying to hit me in the head but it glanced  
20 up off my shoulder. And so I grabbed that one and at that  
21 point my hands was full. So I couldn't call for any more  
22 help. I couldn't get to my firearm. And I just kept  
23 trying to push his hands to the floor, and he kept pushing  
24 the knife saying, "I'm going to kill you. You're going to  
25 die tonight." And that was, you know, repeatedly.

1           And I was telling him to drop the knife, man. Drop  
2 the knife and just saying stuff you can say to somebody  
3 trying to stab you. But I was -- I couldn't -- I could  
4 not do anything. I couldn't let go of the hand, and I  
5 couldn't let go of his empty hand, so I started head  
6 butting him. I head butted him, you know, a couple of  
7 times and he finally he turned his head but he was -- he  
8 would take the knife and he was rolling it in his hand  
9 trying, I assume, to cut me.

10           And all I could do at that point was, you know, head  
11 butt him. And later, after reviewing the 911 recordings,  
12 that, from the time I kicked the door in until Sergeant  
13 Wallace got there, was around two, two and a half minutes.

14 Q. Did it seem like longer than that?

15 A. I was out of gas. Dana -- I would have gave myself  
16 another 30 seconds or a minute and I don't know. I was  
17 running out. And I couldn't see why he wasn't running out  
18 of gas, but later I found out.

19 Q. Let me ask you about that real quick not to  
20 interrupt, but in your experience with law enforcement  
21 have you had the opportunity to encounter people who, and  
22 it's in the record, people who are under the influence of  
23 some drug, alcohol or both?

24 A. I have.

25 Q. And in the course, based on your experience, when you

1 say you found out later why he had the juice to keep going  
2 is that what you deduced based on the fact that he was in  
3 that state from the drug and alcohol?

4 A. Yes, sir. My past experience of dealing with people  
5 that have been using cocaine they have a higher pain  
6 threshold. They can, you know, go longer. It's just give  
7 you, not super human strength, but more than the average  
8 person. Even with adrenaline rush they still ...

9 Q. As a part of your training with the tazer is that  
10 also something along the line you were talking about  
11 regarding the affect of the tazer upon someone who is in a  
12 heightened state of intoxication for lack of a better  
13 term?

14 A. Sometimes it is, and it's documented that sometimes,  
15 depending on the level of chemicals in their system, it  
16 may or may not have any affect.

17 Q. So, and does that, based on what you said about now  
18 looking back on it, do you understand why he was still  
19 going? Is that along the lines that you made that  
20 comment?

21 A. Normally after somebody had been suggested to that  
22 many tazer applications they would comply.

23 Q. And did he comply?

24 A. No, sir.

25 Q. And in talking about the knife and being in that

1 situation, I guess, in your years in law enforcement, 13  
2 years I believe, with all that experience what -- how  
3 would you characterize the encounter? In other words what  
4 was going through your mind? What were your concerns? As  
5 you were going through that encounter based on your years  
6 of experience and the thousands of people that you've  
7 interacted with? At that moment what was going through  
8 your mind?

9 A. Probably, well, I would say 15, 30 seconds into it I  
10 thought he was going to get the best of me. I figured any  
11 moment I was going to feel that knife go through my ribs.  
12 I thought I was going to be murdered here on 996 Hillian  
13 Edwards Road.

14 Q. And in fact I think you called me shortly after the  
15 incident in regards to, in my role as a Deputy Solicitor,  
16 because of the concerns that you had had regarding that  
17 particular incident; is that not true?

18 A. You're correct.

19 Q. And so I'm sorry I interrupted you, but I wanted to  
20 cover that. But moving forwards so you engaged. We  
21 haven't yet gotten to the point where he stopped so take  
22 us from that point. Y'all are still engaged. You're  
23 trying to keep him from stabbing you. Take us from that  
24 point?

25 A. We were struggling just like I say like an arm

1 wrestling match. The knife would go up then it would go  
2 to the floor. Come up and go to the floor. And in my  
3 mind I'm thinking this is it. My help is not going to get  
4 here. And then when we were -- I heard a tazer cycle,  
5 but -- and the first thing that went through my mind was  
6 this guy had got ahold of my tazer and he was trying to  
7 stick me with it.

8 But then I felt some force on the back, and I  
9 realized that it was Sergeant Wallace. He had come in and  
10 we can take what you call the cartridge off of the gun and  
11 do like a -- it's called a dry stun where you just stick  
12 it to them. And it's more of a condensed application  
13 where you don't get the full affect as possible. But Dana  
14 was delivering tazer strikes to him.

15 And I hollered to Dana, "He's got a knife," cause the  
16 knife was on my right side kind of under my armpit. And  
17 Dana had come from my left side so he didn't immediately  
18 see the knife. He just saw, you know, his partner  
19 fighting with somebody so he came in to help A. Dana  
20 seized the knife and then he reaches and he also grabs the  
21 hand that had the knife in it.

22 So at that point I got his wrist, Dana's got his  
23 wrist, and he's still trying to slam the knife in me.  
24 Continually saying, "I'm going to kill you. I'm going to  
25 kill you. You're going to die." This went on, and I knew

1 I wasn't going to be able to hold on much longer. I  
2 didn't want Dana to have to, if I slip he may cut me or  
3 Dana. So I told Dana Wallace to hit him. I said, "Hit  
4 him." And Dana come with his free hand and hammer fist  
5 him in the head.

6 And, you know, he struck him several times and I let  
7 go of his other hand cause Dana's weight was kind of  
8 keeping that other hand from coming through. So I started  
9 delivering strikes to him, and decided the only thing was  
10 to get the side of his head, but he still was not dropping  
11 the knife. And at one point he took his other hand and  
12 came through and then transitioned the knife from one hand  
13 to the other. So we just immediately just focused back on  
14 the hand that had the knife.

15 And just continually hit him. Not like I went on I  
16 think for another minute and a half, but he finally --  
17 well, he said twice, "Man, look, I quit. I give up." And  
18 we paused for a second and rested. And then he go right  
19 back struggling. He did it three times on the third time  
20 he just opened his hand and let the knife fall. And when  
21 the knife fell I tossed it and he was taken into custody.

22 Q. Okay, now, with everything that you described as it  
23 relates to the incident when -- and I'll just ask you.  
24 And I think you already mentioned it, but would it -- how  
25 would you describe -- in other words in your own words

1 what were you going through at that time? What were you  
2 going through as it relates to your encounter with the  
3 defendant?

4 MR. SWILLEY: Objection, Your Honor. I think that's  
5 cumulative and also don't think his personal feelings are  
6 relevant. It would be more prejudicial. Substantially  
7 more prejudicial than probative.

8 THE COURT: Can you sort of narrow your question down  
9 some?

10 MR. REDMOND: I'll narrow it down.

11 BY MR. REDMOND:

12 Q. What were you, and in the context of what you had  
13 just gone through in your fight with the defendant, how  
14 would you characterize that aspect of it? How would you  
15 characterize it?

16 A. During or after?

17 Q. During. In other words, during. In other words, how  
18 would you characterize what you had just gone through in  
19 that fight?

20 A. Stressful. I mean I knew I was going to die. And in  
21 the 13 years I've been doing it this is only the second  
22 time, you know. I know this is definitely the second  
23 time.

24 MR. SWILLEY: Objection. I think any kind of prior  
25 instances as far as experience goes in particular are

1 irrelevant.

2 MR. REDMOND: Your Honor, I would just ask.

3 BY MR. REDMOND:

4 Q. When you say, 'second time' you're not referring to  
5 the second time with the defendant?

6 A. No. No. No.

7 Q. You're saying in general with your experience.

8 A. Yes.

9 Q. Okay. Well, afterwards -- let's move on.

10 Afterwards, he was in custody. Tell us what happened once  
11 everything had completed. What took place then?

12 A. I got up. I left the bedroom, walked into the living  
13 room. Shiquan and Marshell were sitting on the couch. I  
14 briefly spoke with them just to make sure they were okay.  
15 Marshell was bleeding around her nose and lip area. I  
16 picked a tissue up and walked outside. I walked around  
17 the corner of the trailer and threw up.

18 Q. And you say that again. You walked around the  
19 trailer and did what?

20 A. I threw up. It's a body's -- your body's natural  
21 reaction to -- for the adrenaline dump, the serotonin in  
22 your body wants to get rid of it. I mean it's not  
23 uncommon for somebody who has gone through a stressful  
24 event to get nauseated.

25 Q. Would it be fair to say that you were in fear?

1 A. Very much so.

2 Q. And when you talk about stress was that fear -- does  
3 that fear add to the stress that led you to ultimately  
4 vomiting?

5 A. I'm sure. I'm sure it did.

6 Q. All right. Now, so you checked on Marshell and  
7 checked on the lady. You vomited, and then did Dana  
8 Wallace have to go to the hospital?

9 A. Yes, he received injuries to his I think small bone  
10 in the side of his hand from the strike.

11 Q. Okay. And did the defendant, was he taken to the  
12 hospital?

13 A. Yes, he was complaining from breathing. Said he  
14 couldn't breathe so we called for an ambulance to come and  
15 check him out.

16 Q. Okay. And everything that you testified to as far as  
17 the fact that y'all had to hit him, all of that stuff was  
18 in the report. I mean you did a pretty detailed -- did  
19 you do a pretty detailed report?

20 A. Yes. I want to think that I did. Yeah, I put it in  
21 there about the command to hit him, the strikes, and I  
22 mean the strikes, the hand strikes, was you know, I'd  
23 rather have that than the alternative.

24 Q. And when you say you'd rather have the alternative  
25 hand strikes than the alternative tell us what the

1 alternatives would have been under the circumstances that  
2 you were faced with?

3 A. Under the circumstances Deputy Wallace had a free  
4 hand. We had a suspect that had a knife trying to  
5 actively engage us. I could have easily asked Dana to  
6 shoot him instead of hit him. So I mean that would -- and  
7 we would have been justified.

8 Q. Okay. But you didn't?

9 A. No.

10 Q. And you're still here, thankfully, to testify today.

11 MR. REDMOND: Let me, with the Court's permission,  
12 approach first with what's been marked as State's Three,  
13 Four and Five. Permission to approach the witness, Your  
14 Honor?

15 BY MR. REDMOND:

16 Q. Could you tell the ladies and gentlemen of the jury  
17 what Exhibits Three -- what Exhibit Three is first?

18 A. This would be the tazer cartridge. It's -- this one  
19 has got 25 feet of wire so we can engage someone as far as  
20 25 feet out. And you have two projectiles which you will  
21 see later come out of this straight out. It sticks into  
22 either clothing or the flesh and the voltage is  
23 transferred through the gun through the wires into the  
24 prongs. Ultimately into the suspect.

25 Q. And speaking of the prongs go ahead and show the

1 ladies and gentlemen of the jury what has been marked as  
2 State's Exhibits Number -- well, what are State's Exhibits  
3 Numbers Four and Five?

4 A. This would be the tazer. That's the metal tazer  
5 prongs that would be housed in those two holes. And when  
6 they come out the wire would be attached to the end of it.  
7 And as long as these wires is attached they will still be  
8 current flowing through there. This can be pulled out  
9 during struggles or wire broken or anything.

10 But this would be the tazer prongs that come out of  
11 the cartridge.

12 MR. REDMOND: And, Your Honor, as it relates to  
13 State's Three, Four and Five, the State would move to  
14 introduce those into evidence at this time if there is no  
15 objection.

16 MR. SWILLEY: No objection.

17 THE COURT: In without objection.

18 (WHEREUPON, State's Exhibit Nos. 3, 4 and 5 were  
19 admitted into evidence.)

20 MR. REDMOND: And, again, with permission to approach  
21 the witness.

22 BY MR. REDMOND:

23 Q. State's Exhibit Number Two. Do you recognize State's  
24 Exhibit Number Two?

25 A. Yes, sir. This is the folding knife that Mr. Curry

1 had in his hand while he was trying to stab me with it.

2 Q. And, obviously, after it was over with did y'all  
3 photograph the scene and collect certain items of evidence  
4 like the knife and of course the prongs once they were  
5 taken out?

6 A. We did.

7 MR. REDMOND: If the Court would indulge me at this  
8 time, Your Honor. I think it's already been rigged, but I  
9 need to get this. Make sure I got it.

10 BY MR. REDMOND:

11 Q. If I could ask Staff Sergeant Coombs to step down.  
12 And what I'm going to do, Sergeant, is I'm going to stand  
13 on this side and if you could stand kind of facing the  
14 jury but talk as loudly as you can so that Madam Court  
15 Reporter can still hear you. And we're just going to go  
16 through and discuss what each of these items are.

17 First of all, were these photographs that were taken  
18 at the scene?

19 A. Yes, sir.

20 Q. Okay. Now, I think it's obvious but just tell us  
21 what the represents?

22 A. That would be the same knife that we entered into  
23 evidence.

24 Q. Okay. Is the located in the bedroom?

25 A. Yes, sir, bedroom.

1 Q. Tell us about the next picture.

2 MR. REDMOND: Just for the record, Your Honor, I  
3 failed to mention this is all on State's Exhibit Number  
4 One that has been introduced into evidence. The C.D. that  
5 has been introduced in evidence.

6 BY MR. REDMOND:

7 Q. All right. Okay. Please tell us about this picture?

8 A. This is a picture of the knife (inaudible) previous  
9 photo.

10 THE COURT: The jury can't see. Ladies and gentlemen  
11 of the jury, y'all step back in your room just a minute,  
12 please.

13 (WHEREUPON, the jury panel was excused from the  
14 courtroom at 12:41 p.m.)

15 THE COURT: Mr. Curry.

16 MR. CURRY: Yes, sir.

17 THE COURT: If I see you do what you just did about  
18 three minutes ago I'm going to have you shackled. Do you  
19 understand me? You don't signal anybody in this courtroom  
20 on where to go. You understand?

21 MR. CURRY: Yes, sir. I thought it would be okay for  
22 her to sit on this side so that she could see. That's  
23 all.

24 THE COURT: I don't know who you were signalling or  
25 what you were attempting to do, but don't you do that

1 again.

2 MR. CURRY: Yes, sir. I'm sorry.

3 THE COURT: All right. The other problem is the jury  
4 down here cannot see.

5 MR. REDMOND: And I'm wondering that if I back it up  
6 some may be it might not be as clear to them.

7 THE COURT: All right. Bring them back.

8 (WHEREUPON, the jury panel enters the courtroom at  
9 12:44 p.m.)

10 THE COURT: All right.

11 MR. REDMOND: I apologize. I hope that everybody can  
12 hear. Please the Court, Your Honor. I mean everybody can  
13 see the pictures.

14 BY MR. REDMOND:

15 Q. All right. And I think we were at the point where  
16 you were describing this particular picture. Could you  
17 tell us what that picture shows?

18 A. Yes. This is Mr. Curry after he was placed in the  
19 handcuffs, and this is the location where the knife -- I  
20 tossed the knife and it ended up. The altercation took  
21 place in this area right here up against the wall and the  
22 floor.

23 THE COURT: All right. Hold up. All the jurors on  
24 the back row, if y'all will stand and come down one seat.  
25 That's going to help immensely. Okay. Go ahead.

1 BY MR. REDMOND:

2 Q. All right. Okay. Just tell us about what this  
3 shows?

4 A. This would have been my view as I was standing in  
5 this around about the same area I was standing when I  
6 deployed the tazer. And Mr. Curry would have been about  
7 center ways of the foot of the bed. A foot or so from the  
8 bed. That depicts about the position where I was standing  
9 when the tazer was the deployed.

10 Q. Okay. And let me ask you this. Who was actually in  
11 the photo?

12 A. That would be Deputy Robinson. He's on our Canine  
13 Tracking Team. He also responded. Men were coming from  
14 everywhere when I start hollering for help.

15 Q. Okay. All right. What's the next picture?

16 A. Just another photo. Just inside the doorway. He's  
17 in the same position. And the knife is sitting right  
18 here. It's in the same position. Just a different  
19 position where I was.

20 Q. Okay. Next picture?

21 A. Mr. Curry had rolled over, but again, just moving  
22 further into the room taking the pictures as I went.

23 Q. And do you recall what this item right here is? I  
24 think we have a closer picture of that. But what is that  
25 a picture of?

1 A. That's a cell phone, and I don't know if it's which  
2 victim or whether it was Mr. Curry's, but they said they  
3 had knew that he took their cell phone.

4 Q. Okay.

5 A. I don't know who it belonged to, but it was a cell  
6 phone.

7 Q. Was it in it's -- was it intact or was it broken?

8 A. I think it was intact. It was like a smart phone.

9 Q. Okay. Let's see. Tell us about this next picture?

10 A. That was -- actually, I believe the Sheriff is the  
11 one that actually took that picture. I was standing in  
12 the position from where Mr. Curry was demonstrating to  
13 him. And he had took a photo. The altercation, again,  
14 took place in this area.

15 Q. Okay. And just to be clear. About where were you  
16 when you entered -- which area or which part of that  
17 picture or that area did you actually enter into? If you  
18 could just illustrate that to the jury. In other words,  
19 when you first got to the scene which way were you?

20 A. This is the -- it's an in between bedroom door. That  
21 would be the doorknob. This being the clasp on the wall.  
22 The door would have opened hinged on the right side and  
23 where the person was that took the picture was where I was  
24 standing. So that was my view of the inside of the room  
25 when the door came open.

1 Q. Okay. And next picture I think?

2 A. Cell phones and Mr. Curry's tennis shoes.

3 Q. And?

4 A. Again, cell phone and the other one -- the other  
5 thing in that picture was the tazer cartridge.

6 Q. Okay. And how about that picture?

7 A. It's a cell phone.

8 Q. Okay. And does it appear, and I don't know if we've  
9 got one closer, but does it appear that the back is  
10 removed from that cell phone? The back of the phone is  
11 gone?

12 A. I can't tell. I couldn't remember if the back was  
13 removed or if it was covered.

14 Q. And tell us about that picture in particular, the  
15 item I guess up front?

16 A. At the bottom, bottom center of your scene would be  
17 the tazer cartridge. The green item there would be what  
18 we call the blast doors. It's the doors open up, and I  
19 don't know where the other one is. That being the knife;  
20 same position. It hadn't been moved. And I can't make  
21 out what that white item is, but tazer cartridge blast  
22 door and knife.

23 Q. And is this the -- from the different view?  
24 Different direction?

25 A. Yes, that would be taken from the area where the

1 struggle took place looking down into the hallway. Ms.  
2 Wright when I fired the tazer from outside the doorway  
3 proceeded inside over Mr. Curry or near Mr. Curry. She  
4 ran between the bed and the wall and took a right turn and  
5 headed into the living room.

6 Q. Okay. And I guess that's it?

7 A. A close up of the knife.

8 Q. And I think that concludes the pictures. Let me ask  
9 you to have a seat. Thank you, sir.

10 MR. REDMOND: Beg the Court's indulgence. That will  
11 be all the questions that I have at this time.

12 BY MR. REDMOND:

13 Q. Please answer any questions that Mr. Swilley may  
14 have.

15 MR. SWILLEY: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. SWILLEY:

18 Q. How are you, Mr. Coombs?

19 A. Fine.

20 Q. Mr. Coombs, when you got to 996 Hillian Edwards Road  
21 you got inside, right? You go to the left towards the  
22 bedroom, right?

23 A. Yes.

24 Q. And it made you angry that you couldn't get in that  
25 bedroom, right?

1 A. No.

2 Q. And the fact that you wouldn't -- that Julius  
3 wouldn't let you in the room irritated you, correct?

4 A. No. I was concerned for the safety of the lady he  
5 had in, but, no, not angry or upset.

6 Q. Okay. You were going to get in that room one way or  
7 another, right?

8 A. Yeah.

9 Q. Okay.

10 A. Sir?

11 Q. And you were not going to let Mr. Curry tell you you  
12 couldn't come in, right?

13 A. No, sir.

14 Q. And you didn't appreciate Julius not complying with  
15 your orders, right?

16 A. No, I didn't appreciate it.

17 Q. Right. And after that you kicked the bedroom door  
18 open, right?

19 A. Yes, sir. I forced the door open.

20 Q. Okay. And you saw that knife in Julius' hand at that  
21 point, right?

22 A. Yes, sir.

23 Q. And at that point you deployed your tazer, right?

24 A. Not immediately. Not until he flinched and made a  
25 muscle movement, and I deployed the tazer.

1 Q. Right. He moved and then you deployed the tazer,  
2 right?

3 A. Yes, sir.

4 Q. And you connected?

5 A. Yes, I did.

6 Q. And you ran a 5 second cycle, right?

7 A. Five seconds.

8 Q. And that's 5 seconds of about 5,000 volts of  
9 electricity into the subject's body from the tazer, right?

10 A. It's actually 50,000 volts, but it's the middle amps  
11 that's the dangerous part.

12 Q. Excuse me. 50,000 volts. And at that point Julius  
13 fell on the floor, right?

14 A. He did.

15 Q. He fell face first?

16 A. He did.

17 Q. He fell down off his feet, right?

18 A. He did.

19 Q. And at that point he ran and you say you recall you  
20 ran two or three more cycles of electricity through him,  
21 right?

22 A. Yes, sir. Two 2 second bursts. I had to turn the  
23 gun off instead of letting it run 5 seconds. I would turn  
24 the switch off and cut it off so I wouldn't -- so he  
25 wouldn't get the whole 5 seconds. He was only getting two

1 or three seconds.

2 Q. At no point did your prongs ever come out of Mr.

3 Curry, right?

4 A. No, sir.

5 Q. Okay.

6 A. Not that I'm aware of.

7 Q. Right. And later you approached Mr. Curry and you  
8 stepped on his right arm?

9 A. Yes, sir, I put my boot on his right wrist to secure  
10 the weapon hand.

11 Q. And from there the struggle ensued, right?

12 A. Yes, sir.

13 Q. Okay. So at no point could you have not shocked  
14 him -- excuse me. At any point therefore you could have  
15 employed the tazer to shock Mr. Curry, right?

16 A. Yes, sir, but he was not complying and I didn't -- I  
17 couldn't be a 100 percent sure that the tazer prong hadn't  
18 dislodged from his body. He wasn't feeling it at all.

19 Q. At that point you knew when you saw that knife you  
20 thought you could get hurt, right?

21 A. Yes, sir.

22 Q. And that's the first thing that popped in your head  
23 you thought you were going to be in danger, right?

24 A. Yes, sir.

25 Q. Okay.

1 MR. SWILLEY: Beg the Court's indulgence.

2 BY MR. SWILLEY:

3 Q. At no point did Mr. Curry ever get to his feet after  
4 he fell down from the initial tazer shock, right?

5 A. No, sir.

6 Q. Right. And you said that you began to struggle with  
7 Mr. Curry, and then Deputy Wallace arrived, right?

8 A. Yes, sir.

9 Q. All right. And then Deputy Wallace employed his  
10 tazer in a dry stung fashion, right?

11 A. Yes, sir, in the abdomen area.

12 Q. And, thereafter -- I'm sorry. Before that you were  
13 head butting Mr. Curry, right? You employed the head  
14 butts?

15 A. I did.

16 Q. And Mr. Wallace -- Deputy Wallace. Excuse me.  
17 Struck Mr. Curry several times, right?

18 A. Not immediately. Not until after he directed to.

19 Q. Subsequent to him using the tazer, right?

20 A. Yes. Yes, sir.

21 Q. Okay. And then you commenced to strike Mr. Curry  
22 with your fist, right?

23 A. I did.

24 Q. And subsequent to that -- I mean after you were able  
25 to put Mr. Curry in handcuffs, right?

1 A. Yes, sir. We were -- after he let go of the knife we  
2 were. Yes, sir.

3 Q. And at not point were you grazed by the knife?

4 A. No, sir.

5 Q. At no point was Mr. Wallace grazed by the knife,  
6 correct?

7 A. No, sir. Other than it touched my -- I had an outer  
8 vest carrier on that night. It pressed into my vest, but  
9 never entered the skin.

10 Q. Right. And no one was cut, correct? You and Deputy  
11 Wallace, neither one was cut?

12 A. No, sir, nobody was cut.

13 Q. Okay. And Deputy Coombs, you stay in pretty good  
14 shape, don't you?

15 A. I try to.

16 Q. Right. And you're over six feet tall; is that  
17 correct?

18 A. Yes.

19 Q. Okay. And you're trained in the use of the tazer,  
20 right?

21 A. Yes, sir.

22 Q. And your tazer is a Model 25?

23 A. X26.

24 Q. X26. And based on your knowledge Deputy Wallace was  
25 trained on the use of the tazer, right?

- 1 A. Yes, sir.
- 2 Q. The same model?
- 3 A. Same make and model?
- 4 Q. You're trained in the use of physical as opposed to
- 5 your firearm, correct?
- 6 A. Yes, sir.
- 7 Q. As Deputy Wallace, correct?
- 8 A. Yes, sir.
- 9 Q. You've taken and you've completed the courses at the
- 10 Academy on Broad River Road, correct?
- 11 A. Yes, I have.
- 12 Q. As has Deputy Wallace?
- 13 A. Yes, sir.
- 14 Q. Okay. And, Deputy Coombs, you, you're a road deputy,
- 15 correct?
- 16 A. I'm a sergeant other Patrol Division. Yes.
- 17 Q. You're a supervisor, correct?
- 18 A. Yes, sir.
- 19 Q. And you have a deputy issued squad car, correct?
- 20 A. Yes, sir.
- 21 Q. All right. And in your deputy squad car you have a
- 22 dash cam, correct?
- 23 A. Yes, sir.
- 24 Q. All right. And your dash camera is also employed
- 25 with audio and video, correct?

1 A. Yes, sir.

2 Q. All right. And on August the 30th 2013 you were  
3 driving this car, correct?

4 A. I was.

5 Q. And your dash cam was functioning, correct?

6 A. It was.

7 Q. All right. And the microphone that connects to the  
8 dash cam was functioning, correct?

9 A. It was.

10 Q. All right. And it could have picked up anything that  
11 was said that night at 996 Hillian Edwards Road, correct?

12 A. It would if I had turned it on.

13 Q. You didn't turn on the dash cam, correct?

14 A. Our cameras are activated manually on the inside with  
15 hitting the record button or come on automatically when  
16 your light have been turned on. Or we can push a button  
17 on our body mike and it will come on.

18 Q. Your body mike was working that night, right?

19 A. Yes, sir.

20 Q. And had it been activated it would have captured  
21 anything that was said as far as what you said and as far  
22 as what someone close in proximity would say, correct?

23 A. It would get more of what I say than it would  
24 somebody a few feet away. It's just a camera system.

25 Q. And no recordings of anything said that night be it

1 in your body mike, correct?

