

STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

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AUG 03 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RICKY EUGENE PASSMORE,

APPELLANT

APPELLATE CASE NO. 2014-000727

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE EXHIBIT NO. 9 (CD-PHONE CALL BETWEEN TARA AND FATHER);
STATE EXHIBIT NO. 11 (PHOTO-FRONT OF CAR);
STATE EXHIBIT NO. 12 (PHOTO-FRONT PASSENGER SEAT);
STATE EXHIBIT NO. 13 (PHOTO-BASEBALL BAT);
STATE EXHIBIT NO. 14 (PHOTO-BAYONET);
STATE EXHIBIT NO. 15 (PHOTO-BRASS KNUCKLES);
STATE EXHIBIT NO. 16 (PHOTO-SWORD IN CAR (CLOSE-UP));
STATE EXHIBIT NO. 17 (PHOTO-SWORD IN CAR);
STATE EXHIBIT 18 (PHOTO-GUN & AMMO);
STATE EXHIBIT 19 (PHOTO-CROWBAR);
STATE EXHIBIT 20 (PHOTO-SWORD ON TABLE);
STATE EXHIBIT 21 (PHOTO-POOL BALL ON STICK); AND
STATE EXHIBIT NO. 22 (PHOTO-ROPE ON TABLE)

State of South Carolina.,) In the General Sessions
) Court of York
)
) Case No. 2013-GS-46-02902
)
 County of York.)

State of South Carolina.,)
)
 Plaintiff.,)
)
 -vs-) Transcript of Record
)
 Ricky Eugene Passmore.,)
)
 Defendant.)
)

March 31, April 1, 2014
 York, South Carolina

B E F O R E:

The Honorable John C. Hayes, III, and a Jury.

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I-N-D-E-XE-X-A-M-I-N-A-T-I-O-N

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Reporter's Note: All Exhibits were filed with the York
County Clerk of Court's office.

1 Micky, any pretrial motions?

2 MR. NOSAL: Your Honor, we have a motion for
3 severance.

4 THE COURT: Be glad to hear it.

5 MR. NOSAL: Your Honor, we finally come to what
6 appears to be the trial of - for my co-defendant Micky
7 Passmore. Your Honor, he was originally charged with
8 burglary in the first degree along with conspiracy to
9 commit kidnaping.

10 At his preliminary hearing a recorded audio tape was
11 played allegedly made by - it was a phone call allegedly
12 made the codefendant Ricky Passmore. The nature of this
13 audio tape is incredibly prejudicial; it is offensive, it
14 is reprehensible, it is shocking to say the least. It's
15 extremely prejudicial for my client.

16 There is no - We have no assurances and I don't
17 expect Ricky Passmore to testify in this matter. If the
18 State decides that they're gonna introduce this twenty
19 minute audio recording my client Micky Passmore will be
20 deprived of his right to confront a witness against him.

21 There is no way that a jury can listen to this tape
22 and separate the two and say well that was Ricky Passmore
23 that said that not Micky Passmore. It is that
24 reprehensible.

25 Your Honor, I ask that for my client to have a fair

1 trial and to preserve his constitutional rights we ask
2 that you sever them and allow then if the State wishes to
3 bring in alone we'd ask that you order that.

4 THE COURT: What's the State's position?

5 SOLICITOR HOLLAND: Would you like to hear the tape
6 or we have it prepared if you want to hear it? It's
7 twenty minutes long.

8 THE COURT: I don't mind hearing it, just generally
9 you look at whether the defenses are antagonistic or
10 whether there is a statement taken by law enforcement that
11 caused some Bruton issue, this is a little different.
12 This is a right - Not quite a Bruton issue but it's kind
13 of on the edge of a Bruton issue. What's the State's
14 position?

15 SOLICITOR HOLLAND: Your Honor, I don't believe there
16 is a Bruton issue. I agree with you, it's not a
17 testimonial statement. It's made by Ricky Passmore to his
18 daughter before he came. Certainly not a testimonial
19 statement that would be subjected to a Bruton analysis.