2 A. No, sir.

3 Q. Okay. And, Deputy Coombs, you've discussed this  
4 incident several times leading up to the date, correct?

5 A. Yes, sir.

6 MR. SWILLEY: Thank you, Your Honor. Nothing  
7 further.

8 MR. REDMOND: Brief redirect, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. REDMOND:

11 Q. Just to be clear do you, when he was talking about  
12 the button on the dash cam, when we talk about dash cam  
13 does that pick up what's going on outside of the vehicle?  
14 In other words, the camera will show what's going on  
15 outside the vehicle?

16 A. It's going to show whatever is in the field of view  
17 of the front of the car.

18 Q. And this incident occurred inside or outside?

19 A. Inside the car.

20 Q. Now, as it relates to the button that he was pushing  
21 I guess to activate or whatever is that something that you  
22 always push whenever you go inside on the scene like that?

23 A. No, sir. We are required to videotape our traffic  
24 stops, but anything above that is a -- if I think to turn  
25 the body mike on it would help more than hurt, but it's

1 just I was more focused on getting inside the trailer than  
2 I was trying to gather evidence for a case later on.

3 Q. I could not have said it better myself.

4 MR. REDMOND: With that, Your Honor, I have nothing  
5 further.

6 THE COURT: Anything else?

7 SPEAKER 2: No recross, Your Honor.

8 THE COURT: Thank you, sir. You may step down.

9 MR. REDMOND: Your Honor, obviously the lunch hour us  
10 upon us, and I got two more witnesses after lunch.

11 THE COURT: All right, ladies and gentlemen, we will  
12 break for lunch. There are several restaurants and eating  
13 establishments in Chesterfield. Some in the downtown  
14 area. Some on the Bypass. Need you back here about 2:20.  
15 Everybody else remain seated while this jury departs for  
16 lunch.

17 (WHEREUPON, the jury panel was excused from the  
18 courtroom at 1:01 p.m.)

19 THE COURT: Court in recess until 2:20.

20 (WHEREUPON, Court was in recess at 1:02 p.m. and  
21 reconvened at 2:33 p.m.)

22 THE COURT: State ready?

23 MR. REDMOND: We are, Your Honor.

24 THE COURT: All right. We need to bring the  
25 Defendant back in.

1 (WHEREUPON, the jury panel enters the courtroom at  
2 2:34 p.m.)

3 THE COURT: All right. Solicitor.

4 MR. REDMOND: May it please the Court, Your Honor.  
5 The State would next call Dana Wallace, Sergeant Dana  
6 Wallace.

7 DANA WALLACE, after being duly sworn, testified  
8 as follows:

9 DIRECT EXAMINATION

10 BY MR. REDMOND:

11 Q. Sergeant Wallace, by whom are you employed?

12 A. Chesterfield County Sheriff's Office.

13 Q. And how long have you been employed with the  
14 Sheriff's Office?

15 A. Approximately ten years.

16 Q. Okay, and how long have you been in law enforcement?

17 A. Twenty-five years.

18 Q. Okay. And let me ask you this. Were you working  
19 with the Sheriff's Office on the 30th of August 2013?

20 A. Yes, I was.

21 Q. Okay were you on patrol?

22 A. Yes, sir.

23 Q. And could you tell the ladies and gentlemen of the  
24 jury -- well, let me just ask you. Were you dispatched to  
25 996 Hillian Edwards Road here in Chesterfield County?

1 A. Yes.

2 Q. And could you tell us about the dispatch and further  
3 tell us about what happened when you arrived on the scene?

4 A. I responded. Sergeant Coombs called for assistance.  
5 He was out on a domestic. When I arrived on the scene I  
6 got out the car. There was a female standing in the  
7 doorway of the mobile home, and she immediately said there  
8 was ---

9 MR. SWILLEY: Objection. Hearsay.

10 MR. REDMOND: Your Honor, I argue excited utterance  
11 given the nature of what took place.

12 THE COURT: True. Go ahead.

13 MR. REDMOND: Thank you.

14 THE WITNESS: She said, "They inside" as I was going  
15 in. She also said, "He's got a knife. He's trying to  
16 kill him." So I immediately run in the house. When in  
17 run in the mobile home to the back bedroom I noticed Jimmy  
18 Coombs, Sergeant Coombs, had the subject on the floor and  
19 they were fighting. So when I went in and I saw them on  
20 the floor I immediately pulled my tazer.

21 I pulled the end off the tazer, the prong end, and I  
22 fell down on the floor and I tazed the suspect that was on  
23 the floor. Well, it didn't seem to have any affect. At  
24 that time I looked over and I saw a knife in his hand, and  
25 about the time I looked Sergeant Coombs shouted, "He's got

1 a knife." So I tazed him again which didn't have any  
2 affect. At that time I just dropped the tazer. Sergeant  
3 Coombs was holding his knife end down, and I immediately  
4 grabbed his hand.

5 And we kept telling him, "Drop the knife. Drop the  
6 knife." And he looked at Sergeant Coombs and said, "I'm  
7 going to kill you." So I let go and I started striking  
8 him with my fist. It still didn't have any affect. So I  
9 grabbed his hand again with my left hand, took my right  
10 hand off and started hitting him again. You know, the  
11 whole time we were telling him, "Drop the knife. Drop the  
12 knife," and he never did.

13 So after several more strikes he finally said, "I'll  
14 drop," which he did. He kept struggling, so I struck him  
15 several more times and he finally let go of the knife and  
16 we finally got him cuffed.

17 Q. Now, let's go back because you -- were you present  
18 when Sergeant Coombs first got there?

19 A. No.

20 Q. Okay. You didn't see what had transpired prior to  
21 what you saw when you came into the house?

22 A. No, I did not.

23 Q. Okay. Now, when you saw -- let's go back to when you  
24 first observed Sergeant Coombs struck. What, base on what  
25 you observed what was going through -- what did you think

1 was taking place?

2 A. When I walked in and saw Sergeant Coombs on top of  
3 him, you know, I said, "Well, my partner is in trouble."  
4 That's the first thing. My partner is in trouble. I've  
5 got to help him. That's why, you know, I didn't say a  
6 word when I walked in. I pulled the end off the tazer and  
7 immediately started tazing.

8 Q. And then -- and with the knife, and I think you  
9 testified, when he made the comment, "I'm going to kill  
10 you," when he looked at Sergeant Coombs and said that did  
11 he still have the knife?

12 A. He had the knife in his hand, and he was trying to  
13 move his hand towards Sergeant Coombs with the knife.

14 Q. Based on your 25 years of experience in law  
15 enforcement, 10 here with the Sheriff's Department --  
16 well, let me just ask you. In that time have you  
17 encountered a lot of heated situations involving people  
18 you were trying to apprehend?

19 A. Yes, I have.

20 Q. And based on your experience and your observation did  
21 you feel that Sergeant Coombs' life was in danger?

22 A. Yes, I did.

23 Q. Is that why you took the action that you took to try  
24 to defuse the situation?

25 A. That is correct.

1 Q. All right. And I guess at some point, if I  
2 understand correctly, were both of y'all basically trying  
3 to get his knife hand or hold his knife hand at some point  
4 during that altercation?

5 MR. SWILLEY: Objection, Your Honor. He's leading  
6 the witness.

7 MR. REDMOND: I'll rephrase it.

8 BY MR. REDMOND:

9 Q. Well, I guess there is only one way to ask that.  
10 Were both of y'all holding his hand, his knife hand, at  
11 some point? Who was holding his knife hand?

12 A. Both of us had both hands -- both of our hands on the  
13 knife end and trying to hold the knife still. Trying to  
14 get it out of his hands.

15 Q. And despite that did he try to surrender or give up  
16 or drop the knife at that point?

17 A. Not at that point.

18 Q. Okay. After everything was over with what condition  
19 would you describe your partner, Sergeant Coombs? What  
20 condition was he in either emotionally? Physically? Just  
21 tell us what you observed?

22 A. When it was over with Sergeant Coombs, and I'm going  
23 to use this, he was spent. I mean he was exhausted. I  
24 mean he had nothing left. He was just give out. I mean  
25 he was at the end. I feel like if I hadn't of come in

1     when I did he was in trouble. He would have been in  
2     trouble. But he, you know, emotions, he was just all to  
3     pieces.

4     Q.   Now, after everything was over with -- well, let's go  
5     back a little bit. But you did have to strike him, and I  
6     think you were -- were you able to actually do the report  
7     yourself or did someone -- did you give the information to  
8     someone as far as your report?

9     A.   No, I had to -- I had another deputy type my report  
10    because after it was over with I had to go to the  
11    hospital because I had fractured my hand during this time  
12    because as I was striking him I fractured my hand.

13    Q.   And -- but, this information, did you, I guess, did  
14    you give I guess to Sergeant Valerie the information while  
15    you were at the hospital or shortly thereafter?

16    A.   Shortly after. Shortly after we left the hospital I  
17    came back to our patrol office, and that is where the  
18    report was done.

19    Q.   Okay. And what were the nature of your injuries  
20    again?

21    A.   When they x-rayed it Dr. Parker at the E.R. said,  
22    "You have a fractured hand."

23    Q.   Is that hand still giving you problems?

24    A.   Every day.

25    Q.   Okay.

1 MR. REDMOND: Beg the Court's indulgence just a  
2 moment.

3 BY MR. REDMOND:

4 Q. At any time do you recall hearing Sergeant Coombs or  
5 were you -- I'll just ask it like this. Base on what you  
6 saw who was the aggressor in this incident?

7 A. The aggressor?

8 Q. The aggressor or who was the aggressor?

9 A. Mr. Curry was.

10 MR. REDMOND: Beg the Court's indulgence just one  
11 more time.

12 BY MR. REDMOND:

13 Q. Please answer any questions that Mr. Swilley may  
14 have.

15 CROSS-EXAMINATION

16 BY MR. SWILLEY:

17 Q. How are you, Mr. Wallace?

18 A. Good.

19 Q. I think you testified that you arrived when Deputy  
20 Coombs and Mr. Curry were on the floor together, right?

21 A. I'm sorry. I didn't hear you.

22 Q. When you arrived on the scene and entered the bedroom  
23 at 996 Hillian Road you -- Mr. Deputy Coombs rather, were  
24 on the floor, correct?

25 A. That is correct.

1 Q. And during this time Mr. Curry had never got to his  
2 feet, correct?

3 A. That is correct.

4 Q. Okay. And when you said -- when you saw what was  
5 going on you immediately went to assist Deputy Coombs,  
6 right?

7 A. That's right.

8 Q. And he was in physical conflict and you wanted to  
9 help him, right?

10 A. Right.

11 Q. Okay. And Coombs is your friend, right?

12 A. He's my partner.

13 Q. But he's your friend, too?

14 A. Yes, he is.

15 Q. Right. Y'all are a pretty close group, right?

16 A. That is correct.

17 Q. Right. Okay, and you know y'all look out for one  
18 another, right?

19 A. Yes.

20 Q. Yes. And you back each other up, right?

21 A. That is correct.

22 Q. And that's in all facets of your employment, right?

23 A. That's with any deputy. We would back each other up.

24 Q. Right. And so I mean you would never leave him  
25 hanging out there?

1 A. Not if I could help it.

2 Q. Right. And when you approached Mr. Curry you took  
3 the cartridge out of your tazer, right?

4 A. That is correct.

5 Q. So at that point when you did that the end of the  
6 tazer is the part with the electricity, right?

7 A. That is right.

8 Q. So once the end of the tazer comes in contact with an  
9 individual current is run through that individual's body,  
10 right?

11 A. Right.

12 Q. And you did this several times to Mr. Curry, right?

13 A. Twice.

14 Q. Twice, okay. And after that you struck Mr. Curry  
15 several times with your fists, right?

16 A. Yes. Yes.

17 Q. Right. Okay. And eventually on -- subsequent to  
18 that or after that you and Deputy Coombs struck Mr. Curry  
19 with the fists simultaneously, right? At the same time,  
20 right?

21 A. Well, it wasn't at the same time. We both hit him,  
22 yes.

23 Q. And you hit him to the point where your hand was  
24 injured, right?

25 A. Yes.

1 Q. Right. And Mr. Curry had the tazer prongs still  
2 stuck inside of his neck and chest or stomach at that  
3 point, correct?

4 A. At that point I did not know.

5 Q. Okay?

6 A. I mean I did see the tazer wire, but I did not know  
7 where the prongs were at after Sergeant Coombs had tazed  
8 him?

9 Q. Okay. And at that point you were able to get Mr.  
10 Curry in handcuffs, correct? You and Deputy Coombs?

11 A. Yes, after we struck him several times. Yes?

12 Q. Right. After you struck him several times.

13 A. Yes.

14 Q. And, Deputy, you stand at about 6 feet tall? You  
15 about 6 feet tall?

16 A. I'm about 5'10".

17 Q. About 5'10, okay. Stay in pretty good shape?

18 A. I try to.

19 Q. Right. You lift weights?

20 A. I did. I haven't in a few years.

21 Q. Okay. And you went to Chesterfield General Hospital  
22 that evening, correct?

23 A. Yes, sir I did.

24 Q. Okay. And at the hospital you said you were treated  
25 by --

1 MR. SWILLEY: Beg the Court's indulgence.

2 BY MR. SWILLEY:

3 Q. You were treated by Dr. Parker, correct?

4 A. Correct.

5 Q. Okay. And you were released that night, correct?

6 A. That's correct.

7 Q. Right. And the finding that you did not have an  
8 acute fracture of dislocation in your hand, right?

9 A. Yes. That's after I went for an M.R.I.

10 Q. All right. So there was no fracture in your hand?

11 A. Right.

12 Q. Okay.

13 MR. SWILLEY: Beg the Court's indulgence. I have  
14 nothing further, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. REDMOND:

17 Q. Just to clarify a couple of things, and actually, I  
18 forgot to ask you this, but you were asked about, I guess  
19 in essence, your size, I assuming, versus the Defendant's  
20 size. In your years in law enforcement, and you said the  
21 tazer had no affect when I asked you on direct, but have  
22 you encountered people when you may taze them and it  
23 doesn't have any affect on them?

24 A. I have before. Yes, I have.

25 Q. And in situations, and it's in the record as it

1 relates to drug and alcohol use, have those situations, by  
2 your experience, caused an individual not to be affected  
3 by the tazer?

4 A. That is correct.

5 Q. Okay. And in looking at the defendant's size and, I  
6 guess, the way he was fighting and what not, based on your  
7 experience in law enforcement was that consistent with  
8 someone who had been under the influence of drugs and  
9 alcohol in the way that he was fighting and not relenting  
10 despite being tazed? Despite being hit?

11 A. Yes.

12 MR. REDMOND: That would be all the questions I have.

13 MR. SWILLEY: That's all I have.

14 THE COURT: Thank you, sir. You may step down.

15 COLLOQUY

16 MR. REDMOND: And our next witness is Lieutenant  
17 Wayne Jordan. And while he's coming in, Your Honor, we  
18 need to move the t.v. back in position. And while Zack is  
19 doing that, Your Honor, I had shown these pictures that  
20 are actually State's Exhibit 6 through 26. State's  
21 Exhibit Nine has already been admitted, but I was going to  
22 go ahead and see if I can admit State's Exhibits 6 through  
23 8 and then 10 through 26.

24 And those pictures are also reflected on State's One  
25 which have been shown to the jury, but I just want the

1 smaller one so that they can take back to the jury room  
2 during deliberations.

3 MR. SWILLEY: No objection.

4 THE COURT: In without objection.

5 MR. REDMOND: Thank you, Your Honor.

6 (WHEREUPON, State's Exhibit Nos. 6 through 8 and 10  
7 through 26 were admitted into evidence.)

8 WAYNE JORDAN, after being duly sworn, testified  
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. REDMOND:

12 Q. And, again, state your name for the record?

13 A. Anthony Wayne Jordan.

14 Q. And are you a lieutenant with the Chesterfield County  
15 Sheriff's Office?

16 A. I am lieutenant with the Chesterfield County  
17 Sheriff's Office.

18 Q. And do you work in investigations?

19 A. I'm chief of investigations for the Sheriff's Office.

20 Q. Okay. And how long have you worked with the  
21 Sheriff's Office?

22 A. I've been with the Sheriff's Office since 2003.

23 Q. And, I guess, did you have an opportunity to become  
24 involved in an incident that occurred on the 30th of  
25 August 2013 out at Hillian Edwards Road?

1 A. Yes, sir. I was called. It was at nighttime, and I  
2 was asked to respond to the hospital in reference to an  
3 assault that had taken place and speak with a suspect they  
4 had in custody at the E.R.

5 Q. And did you -- and who was that suspect?

6 A. I arrived at the E.R. and found Julius Curry in  
7 custody at Chesterfield County Hospital.

8 Q. The defendant?

9 A. The defendant, yes, sir.

10 Q. Now, did you while at the hospital take any pictures  
11 of any injuries?

12 A. Yes, I did.

13 Q. And did you also do an audio interview of the  
14 defendant?

15 A. Yes, I did.

16 Q. And did -- and then, finally, did you have an  
17 opportunity to review, and I guess, to review and download  
18 recordings from calls taken from the jail?

19 A. Yes, I did.

20 Q. Okay. And we'll get to all of those in short order,  
21 but first, let me ask you this. If I could?

22 MR. REDMOND: And, again, Your Honor, we are going to  
23 be referring at this point to State's Exhibit Number One  
24 as it relates to the pictures and interview. Those are  
25 already -- those are on State's One that is already in

1 evidence.

2 BY MR. REDMOND:

3 Q. Could I ask Lieutenant Jordan, if I could, to step  
4 down?

5 A. Yes.

6 Q. And if could ask you to stand on this side of the  
7 television screen so that the jurors can see. Let's go  
8 through some pictures first. Okay. Now, starting with  
9 this picture. Is this picture reflective of what you  
10 found as it relates to the defendant at the hospital?

11 A. Yes, it is. This would be Bed Number Two at  
12 Chesterfield General Hospital.

13 Q. And we will move in closer and elaborate on some of  
14 these pictures. Is this a, and I didn't rotate it, but is  
15 this another picture closer up?

16 A. Yes. That's just a close up picture.

17 Q. And yet even closer?

18 A. Yes.

19 Q. Okay. We have actually heard testimony regarding  
20 this, but is that picture consistent in your experience  
21 with a bite mark to the defendant's back?

22 A. Yes.

23 Q. And could you tell us what this picture represents?

24 A. That's the back of his head.

25 Q. Okay. And are there any, I guess, there any knots or

1 what not on the defendant's head that you noticed?

2 A. There was a little -- right in this area of the head  
3 which has been, the way I look at it, facing him to the  
4 left side of his face up front.

5 Q. Okay. Now, in looking at those knots did you see  
6 any -- was there any blood?

7 A. No.

8 Q. Or open wounds or anything to the back of the  
9 defendant's head?

10 A. No, there wasn't.

11 Q. Okay. And tell us what this picture represents?

12 A. This is a close up of his face. Again, I saw the dry  
13 blood to his right nostril. A little bit of blood on the  
14 right side of his cheek.

15 Q. And this picture?

16 A. Some type of cutting laceration to the right side of  
17 the clavicle area.

18 Q. And just based on your experience and having seen  
19 crime scenes is that consistent with some type of scratch.

20 A. That could a fingernail scratch. Some type of  
21 scratch. would have been a watch of some type. Some type  
22 of scratch.

23 Q. And based on your, I guess, involvement in the case  
24 are you aware of a fight alleged to have occurred prior to  
25 the engagement with Sergeant Coombs that the defendant was

1 involved in?

2 A. Yes.

3 Q. And what is this picture? Could you tell us what  
4 this represents?

5 A. I represents just -- I want to say where the tazer  
6 may have hit him. I'm not sure. He was already bandaged  
7 up. I do not recall what he said that was from.

8 Q. And that's a close up?

9 A. That's a close up shot.

10 Q. Okay. Tell us about this picture?

11 A. That's a right -- that's a side view where he's got  
12 some abrasions and some bruising to the, again, would be  
13 my right side of his face. His left side of his face.

14 Q. Okay. And this picture?

15 A. That would be consistent with maybe some type of  
16 bruising on that left shoulder.

17 Q. And is that a closer picture?

18 A. That's a closer picture.

19 Q. All right. Now, you can take a seat, Lieutenant.  
20 Now, based on your experience, and I talked about crime  
21 scene and asked you about crime scenes, in your time as an  
22 investigator have you seen a lot of crime scenes?

23 A. Oh, yeah.

24 Q. Have you seen a lot of crime scenes where blood or  
25 death?

1 A. Most definitely. Unfortunately, and I'm going on 23  
2 years in October, I've seen a ton of it.

3 Q. Based on the pictures that you viewed here, and you  
4 know we've heard testimony regarding what took place when  
5 he was finally taken into custody or before he was finally  
6 taken into custody heard testimony about that, but based  
7 on your experience would you call the wounds and what you  
8 observed from the Defendant to be severe?

9 MR. SWILLEY: Objection, Your Honor. I just don't  
10 see the relevance of that, and I think it calls the  
11 witness to speculate as well.

12 MR. REDMOND: Your Honor, if I may. Based on the --  
13 what the implications have been by the Defense as it  
14 relates to him being beat up and certain characterizations  
15 I've laid a foundation based on this officer's experience  
16 as it relates to that. So I'm actually replying something  
17 that the Defense himself put up.

18 THE COURT: The problem is you putting -- you're  
19 suggesting -- technically, that might not be a leading  
20 questions, but you sure suggested an answer.

21 MR. REDMOND: I can rephrase the question.

22 THE COURT: I'll have to sustain his objection based  
23 on that, but if you ask him what the general appearance  
24 was, and I'm not trying to run your job. You clean your  
25 question up.

1 MR. REDMOND: I can rephrase the question. That's no  
2 problem.

3 BY MR. REDMOND:

4 Q. Again, based on your experience as we eluded to  
5 earlier how would you characterize the defendant's  
6 injuries? That's probably the best way?

7 A. I would consider them minor. Mild to moderate.  
8 Really wasn't severe.

9 Q. Now. Thank you. As it relates to the -- let's move  
10 on to the interview. You talked about it being an audio  
11 taped interview. Did you, and I turned the t.v. off. Let  
12 me turn it back on. Did you read the defendant his  
13 Miranda warnings?

14 A. I did a verbal Miranda warning with him prior to the  
15 interview.

16 Q. Did he willingly consent to give a statement?

17 A. He told me he understood his rights.

18 Q. And did he subsequently give a statement?

19 A. He gave a statement.

20 Q. And was that statement, again, recorded?

21 A. It was recorded.

22 MR. REDMOND: Court would indulge me. And, Your  
23 Honor, at this time if I might publish -- it's already in  
24 evidence as State's One, but if I may publish the contents  
25 of that interview.

1 THE COURT: Okay.

2 (WHEREUPON, State's Exhibit One played in open Court  
3 for the jury.)

4 BY MR. REDMOND:

5 Q. It that the end of the subsequent portion?

6 A. Yes.

7 Q. Okay. And, again, was this interview done at the  
8 hospital?

9 A. It was done at the hospital, yes.

10 Q. Now, we also talked about some calls from the jail,  
11 and let me just ask you some foundational questions about  
12 how that process works. Now, a phone calls being made out  
13 of the jail by inmates, can they be recorded?

14 A. They are recorded.

15 Q. They are recorded?

16 A. Yes. Yes.

17 Q. And how does that process work?

18 A. What they do is that buy phone cards from the County  
19 Jail and they type in a code that's on the back of the  
20 phone card and they make the phone call.

21 Q. Excuse me. And if, with those calls being recorded,  
22 were you able to access any calls recorded by the  
23 defendant?

24 A. Yes, we accessed several calls from him.

25 Q. And I think at the beginning of each of those calls

1 is there a warning about the call being monitored or  
2 recorded?

3 A. That is correct.

4 Q. Okay. Now, again, did you listen to any phone calls  
5 regarding the defendant?

6 A. Yes, I did.

7 Q. Okay. And there are, I think, four particular areas  
8 that we're going to want to get into regarding those  
9 times. But before I have you step down and discuss those  
10 matters we -- you are using your laptop to hear these; is  
11 that correct?

12 A. That is correct. That's my Department issued laptop.

13 Q. Okay. And I don't actually have a disk drive or a  
14 C.D. that I can actually put into the computer or what  
15 not; is that correct?

16 A. That is correct.

17 Q. And I think in talking with you you were not able to  
18 do it in that form based upon the software. But, again,  
19 is this on your computer accurate as to what was produced  
20 by the jail?

21 A. Yes, is that correct. I have a website that I go to  
22 that is secured. That's what we use. I have my own  
23 issued user name and my own password that I can only get  
24 into that. Anybody in my unit, all my detectives can get  
25 into it. They are issued user names and passwords.

1 Q. All right.

2 MR. REDMOND: If I could at this point, Your Honor,  
3 with the Court's permission I would ask that Lieutenant  
4 Jordan step down and publish this for the jury at this  
5 time?

6 MR. SWILLEY: Your Honor, I'm going to object under  
7 my previous objections of Rule 403 as well as the Rule of  
8 Hearsay in regards to the other parties speaking on these  
9 recording. Please note my objection.

10 MR. REDMOND: And, Your Honor, we would simply say  
11 that it is relevant because the portions that we are going  
12 to be talking about address calls made to Ms. Marshall  
13 Wright whose still here in the courtroom in reference to  
14 this case and her testimony or non-testimony regarding  
15 this case. So we would assert that they are very relevant  
16 in this particular matter.

17 THE COURT: All right. Objection is overruled. Go  
18 ahead.

19 MR. REDMOND: Thank you, Your Honor. This first  
20 call, Your Honor, was made on the 13th of September of  
21 2013. And, Your Honor, if you will indulge us. Because  
22 of the nature of this system we have to physically work it  
23 up to that spot. We ask the Court and the jury's  
24 patience.

25 MR. SWILLEY: And, Your Honor, to preserve the record

1 I would also object to the fact nothing is in evidence at  
2 this point of the actual recording as well. I've made  
3 that objection as well.

4 THE COURT: All right. Noted. I overrule it. Since  
5 there is no proffer here if I find a problem pops up I  
6 will have to step in. There could be ramifications.

7 MR. REDMOND: We are trying to guard against that so  
8 we sort of set the parameters as it relates to admissible  
9 evidence, Your Honor. Your Honor, what we are going to  
10 do, just for the record, is play the first part where it  
11 talks about the admonition about the phone call being  
12 recorded.

13 (WHEREUPON, an audio recording was played for the  
14 jury in open Court.)

15 MR. REDMOND: That concludes that call. The next  
16 call is a little bit further and we're going to move a  
17 little further on, Your Honor. While he's doing that,  
18 Your Honor, if I can just inquire to make sure that the  
19 jurors can actually hear what's going on. Judge, may we  
20 approach, please?

21 (WHEREUPON, a bench conference was held off the  
22 record in the presence of the jury, but out of the  
23 hearing of the jury.)

24 MR. REDMOND: The next call, Your Honor, I think is  
25 on the 17th. It is on the 17th of September.

1 (WHEREUPON, an audio recording was played for the  
2 jury in open Court.)

3 MR. REDMOND: And the last call, Your Honor, is on  
4 the 21st of September.

5 (WHEREUPON, an audio recording was played for the  
6 jury in open Court.)

7 MR. REDMOND: And, Your Honor, that would conclude  
8 all of these jail recordings. And at this point, Your  
9 Honor, I don't have anything further for Lieutenant  
10 Jordan.

11 BY MR. REDMOND:

12 Q. Please answer any questions Mr. Swilley may have for  
13 you.

14 MR. SWILLEY: No cross-examination, Your Honor.

15 THE COURT: You may step down.

16 MR. REDMOND: Beg the Court's indulgence just one  
17 moment. Your Honor, with that the State would  
18 respectfully rest its case.

19 COLLOQUY

20 THE COURT: Ladies and gentlemen of the jury, if  
21 y'all will step back to your jury room, please I have to  
22 take up some matters of law.

23 (WHEREUPON, the jury panel was excused from the  
24 courtroom at 3:25 p.m.)

25 THE COURT: Anything for the record.

1           MR. SWILLEY: Yes, Your Honor. I make a motion for a  
2 directed verdict on all four indictments. Specifically as  
3 to the charge of assault and battery in the second degree.  
4 Your Honor, Statute Section or Code Section 16-3-600  
5 covers assault and battery. And, Your Honor, I believe  
6 that a crime of assault and battery in the second degree  
7 states that if a person unlawfully injures another person  
8 or offers or attempts to injure another person with the  
9 present ability to do so, and moderate bodily injury to  
10 another person results or moderate bodily injury to  
11 another could have resulted which is the allegation in  
12 this case.

13           I don't think there is any non-consensual touching of  
14 the private parts. So that's Sub-section D(1)A. Moderate  
15 bodily injury is defined as physical injury requiring  
16 treatment of the organ system of the body other than the  
17 skin, muscles and connective tissues of the body except  
18 when there is penetration of the skin, muscles and  
19 connective tissue that requires surgical repair of a  
20 complex nature or when treatment of the injuries requires  
21 the use of regional and general anesthesia.

22           I think there is testimony in the record that his  
23 knife for assault and battery in the second degree with  
24 regards to Shiquan Wright. Your Honor, I don't think  
25 there is any testimony. I think, actually, there is

1 testimony in the record that she did not receive any kind  
2 of severe injury other than minor bruising. I think she  
3 admitted that on my cross-examination. There may be  
4 evidence of assault and battery in the third degree which  
5 is a lessor included, but I don't think there is any  
6 competent evidence in the record, at least by Rule 19,  
7 that there was any moderate bodily injury.

8 Your Honor, as to indictment of the criminal domestic  
9 violence of a high and aggravated nature, that is Code  
10 Section 16-25-65, and it says that, "A person who violates  
11 this section is guilty of the offense of C.D.V. H.A.N.  
12 when one occurs. And assault and battery, which involves  
13 the use of a deadly weapon or results in severe bodily  
14 injury or an assault with or without the accompanying  
15 battery which would reasonably cause a person to fear  
16 imminent serious bodily injury or death."

17 Your Honor, those are the two subsections; that's  
18 Subsection A(1)2, and the victim or the State's alleged  
19 victim in this matter, Miss Marshall Wright, testified  
20 that although there was striking on the part of Mr. Curry  
21 he never used the knife in an attempt to harm her. He  
22 never caused any kind of serious bodily injury to the  
23 victim. And there was no assault which would reasonably  
24 cause a person to fear imminent serious bodily injury.

25 There may be evidence in the record of a C.D.V., an

1 ordinary C.D.V., but I don't think the high and  
2 aggravated -- any evidence of the high and aggravated  
3 nature is within the record. So I would make a make to  
4 directed verdict in regards to that indictment.

5 Also, Your Honor, as to the two remaining indictments  
6 I make a motion for a directed verdict regarding those  
7 indictments as well.

8 THE COURT: Solicitor.

9 MR. REDMOND: May it please the Court, Your Honor.  
10 First, to address the last two, the murder and resisting  
11 arrest, obviously, there is evidence in the record that  
12 clearly gives us enough to go forward and let the jury  
13 decide those two charges.

14 As it relates to the C.D.V. -- well, let me go in  
15 order that Mr. Swilley did.. As it relates to assault and  
16 battery second, the part where -- well, he read it in the  
17 statute, but when you talk about altering and to look at  
18 the totality of the circumstances, and that's why I kept  
19 harping on the fact that the knife was visible.

20 And in fact we've got testimony from Ms. Shiquan  
21 Wright that the knife was offered, obviously, during the  
22 course of this confrontation. So even though her injuries  
23 may have been minor it is what could have occurred based  
24 on the circumstances. So with that I think that the State  
25 has met its burden at this point and being able to ask the

1 Court to deny the motion for directed verdict on that.

2 As it relates to the criminal domestic violence high  
3 and aggravated, same concept. Based on the totality of  
4 what was going on, based on the testimony, and in fact I  
5 forgot to mention that Shiquan Wright viewed it as an  
6 emergency situation at the time that she called 911. And,  
7 of course, we've got this weapon involved. We've got her  
8 being locked in a bedroom involved. Not being allowed to  
9 leave.

10 I think based on the totality of what's in the record  
11 the State is also met its burden up to this point in order  
12 to -- in the light most favorable to the State should be  
13 able to proceed on all four indictments to the jury.

14 THE COURT: Well, the evidence has the brandishing of  
15 a knife involved in those first two, and of course, the  
16 attempted murder, too, as well as the resisting arrest.  
17 I'll have to deny the motion.

18 MR. REDMOND: Thank you, Your Honor.

19 MR. SWILLEY: Your Honor, as in regards to whether or  
20 not Mr. Curry can be impeached with a prior conviction,  
21 based upon my understanding the only conviction on his  
22 record that they -- which on its face could come in  
23 evidence under Rule 609 would be a previous conviction for  
24 assault with intent to kill.

25 Proceeding under the Omnibus Crime Bill, that I think

1 you're aware of, that conviction happened in 2008. Your  
2 Honor, I would move that that conviction -- that evidence  
3 of that conviction could not come into the record. Your  
4 Honor, in the case of State v. Colf, C-O-L-F, the Supreme  
5 Court has said that that the Court must do a balancing act  
6 by specific factors and weighing those factors in  
7 determining whether or not a conviction should be  
8 admitted. And I'll hand up a copy to the Court.

9 And those factors are the impeachment value of the  
10 prior crime at the point and time of the conviction and  
11 the witness' subsequent history, similarity between the  
12 past crime and charged crime, the importance of the  
13 defendant's testimony and the centrality of the  
14 credibility issues.

15 Your Honor, I also have another case which is the  
16 State v. Stacy Howard. That was out of Georgetown County,  
17 Judge, where the Court ruled that even though it is a  
18 remote conviction it is within the past ten years. The  
19 Court -- the trial court had not weighed the factors  
20 appropriately and ruled that the Court -- I believe ruled  
21 that the conviction should not come in against the  
22 defendant. It is a situation somewhat similar to this  
23 situation.

24 Your Honor, the impeach value of the prior crime, I  
25 would argue to the Court, is not very strong being that

1 it's a previous conviction for assault with intent to kill  
2 rather than a crime that lends any kind of -- that would  
3 be indicative of the defendant's veracity on the stand.  
4 This happened back in 2007. I think he was convicted in  
5 2008, and I don't think he has any kind of substantial  
6 history subsequent to that.

7 The similarity to the -- the third factor is the  
8 similarity of the previous conviction of A.W.I.K. and this  
9 case is extremely similar. Essentially, it's the same  
10 charge. There was no attempted murder back then. It  
11 was -- originally it was assault and battery with intent  
12 to kill. He pled guilty to assault with intent to kill,  
13 and he was convicted of that. Received eight years.

14 Judge, this case is -- the important -- Number Four,  
15 the importance of the defendant's testimony is extremely  
16 important. He is going to be -- well, he would be the  
17 only witness the Defense is going to put up to testify to  
18 any factual matters. Well, he's going to be the only  
19 witness, period. The importance of his testimony is  
20 great.

21 And, essentially, Number Five is the centrality of  
22 the credibility issue. I mean this is pretty much -- I  
23 don't want to call it a swearing match, but the jury has  
24 to weigh testimony of one witness versus the testimony of  
25 another witness and decide whether or not the State has

1 met its burden of proof. So the credibility issue of this  
2 is essential.

3 Your Honor, I think weighing all those factors the  
4 Court should not find that the previous conviction should  
5 not be admitted in against Mr. Curry if he chooses to  
6 testify. There is another case that just came out that  
7 covers this issue. I'm sorry. Never mind. That was  
8 Howard. I think I handed that up.

9 THE COURT: Well, the Solicitor knows where I'm  
10 headed with this.

11 MR. REDMOND: Mr. Farr and I were just having that  
12 discussion. In my age I have learned when to shut up and  
13 really just concede. This would be one of those  
14 situations. Obviously, Your Honor, I don't know that that  
15 jury is going to do, but assuming there is a conviction  
16 this issue could result in this case being reversed. And  
17 it's not worth that risk, and as I understand the law I  
18 don't contest what Mr. Swilley is saying. So we are not  
19 going to force that issue.

20 THE COURT: All right, now, you know Mr. Swilley is  
21 right on point with this, but you do know, and I'll leave  
22 that up to you, that I have been affirmed on allowing the  
23 State, if he takes the stand and you go to impeach him,  
24 you can limit it to felony or misdemeanor. But, clearly,  
25 this one as far as the assault, whatever the assault

1 was -- is, would fly right in the face of the decision Mr.  
2 Swilley handed up. So that's out of the question.

3 You know that, and whether you want to.

4 MR. REDMOND: I actually am interested when you say  
5 that as opposed to saying an assault, and obviously I  
6 wasn't going to mention any jail time, but that was  
7 something that the State was considering possibly asking  
8 have you been convicted of a General Sessions charge in  
9 the past or something along those line is really what the  
10 direction that I was leaning towards without getting any  
11 further than that.

12 THE COURT: That will be up to you, and of course,  
13 Mr. Swilley can object at that time. I'm just telling you  
14 that I've already been affirmed on limiting that issue to  
15 asking if they have been convicted of a felony or a  
16 misdemeanor but not getting into the specific charge.

17 MR. REDMOND: Yes, sir.

18 THE COURT: Okay?

19 MR. REDMOND: Yes, sir.

20 MR. SWILLEY: Yes, sir. And can I inquire. I don't  
21 have a copy of his N.C.I.C. or anything.

22 MR. REDMOND: Oh, here it is. And that's the only  
23 conviction. I think only one conviction out of Maryland.  
24 It's back in the 90's so I can't even remember what the  
25 conviction was. It was in the early to mid 90's. So

1 about 20 years ago. So that's actually the only thing in  
2 that time that would be impeachable.

3 THE COURT: Okay. I guess I might better talk to Mr.  
4 Curry about his Fifth Amendment rights. Have you covered  
5 those with him, Mr. Swilley.

6 MR. SWILLEY: We discussed it, yes, Your Honor.

7 THE COURT: All right. Mr. Curry, have you got any  
8 questions about your Fifth Amendment rights?

9 MR. CURRY: Just to be clear what are they exactly.

10 THE COURT: All right. Let me go over them for you.  
11 Under the United States Constitution Fifty Amendment and a  
12 similar counterpart of the State Constitution of South  
13 Carolina you certainly have a right to invoke your Fifth  
14 Amendment rights. In other words, you have the right to  
15 remain silent. If you elect not to testify that cannot be  
16 used against you in any way. It cannot mitigate against  
17 you in any way. In fact I would instruct the jury that  
18 they can't even discuss your election not to testify back  
19 in the jury room. That's totally off limits.

20 You have a constitutional right to remain silent.  
21 Now, you have a right to testify, but you have that  
22 constitutional right not to testify. Any decision that  
23 you make in this regard needs to be yours, yours alone  
24 after you have been advised by counsel which he says he's  
25 discussed it with you and after I have discussed this with

1     you.

2             Your decision has to be freely and voluntarily and  
3     intelligently made. Now, if you do elect to testify you  
4     do understand, I hope you understand, that you can be  
5     impeached just like any other witness except, now, when it  
6     comes to this prior conviction. We've already hashed that  
7     out. You open yourself up to be cross-examined just like  
8     any other witness. Do you understand everything that Mr.  
9     Swilley has gone over with you?

10            MR. CURRY: Yes, sir.

11            THE COURT: You understand what I just went over with  
12     you?

13            MR. CURRY: Yes, sir.

14            THE COURT: Do you have any questions?

15            MR. CURRY: No, sir.

16            THE COURT: All right, then. Do you wish to testify  
17     or not?

18            MR. CURRY: Yes, sir.

19            THE COURT: You do?

20            MR. CURRY: Yes, sir.

21            THE COURT: Okay. And that's your decision? Yours  
22     alone after discussing this with counsel and my colloquy  
23     with you?

24            MR. CURRY: Yes, sir.

25            THE COURT: All right.

1 MR. REDMOND: Your Honor.

2 THE COURT: Just a second.

3 MR. REDMOND: I was going to ask to take a quick  
4 break. I know they have been back there and what not, but  
5 I assume we're going to go right into the Defense's case.  
6 I was wondering if I can have like five minutes.

7 THE COURT: You've got it.

8 MR. REDMOND: Thank you.

9 THE COURT: Matter of fact, I'm going to step down a  
10 minute.

11 MR. REDMOND: Thank you, Judge.

12 (WHEREUPON, Court was in recess at 3:40 p.m. and  
13 reconvened at 3:46 p.m.)

14 THE COURT: All right.

15 (WHEREUPON, the jury panel enters the courtroom at  
16 3:46 p.m.)

17 THE COURT: Mr. Swilley.

18 MR. SWILLEY: Thank you, Your Honor. Defense calls  
19 Julius Curry.

20 JULIUS CURRY, after being duly sworn, testified  
21 as follows:

22 DIRECT EXAMINATION

23 BY MR. SWILLEY:

24 Q. How are you doing, Julius?

25 A. I'm doing all right.

1 Q. Lean up a little bit towards that microphone if you  
2 don't mind. Julius, where are you from?

3 A. Baltimore, Maryland.

4 Q. Okay. And tell me what your address is?

5 A. 996 Hillian Edwards Road?

6 Q. Julius, do you remember August the 30th of 2013?

7 A. Yes, I do.

8 Q. Okay. Do you recall what happened around ten o'clock  
9 that night?

10 A. Yes.

11 Q. All right. Tell me what happens based upon your  
12 recollection of that night?

13 A. Me and my girlfriend, Marshell, we had been drinking  
14 pretty heavy that day. Also doing cocaine. So we was  
15 walking down to the trailer park. Once we got to the  
16 trailer park we got some more cocaine, and we proceeded  
17 back to the house. On the way back to the house we was  
18 stopped by some guys in a car. It was two of them, and  
19 they asked if me I wanted to get in to get a ride.

20 I didn't want to ride cause I don't generally deal  
21 with those guys in the area. So we proceeded to walk.  
22 Well, I proceeded to walk. My girlfriend jumped in the  
23 car. It upset me cause I been drinking. And I'm not very  
24 easy going to stuff like that because I'm not from down  
25 here. So I'm not familiar with the people the way they do

1 things down here.

2 So my first impression is you get in that car and  
3 anything could happen to you whether you say you know them  
4 or not know them by face. So when she gets in it upsets  
5 me. So I proceeded. So I'm walking down the street by  
6 myself, and I'm just thinking about that. So by the time  
7 I get home I'm pretty upset. I goes into the house and  
8 I'm asking her, "Well, why did you get in the car? Why  
9 did you do that? Why did you leave me."

10 And I could see the driver when you got in the car.  
11 We wasn't that far. She proceeded to say ---

12 MR. REDMOND: Julius, don't tell me what anybody  
13 said?

14 A. Okay. I'm sorry. Well, she -- when we were back and  
15 we were in like pretty much an argument or heated  
16 conversation, and one thing lead to another and I slapped  
17 her. Maybe I shouldn't have slapped her, but I did it.  
18 It got a little more heated than I intended because things  
19 got more physical because her daughter got into it.

20 And before I knew it it was her, her mother and me  
21 and we was all going at it. So the competition got a  
22 little bit thick, and I was talking to her and I was like  
23 I couldn't believe she jumped on me. I was pretty  
24 intoxicated so I wasn't really thinking rationally. So at  
25 the time it was like I had asked myself I already knew I

1 wasn't -- but, her daughter, Marshell's daughter, Shiquan,  
2 ended up leaving to call the police, and we were still  
3 arguing a little bit.

4 Marshell and myself was in the living room where she  
5 was trying to calm me down. She was doing pretty good,  
6 but I was still aggravated. And I was trying to talk to  
7 her, but she didn't want to listen. She wanted to try to  
8 calm me down.

9 So I started to get aggravated. So when I went and  
10 talked to her we ended up going into the bedroom. She was  
11 like, "Let's go into the bedroom. You know, get away from  
12 in here." So I pushed the chair to the door. We were  
13 sitting there and we were still talking. We ended up in  
14 the bedroom.

15 Q. Julius, tell me why you pushed the chair in front of  
16 the door?

17 A. Because the door was broken. The door was broken  
18 because of the incident before. And I left back out the  
19 house one of the locks to the door, and I forced the door  
20 open. So the lock on the door was broken. So when  
21 Shiquan left to call the police the door was broken.  
22 Anybody could have just pushed it open and came in.

23 And then she had left, and when she did she said,  
24 "I've got something for you or you're going to get yours."  
25 I didn't know what she was going to do. Well, call

1 somebody or call one of her friends up. So I pushed it  
2 trying to keep the door shut. Once we got in the bedroom  
3 me and Marshell was talking, and she was trying to calm me  
4 down. And she was telling me that I was acting kind of  
5 irrational. I went overboard and it wasn't necessary. So  
6 I was kind of agreeing with her. I was calming down, and  
7 that's when I heard someone outside the door calling my  
8 name.

9 I believe it was like something like -- first I heard  
10 my first name. Somebody saying, "Julius." Then I heard  
11 somebody -- they call me J. Then I heard, "J, come out  
12 here." So I'm still talking to Marshell. I was kind of  
13 like ignoring them. The door comes open and I turn to  
14 look. And Mr -- Officer coombs has his tazer pulled out.  
15 And the time I didn't know it was a tazer.

16 Q. Okay. When -- at this point come on off the stand  
17 and show me what Officer Coombs appeared like to you.  
18 Stand right there. Stand right there. Tell me what  
19 all -- again, what did Officer Coombs do? Speak up  
20 because the jury has got to hear you.

21 A. Well, at the time Officer Coombs came in. He had  
22 pushed the door open.

23 Q. Okay.

24 A. And I was standing maybe a little bit further than  
25 what you are.

1 Q. Okay. What's that in your hand?

2 A. I had my knife in my hand.

3 Q. What hand in your knife in?

4 THE COURT: You're going to have to speak up.

5 THE WITNESS: It's in my right hand.

6 BY MR. SWILLEY:

7 Q. Okay?

8 A. But my right hand was on the bed. On the side of the  
9 bed.

10 Q. Okay.

11 A. And I was still talking to Marshell.

12 Q. You've got to speak up. Not yell, but you've got to  
13 speak out kind of loud so the court reporter can get it  
14 and the jury can hear you, okay?

15 A. So when he comes in he already had his tazer pointed  
16 at me. I turned, and I see him. So I go to move my hand  
17 to get rid of the knife, but before I got a chance to move  
18 any further than just an foot he had shot me with the  
19 tazer.

20 Q. Where did the prongs hit you?

21 A. One hit me in my throat.

22 Q. Right here?

23 A. Yes.

24 Q. Okay.

25 A. On my abdomen.

- 1 Q. Where did the other one hit you?
- 2 A. My stomach.
- 3 Q. Your stomach?
- 4 A. Um hum.
- 5 Q. Okay.
- 6 A. And that's when he started shocking me.
- 7 Q. Okay. What happened when he shocked you?
- 8 A. I ended up on the floor.
- 9 Q. Okay. You fell face first on the floor?
- 10 A. Yes.
- 11 Q. Like this? Face up?
- 12 A. Yes. With my arms.
- 13 Q. Where were your arms?
- 14 A. Underneath me.
- 15 Q. Okay. Your arms were underneath you, right?
- 16 A. Yes.
- 17 Q. Okay. Tell me what happened next?
- 18 A. So then he steady shocked me, and he steady talking
- 19 to me but I can't understand what he's saying because the
- 20 inside of my head is gurgling. I don't know if it was the
- 21 electricity, from the shock.
- 22 Q. Okay?
- 23 A. So he's steady shocking me. The first shock, it
- 24 stopped.
- 25 Q. Okay.

1 A. Then he said -- he said something to me, and he  
2 shocked me again?

3 Q. Okay.

4 A. Then about the time I was like coming out of the  
5 second shock he started talked like, "Drop the knife.  
6 Drop the knife." So I was talking to him. I can't  
7 remember the point what I was saying, but he shocks me  
8 again. At the end of that shock I see him, like out of my  
9 eye got movement.

10 Q. Okay.

11 A. So he's like coming towards me.

12 Q. Okay. And walk towards me like he was walking  
13 towards you. Okay?

14 A. He shocked me again. He stood there still saying  
15 something. I guess he was saying drop the knife. So  
16 first thing I did was I lifted my hand up. I don't know.  
17 I think he got where I was, but I recall him coming down  
18 with his foot on me.

19 Q. Okay. His foot was on what now?

20 A. My hand.

21 Q. His foot was on your hand?

22 A. His foot was on my hand.

23 Q. Which hand?

24 A. At that time he was behind me?

25 Q. Okay.

1 A. So he came up and he put his foot on my hand. And I  
2 don't know exactly how I was sitting, but I was on my  
3 back.

4 Q. All right. You're on your back?

5 A. Yeah.

6 Q. Now ---

7 A. He was down on the side of me.

8 Q. Okay.

9 A. And at that point I kind of lift my head up.

10 Q. Okay.

11 A. And he -- I remember him head butting me. I'm trying  
12 to get him off of me. I'm trying to push him off of me.  
13 So before I knew it Wayne -- I think his name is Wayne.

14 Q. Are you referring to Officer Wallace?

15 A. Wallace.

16 Q. Okay.

17 A. Came in and tazed me in my stomach.

18 Q. Okay.

19 A. And it was hurting pretty good, but I heard Coombs  
20 tell him to hit me, and he was like proceeded to hit me in  
21 my face. And I was still yelling for my girlfriend. So  
22 Wallace was punching me, and I was calling for Marshell.

23 Q. Speak up.

24 A. And he was kneeling me in my side telling me to shut  
25 up, shut up, shut up. So he was holding me down while

1 Coombs started hitting me in my face. And that's when he  
2 put the handcuffs on me.

3 Q. Okay.

4 A. But I never had that knife.

5 Q. Okay. Please sit back on the stand, Julius. Okay.

6 All right. And after the handcuffs were on you what do  
7 you recall happening after that?

8 A. I was sitting cause I couldn't breathe because I was  
9 like in an asthma attack. So they was joking about it  
10 like it was funny to them. I heard one officer say to  
11 just go into the light, and I'm telling them, "Look, I  
12 need my asthma -- I can't breathe. I can't breathe. It's  
13 not a joke. So I'm screaming for Marshell so she can get  
14 my asthma pump.

15 Q. Okay.

16 A. They -- I don't know exactly how long it took, but  
17 they never did. The ambulance got there before they got  
18 it for me, and I went to the hospital.

19 Q. Okay. Julius, do you have a problem with one of your  
20 hands? One of your wrists?

21 A. Yes.

22 Q. All right. Which wrist is this?

23 A. My left hand.

24 Q. Are you left handed or right handed?

25 A. I'm right handed.

1 Q. Right handed; okay. Now, your left hand, show me  
2 your left hand. All right. Tell me what is wrong with  
3 your left wrist?

4 A. I had broke it from a compound fracture.

5 Q. Okay.

6 A. Where it's one here on my wrist and one right back at  
7 the back of my wrist.

8 Q. And how did these rods in you wrist limit your range  
9 of motion?

10 A. Well, from going forward this is about as far as I  
11 can go.

12 Q. Okay.

13 A. Forward motion, and I can't go back at all.

14 Q. Okay. All right. And do you recall getting to the  
15 hospital after you were taken there by the ambulance?

16 A. Yes, I remember going to the hospital. Yes.

17 Q. All right. And tell me about how you were feeling at  
18 that time you were in the hospital?

19 A. Pretty disoriented, in pain, unset.

20 Q. Okay. Do you remember talking to Investigator  
21 Jordan?

22 A. Yes.

23 Q. Okay. How good is your recollection of that  
24 particular interview?

25 A. Pretty good.

1 Q. Pretty good, okay. About how long after you had been  
2 tazed repeatedly did you give that interview? If you  
3 don't know it's okay.

4 A. I don't know. I couldn't tell you that.

5 Q. Okay. Julius, did you ever try to stab anybody that  
6 night?

7 A. No, I didn't.

8 Q. Okay. Did you -- and subsequent -- well, okay, and  
9 later on after you -- that wasn't the last time that you  
10 had any contact with Marshell, obviously, was it?

11 A. No.

12 Q. Okay. Tell me how frequently you spoke with Marshell  
13 after that. About how often did you talk to Marshell  
14 after that?

15 A. Pretty often. In the beginning she came to see me  
16 every weekend except two or three weekends on visits. She  
17 came on my visits.

18 Q. Okay.

19 A. But as far as phone calls, almost every day for a  
20 couple of months then it started to taper off a little  
21 bit.

22 Q. And based upon what you observed, right, and I know  
23 this is just what you observed, did you observe or did you  
24 perceive her wanting to perpetuate -- did you perceive her  
25 wanting to go forward with the prosecution? Her choice?

1 A. Say that again.

2 Q. From what you perceived, now. What you perceived of  
3 her.

4 A. Okay.

5 Q. Did you perceive her wanting you to be prosecuted or  
6 not wanting to be prosecuted?

7 A. Not.

8 Q. Okay. And tell me the different kinds of contact  
9 y'all have had since this incident, you and Marshell?

10 A. What do you mean different kinds?

11 Q. I mean did she visit you.

12 A. In the beginning she visited me pretty much every  
13 visit that she could until I believe it was the Sheriff's  
14 Department or the Detention Center said she couldn't.

15 Q. Okay. Did she write you?

16 A. Yes.

17 Q. Okay. Based upon what you -- based upon your  
18 understanding and your observations dis she want to  
19 continue a relationship with you or discontinue the  
20 relationship?