20 I would not disagree, the tape is incredibly
21 declamatory and offensive. Our only response to the
22 severance motion would be that if we tried them separately
23 I do think we could enter the tape in the trial of Micky
24 Passmore himself as a statement of co-conspirator. That
25 would be Rule 801(d)2 -

1 THE COURT: I don't see either one of them charged
2 with conspiracy.

3 SOLICITOR HOLLAND: They are not charged with
4 conspiracy.

5 THE COURT: How can he be a co-conspirator if he's
6 not charged with conspiracy?

7 SOLICITOR HOLLAND: Basically from my reading of that
8 rule is it would allow the State to enter a statement of
9 Ricky Passmore in the trial of Micky Passmore as long as
10 there was evidence of a conspiracy independent. I don't
11 think it's necessary they be charged with it. I could be
12 wrong.

13 There is evidence that they are engaged in conspiracy
14 in addition Ricky Passmore in this phone call attempts to
15 elicit his daughter Tara into the conspiracy by saying you
16 call me and let me know - just to give a little bit of the
17 facts in the case - the victim in the case Julia Coleman
18 has three children with Ricky Passmore. They go to the
19 home this night because they're angry cause Ms. Coleman is
20 dating an African American man. Ricky in the course of
21 that statement tells Tara if you'll let me know when he's
22 there trying to elicit her into the conspiracy.

23 But that is really our response is that we think we
24 can attempt to get it in in that way. Neither of them are
25 charged with conspiracy; law enforcement never charged

1 them and I never direct indicted them.

2 THE COURT: What relevance would it have as far as
3 since there is no conspiracy charge what relevancy would
4 it have as to Micky?

5 SOLICITOR HOLLAND: The - Micky Passmore made calls
6 to Julia Coleman the victim about --

7 THE COURT: I'm not talking about his calls. I'm
8 talking about the one you're trying to get in.

9 SOLICITOR HOLLAND: I am trying to explain. The
10 calls are very similar is what I'm trying to say. The
11 calls that Ricky Passmore makes that we actually have
12 recorded. Of course we don't have the ones that Micky
13 made recorded, they are very similar and I think they show
14 an intent of the parties to go there and what they were
15 intending to do.

16 This call completely illuminates the entire case, the
17 State's entire case as to exactly why they're there. If
18 you remove this call the case does not even resemble in
19 actuality what it actually was.

20 That would be our only way of getting it into the
21 trial of Micky Passmore. I'm just being honest with the
22 Court that is the only way. I think if we tried them
23 separately that we could get the call in as a statement of
24 a co-conspirator.

25 THE COURT: I'm gonna listen to it just so I can

1 listen with a tuned ear. Is Mr. Micky Passmore mentioned
2 in the tape?

3 SOLICITOR HOLLAND: He is not. Ricky makes one
4 statement I believe about he talks about when the role
5 goes down meaning what he would come to the house and take
6 care of the situation about being with white minded people
7 but he never refers to Micky Passmore by name or by
8 implication.

9 THE COURT: All right. And briefly what are the
10 facts that put Micky at - in the equation?

11 SOLICITOR HOLLAND: Micky arrives with Ricky, they
12 went to Ms. Coleman's home at about 5:00 a.m., Ricky
13 enters first, Micky is immediately behind him. According
14 to the witnesses' they enter the home. Ricky Passmore
15 brandishes a rather long sword that he pulls out from the
16 back of his overalls, threatens the victim and forces her
17 to stay on the couch while he goes and wakes up his
18 children and looks for his - looks for this African
19 American male in the house.

20 Mickey was there present right behind him. Micky did
21 do nothing once he got in there. It's the State's theory
22 of the case is that Micky went there to find the black
23 boyfriend when he was not there. Then his involvement
24 changed cause he did nothing to restrain the freedom of
25 Ms. Coleman and when she said when she got up to leave he

1 let her go. He in no way restrained her freedom when he
2 was there.

3 And then law enforcement is called by the minor
4 children and both Mr. Passmore's left in a vehicle driven
5 by Micky Passmore's girlfriend. They were stopped about
6 eight miles later. In the car there was a large number of
7 weapons including a firearm belonging to Micky Passmore.
8 And there was ammunition in the door frame where he was
9 seated which law enforcement will testify it looked like
10 it had just been put there because it was I believe one
11 bullet they said was kind of on the door. It looked like
12 it had been kind of dumped there once they were pulled
13 over.