21 A. Continue. Like we were engaged, and we were on our  
22 way to getting married. And she even made statements that  
23 she was ---

24 MR. REDMOND: Your Honor, I would object to any  
25 hearsay

1 THE WITNESS: Okay. Well. Okay ---

2 Q. Stop. Okay, Julius, do you still love Marshell?

3 A. Very much.

4 Q. Okay. All right.

5 MR. SWILLEY: Beg the Court's indulgence.

6 BY MR. SWILLEY:

7 Q. Okay, Julius, tell me real quick how tall are you?

8 A. 5'8".

9 Q. 5-foot eight?

10 A. Yes.

11 Q. And how much you weigh?

12 A. Now, about 150, 152.

13 Q. All right. About how much did you weigh at that time  
14 on August the 30th of 2013?

15 A. 140.

16 Q. 140, okay. And how old are you?

17 A. Forty-five.

18 Q. Forty-five now. Okay.

19 MR. SWILLEY: Beg the Court's indulgence.

20 THE COURT: Sure.

21 BY MR. SWILLEY:

22 Q. All right. Julius, answer any questions that Mr.  
23 Redmond has for you.

24 A. Okay.

25 MR. REDMOND: May it please the Court, Your Honor.

CROSS-EXAMINATION

BY MR. REDMOND:

Q. Obviously, you are hoping that the jury believes what you testified to. Would that be a fair statement?

A. Yes.

Q. Well, in talking about your what we call veracity or truthfulness, I think it's important for me to ask you. In 2008 isn't it true that you pled guilty to a General Sessions charge here in Chesterfield County?

MR. SWILLEY: Objection, Your Honor.

THE COURT: Noted, but overruled on that question so far.

THE WITNESS: Yes.

BY MR. REDMOND:

Q. Okay. Now, moving on into the incident, and I guess let me just start off with some of the things that you have testified to. You went into, and I believe Mr. Swilley was on the floor and what not, went into some detail as it relates to what happened after you were tazed and all that good stuff, right?

A. Yes.

Q. But you never addressed the fact in your direct examination that on the tape that we heard that you gave immediately after the incident you, and I'm loosely quoting here, you didn't remember being tazed. Yet today

1 you went into a full production with your attorney of how  
2 you got tazed, what happened and what not. But isn't it  
3 true that at that time you claimed you didn't remember  
4 being tazed?

5 A. Yeah, I guess ---

6 Q. I mean that was you on the tape, right?

7 A. Yeah, that was me.

8 Q. And that was you talking to Lieutenant Jordan?

9 A. Yeah.

10 Q. And that was you that said you did not remember being  
11 tazed?

12 A. Probably didn't at the time. I was pretty  
13 intoxicated at the time..

14 Q. Well, and to that end you were pretty intoxicated yet  
15 you remembered what you claim they did to you. Remember  
16 you talked about the fact that Marshell and Shiquan had  
17 jumped you, and you went through what was going on up to  
18 that point. But then when Lieutenant Jordan asked you  
19 about the law enforcement involvement you really didn't  
20 have much to say because you say you didn't remember  
21 anything, right?

22 A. Yeah. I didn't have too much to say because they  
23 didn't ask me much.

24 Q. Well, when somebody asks you something and you say  
25 you don't remembering being tazed. I think us said that

1 the only thing that you remember is you said you didn't  
2 threaten to kill anybody. You said you didn't remember  
3 anybody, I guess, coming in announcing themselves as law  
4 enforcement. So at that point what else is there to ask  
5 you if you claim you don't remember? That a fair  
6 question?

7 A. Some say.

8 Q. Now, moving on to, I guess, some of the things that  
9 you have told us for the first time today that you talked  
10 about being upset. So -- and it's interesting that you  
11 said that. When you went to the house you were upset. I  
12 think you also admitted that you kicked in the door, isn't  
13 that true?

14 A. Eventually, yes.

15 Q. Okay. So you were mad about her getting in the car.  
16 You kicked in the door, and you even admitted to slapping  
17 Marshall. You initiated the physical contact that took  
18 place in this incident. Isn't that true?

19 A. Yes.

20 Q. Okay. And she's a woman. You're a man, and but you  
21 decided that you needed to slap her because you were not  
22 happy. You were upset with her for getting in the car and  
23 driving just down the street, right?

24 A. I wouldn't say that I was right about that.

25 Q. But?

1 A. But after that I was pretty normal.

2 Q. But you did admit to that. In fairness you did admit  
3 that you were wrong about that. But then you also talk  
4 about the fact, and these are your words not mine, that  
5 you were not thinking rationally. So when you say that  
6 could you and I agree about the fact that when you say  
7 you're not thinking rationally you realize that there were  
8 a lot of things that took place in that incident that you  
9 were wrong about because you were not thinking rationally.  
10 Is that a fair statement? Can we agree on that?

11 A. Being irrational about something and take place in  
12 something that just didn't happen are two different  
13 things.

14 Q. Well, I couldn't understand what you just said. What  
15 did you say?

16 A. Not thinking rationally and taking place in something  
17 that didn't happen are two different things.

18 Q. Well, you said that it didn't happen, but according  
19 to you, remember, you don't remember it happening. And  
20 now today, like I said, after your testimony was built  
21 about something you claim you don't remember. Isn't that  
22 true?

23 A. No. That's not true.

24 Q. Okay. So ---

25 A. At that time I don't remember being tazed. And in

1 the statement I said I don't remember being tazed. I  
2 didn't say that I don't ---

3 Q. But you just -- okay. I'll let you finish. Go  
4 ahead. Are you done?

5 A. Yes.

6 Q. But you just finished saying, yeah, you got tazed  
7 here. You got tazed here. You go through that whole  
8 episode. Again, your lawyer got on the ground and  
9 demonstrated how you were positioned after you got tazed.  
10 So, again, can we agree that today you have changed what  
11 you said initially? In other words it's different. You  
12 changed your story from the time you talked to Lieutenant  
13 Jordan until today you've changed your story. It's pretty  
14 simple. Yes or no?

15 A. No. It's not simple.

16 Q. Yes or no, did you change your story?

17 A. Yeah.

18 Q. Okay. Thank you. Thank you. Now, another thing  
19 that I'm somewhat curious about is that when you talk  
20 about the knife, at what point the knife became involved,  
21 when did you -- and I'm unclear. You might have said it  
22 and I may have just missed it, but when did you get the  
23 knife? When did the knife come out?

24 A. You mean ---

25 Q. In other words when did you knife ---

1 MR. REDMOND: Beg the Court's indulgence.

2 BY MR. REDMOND:

3 Q. When did your knife first become involved in this  
4 incident? When did you pull it out?

5 A. We were in the living room, I believe, when the whole  
6 altercation took place. Marshall was still talking, but  
7 Shiquan had pulled a bottle, a pretty fair sized bottle,  
8 out on me. And I guess the first thing that went through  
9 my mind -- I can't remember exactly what I was thinking at  
10 the time, was she had a weapon against me. So I pulled my  
11 knife out.

12 Q. Okay. But Shiquan had left?

13 A. No.

14 Q. No, I mean after that she left?

15 A. Yeah.

16 Q. But the knife was still out?

17 A. Because she said that she got something for me and  
18 you're going to get yours. So I didn't know what was  
19 going to take place. So, yeah, we were still talking and  
20 I still had the knife.

21 Q. Okay. And then when you went back into the bedroom  
22 the knife was still out. Shiquan was gone. You had  
23 barricaded the door, and the knife was still out.

24 A. The door wasn't barricaded.

25 Q. Well, you said you locked the door because you were

1     afraid what she might come back and do to you?

2     A.    I never said I locked the door.  I said that we were  
3     in the bedroom.

4     Q.    So you never locked the door?  You never locked any  
5     door?  You locked the front door?  You barricaded the  
6     front door earlier, right?

7     A.    Put the chair in front of the front door, yes.

8     Q.    Because you were afraid of her coming back and doing  
9     whatever, Shiquan?

10    A.    I wasn't afraid of Shiquan doing anything to me.  I  
11    didn't know who she was going to bring with her.

12    Q.    Fine.  But, any way, the knife is out?  Your knife is  
13    out?  Your knife stayed out even after she left, right?

14    A.    Yeah.

15    Q.    While you were in there with Marshall, right?

16    A.    Yes.

17    Q.    Even after you claim that you were calming down the  
18    knife was still out, right?

19    A.    Yes.

20    Q.    Because you say, I think, that when the officer came  
21    in you had actually dropped the knife at the time you were  
22    tazed.  Oh, by the way, you don't remember being tazed  
23    initially, but according to what you're saying today ---

24           MR. SWILLEY:  Objection, Your Honor.  I don't think  
25    that's really ---

1 MR. REDMOND: I'll rephrase. I'll rephrase.

2 THE COURT: All right.

3 BY MR. REDMOND:

4 Q. What point -- you still had the knife out when Jimmy  
5 Coombs came into the bedroom, right?

6 A. Yes.

7 Q. Okay. And you claim that you dropped the knife after  
8 you got tazed?

9 A. Yeah.

10 Q. But in your statement you don't remember being tazed.  
11 Isn't that's what you said in your statement?

12 A. Yes.

13 Q. Okay. So that would be a part of the story that  
14 changed?

15 A. What? About me remembering being tazed?

16 Q. Yeah. Yes, sir.

17 A. Yeah.

18 Q. Okay. That changed. That's it. Now, if things had  
19 calmed down and you had been asked to come outside or what  
20 not why didn't you just comply and go out?

21 A. Excuse me?

22 Q. Why did they have to kick the door in?

23 A. Could you repeat that?

24 Q. Why did they have to kick that door in? You said  
25 that you were calming down. If you were calming down why

1 didn't you just go outside when you were asked to go out?

2 A. Like I said when I was speaking with my attorneys I  
3 was still talking with Marshell, and I heard someone call  
4 my name. I didn't know who it was out there. I didn't  
5 hear them say it was anybody. I just heard somebody call  
6 my name. Once he said my name again I proceeded to talk  
7 to Marshell again ignoring anyone calling my name. Yeah,  
8 I heard someone call my name, but I was just ignoring who  
9 it was.

10 Q. Okay. So somebody was calling your name, but nobody  
11 identified themselves as the Sheriff's Office, told you  
12 that you needed to come out so there wouldn't be no more  
13 trouble? You just heard somebody calling your name, and  
14 Jimmy Coombs busted in on you? That's your testimony  
15 today?

16 A. My testimony is that I heard someone call my name.  
17 I'm not paying any attention. I'm trying still to talk to  
18 Marshell. Now, once he kick the door in and I recognized  
19 him as being a sheriff is when I tried to get rid of the  
20 knife and got tazed.

21 Q. Okay. Now, let me ask you this because you really  
22 don't talk about it in your direct examination. Let's  
23 talk about these jail calls. Getting into the changing  
24 story part, that's what I'm leading up to to be honest.  
25 Don't really address -- you heard yourself on tape today,

1     didn't you?

2     A.    Yes.

3     Q.    You heard things you hadn't said, didn't you?

4     A.    Yes.

5     Q.    Heard what you were trying to tell Marshell, didn't  
6     you? Heard the things that y'all were discussing about  
7     her testimony and not coming to Court and things of that  
8     such? You made those calls, didn't you?

9     A.    Yes.

10    Q.    That's you on those recordings, isn't it?

11    A.    That's me.

12    Q.    Like I said talk about changing stories.

13           MR. REDMOND: Your Honor, with that -- oh, beg the  
14    Court's indulgence. Your Honor, that will be all the  
15    questions I have at this time for this witness or this  
16    defendant.

17           THE COURT: Anything further?

18           MR. SWILLEY: There is not, Your Honor.

19           THE COURT: Yes may step down. Thank you.

20           MR. SWILLEY: Your Honor, the Defense would rest at  
21    this juncture.

22           THE COURT: Anything in rebuttal?

23           MR. REDMOND: Your Honor, if I may have just a  
24    moment. I need to confer with my witness to make sure  
25    that I don't.

1 THE COURT: Sure.

2 MR. REDMOND: Briefly, Your Honor, I'm calling  
3 Marshell Wright.

4 THE COURT: You're still under oath, Ms. Wright.

5 MARSHALL WRIGHT, after previously being duly  
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. REDMOND:

9 Q. The Defendant said that, you know, when he was giving  
10 his address that he said that he still lived at that  
11 Hillian Edwards Road. Does he still have any of his stuff  
12 there at the house?

13 A. Yeah, most of his stuff is still there at the house.

14 Q. Okay. However, is it your understanding that he is  
15 going to continue living there? Whose house is that?

16 A. It's mine.

17 Q. Okay?

18 A. On range.

19 Q. And in your name?

20 A. Yes.

21 Q. And I'll just ask you directly. Is he welcomed to  
22 come back to that house?

23 A. No because he told me ---

24 MR. SWILLEY: Objection, Your Honor.

25 MR. REDMOND: She's say what the defendant said.

1 THE WITNESS: He told me to give his aunt his stuff.

2 MR. SWILLEY: There was no ruling. I was objecting  
3 on the basis of relevance.

4 MR. REDMOND: Your Honor, it was based on what he had  
5 said because he went through a whole thing about being  
6 engaged and things like that. I just want to make sure it  
7 was clear where they stood especially with him giving that  
8 address.

9 THE COURT: Go ahead. I'll overrule.

10 MR. REDMOND: Okay.

11 BY MR. REDMOND:

12 Q. Go ahead. Repeat what you just said?

13 A. He told me to call his aunt and for her to come pick  
14 his stuff up.

15 Q. Okay. So based on your discussions with him it's his  
16 understanding that it's over between you?

17 A. Yeah.

18 MR. REDMOND: I have nothing further, Your Honor.

19 MR. SWILLEY: No cross, Your Honor.

20 THE COURT: You may step down. Thank you.

21 MR. REDMOND: And that would be all the State has.

22 COLLOQUY

23 THE COURT: All right. It is 15 minutes after 4:00.  
24 We will not go any further today. Got a doctor's  
25 appointment that we've got to meet. Let's fire back up at

1 9:30 in the morning. We will have closing arguments and  
2 then the charge. We will put you to deliberating. Madam  
3 Clerk, if you will put on the phone a message. If you  
4 will tell Jury Number Two to report at eleven o'clock,  
5 please.

6 CLERK OF COURT: I sure can.

7 THE COURT: Anything before we break for the night?

8 MR. REDMOND: Nothing from the State, Your Honor.

9 MR. SWILLEY: Nothing from the Defense, Your Honor.

10 THE COURT: Okay. Everybody else remain seated.  
11 Remember, jurors, don't let anybody approach y'all about  
12 this case. We will see you in the morning.

13 (WHEREUPON, the jury panel was excused from the  
14 courtroom at 4:19 p.m.)

15 THE COURT: All right. We're in recess until 9:30 in  
16 the morning.

17 END OF TRANSCRIPT OF RECORD

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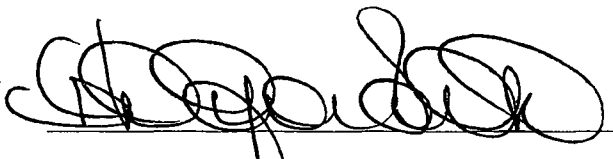
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA       )  
                                          )  
COUNTY OF CHESTERFIELD       )

I, HATTIE O. GORDON, Official Court Reporter for the  
4th Judicial Circuit of the State of South Carolina, do  
hereby certify that the foregoing is a true, accurate and  
complete Transcript of Record of the proceedings had and  
evidence introduced in the trial of the captioned case,  
relative to appeal, in the Court of General Sessions for  
Chesterfield County, South Carolina, on the 4th day of  
March, 2014.

I do further certify that I am neither of kin,  
counsel nor interest to any party hereto.

May 13, 2014

A handwritten signature in black ink, appearing to read 'Hattie O. Gordon', written over a horizontal line.

HATTIE O. GORDON, Court Reporter

|                               |   |                          |
|-------------------------------|---|--------------------------|
| STATE OF SOUTH CAROLINA       | ) |                          |
|                               | ) | COURT OF GENERAL SESSION |
| <u>COUNTY OF CHESTERFIELD</u> | ) | 2013-GS-13-0697          |
|                               |   | 2013-GS-13-0698          |
|                               |   | 2013-GS-13-0699          |
|                               |   | 2013-GS-13-0700          |

|                         |   |                      |
|-------------------------|---|----------------------|
| STATE OF SOUTH CAROLINA | ) |                      |
| PLAINTIFF               | ) |                      |
| vs.                     | ) | TRANSCRIPT OF RECORD |
|                         | ) |                      |
| JULIUS CURRY            | ) |                      |
| DEFENDANT               | ) |                      |

March 3-5, 2014  
 Chesterfield, South Carolina  
 Volume Number 03 of 03

B E F O R E:

THE HONORABLE PAUL M. BURCH, JUDGE; and a jury.

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

KERNARD REDMOND, DEPUTY SOLICITOR  
 Attorney for the State

MATTHEW SWILLEY, PUBLIC DEFENDER  
 Attorney for the Defendant

COLLOQUY

THE COURT: Now, we're ready.

MR. SWILLEY: Before we bring the jury in, Your Honor, I just want to renew my motion for a directed verdict for the record.

THE COURT: So noted. I don't know of any reason to reverse my previous ruling so I will once again deny the motions. Y'all ready to argue?

MR. REDMOND: The State is ready, Your Honor. As an administrative matter, I think that since the Defense has put up a case it's my understanding that they will argue first and I'll get last argument unless he wants me to argue first on the law.

MR. SWILLEY: That's fine.

THE COURT: All right. Defense waives requiring you opening on the law.

(WHEREUPON, the jury panel enters the courtroom at 9:39 a.m.)

THE COURT: Good morning, Mr. Foreman, ladies and gentlemen. We are ready to proceed. Closing arguments are next. Counsel.

CLOSING STATEMENT BY MR. SWILLEY

MR. SWILLEY: Thank you, Your Honor. If it please the Court, Mr. Redmond. Good morning, ladies and gentlemen. I would say thank you for being here, but I

1 know you don't really have much of a choice in the matter.  
2 Initially, at the beginning of the trial yesterday  
3 morning, I told you that it's not like you see on T.V. and  
4 I hope that you understand a little bit more about how the  
5 criminal justice process works now. Not just in South  
6 Carolina but in general.

7 And like I told you before Julius, well, he's the  
8 defendant in the case. Obviously, you know by now that  
9 you are not going to hear anymore testimony in the matter.  
10 You are just going to hear me talk for a little bit and  
11 you're going to hear Mr. Redmond talk for little bit and  
12 then you will hear Judge Burch will give you what the law  
13 is. And I ask you to listen very attentively when he does  
14 because that's very important.

15 You're going to remember from -- at the beginning I  
16 told you that like on t.v -- not like on t.v. in real life  
17 things aren't just cut and dry. All right. And I tried  
18 to be very up front and let you know because this is so  
19 important that you need to know and you need to know.  
20 First things from me is that Julius is not, you know, I am  
21 not going to sit here and tell you that he is the best  
22 person in the world. And I am not going to sit here and  
23 tell you that he didn't show his rear end so to speak that  
24 night.

25 But you have a very daunting task before you to

1 determine whether or not the State has proven him guilty  
2 or not proven him guilty beyond all reasonable doubt of  
3 the offenses the State claims that he had -- claims that  
4 he did.

5       You know, every time I do one of these things I  
6 always try to tell some kind of a story being from my own  
7 personal experience and it's one that I know of that can  
8 put things in perspective. And every time it gets harsher  
9 and harder. Part of that is probably because I have lived  
10 a really boring life and I am only 30 and I don't have  
11 that many stories that can really tie in.

12       And the other part of that is because, you know, in  
13 everyday kind of experiences and this kind of situations,  
14 you probably didn't you -- it probably didn't take you a  
15 long time to figure out that Julius and Marshall and  
16 Shiquan, they are not, you know, they are not living in a  
17 mansion here. Okay.

18       They're not the -- I mean they are not upper crust of  
19 society. Julius is not going to win a Nobel Prize. He is  
20 not going to graduate sum cum laudi or anything. But be  
21 that as it may, in America and in our justice system  
22 regardless of who you are or what you do or what you don't  
23 do you get the same standard as every single other human  
24 being.

25       The State, the government, the State government in

1    this case, don't forget that, has to -- before you can be  
2    convicted of any crime has to prove you guilty beyond a  
3    reasonable doubt by law before a jury of your peers.  
4    Y'all aren't part of the government. You will get a small  
5    check from the government for being here, but you are not  
6    part of the government, and that's why this is so  
7    important.

8           You see everybody from the beginning of this up until  
9    we started the trial this has been perpetuated and pushed  
10   forward by people in the government. They have a say so.  
11   Now, that ends and since the beginning of this trial  
12   Julius has some participation mainly through me. And he's  
13   gotten to testify, and we will talk about that a little  
14   bit more. But as far as what you heard in the trial you  
15   heard from every single, solitary person who was present  
16   there that night.

17           You heard from Shiquan Wright. You heard from  
18   Marshell Wright. You heard from Officer -- Deputy Coombs.  
19   You heard from Deputy Wallace, and you heard from Julius  
20   himself. Those are all -- all five of those people were  
21   the people there that night subsequent to the issue in  
22   contention and people running in and out.

23           As far as what you can get from what happened is in  
24   contention. You have heard from all five of these people.  
25   Okay. And when you look back and y'all go in that jury

1 room and talk about the testimony, and you have to decide  
2 whether or not the State has proven beyond a reasonable  
3 doubt or not whether Julius committed these crimes and he  
4 did not a commit attempted murder. Okay. He did not  
5 commit the offense of criminal domestic violence of a high  
6 and aggravated nature. He did not commit resisting arrest  
7 with a deadly weapon. He didn't commit assault and  
8 battery in the second degree.

9 All right. Now, I am going to be up front with you  
10 like I was in the beginning. He laid hands on Marshell,  
11 okay. No excuse for that and should not be tolerated.  
12 And it's not, okay. But he didn't commit criminal  
13 domestic violence of a high and aggravated nature.

14 Criminal domestic violence of a high and aggravated nature  
15 requires some kind of conduct that either causes a great  
16 bodily injury or could have caused a great bodily injury.

17 The fact that he's guilty of just regular C.D.V. does  
18 not mean he is not guilty of criminal domestic violence of  
19 a high and aggravated nature, okay. Shiquan [sic], and  
20 the Judge is going to charge you on what the law is, is  
21 not guilty of assault and battery in the second degree.

22 Now, whether or not he is guilty of assault and  
23 battery in the third degree, which is just a simple  
24 assault and the Judge is going to charge you on the law of  
25 that, is to be determined from the evidence here that you

1 heard in the trial. But there is no evidence that he's  
2 guilty of assault and battery in the second degree. Okay.

3 Resisting arrest with a deadly weapon, keep in mind  
4 that you heard from every single fact witness in this case  
5 including Julius himself. When Julius himself took the  
6 stand up there, testified, got down and showed you what  
7 happened and withstood questioning from someone with more  
8 education and much more sophistication than him and  
9 answered the questions.

10 Okay. All right. Briefly, I just want to kind of go  
11 through what happened during the trial and try to  
12 emphasize why you should vote not guilty for these  
13 indictments. Okay. First, you heard from Marshall.  
14 Okay. She testified as to what happened. She told you  
15 that Julius -- they had been doing drugs and using  
16 alcohol. Okay.

17 It's not okay but that needs to be known. That's  
18 what happened. It's too important to try to hide things  
19 that make them look bad on their part -- makes them look  
20 bad on my part. Okay. Marshall testified that they got  
21 into an argument and they got physical and Julius slapped  
22 her. Shiquan got involved and all heck broke loose so to  
23 speak.

24 Shiquan called the police. Julius got there or  
25 excuse me. The police got there, and she testified that

1 she could not recall and she did not witness, but based  
2 upon her observations I believe she said she did not see  
3 Julius try to stab anybody, okay, and she was right there.

4 Same as Shiquan. Even though Shiquan who testified  
5 next, and bear in mind and you could probably figure this  
6 out, if there was anybody in a position to not like Julius  
7 it's probably Shiquan. It's tough to like somebody that  
8 kind of a surrogate step-father or step-parent in general.  
9 We know that in your everyday affairs that people are just  
10 predisposed not to like step-parents and people that date  
11 your mom and dad.

12 There is a reason there and then after this incident  
13 she has all the reason in the world to want to bury  
14 Julius. She sat there and said she couldn't give an  
15 answer. She saw the whole thing but couldn't give an  
16 answer whether or not Julius -- she couldn't see him try  
17 to stab anybody. Okay. You know, this is real important.

18 There are some things -- you heard the testimony.  
19 You guys have lived however many years you have lived, and  
20 when you get in there you are free and encouraged to use  
21 what I refer to as your collective common sense. Okay.  
22 This happened -- and we know this happened, and we heard  
23 testimony from this, and we want to believe this or we  
24 don't want to believe this. Here are some things I want  
25 you to think about when you are back there, okay?

1           When Officer Coombs got there, all right, he knew  
2   that there was some kind of extreme situation when he  
3   comes in with his tazer. Okay. He walks in. Says he  
4   sees Julius standing there. This is from him, and when he  
5   flinches he shoots him with the tazer. The tazer runs all  
6   that electricity through him so he can't even stand up and  
7   he hits the ground. Okay.

8           At that point he runs some more electricity -- more  
9   cycles through him. I think he testified it was 50,000  
10   volts or something in that thing. Frank. Frank. And  
11   then he says he walks over to him, and at some point there  
12   was a struggle. And he testified that Julius tried to  
13   stab him. But what I want you to know, and he made,  
14   Deputy Combs, made it very clear that and tried to make it  
15   abundantly clear that he would have been just in using  
16   deadly force in this matter.

17          As with -- if Deputy Wallace came in he would have  
18   been just in using deadly force as well. And I want you  
19   to think about his life -- if it was apparent that Julius  
20   was trying to stab him with a knife would he have not left  
21   that house in a body bag? Julius, that is. Would he have  
22   not been dead? Shot dead if he had tried to stab an  
23   officer.

24          If Deputy Combs for some reason couldn't have got to  
25   his gun at that time when Deputy Wallace walked in and

1 saw -- and apparently saw the struggle would he have not  
2 shot him dead right there? You heard him testify. That  
3 is his partner, and not only his partner, but his friend.  
4 His job would have backed him up if his life was in  
5 danger. If he really felt that his life was in danger he  
6 would have shot him. If that had been the case he would  
7 have been justified in shooting him.

8 Bear in mind that Julius went to the hospital that  
9 night, and for a lack of a better term he got the tar beat  
10 out of him. All right. When somebody gets the tar beat  
11 out of them and goes to the hospital by the police they  
12 have a good reason for doing it. All right. I'm going to  
13 leave you with that as far as that goes. All right.

14 And some of the other stuff we heard, and Mr. Redmond  
15 made an issue out of when Julius testified is that he  
16 told -- remember after all this went down, after all that  
17 electricity went through him, after all those fists  
18 collided in his face and body, after he got bitten by I  
19 think it was Marshell that said she bit him, after he just  
20 got put through the ringer, taken to the hospital, and had  
21 all that stuff stuck to him, Investigator Jordan doing his  
22 follow up investigation came and talked to him. Okay.

23 And at some point the investigator during that  
24 interview where he is on the hospital bed, on a gurney I  
25 think it is, the officer was talking to him. Deputy or

1 Investigator Jordan was talking to him. He says, "Do you  
2 remember being tazed? No. Do you remember what happened?  
3 I got jumped. With your collective common sense it might  
4 be kind of fair to ascertain that at that point he might  
5 be a little bit shaken up. This might not be the best  
6 time in the world that someone would want to interview him  
7 about what happened after all that. Perhaps that next day  
8 would have been more appropriate.

9 At that point it's kind of an amazement. I'm in  
10 amazement that he could say anything or recount anything  
11 that happened. And probably the last person he is willing  
12 to talk to is someone from the police after he got into  
13 this incident such as this. You know, I think what you  
14 have here -- let me try to give you an analogy, okay.

15 All right. Okay. I have lived all over. I am only  
16 30, but I have lived in almost every area of this State.  
17 I grew up in Greenville. Went to school in Columbia,  
18 school in Charleston. I have lived in Florence for a  
19 while and lived in Greenwood for a while. And in another  
20 state. I lived in Myrtle Beach for a while before I moved  
21 here to Cheraw.

22 And, surprisingly, when I lived in Myrtle Beach  
23 people will come visit you when you don't live in places  
24 like Florence and Greenwood, and I wonder why. But when I  
25 lived there my parents came down, and we drove to down to

1 Murrell's Inlet and went to eat at one of those really  
2 nice seafood restaurants. Right. It was my mom and dad  
3 and sister and her husband and me. And when we were there  
4 I remember I ordered this a bowl of the lobster bisque  
5 because it sounded really good. And I got it finally  
6 because they were really busy that night, and I started  
7 eating it. And something is wrong. Something is wrong  
8 with this because it tasted terrible. It is not supposed  
9 to taste like this. It's awful.

10 I take another spoonful and it's terrible, awful.  
11 This is not right. It was really rotten. Something -- I  
12 don't know what happened with it, but something is wrong.  
13 So at that point you are forced with two options. You  
14 can -- I can keep eating it and say well, you know, this  
15 is a nice restaurant. Maybe it's supposed to taste like  
16 this or maybe it's an acquired taste.

17 I don't know or I can use my brain and try to  
18 decide -- or I can use my brain to call the waitress over  
19 and say, "Ma'am, there is something wrong. There is  
20 something wrong with this lobster bisque. I'm sorry, but  
21 it tastes terrible. I know lobster is not supposed to  
22 taste like that. I have experienced lobster before and  
23 this ain't it. Something is wrong. So I get the waitress  
24 and call her over. She takes it away and later on she  
25 comes back and tells me, "Oh, sir, I am so sorry, but

1     there is some ingredients that went in that are not  
2     supposed to go in it. I will get you a new bowl of  
3     lobster bisque."

4             I got the next bowl of lobster bisque. And it was  
5     great. It was fine. It was good. Well, I haven't had  
6     any more since then, but it was good. Here is the  
7     dilemma. This is how this relates to where y'all are  
8     right now. You are sitting in the government's restaurant  
9     right now, okay. The government is trying to serve you up  
10    something that is based on the reasons you experienced  
11    here during the trial and it doesn't taste right.  
12    Something is not there. There is reasonable doubt in your  
13    bowl. Okay. ✓

14            Right now you are presented with two options. You  
15    can sign off on what the government wants and keep eating  
16    it. Okay. You can vote guilty and just keep eating it  
17    and ignore that reasonable doubt that's in the bowl or you  
18    can mark not guilty and send that bowl back to the  
19    waitress and say it isn't good. I am not going to accept  
20    this. Keep eating that bisque and you're just going to  
21    keep on eating and other people are going keep on eating  
22    it.

23            You know, there is a lot of things -- and I want you  
24    guys to recognize what is evidence in this trial and what  
25    evidence the State put forward and what they are trying to

1     prove. Okay. Think about it. When you go through  
2     everything that was said think about why it's being said,  
3     why the question was asked and what they are trying to  
4     prove. What are they trying to prove? Are they trying to  
5     prove something in the indictment or trying to make  
6     something appear a certain way?

7             The thing that comes to mind is known as jail calls.  
8     If we go back and talk about those jail calls, and you  
9     will have -- if you want to listen to them again the court  
10    reporter has got them. That testimony is in evidence. If  
11    you want to listen to those jail calls who was talking the  
12    most on those jail calls? Whose voice did you hear mostly  
13    on those jail calls? It's Marshell. He is talking to  
14    Marshell who at the time was his girlfriend, who  
15    apparently doesn't want him to be prosecuted.

16            He was trying to tell her, "Look, just do what you  
17    got to do. Get me out of here. I don't like it." The  
18    reason that that was put before you is to make Julius look  
19    bad. Not to make him look guilty, but to make him look  
20    bad. Okay. There are some things that are just going to  
21    make you look bad like the fact that you were using drugs  
22    and drinking that day. That makes him look bad, but that  
23    doesn't mean -- that doesn't have any bearing on whether  
24    or not he is guilty of anything. It just makes him look  
25    bad. That's some of the things I want you to consider

1     when you go back into the jury room.

2             Another thing I want to talk to you about is what  
3     reasonable doubt is and reasonable doubt, and if you like  
4     math, if you have some kind of engineering job -- I'm  
5     sorry cause you can't equate any kind of percentage for a  
6     number of reasons you can't. I'm sorry. But if you are  
7     some kind of science guy or woman, I apologize for that.  
8     It's not that definite conceptionalized.

9             But in order to understand reasonable doubt is you  
10    have got to understand there are other standards of doubt  
11    in American law, right. Not just beyond a reasonable  
12    doubt or not beyond a reasonable doubt. Imagine for a  
13    second that the floor is no semblance of proof whatsoever.  
14    All right. Imagine a 5'9", 170 or 180 pounds is  
15    absolutely positive, okay.

16            First standard of proof that exists is what's called  
17    a reasonable suspicion. A reasonable suspicion is a  
18    standard of proof that an officer has to meet in order to  
19    frisk you down. There has to be some reasonable  
20    articulable suspicion that you were to have a weapon, and  
21    that officer has to be able to meet that burden after  
22    frisking you down. They can't just frisk you down just  
23    because they want to punish you, okay. Now, that's a very  
24    low burden. That's the lowest burden. That would come up  
25    to about my ankles. Okay.

1       The next burden is what is called probable cause and  
2       remember that's, when I opened, is what you have to have  
3       to get a warrant. There has to be evidence of some crime  
4       and some evidence that this individual committed such a  
5       crime. And that's it. That's it. That's all it takes to  
6       arrest somebody. That's all it takes to get a warrant on  
7       somebody. That's all it takes. Nothing further. That's  
8       probable cause. That comes up to about my ankles. Okay.

9       The next standard of proof is called by the  
10      preponderance of the evidence, and that's the burden you  
11      use in civil court to determine whether or not someone  
12      owes someone else money. That's plain and simple. The  
13      preponderance of the evidence just means more likely than  
14      not. Any, any amount would mean more likely than not.  
15      That would be slightly just above my waist. Slightly  
16      above halfway. Any, any amount is more likely than not.  
17      That's the preponderance of the evidence.

18      The fourth one is what's called by clear and  
19      convincing evidence. Now, in Family Court that's the  
20      standard that the government has to prove to take little  
21      kids from you, okay. That's high. That's clear and  
22      convincing evidence. Way more than the preponderance of  
23      the evidence. Clear and convincing, where the evidence is  
24      clearly -- it is clear and convincing. And that would  
25      come up to about here, my chest. Okay.

1           The then the next burden is beyond a reasonable  
2   doubt. Beyond a doubt for which you can assign a reason.  
3   A doubt -- beyond a doubt that would cause you to hesitate  
4   to act. And that's a high burden. And I'm sure Mr.  
5   Redmond is going to sit up here -- come up here and tell  
6   you that's not any doubt. That's a reasonable doubt.  
7   That's a substantial doubt. I mean that's not absolute,  
8   positive, beyond all reasonable doubt. And comes up to  
9   about right here between my eyes. That's a high burden.

10           And the fact of the matter is the State has not met  
11   that burden as it relates to the indictment on attempted  
12   murder, assault -- criminal domestic violence of a high  
13   and aggravated nature, assault in the second degree and  
14   resisting arrest with a deadly weapon. They haven't  
15   gotten there. The reason why they haven't gotten there to  
16   that point is those crimes is because Julius isn't guilty  
17   of those crimes.

18           We heard from every single person who witnessed what  
19   happened. And they haven't gotten it. I don't think any  
20   of you have ever served on jury duty before on a criminal  
21   case, but if you have I'm sorry. You know, but you the  
22   jury, you're in the position of -- well, I will try and  
23   put it into perspective. There is an old wives tale about  
24   a foolish young boy and he had a very wise grandfather.  
25   Very wise. And the foolish young boy tried to get the

1 best of his grandfather.

2 So he goes in a bush and catches a sparrow. He  
3 catches it in his hand and was going to go to his  
4 grandfather and say, "Old man, is the bird alive or dead?"  
5 And if the old man said the bird was alive he was going to  
6 crush the bird and kill it. If the old man said the bird  
7 was dead he was going to let the bird go. So either way  
8 the old man was going to be wrong according to the boy.

9 So when the boy goes to his grandfather after  
10 catching the bird he says, "Old man, is the bird alive or  
11 dead?" The grandfather smiled at him and says, "The bird  
12 is in your hand my son. The bird is in your hand."

13 Ladies and gentlemen, the bird is in your hand. I am  
14 asking you to find Julius not guilty of attempted murder,  
15 not guilty of criminal domestic violence of a high and  
16 aggravated nature, not guilty of assault and battery in  
17 the second degree and not guilty of resisting arrest with  
18 a deadly weapon. Thank you.

19 CLOSING STATEMENT BY MR. REDMOND

20 MR. REDMOND: May it please the Court, Your Honor,  
21 Mr. Swilley, ladies and gentlemen. As you are, I guess,  
22 listening and in your deliberations there is one thing  
23 that I want you to keep in mind. And for any of y'all I  
24 may have caused a near heart attack or stroke yesterday by  
25 leaving the knife up there inadvertently that was my

1 mistake, and I did not intend on leaving it there in front  
2 of this defendant. But in a way that might have been  
3 interesting as it relates to this case because, obviously,  
4 there is concern because when you look at this knife, and  
5 pardon my grammar, this ain't a butter knife.

6 I think we can all agree that this knife would  
7 constitute a deadly weapon. And this knife is at the  
8 center of every single indictment to which the defendant  
9 has been charged. One of the things that Mr. Swilley  
10 didn't mention was the fact that when you look at the  
11 charges themselves, each one, the fact that there was a  
12 knife involved in them is something that you, I would  
13 submit, must consider and what raises each of these  
14 charges to the levels that they have been indicted.

15 I told you this was a short case, and of course, we  
16 are at the conclusion of case, but it is no less -- it is  
17 not an unimportant case, and I will get into that shortly.  
18 But let me just start by thanking you for your attention  
19 that you have shown during the course of this trial. We  
20 obviously observed you as we were presenting the case, and  
21 it is clear that you have been most in tune with the case  
22 and we really do appreciate it.

23 Mr. Swilley talked about the burden of proof, and His  
24 Honor will instruct you, the jury, on that. Now, anything  
25 that he may say or anything that I may say, he being Mr.

1 Swilley, or anything that I may say that contradicts what  
2 His Honor says you follow the law as His Honor instructs  
3 you. But let me talk about reasonable doubt, and let me  
4 just say this. We contend that we have shown beyond a  
5 reasonable doubt that this defendant is guilty of every  
6 single indictment charged.

7 You will hear things like it makes you hesitate to  
8 act as it relates to reasonable doubt; that doubt that  
9 makes a reasonable person hesitate to act. But it does  
10 not mean all doubt. We all doubt. We were not there. We  
11 have to rely on what the witnesses have told you. So you  
12 have to judge their credibility, and I'll get into that in  
13 a second because I believe that is at the center of this  
14 case.

15 But it also, in order for the State to prove to you  
16 beyond a reasonable doubt, you will hear that after  
17 hearing everything, after reviewing everything, that you  
18 are firmly convinced of the defendant's guilt the State  
19 has met its burden. If you are firmly convinced of the  
20 defendant's guilt, if you are firmly convinced of what  
21 took place that night, then the defendant is guilty as  
22 charged.

23 Now, we heard a lot of talk about drug use and  
24 alcohol use and let me be real clear on this. You will  
25 also be instructed on what we call voluntary intoxication.

1 If I endeavor to drink to the point that I am intoxicated,  
2 if I endeavor to put illegal drugs into my body I am  
3 responsible as if I was sober. So the fact that he was  
4 high and drunk is not an excuse for anything that  
5 happened. He is held to the same standard as you and I  
6 being perfectly sober. So I want to make that clear so  
7 that there is no confusion. The fact that he may have  
8 been drunk and high is no excuse whatsoever for his  
9 actions. He is held to the same standard as if he was  
10 sober.

11 Another thing that I want to get into, and I touched  
12 on this before in my opening and that is that when you  
13 look at the officers here, when we talk about the  
14 deputies, about the police officers, we've got law  
15 enforcement officers, and I told you that this is one way  
16 that we can protect those who protect us. And after  
17 you've heard the case, keep in mind that sometimes we take  
18 certain things for granted. We take for granted that if,  
19 okay, we are in trouble we call the police and they  
20 arrive.

21 But, I mean, just think about it for a minute. I  
22 served in the United States Navy, and when I wear my Navy  
23 gear and I go into a mall people are always walking up to  
24 me and thanking me for serving -- having served.  
25 Obviously, I'm not still in the Navy, but I was in the

1 Navy 20 years ago. But when you think about it as a law  
2 enforcement officer whenever you leave home every day you  
3 put your life on the line as a part of your employment.  
4 Twelve hours a day during that shift you put your life on  
5 the line. You are responding to calls like a domestic  
6 call which we all know are highly emotional situations.  
7 Highly emotional situations.

8 And when you think about what these officers have to  
9 go through it is up to us as citizens and you as a jury  
10 when a situation like what this defendant did arises that  
11 we send a very loud and clear message that we have asked  
12 these gentlemen, Sergeant Combs, Sergeant Wallace and  
13 others, to protect us. To come and answer the call when  
14 we are in trouble.

15 I was watching a movie, Ladder 49. I don't know if  
16 any of you ever saw it, but they were talking about one of  
17 the fireman. It was about firefighters, and one of the  
18 firemen had died in a fire trying to rescue a guy. And at  
19 the funeral, John Travolta made the comment that, you  
20 know, people often wonder. Everybody else is trying to  
21 get away from a fire but firefighters actually go in to  
22 try and save lives and to try and save property.

23 It's the exact same thing that can be said for law  
24 enforcement officers. When they are encountered with  
25 dangerous situations -- when we are as citizens what do we

1 try to do? We try to get out, and we try to get away from  
2 it. They put their lives on the line. They are trying to  
3 go in and trying to defuse the situation to save lives.

4 And so when I say that I want to make sure that we  
5 keep that in the proper context as it relates to what we  
6 ask these gentlemen and ladies to do when we are  
7 considering actions such as what the defendant took that  
8 night and why those actions are so reprehensible.

9 Let's move on into the actual facts of the case  
10 itself. And one thing I want you to keep in mind is one  
11 thing I meant as a reoccurring theme here is that, again,  
12 talk about the fact that this knife is central to every  
13 single charge. But also keep in mind the defendant was,  
14 as he indicated, was high. He was angry. Remember he was  
15 angry from the time he kicked in the door when he got back  
16 to the house. He was angry. And he was possessing this  
17 knife during most of this incident.

18 But let's start by going through each of the charges.  
19 Assault and battery second-degree, I'll start with that.  
20 That is the charge where Ms. Shiquan Wright is the victim.  
21 What did you hear regarding that? The defendant started  
22 beating on her mother. So as any child, I would think,  
23 especially an adult child would do they would try to come  
24 to the aid of their mother at that point which is what she  
25 tried to do.

1           And what did the defendant do in his already angry,  
2           intoxicated way? He then turned on her. He turned on her  
3           to the extent that they ended up rolling on the ground.  
4           He swung at her, and they ended up tussling on the ground.  
5           But here is the thing. When you want to talk about  
6           severity, and I'm not even getting to the knife yet. I  
7           haven't even gotten to that. It was such a severe  
8           situation that as Ms. Marshall Wright indicated to you and  
9           the pictures bear out, the pictures of the defendant, she  
10          had to even try to bite him to get him off of her  
11          daughter.

12          Now, assault and battery, and let me restate another  
13          thing, too. The fact that they may not have been severely  
14          injured or injured at all is not the standard of guilt --  
15          to determine guilt here. The issue is whether or not an  
16          offer had been made that could have resulted in serious  
17          bodily injury. So don't put too much emphasis on the fact  
18          that they weren't really hurt or Sergeant Combs wasn't  
19          stabbed and that he wasn't hurt.

20          Marshall, I think there was testimony that she did  
21          have a bloody nose, and I think Shiquan mentioned that she  
22          had bruises. But the fact that there weren't any serious  
23          injuries, that's not the standard. Based on everything  
24          that was occurring at that time could there have been  
25          serious injuries. There, again, is where we get to this,

1 the knife.

2 Because moving on with the assault and battery second  
3 degree regarding Shiquan. After the tussle, the first  
4 tussle, they tried to call 911 but he took the phone. So  
5 at that point she went -- she grabbed a bottle. I think  
6 it was a Hennesey bottle if I remember. A Hypnotic  
7 bottle. Well, think about it. He had just swung on --  
8 beat -- hit -- beat her mom, swung on her, and had her  
9 rolling around on the floor. I think it's reasonable for  
10 her, at least at that point, to at least get a bottle just  
11 in case as she said he was in a rage. She didn't know  
12 what he might do. So, yes, she grabbed a bottle.

13 He pulled out a knife and pulled out a knife and  
14 presented it to her. Now, think about it. This was a man  
15 that had already taken aggressive action and now he has  
16 just kicked it up to the next level by introducing the  
17 knife. All she wanted to be able to do was get out of the  
18 house so she could call for some help. And during that  
19 time that's when this knife was presented.

20 Ladies and gentlemen, when you -- and you will hear  
21 the Judge's instructions. Not my words, but you will hear  
22 the Judge's instructions where he talks about or there was  
23 an offer made. When you look at the total circumstances  
24 and you introduce a knife into an already volatile  
25 situation I think that would give most reasonable people

1 apprehension that something may get elevated to a very  
2 dangerous point.

3 Along the lines of C.D.V. high and aggravated, that's  
4 where Ms. Marshall Wright is the victim. And, again, not  
5 to restate everything we know that she was hit by the  
6 defendant. He initiated. She admitted to you that, yes,  
7 she had been doing drugs as well that day. But then he  
8 took aggressive action against her that also led to her  
9 daughter. She actually tried to intervene as she told you  
10 by biting him.

11 And then once they got outside he presents a knife.  
12 She's trying to get him away from the situation to try to  
13 protect her daughter. She told you that. Perfectly  
14 reasonable. But then once he gets inside the house he  
15 tells you, "Oh, I was calming down," but during the course  
16 of this calming down he barricades the door he claims  
17 because he's afraid of Shiquan.

18 I submit it was because he knew law enforcement was  
19 coming because he knew they were going to call law  
20 enforcement because he had taken the phone to keep them  
21 from calling law enforcement in the house to begin with.  
22 But be that as it may, barricades himself in the house.

23 Then when Sergeant Combs came to the house, announces  
24 himself, they then move into the bedroom and he blocks the  
25 door to the bedroom. Again, barricading himself. That is

1     why I am asking that you look at the totality of the  
2     circumstances. You have already had a volatile situation.  
3     You've already had the fight. She had to bite him to try  
4     to get him off of her daughter, and now next thing you  
5     know there is a knife that has been presented.

6             This knife is still present during this whole  
7     transaction now. She gets barricaded inside the house and  
8     then she gets blocked into the door. And she told you,  
9     no, he did not -- he would not let her leave while he's  
10    holding the knife.

11            Ladies and gentlemen, again, and I agree with Mr.  
12    Swilley, when you use your common sense and you think  
13    about not just what did happen but you also when you think  
14    about these charges you have to ask yourself what could  
15    have happened in the totality of the circumstances and the  
16    totality of what was going on. And because there was a  
17    knife introduced into this situation that kicked it up to  
18    another level.

19            I'm going to talk about resisting arrest real briefly  
20    with a deadly weapon because it really ties into the  
21    attempted murder. Obviously, the defendant was resisting  
22    arrest. Obviously. Obviously, he was armed with this  
23    knife while he was resisting arrest. For the purposes of  
24    resisting arrest and based on the fact that, obviously,  
25    Sergeant Coombs had a very legal and valid reason to be at

1 the house and to take the actions that he did the  
2 defendant is clearly guilty of having resisted the efforts  
3 of Sergeant Coombs to arrest him. And not just resisting  
4 but resisting it with a deadly weapon.

5 And, now, that kind of segways into the attempted  
6 murder. Now, some of you may be thinking, well, he didn't  
7 get hurt. Thankfully. Well, you know, if I take a shot  
8 at you, Mr. Foreman, and I miss and you don't get hurt  
9 that is still attempted murder because I took the shot. I  
10 tried to kill you, and again, that's the standard.

11 Don't get tied up on whether or not there was any  
12 injury. What was the intent at that time? When you think  
13 about intent, again, you are dealing with a defendant who  
14 was drunk, high and angry. And this was before, as I  
15 think the Defense counsel talked about, him being tazed.  
16 Keep in mind he was already acting the fool before he got  
17 tazed. That's why he got tazed because he was acting the  
18 fool. And guess what? After he got tazed he kept acting  
19 the fool. It had no affect on him as the officers  
20 testified because of the fact he was already juiced up.

21 He was already at a level of aggression. He was  
22 already at the level of anger, and it was really to the  
23 point of no return. Thankfully Sergeant Wallace appeared  
24 on the scene when he did or we may be here in a totally  
25 different context. Totally different context. Do not

1 make light of that fact, and do not lose sight of that  
2 fact, ladies and gentlemen.

3 But to get into the testimony surrounding the  
4 attempted murder, and here is something that I definitely  
5 want you to remember. Marshall Wright testified on the  
6 stand that before Sergeant Coombs even got into the room  
7 he made the comment that he was going to die tonight and  
8 he was going to take the police with him. I think I am  
9 paraphrasing close to the exact quote. That is pretty  
10 much what he said. The reason that is important is that  
11 it goes directly to intent.

12 In order for me to prove attempted murder we have to  
13 prove that the defendant with malice aforethought,  
14 aforethought, did intend to kill a law enforcement  
15 officer. And in this case he is sitting right here, was  
16 Sergeant Coombs. That goes directly to the heart of that  
17 issue with malice aforethought.

18 And again, Marshall told you before he even entered  
19 he made the comment, and he didn't even say Sergeant  
20 Coombs. He just said he was doing to take the police with  
21 him. Had it been another officer, had it been Sergeant  
22 Wallace that appeared or another officer he or she would  
23 have been faced with that same aggression and intent that  
24 the defendant already expressed to Marshall Wright.

25 But unfortunately or maybe fortunately cause,

1 obviously, Sergeant Coombs is still here. He was able to  
2 at least fight it off until Sergeant Wallace got there.  
3 But fortunately or unfortunately, like I said, he was the  
4 officer that arrived. He was the officer that that intent  
5 was exercised and acted upon by the defendant. Malice  
6 aforethought that has been clearly expressed and clearly  
7 expressed by the defendant. So we are already there as it  
8 relates to the attempted murder.

9 But then you also look at the actions, and I think  
10 Mr. Swilley talked about, well, Marshall saying that she  
11 really didn't see anything. But she testified after the  
12 taze she ran out. And let me back up for a minute. When  
13 you talk about C.D.V. high and aggravated I did forget to  
14 mention this point. She ran out as soon as the tazing  
15 happened.

16 That would tend to be indicative that she was under  
17 severe apprehension because as soon as the opportunity  
18 presented itself for her to get away she got out of there  
19 as any person in that situation who was frightened would.  
20 Her actions clearly exhibit fright. Clearly exhibit fear.

21 But moving on. He gets in -- he gets tazed and at  
22 that point that's when Sergeant Coombs gets into the, I  
23 guess, the fight for his life. That's the best way I can  
24 put it. Now, again, there was talk about Shiquan not  
25 seeing anything, and I did forget to mention. I skipped

1 this. Marshall ran out and she didn't really -- she told  
2 you that she really didn't have a view of the whole -- of  
3 what was going on the whole time.

4 Marshall -- excuse me. Shiquan had a better view,  
5 and she told you that it was a dangerous situation. And  
6 remember I used Mr. Farr as an example that, basically,  
7 holding his hand he was holding his hand to keep this  
8 defendant from hitting him in a fatal area. And, again,  
9 this is not a butter knife. I think we can all agree that  
10 if this knife penetrated it would penetrate enough to do  
11 some serious damage and possibly death.

12 But even during the course of this fight the whole  
13 time there are times that the defendant is saying that he  
14 is going to kill. He is telling Sergeant Coombs that you  
15 are going to die tonight. Sergeant Coombs clearly  
16 expressed his apprehension and fear where he was literally  
17 fighting for his life. He told you he couldn't get to his  
18 gun, and this is common sense, ladies and gentlemen. He  
19 is reaching for his gun, and if he lets that hand go or he  
20 eases up what's going happen? Before he can get to his  
21 gun how long do you think it takes to do that or that or  
22 that? I don't think he would have been able to get to his  
23 gun to prevent that from happening.

24 Again, when you look at the totality of the  
25 circumstances and you look at the fact that the defendant

1 was angry and he was armed with a knife the State would  
2 contend that it's clear that the defendant committed all  
3 of these crimes and attempted to take the life of Sergeant  
4 Coombs that night. But then you look at everything else.  
5 Let's look at some other things in this whole situation.  
6 Let's look at the fact that the defendant admitted that he  
7 changed his story.

8 Now, Mr. Swilley was saying, oh, well, he was out of  
9 it and what not. Well, if you listen to the tape he went  
10 into some detail about what had transpired before. Now,  
11 all be it, it was not the truth, the whole truth about  
12 what had transpired, but he went into some detail about  
13 what had transpired before with Marshall and Shiquan. But  
14 when it was asked about being tazed or anything he didn't  
15 remember anything.