14 THE COURT: Was a weapon other than the sword taken
15 in the event - into the incident?

16 SOLICITOR HOLLAND: We believe Ricky Passmore had
17 brass knuckles and -

18 THE COURT: No, no. no, not what you believe. I want
19 to know what weapons -

20 SOLICITOR HOLLAND: He had brass knuckles in his
21 pocket when he was pulled over. No other weapon was
22 pulled out.

23 THE COURT: Not when he was pulled over. When he was
24 at the incident at the time this lady was confronted.

25 SOLICITOR HOLLAND: The only weapon that was

1 brandished was the sword.

2 THE COURT: So what's the weapon got to do with it?

3 SOLICITOR HOLLAND: it's just further shows their
4 intent; they're pulled over with a car full of weapons.

5 THE COURT: Who was driving the car?

6 SOLICITOR HOLLAND: Rebecca Rogers who is the
7 girlfriend of Micky Passmore.

8 THE COURT: I guess - Yes, sir, Mr. Nosal.

9 MR. NOSAL: Your Honor, I think you've flushed it out
10 that their case they're trying to prove intent, that there
11 is no evidence whatsoever that he committed a crime inside
12 that residence. The only crime he's charged with is
13 burglary first and went in a residence without consent
14 with the intent to commit a crime at night. They're whole
15 case is based on this audio tape. And on these weapons
16 that were found in a - during a traffic stop afterwards.

17 There has been no evidence introduced, there is no
18 witness statements that say that my client had a weapon
19 inside that house. Nobody said that he committed a crime
20 inside that house except for the government. And they're
21 trying to use this audio tape to somehow satisfy the
22 element of intent to convict him of burglary first.

23 And if they introduce that and he's part of this
24 trial there's no guarantee that he is gonna be able to
25 confront the witness against him his brother. I mean,

1 Your Honor, I'm just asking that you sever this. If they
2 want to try him later they can try him later but the only
3 reason he's here in this trial is because of that audio
4 tape.

5 THE COURT: Well I hate the - Judicial economy would
6 be to try them both together but I believe - well let me
7 listen to the tape. Where I am now it sounds like it may
8 be sufficient to sever. If he's drawn into the picture by
9 this tape then he's not gonna be able to examine the
10 speaker. I think that is an infringement on his right to
11 cross examine the witnesses; so let me hear it.

12 MR. NOSAL: Thank you, Your Honor.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE PREMARKED FOR
14 IDENTIFICATION.)

15 (STATE'S EXHIBIT NINE, AUDIO TAPE RECORDING,
16 PUBLISHED TO THE COURT AT 02:25 P.M..)

17 THE COURT: Anything further, Mr. Nosal?

18 MR. NOSAL: Not at this time, Your Honor.

19 THE COURT: Anything further?

20 SOLICITOR HOLLAND: Nothing, Your Honor.

21 THE COURT: I'm gonna grant the motion to sever.

22 I believe the nature of the tape is such that it may
23 affect the trial personally to Mr. Micky Passmore although
24 that's not the criteria cause all the evidence the State
25 intends to present would adversely affect supposedly Mr.

1 Micky Passmore.

2 The nature of this and the fact that Micky Passmore
3 may not if his brother doesn't testify have the
4 opportunity to examine the speaker Mr. Ricky Passmore then
5 I'm gonna grant to sever.

6 MR. NOSAL: Thank you, Your Honor.

7 SOLICITOR HOLLAND: Your Honor, just for the record
8 I'd like to state that the audio we played was State's
9 Exhibit Number Nine and the State would elect to go to
10 trial on Ricky Passmore at this time.

11 THE COURT: All right. Okay. Well we'll take a
12 minute to reposition and let Mr. Ricky Passmore and his
13 counsel - we'll take a short break and then come back and
14 hear motions on behalf of Ricky Eugene Passmore.

15 SOLICITOR HOLLAND: Your Honor, I'm sorry. Can I
16 just real quickly I think this will impact a number of
17 jurors we need, we have now the amount of strikes will be
18 cut in half. The State will only have five and we will
19 only have ten to defense. We have requested a panel of
20 seventy and I believe the Clerks' were bringing up the
21 entire panel.

22 Correct? I don't know if we want to bring them all
23 up. It's up to you. I just wanted to let you know there
24 will be a large amount of jurors and our strikes will be
25 cut in half now.

1 have to base your verdict solely on the law, and the
2 evidence presented in the trial.

3 If anything catches your eye or ear that could
4 remotely deal with this trial, don't let yourself be
5 exposed to it. Don't listen to anything, read anything or
6 watch anything that could remotely deal with this trial.