16 Well, now, all of a sudden he clearly remembers and  
17 remembers to the point that he can demonstrate all this  
18 stuff. But then when I asked him, and I think I asked him  
19 two or three more times, he finally admitted that he  
20 changed his story. Not added into, not remembered certain  
21 things. He changed his story. That is a significant  
22 difference. And, again, he changed his story here at  
23 trial. Why? Well, he is on trial. He is changing his  
24 story to try to hopefully convince you that he is telling  
25 the truth.

1           Well, let's look at that for a minute. When you talk  
2 about credibility issues, we get to the jail calls. And  
3 Mr. Swilley tried to explain some saying, "Well, who is  
4 doing most of the talking," but who is pulling the  
5 strings? Who is issuing the directions? Who is the one  
6 making the direct request? Who does what? In order  
7 words, remember, he talks about, well, don't show up. If  
8 you don't show up if there is no victim there is no crime.  
9 That's the defendant talking.

10           Well, the defendant is saying, "Get in touch with  
11 Wayne Jordan, Lieutenant Jordan, so that we can get this  
12 thing straight and we can talk to him and we can be  
13 together. And remember he wanted it so they could be  
14 together to verify their stories. That's the defendant  
15 talking. So I would say that Mr. Swilley, in that regard,  
16 it doesn't matter what the quantity of what is being said.  
17 It's the quality. And the quality that shows you that  
18 this defendant was trying to orchestrate and lie his way  
19 out of that; that prize goes to the defendant.

20           But I submit that I am confident enough to see that  
21 you are smart enough not to let that fly because I think  
22 it's obvious that the defendant was trying to manipulate  
23 Ms. Wright, to manipulate her daughter to lie so that he  
24 could get off on these charges. That's clear. And,  
25 again, as Mr. Swilley indicated, the tape is in evidence.

1     Excuse me. The recording is in evidence and can be  
2     replayed or read back.

3             And then you look at when you talk about credibility  
4     issues with the defendant, and you talk about the fact  
5     that he gets up here and he tries to make it seem like,  
6     oh, I dropped the knife at the time. I dropped the knife  
7     when he went, and they just beat me up. And speaking of  
8     the injuries, and I think Lieutenant Jordan testified to  
9     the fact, and you got the pictures. There is no denying  
10    it, and the officers in their report they testified, yeah,  
11    we hit him. Well he's got a knife, he is struggling.

12            And let's be honest. They could have killed him, but  
13    you know, when I talked about law enforcement officers and  
14    what not we always want to second guess and judge, but  
15    they always have a split second to make a decision. But  
16    despite everything that that man did that night to Ms.  
17    Wright, both Ms. Wrights, to Sergeant Coombs and to Dana  
18    Wallace, despite everything, they preserved his life.  
19    They didn't take his life.

20            And you know what, there should be some credit given  
21    to that because as Sergeant Coombs said under the  
22    circumstances, based on his training, based on what they  
23    are taught he had every reason to engage in deadly force  
24    but he didn't. He didn't. And you know what, that counts  
25    for something.

1           And another thing as it relates to Sergeant Coombs is  
2   that I picked up on is telling you the type officer that I  
3   know him to be. Both Ms. Wrights, during the course of  
4   their testimony, if you remember, they didn't say Officer  
5   or Sergeant. They said Jimmy. Jimmy. That tends to show  
6   you that this officer has earned the respect of them and  
7   others in the course of duties.

8           And I say that because I think that that is an  
9   important consideration, and I just thought about that  
10  last night that I think each of them had to be corrected  
11  because they said, "Jimmy." And I said, "Jimmy? You  
12  talking about Sergeant Coombs?" But they didn't seem to  
13  be fearful of him or that he somehow manipulated them to  
14  say certain things.

15          And you know why that is? Because they are grateful  
16  for what he did that night when he came to that house and  
17  prevented what might have been a tragedy. They are  
18  grateful for the job he did, and they told you the way he  
19  went about trying to talk him down. They testified to  
20  that. So I think that is indicative to that when they  
21  talked about, oh, well, he was mad. They were made, and  
22  that's why they were beating him. Everything that is in  
23  evidence totally contradicts that opening statement.  
24  That's just the Defense trying to throw out a smoke  
25  screen.

1 But, again, you've got the evidence, and as I have  
2 indicated this knife is the center of every one of these  
3 charges. Every one of these charges. The defendant tried  
4 to lie his way out of this. He tried to manipulate his  
5 way out of this. And this isn't what I think. This is  
6 what we know because we heard it. We heard it.

7 Don't let him do that, ladies and gentlemen, because  
8 as I have indicated it may have been at short case, but  
9 it's a very important case to everyone involved but  
10 especially to that gentleman right there because, again,  
11 we ask him to put his life on the line every day. And as  
12 I indicated this is our opportunity to protect him as  
13 well.

14 I would just ask you this. When you go back, in  
15 conclusion, especially as it relates to the attempted  
16 murder charge think about this and ask yourself this  
17 question when it comes to common sense. If during the  
18 course of that struggle, using your common sense, you've  
19 got a high, angry, armed defendant. If he had let go of  
20 his arm what would have happened? What would have  
21 happened. I submit we all know the answer to that  
22 question.

23 Had he let his arm go this defendant would have  
24 easily stabbed him. The only question is where and would  
25 he have been able to survive. And that, ladies and

1 gentlemen, is why we are here presenting this case. And  
2 it is why it is such an important case because I think as  
3 I have indicated this is not a butter knife. This is a  
4 killing knife. And he very well could have killed  
5 Sergeant Coombs that night.

6 But if it was not for the lack of effort by the  
7 defendant to save his life. He managed to fight him off  
8 until Sergeant Wallace got there and was able save his  
9 life. But if it were up to the defendant Sergeant Coombs  
10 would not have been here to talk to you today. He told  
11 Marshall that. His actions indicate that.

12 And I ask you through your verdict to find this  
13 defendant accountable for the actions that he took that  
14 night that endangered, in essence, endangered four people.  
15 Each of these four people right here that were involved in  
16 that incident. Hold him accountable, ladies and  
17 gentlemen. Hold him accountable. I thank you, and God  
18 speed in your deliberations.

19 CHARGE OF THE COURT

20 THE COURT: Thank you, gentlemen. That concludes the  
21 closing arguments and the next phase of the trial is the  
22 Judge's charge of the law. It is going take at least 30  
23 minutes. Is everybody okay or does anybody need a break?  
24 Nobody. All right. Well, everybody settle in for at  
25 least 30 minutes. Would the Sheriff's staff please secure

1 the doors. And let's don't have anybody coming in or out.  
2 I poured me a little water because my cold is moving into  
3 my throat. So, hopefully, I can keep my voice up for you.

4 All right, Mr. Foreman and ladies and gentlemen, I  
5 want to first of all thank you for your patience and thank  
6 you for listening to this case, to the presentation of the  
7 evidence and to the able arguments by counsel. And it now  
8 becomes my duty as the trial judge under the Constitution  
9 of the State of South Carolina to charge and instruct you  
10 law applicable to the case.

11 And it is your duty as jurors to accept and apply the  
12 law as the Court states it to you. As jurors it is your  
13 exclusive duty to decide all issues of fact in the case,  
14 and for that purpose to determine the affect, the value,  
15 the weight and the truth of the evidence. Both the State  
16 and the Defendant have a right to expect that you will  
17 consciously consider and evaluate the evidence and apply  
18 the law of the case thereto to the end that both the State  
19 of South Carolina and the Defendant will receive and  
20 obtain a fair and impartial trial in this case.

21 Now, when I use the word 'defendant', I am referring  
22 to Mr. Julius Curry. You have already been told that the  
23 charges in the Bill of Indictment. I will not repeat  
24 those at this time because I will be going into specific  
25 charges on those offenses and that will be completed in a

1     few minutes.

2             This first part of this charge I give you is what we  
3     call the general charge where I explain to you the burdens  
4     of proof and also other aspects of a criminal trial. Now,  
5     as you are aware to the indictments which are the formal  
6     documents by which the case is processed into the Court, I  
7     point out to you they are not evidence. They are just  
8     documents.

9             To the indictments the defendant has entered pleas of  
10    not guilty. A plea of not guilty by a defendant places  
11    the burden of proof on the State of South Carolina to  
12    prove by evidence the guilt of the defendant beyond a  
13    reasonable doubt. Therefore, the State must prove guilt  
14    by a reasonable doubt before you could find the defendant  
15    guilty.

16            A defendant is presumed in law innocent of the  
17    charges contained in an indictment. It is a cardinal  
18    fundamental rule of the law of evidence that a defendant,  
19    irrespective of the enormity of the charge against him,  
20    will always be presumed innocent of the crime for which he  
21    is indicted unless and until the guilt of the defendant  
22    has been proved by evidence that satisfies you the jury of  
23    his guilt beyond a reasonable doubt.

24            The presumption of innocence is not a mere legal  
25    theory and it is not a legal phrase. It's a substantial

1 right to which every accused is entitled. The Supreme  
2 Court has declared that the presumption of innocence is  
3 like a robe of righteousness placed about the shoulders of  
4 the defendant and remains with him and assigns him to that  
5 class, the innocent, until the presumptive robe of  
6 righteousness has been stripped from his person by  
7 evidence satisfying you the jury of the guilt of the  
8 defendant beyond a reasonable doubt.

9 Presumption of innocence accompanies a defendant from  
10 the time of his arraignment and appearance in the Court  
11 and continues with the defendant throughout every stage of  
12 the trial and continues with the defendant after you  
13 retire to the jury room to begin your deliberations.

14 The presumption of innocence continues in existence  
15 to the benefit of the defendant until you the jury reach  
16 the conclusion that the State has proved the guilt of the  
17 defendant beyond a reasonable doubt. I charge you that  
18 the State is not required to prove the guilt of the  
19 defendant beyond all doubt or beyond every doubt but  
20 beyond a reasonable doubt.

21 Some of you may have served as jurors in civil cases  
22 where you were told that it is only necessary to prove a  
23 fact more likely true than not true. In criminal cases  
24 the government's proof must be more powerful than that.  
25 It must be beyond a reasonable doubt. Proof beyond a

1 reasonable doubt is proof that leaves you firmly convinced  
2 of the defendant's guilt.

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

12       If upon the issue of fact essential to conviction and  
13 a verdict of guilty you have a reasonable doubt as to how  
14 that issue should be resolved it would be your duty to  
15 resolve that reasonable doubt in favor of the defendant.

16       A defendant is not required to prove his innocence,  
17 but the State is required in law to prove every essential  
18 element of the offense charged against the defendant by  
19 evidence that satisfies you the jury of the guilt of the  
20 defendant beyond a reasonable doubt before you could  
21 convict the defendant and find him guilty.

22       If then upon the whole case, and when I say the whole  
23 case, you've got to take each indictment separately and  
24 consider them. If you have a reasonable doubt as to the  
25 guilt or innocence of the defendant he is entitled to that

1 reasonable doubt and would be entitled to an acquittal and  
2 a verdict of not guilty. But on the other hand if upon  
3 the whole case you find that the State has proven by  
4 evidence which satisfies you the jury of the guilt of the  
5 defendant beyond a reasonable doubt then in such  
6 circumstance it would equally be your duty to convict the  
7 defendant and find him guilty.

8 Now, in some cases, in some offenses there may be  
9 lesser included offenses included within that particular  
10 charge. If you find the defendant guilty, but you have a  
11 reasonable doubt as to whether the defendant be guilty of  
12 the greater crime charged or the lesser crime charged then  
13 you would resolve that reasonable doubt in favor of the  
14 defendant and write a verdict of guilty only as to the  
15 lesser charge.

16 But, of course, you could not write a verdict of  
17 guilty to any charge unless as to that charge you find all  
18 elements of the charges have been proven by the State  
19 beyond a reasonable doubt.

20 Once again, I have already explained the indictment  
21 to you. It is not evidence. You will have that later on  
22 in the jury room. It is the formal document by which the  
23 case was brought into Court, and it is not evidence.

24 Now, during the trial each of us, you and I, have  
25 certain duties to perform, and as the trial judge it's my

1 responsibility to preside over the trial of the case. And  
2 I have the duty to rule upon or pass upon the  
3 admissibility of the evidence offered during the progress  
4 of the trial. You are to consider only the competent  
5 evidence before you, and you are to disregard and disabuse  
6 from your mind any testimony ordered stricken from the  
7 record of the case during the progress of the trial if  
8 there be any. And you are to consider only the testimony  
9 which has been presented from the witness stand together  
10 with any exhibits admitted into the record of this case  
11 and any stipulations of counsel made into the record if  
12 there be any.

13 Now, I have the additional duty to charge you the  
14 applicable law of the case and as the presiding judge I am  
15 the sole judge of the law in this case, and it is your  
16 duty to accept and apply the law as I state it to you. If  
17 you have a preconceived idea as to what the law is or what  
18 the law ought to be in this case and it should not agree  
19 with you or should not agree with what I tell you the law  
20 is you are obligated under your oath to abandon this  
21 preconception on your part because you are sworn to accept  
22 the law precisely as I state it to you.

23 In every case tried in this Court before a jury the  
24 jury becomes the sole and exclusive judge of the facts in  
25 the case. You the jury are the judges of the facts in

1 this case. The Court is the judge of the law in this  
2 case. The Constitution of this State has declared that  
3 the trial judge shall not intimate, state, comment upon or  
4 make any statement to a trial jury about the facts in the  
5 case. Since you are the sole judge of the facts you are  
6 not to infer from anything that I have said during the  
7 progress of this trial in ruling upon the admissibility of  
8 evidence or otherwise or anything that I may say during  
9 the course of this charge to you that I have an opinion  
10 about the facts in the case. The law does not permit me  
11 to have an opinion. That is a matter solely for you the  
12 jury to determine.

13 As jurors then it is your duty to determine as I have  
14 stated to you the affect, the value, the weight and the  
15 truth of the evidence presented during the course of this  
16 trial. Necessarily then you must assess the credibility  
17 of the witnesses who have testified in the case.  
18 Credibility is simply a legalistic term which means  
19 believability. It becomes your duty then to analyze and  
20 evaluate the evidence and determine that evidence which  
21 convinces you of its truth.

22 I charge you that in determining the question of  
23 credibility or believability of witnesses you may believe  
24 one witness as against several witnesses or several  
25 witnesses as against one witness. You may believe a part

1 of the testimony of a witness and reject the remaining  
2 part of the testimony of that same witness. You may  
3 believe the testimony of a witness in its entirety or  
4 reject the testimony of a witness in its entirety. You  
5 may consider whether any witness has exhibited any  
6 interest, any biased and any prejudice in the case. And  
7 you may consider the demeanor of a witness and the  
8 appearance of a witness from the witness stand. You may  
9 consider the opportunity for knowledge concerning those  
10 things about which a witness testified.

11 In doing so and exercising your mental processes in  
12 determining what you consider to be true the law simply  
13 requires that you exercise your good judgment, your common  
14 sense, your sense of logic and reason and your experiences  
15 in life. You then apply these attributes of ability to  
16 the evidence in determine what you consider the truthful  
17 evidence and to the true state of the facts as determined  
18 by you the jury you take and apply the law as I state it  
19 to you and thus arrive at a true verdict in the case.

20 I always tell my jurors you do not leave your common  
21 sense at the court house steps. You will determine this  
22 case based on the evidence that's properly before you.  
23 This case has nothing do with anything that has occurred  
24 in outside circumstances. It has nothing to do with any  
25 movies, television shows, any dramas or anything you have

1     seen on the internet. You are to decide this case based  
2     on what has been presented here.

3             There are many things that you have see on television  
4     especially in the trial of criminal cases in the criminal  
5     justice field. Some procedures and some actions have  
6     nothing to do with the State of South Carolina, and as a  
7     matter of fact some procedures don't even exist. They're  
8     imaginary.

9             So outside sources you are not to consider, and I  
10    didn't mention this to you before but you are not to do  
11    any independent research about the law or any facts in  
12    this case. So if you have any telephone that has access  
13    to the internet or if you have a laptop do not attempt to  
14    confer or to reference to any such device. This matter is  
15    to be decided by the 12 of you that deliberate based on  
16    these Court proceedings.

17            Now, I will get into each of the indictments. Some  
18    of these charges as I have already mentioned to you there  
19    are lesser included offenses that I will talk with you  
20    about. I'll take them as I come to them as I have them  
21    stacked. The first one I have is Indictment 2013-699.  
22    It's entitled, 'Resisting Arrest with a Deadly Weapon'.  
23    I'm going to charge you Section 16-3-625 of the Code of  
24    Laws, 1976, as amended. That's the South Carolina Code of  
25    Laws.

1            "It is lawful for a person to resist the lawful  
2 efforts of a law enforcement officer to arrest him or  
3 another person with the use or threat of use of a deadly  
4 weapon against the officer and the person is in possession  
5 or claims to be in possession of a deadly weapon." As  
6 used in this section deadly weapon means any instrument  
7 which can be used to inflict deadly force. The.

8            Next Indictment I come to is 2013-697, criminal  
9 domestic violence of a high and aggravated nature. I  
10 charge you from Sections 16-25-20 and 16-25-65 of the Code  
11 of Laws of the State of South Carolina, 1976, as amended.

12           "It is unlawful to cause physical harm or injury to a  
13 person's own household member or offer or attempt to cause  
14 physical harm or injury to a person's own household member  
15 with apparent present ability under circumstances  
16 reasonably creating fear of imminent peril.

17           A person who violates that Section, 16-25-28, is  
18 guilty of the offense of criminal domestic violence of a  
19 high and aggravated nature when one of the following  
20 occurs: The person commits an assault and battery which  
21 involves the use of a deadly weapon or results in serious  
22 bodily injury to the victim or an assault with or without  
23 an accompanying battery which would reasonably cause a  
24 person to fear imminent serious bodily injury or death."

25           Now, as to that particular indictment the allegations

1 in the indictment, of course, was that this offense  
2 occurred in Chesterfield County on August 30, 2013. The  
3 household member was Marshall B. Wright, and it alleges  
4 that it involved the use of a deadly weapon or resulting  
5 in serious bodily injury to the victim in that the  
6 defendant used a knife in the commission of the assault  
7 and caused reasonable fear of serious bodily injury. The  
8 act being aggravated in that the defendant repeatedly  
9 struck the victim while brandishing a knife and held her  
10 captive inside a bedroom at their home.

11 Now, as to Indictment 2013-698; that's the assault  
12 and battery second-degree, and I'll go ahead and reference  
13 to the allegations in that particular indictment. That's  
14 that the defendant in Chesterfield County on August the  
15 30th 2013 did unlawfully injure Shiquan Wright and the act  
16 caused moderate bodily injury to the victim resulted or  
17 could have resulted, to wit, that the defendant struck  
18 with his fist several times Shiquan Wright, daughter of  
19 the live in girlfriend, while in their home.

20 I charge you from Section 16-3-600(D)(1) of the Code  
21 of Laws of the State of South Carolina, 1976, as amended.  
22 "A person commits the offense of assault and battery in  
23 the second degree if the person unlawfully injures  
24 another person or offers or attempts to injure another  
25 person with the present ability to do so and moderate

1     bodily injury to another person results or moderate bodily  
2     injury to another person could have resulted."

3             Now, within that offense of assault and battery  
4     second degree there is a lesser included offense that I  
5     will charge you. That is of assault and battery in the  
6     third degree. That is 16-3-600(E)(1). "A person commits  
7     the offense of assault and battery in the third degree if  
8     the person unlawfully injures another person or offers or  
9     attempts to injure another person with the present ability  
10    to do so."

11            The next indictment is for that of attempted murder,  
12     and that's on 2013-700. The allegations in that  
13     indictment that Julius Curry in Chesterfield County on or  
14     about August the 30th 2013 with specific intent to kill  
15     Sergeant Jimmy Coombs with malice aforethought, either  
16     expressed or implied, to wit, the defendant expressed the  
17     desire to take the life of said victim resulting in a  
18     struggle with law enforcement officer as he attempted to  
19     stab him all in violation of Section 16-3-29 of the South  
20     Carolina Code of Laws of 1976 as amended.

21            I charge you Section 16-3-29, entitled, 'Attempted  
22     Murder'. "A person who with intent to kill attempts to  
23     kill another person with malice aforethought, either  
24     expressed or implied, commits the offense of attempted  
25     murder." Malice indicates a formed purpose and design to

1 do a wrongful act under circumstances that exclude any  
2 legal right to do it. Malice is a term of art that  
3 imparts wickedness and excludes a just cause or excuse.  
4 It is something that springs from wickedness, from  
5 depravity, from a depraved spirit, from a spirit bent on  
6 mischief at that time, and from not then having a regard  
7 for the social obligations or the obligations which rest  
8 upon mankind.

9 The words, 'expressed and implied' do not mean two  
10 different kinds of malice, but rather the terms signify  
11 the way in which malice may be proved. Expressed malice  
12 is where a person either by word of mouth or by expressed  
13 hatred or ill will for another or where the State proves  
14 beyond a reasonable doubt that the defendant was making  
15 preparation before the event to accomplish the event.

16 The jury may also conclude by deductive reasoning  
17 that under certain circumstances malice may arise even  
18 though there is no express or direct evidence of an intent  
19 to kill. Malice may be implied or inferred if it is  
20 proved beyond a reasonable doubt that there was a willful,  
21 deliberate and intentional doing of an unlawful act  
22 without just cause or excuse.

23 The proof of this act, however, is merely a piece of  
24 evidence from which the inference or implication of malice  
25 may arise. In others words, the inference would be simply

1 an evidentiary fact to be taken into consideration by you  
2 the jury along with the other evidence in the case, and  
3 you may give it such weight as you should determine it  
4 should receive.

5 Now, within the charge of attempted murder is the  
6 lesser included charge of the offense that would be of  
7 assault and battery in the first degree. That is Section  
8 16-3-600(C)(1). "A person commits the offense of assault  
9 and battery in the first degree if the person unlawfully  
10 injures another person and the act offers or attempts to  
11 injure another person with the present ability to do so,  
12 and the act is accomplished by means likely to produce  
13 death or great bodily injury.

14 Another specific charge I want to give you at this  
15 time before I close this out concerns voluntary  
16 intoxication. I charge you at this time that voluntary  
17 intoxication is never an excuse for or a defense to crime  
18 regardless of whether if the crime is general or specific  
19 intent. A person who voluntarily renders himself  
20 intoxicated is no less responsible for his acts while in  
21 such condition.

22 If one voluntarily drinks intoxicating liquors, wine,  
23 beer or is under the influence of drugs or a combination  
24 of all those and becomes intoxicated of whatever degree,  
25 and if while in that condition commits an act which would

1 be a crime had it been committed by a sober person the  
2 fact that drunkenness or intoxication would not relieve  
3 the intoxicate person from responsibility.

4 Ladies and gentlemen of the jury, you are not  
5 partisans or advocates for the State of South Carolina or  
6 the defendant. You do not serve as jurors to reward  
7 friends or punish enemies. Obviously, such a perverted  
8 system of justice would be intolerable. You have been  
9 selected by both the State and the defendant as fair and  
10 impartial jurors. It's your duty then by your joint  
11 deliberations to determine the truth in this case giving  
12 to the defendant the benefit of every reasonable doubt on  
13 each and every issue.

14 Then to the facts which you determine to be true you  
15 then take and apply the law which has been given to you by  
16 this Court and thus arrive at a verdict which does speak  
17 the truth of this case for the word, 'verdict' which has a  
18 Latin derivative means a true saying. When you have  
19 accomplished these responsibilities you will have  
20 satisfied your oath as jurors, and you will have  
21 discharged your duty to the Court.

22 I will now speak to you about the forms of the  
23 verdict in this case. If the State has failed to prove  
24 the guilt of the defendant beyond a reasonable doubt your  
25 verdict would be two words, 'not guilty'. If the State

1 has proved the guilt of the defendant beyond a reasonable  
2 doubt you verdict would be one word, 'guilty'. Whatever  
3 the verdicts are in this case it must be a unanimous  
4 verdict on each of the indictments. All 12 jurors must  
5 agree on the verdict which you authorize the foreman to  
6 write for the jury.

7 On two of these indictments I have charged you lesser  
8 included offenses. So there could be an additional  
9 possible verdict on these particular indictments. And as  
10 I have already charged you concerning lesser included  
11 offenses you have to keep that in mind. So to make sure  
12 I'm clear on that on the indictments for attempted murder,  
13 there could be three possible verdicts. Guilty of  
14 attempted murder, guilty of assault and battery in the  
15 first degree or not guilty, Mr. Foreman. I will put that  
16 indictment on top, okay.

17 The second one concerns the indictment for assault  
18 and battery in the second degree. The lesser included  
19 offense of assault and battery in the third degree there.  
20 So you could have one of three possible verdicts there:  
21 Guilty of assault and battery second degree, guilty of  
22 assault and battery third degree or not guilty.

23 And then on Indictment 697, criminal domestic  
24 violence of a high and aggravated nature, two possible  
25 verdicts there: Guilty or not guilty. And the same for

1 699, the resisting arrest with a deadly weapon.

2 Whatever the verdicts are on each of these, Mr.  
3 Foreman, it will be your duty to write in the appropriate  
4 verdict right here on the backside where it says,  
5 'verdict'. Whatever the jury reaches, please, write that  
6 in, sign your name and date it each one of these  
7 indictments.

8 I think I have covered everything I want to cover at  
9 this time. Now, before I put you to work I've got to  
10 check in with counsel one last time. And we have also got  
11 to check off with Madam Court Reporter the exhibits. The  
12 12 of you, I need to step back in just a minute. The two  
13 alternates, I want to remain for a few minutes in a  
14 separate room.

15 Do not begin your deliberations until I send the  
16 indictments and exhibits back. Now, I have two alternates  
17 in place. Now, I'm going to close this charge out by  
18 inquiring of the jury if you feel that you cannot  
19 deliberate this case -- in other words, you feel that you  
20 cannot continue to be a fair and impartial juror in this  
21 case and you cannot go back there and properly deliberate  
22 this case you need to let us know now so we can replace  
23 you with an alternate.

24 In regards to that, Mr. Foreman, if you get back  
25 there and somebody absolutely refuses to take part in the

1 deliberations you will need to let me know so I can take  
2 appropriate action, okay. All right. If the 12 regular  
3 jurors will step back. The two alternate jurors, Sheriff,  
4 if you will find a place for them temporarily. If y'all  
5 will follow the Lieutenant, the bailiff's staff.

6 (WHEREUPON, the jury panel was excused from the  
7 courtroom at 11:03 a.m.)

8 COLLOQUY

9 MR. SWILLEY: Your Honor, I would take exception.  
10 Your Honor, I would request that the Court charge the  
11 lesser included charge of resisting arrest as well as  
12 ordinary C.D.V. and allow that to be a lesser included in  
13 the two indictments also.

14 THE COURT: Okay, that was not agreed upon in our  
15 meeting in chambers, and under the evidence in this case I  
16 would tend to say that you are not entitled to it. Your  
17 client never denied he had a knife. He said he dropped  
18 the knife, but there was evidence there that there was a  
19 knife. However, I would defer to the State in regard to  
20 that ---

21 MR. REDMOND: Your Honor, I would like ---

22 THE COURT: --- to be heard.

23 MR. REDMOND: I think the evidence, and you said  
24 exactly what I was going to say regarding the fact that at  
25 some point during the resisting arrest he was tazed and

1 was armed with a knife. He says he dropped the knife, so  
2 even by his own comments I don't think they are entitled  
3 to those instructions.

4 THE COURT: And I am going to go on and make an even  
5 stronger statement. Even though y'all agreed to the two  
6 that I did do it on. As I understood, y'all correct me if  
7 I'm wrong. Even though there was an agreement if there  
8 hadn't been an agreement I would not have charged the  
9 lesser included offenses if it had been left totally to  
10 me. But I always try to do what counsel can agree to if I  
11 know that it's proper under existing case law.

12 MR. REDMOND: Yes, sir.

13 MR. SWILLEY: Thank you, Your Honor.

14 THE COURT: Okay. Y'all check off the exhibits,  
15 please.

16 (WHEREUPON, the jury panel begins deliberations at  
17 11:09 a.m.)

18 (WHEREUPON, other Court-related business was  
19 conducted on the record but not related to the trial  
20 of this case and not included in this transcript of  
21 record from 11:09 a.m. and reconvened at 11:40 a.m.)

22 (WHEREUPON, the jury panel enters the courtroom at  
23 11:42 a.m.)

24 QUESTION FROM THE JURY

25 THE COURT: Okay. Back on the record. I have an

1 inquiry from the jury panel, and I will publish it at this  
2 time: "We need the explanation of the charge of attempted  
3 murder. What is the difference between attempted murder  
4 and the lesser charge? What exactly is the lesser  
5 charge?" All right. We have the indictment for attempted  
6 murder with the jury present. And in response to your  
7 inquiry, Mr. Foreman, I will recharge you on your request.

8 Section 16-3-29 of the Code of Laws of the State  
9 South Carolina, 1976, as amended is entitled, 'Attempted  
10 Murder'. "A person who with intent to kill attempts to  
11 kill another person with malice aforethought, either  
12 expressed or implied, commits the offense of attempted  
13 murder.

14 Some criminal offenses in South Carolina you have  
15 lesser included offenses. Assault and battery in the  
16 first degree is one of the lesser included offenses of  
17 attempted murder as prescribed by our State Legislature  
18 and Governor and the statutes. I will now define assault  
19 and battery in the first degree for you. That comes from  
20 16-3-600(C)(1).

21 "A person commits the offense of assault and battery  
22 first degree if the person unlawfully offers or attempts  
23 to injure another person with the present ability to do so  
24 and the act is accomplished by means likely to produce  
25 death or great bodily injury." For clarification purposes

1 the attempted murder statute requires malice aforethought  
2 as I defined for you earlier. The lesser included offense  
3 of assault and battery first degree does not have that  
4 element.

5 Okay. As far as the jury is concerned you have to  
6 apply the evidence as you find to be the truth state and  
7 the true facts and analyze these two statutes to see what  
8 applies. Now, I in no way get into that. That is your  
9 sole duty to do that. Once again, you've got three  
10 possible verdicts on that attempted murder indictment.  
11 That's of guilty of attempted murder or guilty of assault  
12 and battery first degree or not guilty.

13 Once again, if you find the defendant guilty but you  
14 have a reasonable doubt as to whether the defendant be  
15 guilty of the greater crime charged or the lesser crime  
16 charged then you would resolve that reasonable doubt in  
17 favor of the defendant and write a verdict of guilty only  
18 as to the lesser charge.

19 But, of course, you could not write a verdict of  
20 guilty to any charge unless it's to that charge you find  
21 all elements of the charge have been proven by the State  
22 beyond a reasonable doubt.

23 All right, Mr. Foreman, do I need to repeat that one  
24 more time?

25 JURY FOREPERSON: I don't think so.

1           THE COURT: Okay. All right. If you have -- oh,  
2           there was one thing I need to mention to you. If someone  
3           needs to take a smoke break or restroom break or whatever.  
4           And you don't have all 12 present, stop your deliberations  
5           until you get all 12 back. Thank you. Y'all may return  
6           to complete your deliberations.

7           (WHEREUPON, the jury panel was excused from the  
8           courtroom to continue deliberations at 11:47 a.m.)

9           (WHEREUPON, Court's Exhibit No. 1 was marked for  
10          identification and received into evidence.)

11                               COLLOQUY

12          THE COURT: Anything for the record concerning that  
13          inquiry?

14          MR. REDMOND: Nothing from the State, Your Honor.

15          MR. SWILLEY: Well, I don't have anything, Your  
16          Honor. I was asked some questions whether the difference  
17          between assault and battery first degree and attempted  
18          murder was malice and aforethought. I was under the  
19          impression perhaps the difference was with intent to kill.

20                I don't think such a new statute -- there has not  
21          been enough case law annunciating for the difference. A  
22          new case came out to the lesser included to attempted  
23          murder, which is State v Middleton, does not go into  
24          detail about the differences other than A & B. I think  
25          the charge was sufficient.

1 THE COURT: Okay. Y'all stay close by.

2 MR. REDMOND: Yes, sir.

3 THE COURT: They may have further questions.

4 (WHEREUPON, other Court-related business was  
5 conducted on the record but not related to the trial  
6 of this case and not included in this transcript of  
7 record.)

8 MR. SWILLEY: Your Honor, before you bring the jury  
9 in I have been giving it some thought, and I think that I  
10 need -- I am obligated to formally object -- to make a  
11 formal objection as to the jury charge. The difference in  
12 A and B first and attempted murder. I just want to make a  
13 formal objection. I think that the difference in A & B  
14 first and attempted murder is the actual intent to kill,  
15 and I just ask that you note my objection for the record.

16 THE COURT: I charged the actual statute that includes  
17 that.

18 MR. SWILLEY: Yes, sir. Just as an abundance of  
19 caution.

20 THE COURT: Noted.

21 VERDICT OF THE JURY

22 THE COURT: The jury is coming in. Everybody rise  
23 up.

24 (WHEREUPON, the jury panel enters the courtroom at  
25 12:40 p.m.)

1 THE COURT: You may be seated. Madam Clerk.

2 CLERK OF COURT: Mr. Foreman, have you reached your  
3 verdict?

4 JURY FOREPERSON: Yes, we have.

5 THE COURT: Please pass it to the bailiff. All four  
6 indictments are signed and dated. Madam Clerk, you may  
7 publish the indictments.

8 CLERK OF COURT: State of South Carolina v. Julius  
9 Curry, 2013-GS-13-697. We the jury find the defendant not  
10 guilty.

11 State v. Julius Curry, 2013-GS-13-700. We the jury  
12 find the defendant guilty of assault and battery first  
13 degree.

14 State of South Carolina v. Julius Curry,  
15 2013-GS-13-698. We the jury find the defendant guilty.

16 State of South Carolina v. Julius Curry,  
17 2013-GS-13-699. We the jury find the defendant, Julius  
18 Curry, guilty. Dated March the 15th 2014. The foreman is  
19 Matthew [sic] Garrell. Mr. Garrell, is this still your  
20 verdict?

21 JURY FOREPERSON: Yes, ma'am.

22 CLERK OF COURT: And is it still the verdict of all  
23 12?

24 THE COURT: Anything further of the jury?

25 MR. SWILLEY: Your Honor, I request polling of the

1 jury.

2 POLLING OF THE JURY

3 CLERK OF COURT: Okay. I'm going to call your name.  
4 Just raise your hand, and what I want to know is if this  
5 is your verdict and still your verdict. Michael E.  
6 Garrell.

7 JURY FOREPERSON: Yes.

8 CLERK OF COURT: Robert Cash.

9 JUROR: Yes.

10 CLERK OF COURT: Andrew W. Baricska.

11 JUROR: Yes.

12 CLERK OF COURT: William H. Watkins.

13 JUROR: Yes.

14 CLERK OF COURT: Wesley C. Johnson.

15 JUROR: Yes, ma'am.

16 CLERK OF COURT: Anita G. Powell.

17 JUROR: Yes.

18 CLERK OF COURT: Darlene M. Jones.

19 JUROR: Yes.

20 CLERK OF COURT: Dennis M. Porter.

21 JUROR: Yes.

22 CLERK OF COURT: William F. Gordon, Sr.

23 JUROR: Yes, ma'am.

24 CLERK OF COURT: Caleb A. O'Neil.

25 JUROR: Yes, ma'am.

1 CLERK OF COURT: Heidi R. Johnson.

2 JUROR: Yes.

3 CLERK OF COURT: Maxie D. Brown.

4 JUROR: Yes.

5 THE COURT: Anything further?

6 MR. REDMOND: There is nothing, Your Honor. Not from  
7 the Defense.

8 THE COURT: Ladies and gentlemen of the jury, I want  
9 to thank you for trying this case. Thank you for your  
10 hard work, and thank you for your patience with the Court.  
11 I will tell you that we were arranging lunch for you, but  
12 it takes a while because most of the restaurants can't  
13 handle more than 10 or 15 at one time. We have to call  
14 them ahead. We were working on that.

15 The order has already been called in. So with that  
16 said if you will report to the Carolina, if you so desire.  
17 Lunch will be provided by the County for your hard work.  
18 And I appreciate Madam Clerk for doing that for you. If  
19 you don't know where the Carolina is it's towards  
20 Pageland.

21 Go out Number Nine towards Pageland, and it is right  
22 outside the city limits past the new school up there on  
23 the right. You will see the sign that says Carolina  
24 Restaurant. When you go in let the lady or gentlemen know  
25 behind the counter that you are on the jury. Okay. And

1 it's a buffet, and they should have a table back there if  
2 you want to sit together. That is arranged for you.

3 The next thing we will do is what we call mitigation  
4 and sentencing whereby we complete that and we hear any  
5 criminal record of the defendant, if he has one, and also  
6 complete the sentencing.

7 I would invite you to stay with us and listen to that  
8 if you so desire, but if you would rather go ahead and  
9 leave that will be fine, too. Because this will complete  
10 you service for the week. I've got to move on to Marlboro  
11 and Dillon tomorrow and then Darlington County on Friday  
12 for roster meetings. Okay.

13 But if you would like to stay you may step down and  
14 have a seat in the gallery. Or if you would like to go  
15 ahead and leave that will be fine. But whenever you do  
16 leave if you want to stop up at the Carolina and have  
17 lunch, please do so. Any questions? Okay. Got notes  
18 here and your checks, Madam Clerk?

19 CLERK OF COURT: Got their notes, not their checks.

20 THE COURT: All right. Madam Clerk, she will mail  
21 you your checks. If you don't get them within next week  
22 please call and let her know. And before I let you go,  
23 please do not be upset with Madam Clerk or me about the  
24 amount of your jury pay. We can't control that. That is  
25 set by County Council, so if you don't like how much you

1 got paid fill their ears up because we are just as upset  
2 as you are. It's ridiculous compared to what you may get  
3 in the federal court or in other states compared to us.  
4 So let them know your feelings about that if you feel  
5 strongly about that. Okay. All right. Anything before I  
6 release the jury?

7 MR. FOARD: Your Honor, if I may, I would just like  
8 to convey on behalf of Mr. Redmond. As the Court knows  
9 Mr. Redmond has a sick child at home and he's had to go  
10 home and tend to that, but he wanted to convey his  
11 apologizes for having to leave early to the jury as well  
12 as to the Court.

13 THE COURT: Thank you, Solicitor.

14 MR. SWILLEY: Nothing from the Defense, Your Honor.

15 THE COURT: All right.

16 SENTENCE OF THE COURT

17 THE COURT: All right. Sheriff, if you will secure  
18 the defendant. We are ready to move into mitigation and  
19 sentencing.

20 MR. SWILLEY: Your Honor, I believe I preserved the  
21 record on my right to renew my motion for a directed  
22 verdict as well.

23 THE COURT: So noted.

24 MR. SWILLEY: Thank you.

25 THE COURT: We are here on the record on Indictment

1 697 for criminal domestic violence high and aggravated  
2 nature the jury found the defendant not guilty. On the  
3 resisting arrest with a deadly weapon the verdict was  
4 guilty. And on the attempted murder the lesser included  
5 offense of assault and battery first degree is guilty.  
6 And on the assault and battery second-degree indictment,  
7 which was 698, is guilty. State have anything in  
8 mitigation?

9 MR. FOARD: If I may hand up the sentencing sheets,  
10 Your Honor. After sentencing we will have the proper  
11 statutes and proper C.D.R. codes, if Your Honor pleases.  
12 With regard to these convictions, Your Honor, as you know,  
13 Your Honor, this is Mr. Redmond's case and Mr. Farr sat in  
14 with him, Your Honor.

15 But just to communicate Mr. Curry's prior history,  
16 Your Honor, of the most concern to the State is obviously  
17 of course his conviction in 2008. In 2008 he was  
18 convicted of assault with intent to kill, Your Honor,  
19 receiving an 8 year prison sentence.

20 But, Your Honor, it does go back further than that,  
21 and is actually what the State would contend is a pretty  
22 extensive history of this type of behavior. In 1993, Your  
23 Honor, in Baltimore, Maryland he was convicted of battery  
24 receiving a six month sentence for that.

25 Subsequent to that six month sentence for battery he

1 did serve some sort of probationary sentence according to  
2 NCIC and was ultimately violated from that probation, Your  
3 Honor.

4 Then going further than that in 1999 he was convicted  
5 in Neptune Township, New Jersey with criminal mischief  
6 with damage, Judge. And that was a guilty finding at that  
7 time.

8 And also in 1999 in the same area of New Jersey he  
9 was convicted of theft. Beg the Court's indulgence. And,  
10 Your Honor, I'm just informed by law enforcement that, and  
11 I actually did not know this, but the assault and  
12 battery -- the assault with intent to kill in 2008, Your  
13 Honor, that he received an 8 year sentence, the victim on  
14 that case was actually law enforcement. He shot at a  
15 deputy sheriff, Your Honor, and I believe they can expound  
16 on who the victim was, Judge.

17 With that in mind I believe that the indictment, 699,  
18 resisting arrest with a deadly weapon first offense, if  
19 our information is correct he is facing a minimum sentence  
20 of two years and a maximum sentence of 10 years.

21 On the assault and battery second carries zero to  
22 three, and the assault and battery first which arises out  
23 of an attempted murder carries zero to 10, Your Honor. We  
24 respectfully ask that he receive 10 years on Indictment  
25 699, three years on Indictment 698, and 10 years on

1 Indictment 700 to be served consecutively, Your Honor.

2 We believe that this is warranted in this case  
3 because he has demonstrated a clear pattern of behavior.  
4 As I have just been told he's done this before regarding  
5 law enforcement. He is not only a danger to the community  
6 he is also a danger to law enforcement. He is a danger to  
7 the citizens of Chesterfield County.

8 THE COURT: All right. Chief.

9 MS. DAVIS: Just to make you aware, Judge, that the  
10 case in 2008 involved Deputy Byron Chapman at the time and  
11 it was a domestic. And he came out the front door, fired  
12 a shot at him and ran which lead to his arrest later and  
13 an eight year sentence which I think he served four.

14 THE COURT: Thank you, Chief.

15 MR. SWILLEY: Your Honor -- oh, I'm sorry.

16 THE COURT: Go ahead.

17 MR. SWILLEY: I took this case over from Mr. Letteer  
18 when I came back here in January. I have not gotten to  
19 know Mr. Curry personally as well as I would have liked,  
20 but of course, he was born in Baltimore and had a rather  
21 poor upbringing. And some time proceeding his arrival  
22 here he had a child. An infant child that was killed by  
23 the boyfriend of the child's mother. It was end up  
24 getting convicted of homicide by child abuse. He has some  
25 other children and grandchildren that reside in Baltimore,

1 Your Honor.

2 As to his prior record, I think the only thing that  
3 near past that incident back in 2008 that Mr. Foard read  
4 off some things he had in other states, but they appear to  
5 be from the late 80s and early 90s.

6 Your Honor, you know, I don't know what Julius  
7 allocuted in front of you, but I would respectfully  
8 request that the Court not punish him for exercising his  
9 right to a trial. I don't think that he -- well, let me  
10 say that in my dealings with him he has never shown the  
11 kind of demeanor that was portrayed by the witnesses  
12 during the trial. He has always been polite and  
13 respectful to myself.

14 I think he is very regretful that this incident took  
15 place. I don't think that had he not been using illicit  
16 substances that night this would not have gone down the  
17 way it went down. Nevertheless, it did, but I don't think  
18 that, in sobriety, is in any way he was or how he was  
19 described to be on August 30th of 2013.

20 And I would just respectfully ask the Court not to  
21 impose consecutive sentences. I would respectfully  
22 request the Court give him a sentence that is within one  
23 of the statutes.

24 THE COURT: All right. Mr. Curry, is there anything  
25 you would like to say at this time?

1           MR. CURRY: Yes, sir. I want to apologize. I made  
2           some mistakes in my life, Your Honor and I'm not going to  
3           try to make excuses for any of them. I got family. I got  
4           kids and grandkids, and I would like to see them. The  
5           only thing I can do is throw myself at the mercy of the  
6           Court.

7           THE COURT: All right. Mr. Curry, the jury has  
8           reached their verdict, and it's now my duty to complete  
9           sentencing. At this time on the record I need to advise  
10          you that you have a right to appeal. Any appeal has to be  
11          perfected by filing a Notice of Appeal within ten days of  
12          sentencing. Even though there are other attorneys there  
13          in Columbia especially that handle appeals in most cases,  
14          counsel, it would be incumbent upon you to assist him if  
15          he so desires to appeal.

16          MR. SWILLEY: Yes, sir.

17          THE COURT: At least to help him initiate that.

18          MR. SWILLEY: Yes, sir.

19          THE COURT: Mr. Curry, I'm not going to sit up here  
20          and preach a sermon to you, but you are one lucky  
21          individual by the mere fact that you are standing here  
22          today. Because if those officers had unloaded on you and  
23          put you 6 feet under them, from my opinion from what I  
24          have heard, they would have been fully justified.

25          This is the second time around with law enforcement.

1 At least the second time. I heard the Chief Deputy just a  
2 few minutes ago state that you had shot at a law  
3 enforcement officer and received an eight year sentence  
4 for which you served four years. Apparently, that did not  
5 deter you from getting into this dilemma.

6 All right. Sentence of the Court on the assault and  
7 battery first degree will be 10 years in the State  
8 Department of Corrections.

9 On the resisting arrest with a deadly weapon sentence  
10 of the Court is 10 years in the State Department of  
11 Corrections. That is a consecutive sentence.

12 Assault and battery second degree, the sentence of  
13 the Court is one and a half years, consecutive.

14 You will receive credit for your jail time, and I  
15 need a report on that before Mr. Curry is transported so I  
16 can complete that on the sentencing sheet.

17 MR. SWILLEY: Your Honor, it's 188 days.

18 THE COURT: 188?

19 MR. SWILLEY: 188. That's correct, Your Honor.

20 THE COURT: 188. Thank you very much. That  
21 completes this case.

22 MR. FOARD: Thank you, Your Honor.

23 MR. SWILLEY: Thank you, Your Honor.

24 END OF TRANSCRIPT OF RECORD

25



State of South Carolina ) In the Court of General Sessions  
 )  
 ) First Judicial Circuit  
County of Chesterfield ) 2013-GS-38-01308  
 ) 2015-GS-38-00035

State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Transcript of Record  
 )  
 Julius Curry, )  
 )  
 Defendant. )  
 )  
 )

Darlington, South Carolina  
April 8, 2015

B E F O R E:

The Honorable Paul M. Burch

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

Kenard Redmond, ESQUIRE  
Attorney for Plaintiff

Matthew Swilley, Esquire  
Attorney for Defendant

LISA S. CARTER  
CIRCUIT COURT REPORTER

## I N D E X

WITNESSESPAGE

Christopher Page:

DIRECT EXAMINATION BY MR. REDMOND

6

CROSS EXAMINATION BY MR. SWILLEY

13

CROSS EXAMINATION BY THE COURT

15

EXHIBITSNO.DESCRIPTIONEV.

C-1

Summary of calls

7

1 THE COURT: Solicitor?

2 MR. REDMOND: May it please the court Your Honor? We  
3 are before you on order of the Court of Appeals. The  
4 appellate case number is 2014-000569. An order signed by  
5 Chief Judge Few on the 30th of March, 2015, to reconstruct  
6 the record of particular jail calls.

7 The case before you is actually The State v. Julius  
8 Curry. He was indicted on several charges, 2013 -GS-700, for  
9 attempted murder. He was actually convicted of assault and  
10 battery, first-degree, at trial in March 2015; 2013-GS-13-698  
11 is for assault and battery of a second-degree, he was found  
12 guilty of that charge; 2013-GS-13-699, that was for resisting  
13 arrest with a deadly weapon, he was found guilty on that; and  
14 2013-GS-13-697, that was CDV, high and aggravated, he was  
15 found not guilty on that particular charge. He was sentenced  
16 to 10 years on the A&B first; 10 years old resisting arrest  
17 consecutive; and then, also consecutive was a year and a half  
18 on the assault and battery, second-degree.

19 With that said, Your Honor, -- and, of course, just for  
20 the record we were all under the mistaken impression that the  
21 -- that the jail calls were being -- when they were played  
22 and published for the jury we were under the mistaken  
23 impression that it was being recorded. Of course, I have  
24 found out that it is normal procedure for it not to be  
25 recorded when something is played out in open court. Did not

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND:

5

1 know that at the time. With that said, Your Honor, we were  
2 not able to get a disk so that's why we literally had to play  
3 it from the database on Sergeant Wayne Jordan's laptop at the  
4 trial. We have since come to find out that the recording has  
5 now been deleted from the database of the company that  
6 actually administers that particular recording system. So  
7 with that said, Your Honor, we have got Chris Page here  
8 today, fortunately, he actually had provided notes on the  
9 contents of these calls. He is here today to testify on the  
10 content of the calls since he actually personally did hear  
11 the calls. He did not testify at trial but given the issue  
12 that's come up with reconstructing the record and since we do  
13 not have an actual recording, his notes from those calls is  
14 the easiest and best way to reconstruct the record. And so,  
15 with that said, Your Honor, we would -- the State is  
16 prepared to proceed at the appropriate time. I do think  
17 there is a matter to be heard by the -- from the defense.

18 THE COURT: Mr. Swilley?

19 MR. SWILLEY: Your Honor, thank you. I've spoken with  
20 appellant counsel and, Your Honor, I just put on the record  
21 that I would object to the reconstructing of the record on  
22 the grounds that it's not truly a reconstructed hearing due  
23 to the fact that or rather not enough time for motion to  
24 reopen the record due to the fact that new evidence, why it  
25 should be entered into the record, I believe through Chris

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND:

6

1 Page who is not a -- was a witness at the time of the trial,  
2 Your Honor. So I just wanted to make that clear and clarify  
3 for the record later on for the appeal. Thank you.

4 THE COURT: That's fine. Well, we'll do the best we can  
5 and, of course, we will try our best to meet the order of the  
6 Court of Appeals and let's get it on the record and if  
7 anybody is in a disagreement, remembers that something was  
8 different from the way it pans out today, let's get that on  
9 the record where the Court of Appeals can see it because  
10 we're under a strict deadline on this.

11 MR. REDMOND: Yes, sir.

12 THE COURT: All right. Solicitor?

13 MR. REDMOND: Your Honor, if it please the court the  
14 State would call, Chris Page.

15 (Witness was sworn)

16 MR. PAGE: Yes, sir.

17 BAILIFF: Give your full name for the record please.

18 MR. PAGE: Christopher John Page.

19 CHRISTOPHER PAGE, first  
20 being duly sworn, testified as follows:

21 **DIRECT EXAMINATION BY MR. REDMOND:**

22 Q. And -- are you currently employed with the sheriff's  
23 office in Chesterfield County?

24 A. No, sir, I'm retired.

25 Q. Okay. And were you employed with the Chesterfield

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND:

7

1 County Sheriff's Office at the time, I guess, at the time in  
2 question being between September 12, 2013 and September 25,  
3 2013?

4 A. Yes, sir.

5 Q. Okay. And in what capacity were you employed?

6 A. I was a lieutenant over the narcotics section.

7 Q. Okay. Now, did you -- as a part of your employment with  
8 the sheriff's office, did you occasionally listen to recorded  
9 jail calls?

10 A. Yes, sir.

11 Q. Okay. Did you listen to any jail calls between 12th of  
12 September, 2013 and 25th of September 2013, calls involving  
13 the defendant Julius Curry?

14 A. Yes, sir.

15 Q. Now, before we get into that if I may and I have shown  
16 it to the defense if I could have this marked as a Court's  
17 Exhibit I should've done this at the beginning I apologize --

18 -

19 MR. SWILLEY: And, Your Honor, I would just like to  
20 object under my previous reason at that. Thank you.

21 THE COURT: So noted. I guess I need to overrule the  
22 objection.

23 (SUMMARY OF CALLS HAS BEEN MARKED AND ENTERED INTO  
24 EVIDENCE AS COURT'S EXHIBIT NUMBER 1)

25 Q. I'll hand you up what's been marked -- I'm going to hand

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND:

8

1     you what's been marked as Court's Exhibit Number One and  
2     regarding those calls in reference to Mr. Curry, did you take  
3     notes and are those notes reflected in what you've typed up  
4     being a summary of what you heard on those calls?

5     A.   That's correct.

6     Q.   Now -- and is that prepared by you? Was that prepared  
7     by you?

8     A.   Yes, sir. This is something that I turned in.

9     Q.   Now, in these particular calls and I'm just going to go  
10    through each call and -- for the record, to make sure the  
11    record is clear, first I'm going to go through the calls that  
12    from my recollection were actually the portions were played  
13    and then I'll get into it a section -- see they were some  
14    statements that we didn't get into that we had agreed that  
15    needed to be excluded but for right now I'm going to actually  
16    ask Lieutenant Page what was actually played for the jury ---

17           THE COURT: Yeah, definitely we don't want to get that  
18    mixed up.

19           MR. REDMOND: Exactly. So that's why I want to make the  
20    record clear that what I'm asking him now is what the State  
21    contends was played in court at the time of trial, the  
22    summary of what was played in court and then after that I'll  
23    get into what we had agreed was not played in court.