7 I am concerned about your comfort. We take breaks
8 about every hour and a half. I find that is a good comfort
9 level time, but if at any time any of you need a break,
10 simply raise your right hand and with no questions asked,
11 we'll take a break. It's hard to pay attention if you're
12 distracted or not comfortable, so if you need a break, let
13 me know and we will take a break.

14 If you can't see or you can't hear, I'll try to assist
15 you with that. I'll try to make sure a witness speaks up
16 when they should and that you can see those things you need
17 to see. If something is blocking your view, I'll see - try
18 to have it moved or have that individual move so that you
19 can see what you need to see.

20 At this point, I'm going to turn it over to the
21 attorneys for their opening statements.

22 SOLICITOR HOLLAND: May it please the Court?

23 THE COURT: Yes, ma'am.

24 SOLICITOR HOLLAND: "I'm going to treat her exactly
25 like I'm going to treat that nigger. I will show no

1 mercy." Those were the words of Ricky Passmore spoken
2 about five hours before this incident occurred. Five hours
3 --

4 THE COURT: Ms. Holland, let me interrupt one minute.
5 I did not ask this and nobody reminded me.

6 The witnesses in this case are as follows: if any of
7 you have any type close relationship or related to any of
8 these witnesses, please let me know at this time? I've
9 asked you about Ricky Passmore, Micky Passmore, Rebecca
10 Rogers, Cody Passmore, T.P. Kevin Hoffman, James
11 Passmore, Julia Coleman, Officer Nichols - I'm sorry
12 Officers Hawkins and Miller and Davis of the Clover Police
13 Department and Karen McClure and Ralph Merchant for the
14 York County Sheriff's Office.

15 I apologize, I overlooked that.

16 No one stands indicating they know or have a
17 relationship with any of the individuals.

18 Again, I apologize for not doing it earlier.

19 Go ahead, and I apologize for the interruption.

20 SOLICITOR HOLLAND: You're going to hear some
21 offensive language in this case and it's not meant to do
22 anything other than to show you the truth.

23 It's not the job of the State to sugarcoat an
24 incident. It is to show you the truth and to show you what
25 happened and that's why you're going to hear language. No

1 joy is deprived -- is derived from it. We apologize every
2 time we have to say it, but it's necessary, because those
3 words were the words of Ricky Passmore five hours before he
4 went into the home of Julia Coleman, a lady with whom he
5 has three children.

6 He entered her home in the hours of darkness early
7 that morning. Her three children live there with her. Her
8 eldest daughter, Tara, the individual who he said those
9 words to, was in her bed asleep as was her younger brother,
10 James. The middle child, Cody, was awake playing video
11 games when a knock came to the door at 5:00 a.m.

12 Julia was asleep on the couch. Cody went to the door
13 and said, "Mama, it's Chip," but it wasn't Chip. He opened
14 the door and in came Ricky Passmore and his brother. The
15 first words out of Mickey's mouth -- Ricky's mouth is,
16 "Where's Chip?"

17 Now it's interesting that those are the first words
18 out of his mouth is, "Where's Chip," because it's
19 interesting to know who Chip is.

20 Chip is the boyfriend of Julia Coleman, the mother of
21 Ricky Passmore's children. Chip is an African-American
22 man, and Ricky Passmore didn't like that Julia was dating
23 or seeing an African-American man and did not like that his
24 children were being exposed to that relationship and that
25 was his motivation for going there that night.

1 And when he entered the home and said, "Where's Chip"
2 Julia tried to get off the couch at which time, Ricky
3 brandished a sword, a rather long sword that he had in the
4 back of his clothing.

5 He pulled it out and said, "You move, you die."
6 Forced her to stay on the couch. He then went through the
7 home, awoke each of his children, "You're coming with me."

8 After that, continued to flip on lights and look in
9 rooms looking for Chip who luckily was not there.

10 The two children -- The two oldest children, scared,
11 run to a neighbor's house to call 911 and police officers
12 arrive as Ricky Passmore and his brother flee the scene.

13 Eight miles away, they are stopped by the York Police
14 Department and they are arrested and their car is searched
15 and in that saw numerous weapons, including an SKS firearm,
16 ammunition, brass knuckles, a stick with a pool ball
17 attached to it that has an interesting name, and they're
18 found in possession of all of those weapons. "Where's
19 Chip," was the first words out of his mouth.