24           THE COURT: Okay.

25    Q.   But with that said, I'm gonna ask you about -- and

1 starting on 13th of September, did you listen to a call about  
2 seven o'clock that was made between Mr. Curry and someone by  
3 the name of Shell?

4 A. All right, I need to explain something, that seven ---

5 Q. Yes

6 A. --- is the time frame of the call. That would've been  
7 the time frame in that call that is not the correct time of  
8 that call.

9 Q. Okay. I gotcha.

10 A. If it was fifteen minutes that would've been seven  
11 minutes within that time frame.

12 Q. I gotha. Well, that first call -- it's the second call,  
13 it says seven minutes could you tell from the best of your  
14 recollection what that call -- what was discussed during that  
15 call between the defendant and Shell?

16 A. The conversation basically entailed, Curry and Shell are  
17 talking about paying Quan a \$1,000.00 to \$1,500.00 to not  
18 appear in court. Curry tells Shell to make sure Quan does  
19 not make it to court.

20 Q. Now, below that is mentioned is 9:45, a nine  
21 minute/forty-five second call, could you explain what the  
22 contents of that -- the summary of the contents of that call?

23 A. This call is, Shell describing to Curry what he did to  
24 her and Quan.

25 Q. Okay. And to be clear, do you have any recollection of

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND: 10

1 all of the details that were mentioned in those calls or is  
2 this the summary of the key portions of the call?

3 A. No, sir. There were other calls that were not recorded  
4 that had no content to this. There were also some calls that  
5 they had asked me to listen for, for another case that had  
6 also would have probably -- probably they were a few calls  
7 that was used on his card from another defendant in another  
8 case.

9 Q. I understand.

10 A. That aren't reflected on this sheet.

11 Q. Okay. Now, then we get to eleven minute/ twenty second  
12 call, could you tell us what the summary of the contents of  
13 that call were?

14 A. Curry is talking to Shell and trying to get her to tell  
15 law-enforcement officers that she is dropping her charges.

16 Q. Okay. And then a twelve minute/fifty second call?

17 A. Shell tells Curry that she is worried he would kill her  
18 if he gets out of jail.

19 Q. Now, there's a fourth call indicated in there but for  
20 the record the fourth call was not played in court. Now,  
21 let's move to 14th of September, 2013, a four minute call,  
22 what were the contents of that call?

23 A. Shell told Curry that he did it and can't fix it.

24 Q. And then a nine minute/fifteen second call?

25 A. Shell told Curry he did this to himself.

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND:

11

1 Q. Okay. And a eleven minute/two second call?

2 A. Shell told Curry she told law-enforcement officers she  
3 wasn't drug into the room but she was.

4 Q. Now, the third call, five minute and two seconds?

5 A. Shell told Curry that she was afraid he would kill her  
6 the next time.

7 Q. Now, let's move on to 15th of September, 2013. That  
8 first call at eight minute/ten second call?

9 A. Shell admits to a recent arrest for shoplifting at  
10 Walmart.

11 Q. Okay. And the next one is ten minutes/thirteen seconds?

12 A. Shell told Curry that the night of the incident he said  
13 he was going to kill the police.

14 Q. Okay. Now let me get you to repeat that one. The ten  
15 minutes/thirteen second, what did he say?

16 A. Shell told Curry that the night of the incident he said  
17 he was going to kill the police.

18 Q. Now, 16th of September, 2013, the third call is an  
19 eleven minute call?

20 A. Curry tells Shell the charges will be dropped due to  
21 Wallace not writing an incident report.

22 Q. Then we skipped to 17th of September, 2013, that first  
23 call which was the first call, six minutes and thirty  
24 seconds?

25 A. Curry told Shell not to go to the court hearings. Curry

CHRISTOPHER PAGE- DIRECT EXAMINATION BY MR. REDMOND: 12

1 said there is no crime if there is no victim in court.

2 Q. Okay. And ten minutes and forty seconds of that first  
3 call?

4 A. Shell and Curry are arguing. Curry told Shell to quit  
5 saying he deserves time in prison.

6 Q. Now, let's move to the 21st of September, 2013, the  
7 second call, an eight minute call and I'm gonna ask you to  
8 first do the first sentence of that call?

9 A. Of the eight minute call?

10 Q. Yes, the eight minute call.

11 A. Both Shell and Curry said the deputy was telling him,  
12 Curry, to stop.

13 Q. Okay.

14 MR. REDMOND: Now, for the record, Your Honor, in  
15 Court's Exhibit One, the next sentence, Curry said, "he would  
16 plead to probation," that was excluded at trial by agreement  
17 of the parties. We didn't even try to present that  
18 particular portion where there's a discussion within that  
19 call where he says that he would plead to probation. So that  
20 was never played for the jury.

21 Q. Now, that third sentence after the probation sentence,  
22 what was said?

23 A. Curry told Shell that her and Quan had to drop their  
24 charges.

25 Q. Okay. And were these the end of the calls?

1 A. All the -- any content that I notated for the case.

2 Q. Yes. Okay.

3 A. Yes, sir.

4 Q. All right. Now, let me go back for just a minute to the  
5 17th of September, the second call it fourteen minutes --  
6 and, Your Honor, this is the section -- that concludes what  
7 we had actually introduced for the jury. Now, I'm going to  
8 get in for the record what we excluded from the jury so the  
9 jury did not hear what I'm about to get into with Lieutenant  
10 Page. All right. That second call, fourteen minutes?

11 A. Shell tells Curry he has threatened to punch her in the  
12 past.

13 Q. Okay. And then again just for the record the second  
14 call of 21st of September, the eight minute call, that second  
15 sentence?

16 A. Curry said he would plead to probation.

17 Q. And again does that conclude the calls that you took  
18 notes on from the defendant and Shell?

19 A. Yes, sir.

20 MR. REDMOND: I beg the Court's indulgence. Be all the  
21 questions I would have at this time.

22 THE COURT: Thank you, Solicitor.

23 MR. SWILLEY: Just very briefly, Your Honor.

24 **CROSS EXAMINATION BY MR. SWILLEY:**

25 Q. Mr. Page, you -- I think you stated that you -- you

CHRISTOPHER PAGE- CROSS EXAMINATION BY MR. SWILLEY: 14

1 didn't listen to these calls live, did you, you announced  
2 before you were on a secure software?

3 A. Yes, sir. That's correct.

4 Q. Okay. And about approximately how long after you listen  
5 to these calls did you actually make these notes?

6 A. This is a guest because of something else I had going on  
7 but, I believe it was in the middle -- to the middle of  
8 October to the middle of November.

9 Q. Okay. And that's approximately about a month after you  
10 listen to them?

11 A. Well, if you look at the last one I'm going to say two  
12 to three weeks. The last one that I had documented which was  
13 21st of September.

14 Q. Okay. So just -- just to be clear, you didn't make  
15 these notes contemporaneously with you're listening to the  
16 calls, right?

17 A. Sir?

18 Q. You didn't make these notes at the same time you were  
19 listening to these calls, correct?

20 A. I took notes from the call.

21 Q. Okay. So you're telling -- so you're listening -- okay,  
22 so you're listening to these calls and you're taking notes  
23 while you're listening to them, is that what you're saying?

24 A. Yes, sir.

25 Q. Okay. All right. And you don't contend that your notes

1 are verbatim, exactly what was said on the calls, right? Just  
2 summations, correct?

3 A. Yes, sir. That was all I was asked to do was to ---

4 Q. Okay. Okay. And these calls -- your notes -- do you  
5 have -- do you have exact time ranges from when how long  
6 these calls ran?

7 A. No, sir. They would have been on the secure site.

8 Q. Okay. So each one of these notes you made we're not  
9 really sure how long each call last, is that correct?

10 A. No, sir.

11 Q. Okay. All right.

12 A. Not without that record of documentation.

13 Q. All right. Thank you, Mr. Page. That's all I have.

14 **CROSS EXAMINATION BY THE COURT:**

15 Q. You were the lead investigator on this case?

16 A. No, sir. I was asked to assist with the phone calls  
17 because I had done them before. And generally and basically  
18 I was asked to do was if there was something of value they  
19 could use to let them know which calls to get.

20 Q. So you would have been the most familiar with these  
21 calls?

22 A. From the start, yes, sir.

23 Q. Yes. And you were present in court when these calls  
24 were played to the jury?

25 A. No, sir, I wasn't. I wasn't involved with this trial at

1 all.

2 Q. But to the best of your memory, everything that you have  
3 covered for the record this morning you know that your exerts  
4 were directly taken from what you heard from the recordings?

5 A. Yes, sir. There's actually, should be a sheet in the  
6 case file of the hand written notes that I took also.

7 Q. Is that different from what you have today?

8 A. No, sir. I mean, there may be a couple of extra things  
9 written on the hand written notes. To be honest with you,  
10 Your Honor, I didn't get this until Monday night.

11 A. Right. I understand. Okay.

12 Q. If you give me a minute or two I don't mind looking over  
13 it.

14 MR. REDMOND: I'll leave that to the Court's discretion  
15 in that regard.

16 THE COURT: Well, in the twenty-four years I've been on  
17 the bench I know I remember one time we had to reconstruct  
18 the record on a case and Chief Justice Finney issued an order  
19 and I'm just sitting here thinking that probably to avoid  
20 confusion we need to stick with exactly what has been said  
21 today and not put in any other exhibits. I don't know that,  
22 that would be proper and that could cause confusion.

23 MR. REDMOND: And, Your Honor, I guess just to be on the  
24 safe side I would -- the State had no intention of  
25 introducing anything other than this. But to be clear for

1 the record, Court's Exhibit Number One and I didn't make this  
2 clear, Lieutenant Page did allude to the fact that it was  
3 part of the case file, that was actually provided to the  
4 defense. The type written portion for sure was provided to  
5 the defense because we were actually discussing that as we  
6 were going through in determining what the best sections were  
7 to play for the jury and what needed to be excluded. So I  
8 just wanted the record to be clear that Court's Exhibit  
9 Number One is something that was prepared as he's already  
10 testified to on cross but it was actually available at the  
11 time of trial. So I just wanted it to be clear that this is  
12 something that was in existence at the time of trial.  
13 Obviously, we didn't use it because we had the recording  
14 itself.

15 THE COURT: All right. This is what I want to do now  
16 to try to clarify this. I've tried so many cases I remember  
17 some of this case and I remember -- I remember that we did  
18 have a recording we presented to the jury but, you two  
19 attorneys would be the most familiar with what was actually  
20 played to the jury, let's get it straight now, does anybody  
21 -- does either one of you disagree or maintain what has been  
22 said this morning was not part of that record?

23 MR. REDMOND: The State does not contend that. I mean,  
24 obviously, it was not verbatim but the contents, the  
25 substance was what was played in front of the jury in

1 addition what was excluded we also discussed that as well.

2 THE COURT: Mr. Swilley, what's your memory?

3 MR. SWILLEY: Judge, I can remember several I guess  
4 you'd call snippets from what was played. Specifically I re-  
5 call one time, Marchel told Mr. Curry over the phones that  
6 "Jay, you crazy," and I quote, and I do remember -- I do  
7 recall there being some kind of, ah, -- I do remember a  
8 conversation about Mr. Curry trying to persuade her to tell  
9 the authorities to drop the charges and go up and ask the  
10 charges to be dropped. Your Honor, in all candor I don't  
11 remember much else more than that.

12 THE COURT: Okay. Anything said today by Mr. Quick or  
13 anything said that we -- that so far that you maintain was  
14 not in that recording or at least the substance of it?

15 MR. SWILLEY: Your Honor, in all candor and I can't --  
16 I can't -- I couldn't answer that question in the affirmative  
17 or negative. I really don't know. I can't I can't remember.

18 THE COURT: Okay. Solicitor, you're the most familiar  
19 with the prosecution side ---

20 MR. REDMOND: Yes, sir.

21 THE COURT: Do you take exception that something was ---

22 MR. REDMOND: I do not. And, in fact, with what we had  
23 decided would come in and wouldn't come in, Court's Exhibit  
24 Number One was our guide. That's what we were using as our  
25 guide to determine what needed to be played and what would be

1 excluded. So to my recollection -- and we pretty much stuck  
2 to that, I do remember that much. Again is not verbatim but  
3 as it relates to those snippets that are in Court's Exhibit  
4 Number One, the state does not have any -- contends that  
5 there was nothing that was not accurate that was testified to  
6 by Mr. Page.

7 THE COURT: In your opinion, what has been presented  
8 this morning that is the best available documentation we have  
9 to reconstruct this ---

10 MR. REDMOND: And ---

11 THE COURT: --- record?

12 MR. REDMOND: And, if I could say thankfully Lieutenant  
13 Page and it shows the type of officer he was when he was in  
14 law enforcement, if we didn't have this and I will be honest  
15 with you, we would be in a pickle but this we had prior to  
16 the trial and this was what we used to guide us on what was  
17 going to be played to the jury. So it is extremely important  
18 and thankfully he did do that because if he hadn't like I  
19 said we would be in a pickle.

20 THE COURT: All right. Take a few minutes, the three  
21 of you -- you can step down -- and I said Mr. Quick I  
22 apologize I was wrong. I don't know where that came from.  
23 All right. What we're doing now we're having Deputy Chris  
24 Page, Solicitor, Kinard Redmond, and the defense attorney,  
25 Matt Swilley, are going to look at these other notes to see

1 if anything else needs to be put on the record at this time,  
2 however; subject to previous objection by counsel that still  
3 in play.

4 (Paused during hearing so all parties could look over  
5 documents)

6 MR. SWILLEY: Your Honor, it would appear from looking  
7 at former Deputy Page's notes that the verbiage is the same  
8 from what the court entered into as courts exhibit, other  
9 than the notes would have the actual numbers from which the  
10 calls were received, but I believe the actual words and  
11 verbiage are the same on the hand written notes from Deputy  
12 Page as in the word process copy that was entered into  
13 evidence.

14 MR. REDMOND: And I would agree, Your Honor.

15 THE COURT: So, nothing else to put in?

16 MR. REDMOND: No, sir, Your Honor. I mean, as defense  
17 indicated Mr. Swilley, the notes he pretty much typed up what  
18 he had written to be direct about it. He just wrote out the  
19 notes and typed up pretty much verbatim what he had written  
20 so we think Court's Exhibit Number One is a fair  
21 representation of what Lieutenant Page heard and what he's  
22 testified to today.

23 THE COURT: All right. Anything else?

24 MR. SWILLEY: Your Honor, just for the record I want to  
25 object to the reconstruction of the record specifically --

1 one moment please. I beg the Court's indulgence.

2 MR. REDMOND: And, there is one quick matter once Mr.  
3 Swilley finishes, just since we've had this reconstruction  
4 just to be on -- just to air on the side of caution just a  
5 quick matter I need to do this.

6 MR. SWILLEY: Your Honor, I just want to object to any  
7 finding of the court that the record has been adequately  
8 reconstructed for appellate review. Thank you.

9 THE COURT: I'll overrule the objection and all I can  
10 say to that is that we've done the best that we can do and I  
11 want to thank Investigator Page for being here and helping us  
12 and going out of the way to try to accomplish what the a  
13 Court of Appeals has ask us to do. Solicitor?

14 MR. REDMOND: Yes, sir, Judge, and the only other issue  
15 that I would have is that, obviously, when we get into these  
16 recordings, we did do a probative versus prejudicial  
17 assessment and so I just want to make sure that, that was  
18 clear for the record as well since we are -- especially since  
19 we discussed items that were excluded and items that were  
20 played for the jury. So I just wanted to make sure that was  
21 part of the record as well.

22 THE COURT: All right. Thank you very much.

23 MR. REDMOND: Thank you, Judge.

24 THE COURT: All right. Now, I'll have to do a report  
25 and we need an expedited transcript priority over everything

1        else.

2                COURT REPORTER: Yes, sir.

3                THE COURT: Thank y'all.

4                (Court adjourned at 10:28)

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CERTIFICATE

I, the undersigned Lisa S. Carter, Official Court Reporter for the Fourth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit Court for Darlington County, South Carolina, on the 8th day of April, 2015.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Lisa Carter

Lisa Carter

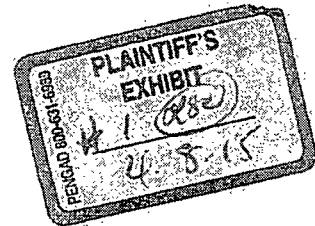
Circuit Court Reporter

APRIL 14, 2015

**RECEIVED**

APR 20 2015

ATTORNEY GENERALS  
OFFICE



JAIL CALLS FOR JULIUS CURRY  
FROM SEPTEMBER 12, 2013 THROUGH SEPTEMBER 25, 2013

CARD NUMBER 565608899429

DATE: 9-13-13 NUMBER CALLED (843)-287-4660

**SECOND CALL**

- [7:00] CURRY AND SHELL ARE TALKING ABOUT PAYING "QUAN" \$1,000 TO \$1,500 TO NOT APPEAR IN COURT. CURRY TELLS SHELL TO MAKE SURE "QUAN" DOES NOT MAKE IT TO COURT.
- [9:45] SHELL DESCRIBES TO CURRY WHAT HE DID TO HER AND "QUAN"
- [11:20] CURRY IS TALKING TO SHELL AND TRYING TO GET HER TO TELL LEO THAT SHE IS DROPPING HER CHARGES
- [12:50] SHELL TELLS CURRY THAT SHE IS WORRIED HE WILL KILL HER IF HE GETS OUT OF JAIL

**FOURTH CALL**

[3:20] SHELL SAYS THAT HER COUSIN (TEAL) IS A JAILER THAT WORKS AT THE JAIL

CARD NUMBER 714349799428

DATE: 9-14-13 NUMBER CALLED (843)-287-4660

**FIRST CALL**

- [4:00] SHELL TOLD CURRY "HE DID IT AND CAN'T FIX IT"
- [9:15] SHELL TOLD CURRY HE DID THIS TO HIMSELF
- [11:02] SHELL TOLD CURRY SHE TOLD LEO SHE WASN'T DRUG INTO THE ROOM, BUT SHE WAS

**THIRD CALL**

- [5:02] SHELL TOLD CURRY THAT SHE WAS AFRAID HE WOULD KILL HER THE NEXT TIME

CARD NUMBER 522123519968

DATE: 9-15-13

**FIRST CALL**

- [8:10] SHELL ADMITS TO A RECENT ARREST FOR SHOPLIFTING AT WAL MART
- [10:13] SHELL TOLD CURRY THAT THE NIGHT OF THE INCIDENT, HE SAID HE WAS GOING TO KILL THE POLICE

CARD NUMBER 168575814569

DATE: 9-16-13

**THIRD CALL**

- [11:00] CURRY TELLS SHELL THE CHARGES WILL BE DROPPED DUE TO WALLACE NOT WRITING AN INCIDENT REPORT

CARD NUMBER 295528083188

DATE: 9-17-13

**SECOND CALL**

[14:00] SHELL TELLS CURRY HE HAS THREATENED TO PUNCH HER IN THE PAST

CARD NUMBER 866578419531

DATE: 9-17-13

**FIRST CALL**

● [6:30] CURRY TOLD SHELL NOT TO GO TO THE COURT HEARINGS. CURRY SAID THERE IS NO CRIME IF THERE IS NO VICTIM IN COURT

● [10:40] SHELL AND CURRY ARE ARGUING. CURRY TOLD SHELL TO QUIT SAYING HE DESERVES TIME IN PRISON.

CARD NUMBER 345409936666

DATE: 9-21-13

**SECOND CALL**

[6:10] SHELL TOLD CURRY HIS AUNT WAS GOING TO GET SLED INVOLVED IN THIS CASE

● [8:00] BOTH SHELL AND CURRY SAID DEPUTY WAS TELLING HIM (CURRY) TO STOP. CURRY SAID HE WOULD PLEA TO PROBATION. CURRY TOLD SHELL THAT HER AND "QUAN" HAD TO DROP THEIR CHARGES

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**RECEIVED**

APR 20 2015

ATTORNEY GENERALS  
OFFICE

**Defendant.**

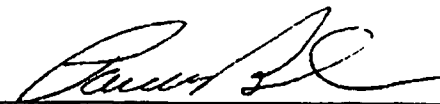
## ORDER

2015 APR 13 PM 3 02

The State called Lt. Chris Page (Ret.), formerly of the Chesterfield County Sheriff's Office. Lt. Page testified that he had listened to the recordings of the Defendants calls from the jail and made notes summarizing portions of the calls. These notes were typed and presented to the State, who in turn supplied them to the Defense. At the hearing, the State and the Defense distinguished the portions of the calls that were played at trial from those portions that were excluded from the trial. A transcript of the hearing will reflect the substance of the recordings published to the jury, and sufficiently reconstruct the record as to the recordings.

The Court is satisfied and finds that the portions played for the jury were relevant, and the probative value outweighed the prejudice to the Defendant.

AND IT IS SO ORDERED.



---

The Honorable Paul M. Burch  
Judge, Fourth Judicial Circuit

Chesterfield, South Carolina  
April 10, 2015

STATE OF SOUTH CAROLINA )

INDICTMENT FOR

COUNTY OF CHESTERFIELD )

Assault/Assault &amp; Battery 2nd degree

§16-03-0600(D)(1)

At a Court of General Sessions, convened on January 6, 2014, the Grand Jurors of Chesterfield County present upon their oath:

**ASSAULT AND BATTERY**  
**SECOND DEGREE**

CDR: 3413, 16-03-0600(D)(1)

That Julius Curry did in Chesterfield County on or about August 30, 2013 did unlawfully injure Schiquan Wright, and the act caused moderate bodily injury to the victim resulted or could have resulted, to wit; the defendant struck with his fist several times Schiquan Wright, daughter of live in girlfriend, while in their home, in violation of Section 16-3-600(D) of S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

*John C. Walker*  
 CLERK OF COURT, P.O. BOX 68  
 CHESTERFIELD COUNTY, SC

*William B. Rogers, Jr.*  
 WILLIAM B. ROGERS, JR.  
 SOLICITOR

## WITNESSES

Jimmy Coombes

Chesterfield County Sheriff

Law Enforcement Case #:



583

## WAIVER OF PRESENTMENT

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

**ARREST WARRANT NUMBER**  
2013A1310200097

ARRESTED ON: 2013-09-01

## ACTION OF GRAND JURY

True Bill



Grand Jury Foreperson

1-9-14

Date

## VERDICT

Petit Jury Foreperson

Date

**DOCKET NUMBER:**  
2013-GS-13-0698

The State of South Carolina

County of Chesterfield

## COURT OF GENERAL SESSIONS

**Term:**  
January 2014

THE STATE

vs.

Julius Curry

## INDICTMENT FOR

Assault/Assault &amp; Battery 2nd degree

§16-03-0600(D)(1)

CDR Code: 3413

William B. Rogers, Jr., Solicitor

CLERK OF COURT C.P. & G.S.  
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA )  
COUNTY OF CHESTERFIELD ) Resisting / Resisting arrest with a deadly weapon -  
1st offense

§16-03-0625

At a Court of General Sessions, convened on January 6, 2014, the Grand Jurors of Chesterfield County present upon their oath:

RESISTING ARREST WITH A DEADLY WEAPON

CDR: 2352 16-03-0625

That Julius Curry did in Chesterfield County on or about August 30, 2013, knowingly and willfully resist the lawful efforts of a Law Enforcement Officer to arrest him/her or another person with the use or threat of use of a deadly weapon against the Officer, to wit: the defendant did resist arrest of officer Sgt. Jimmy Coombes using a knife while inside his home, in violation of Section 16-03-0625, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A True Copy, Attest

CLERK OF COURT, C.F. & G.S.  
CHESTERFIELD COUNTY, SC

WILLIAM B. ROGERS, JR.  
SOLICITOR

## WITNESSES

Jimmy Coombes

Chesterfield County Sheriff

Law Enforcement Case #:

*Richard C. Coombes*

583

## WAIVER OF PRESENTMENT

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

ARREST WARRANT NUMBER  
2013A1310200098

ARRESTED ON: 2013-09-01

ACTION OF GRAND JURY

*True Bill*

Grand Jury Foreperson

Date

## VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:  
2013-GS-13-0699

The State of South Carolina

County of Chesterfield

## COURT OF GENERAL SESSIONS

Term:  
January 2014

THE STATE

vs.

Julius Curry

## INDICTMENT FOR

Resisting / Resisting arrest with a deadly  
weapon - 1st offense

§16-03-0625

CDR Code: 2352

William B. Rogers, Jr., Solicitor

CLERK OF COURT - P. & G.S.  
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF CHESTERFIELD

Murder/Attempted murder Penalty statutes 16-03-0029; Felony

§16-03-0029

At a Court of General Sessions, convened on January 6, 2014, the Grand Jurors of Chesterfield County present upon their oath:

ATTEMPTED MURDER

CDR: 3410, 16-03-0029

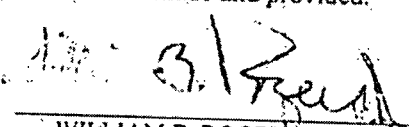
That Julius Curry did in Chesterfield, on or about 2013-08-30, with specific intent to kill, attempt to kill Sgt. Jimmy Coombes with malice aforethought, either expressed or implied, to wit; the defendant expressed the desire to take the life of said victim resulting in a struggle with law enforcement officer as he attempted to stab him, in violation of Section 16-3-29 of S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

A True Copy, Attest



CLERK OF COURT C.D.R. C.S.  
CHESTERFIELD COUNTY, SC

  
 WILLIAM B. ROGERS, JR.  
SOLICITOR

## WITNESSES

Jimmy Coombes

Chesterfield County Sheriff

Law Enforcement Case #:

## WAIVER OF PRESENTMENT

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

ARREST WARRANT NUMBER  
2013A1310200099

ARRESTED ON: 2013-09-01

ACTION OF GRAND JURY

True Bill  
Grand Jury Foreperson  
1-914

Date

## VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2013-GS-13-0700

The State of South Carolina

County of Chesterfield

COURT OF GENERAL SESSIONS

Term:

January 2014

THE STATE

vs.

Julius Curry

INDICTMENT FOR

Murder/Attempted murder Penalty statutes 16-  
03-0029; Felony

§16-03-0029

CDR Code: 3410

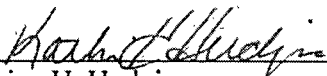
William B. Rogers, Jr., Solicitor

CLERK OF COURT - C.D. & G.S.  
CHESTERFIELD COUNTY, SC

## 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."

September 10th, 2015

  
Kathrine H. Hudgins  
Appellate Defender

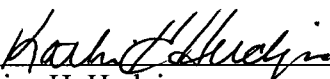
South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S. C. 29211-1589  
(803) 734-1330

ATTORNEY FOR APPELLANT

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September 10th, 2015

  
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ATTORNEY FOR APPELLANT