20 The conversation I referenced in the beginning was a
21 conversation that Ricky Passmore had with his daughter,
22 Tara, about midnight that same night. About five hours
23 before he called her, and he told Tara his disgust and his
24 disdain at his mother's -- at her mother's relationship
25 with Chip, this African-American male.

1 He makes threats. He tells you exactly what he
2 intended to do and Tara hearing this conversation begins to
3 record it. So that conversation is preserved for you to
4 hear today so that you can see his motivation and his
5 intent behind going to the home that night.

6 And, again, we apologize for any language you're going
7 to hear in this case. No joy is derived from it, but it's
8 necessary to show you the truth, to show you what happened
9 that night, so you can return the only verdict that speaks
10 the truth and that is a verdict of guilty.

11 Thank you.

12 MR. HALL: May it please the Court?

13 THE COURT: Yes, sir.

14 MR. HALL: Five o'clock in the morning on Wednesday
15 morning, early hours of Wednesday morning June the 19th,
16 that's the Wednesday after Father's Day of the last year,
17 my client, Ricky Passmore, and his twin brother, Mickey
18 Passmore, got Mickey's girlfriend out of bed, her name is
19 Rebecca Rogers, and Ricky wanted to go to Clover to get his
20 children, and so they get Rebecca up. They go out and they
21 proceed to get into their -- with her twenty-six-year-old
22 -- I'm sorry, twenty-one-year-old Lincoln Town Car, that
23 you have to lift the hood up on it to crank it and you have
24 to put the hood down while it's running. The brake lights
25 don't -- well, they work, but you have to use a toggle

1 switch under the dash to activate the brake lights.

2 The driver's side window will not roll down and on top
3 of that Rebecca, expect you'll hear from here, they had to
4 stop at a convenience store on the way to Clover to pump
5 the tire up. It's got a slow leak in it. And so they
6 proceeded to Clover to his ex-wife's house and where his
7 children were staying.

8 Now, that trip that started in that car with those
9 people on that night actually began some, as the Solicitor
10 told you, about five hours later when my client got -- gave
11 quite a explicit redneck rant over the telephone, and
12 you'll hear -- you'll hear the redneck rant and it's ugly,
13 very ugly, to his daughter.

14 We expect you'll hear that that's sort of normal
15 redneck ranting language that my client and some members of
16 his family often use.

17 When they got to Clover there really is - We do not
18 anticipate there's going to be too much dispute about the
19 factual bases of this case.

20 He, no question, he went to Clover while -- while
21 Rebecca stayed in the car, because she couldn't get out of
22 the car, because if she got out of the car, it might cut
23 off, you had to cut the -- lift the hood up, crank the car
24 up, plus the tire has got a slow leak in it. She stays in
25 the car and Mickey and Ricky get out and Ricky and possibly

1 Mickey go into the house. Go up and knocked on the door.
2 The door is opened and Rickey went in to check on his
3 children that and to see if he could find Chip.

4 Now, you're going to hear the details of it. You're
5 going to hear a lot of things on the recording and you're
6 going to hear testimony about what happened, but you know,
7 this is a mobile home up in Clover, a very small residence,
8 in and out, left and came back to York. Got stopped by the
9 York Police, and then later the Clover Police arrived down
10 near the Bi-Lo here on 321. They made it that far back
11 from Clover to York. And Ricky, my client, was charged
12 with burglary first degree, kidnapping, possession of a
13 weapon during the commission of a violent crime and
14 criminal domestic violence of a high and aggravated nature.

15 Now, I ask you to listen carefully to all of the
16 evidence. I -- My client asks that you not hold the
17 offensive redneck ranting message that he had between him
18 and his daughter against him.

19 He's guilty of a lot of things, but he is not a
20 burglar. He is not a kidnapper. And he's not guilty of
21 criminal domestic violence of a high and aggravated nature
22 and we expect that at the conclusion of the case when you
23 weigh all of the evidence that you will reach a verdict in
24 this case that is just and that is not guilty.

25 Thank you.

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1 THE COURT: You can call your first witness.

2 SOLICITOR EPTING: The State calls Officer Hawkins to
3 the stand.

4 THE COURT: You can stop right there.

5 MADAM CLERK: Raise your right hand and place your
6 left hand on the Bible.

7 (WHEREUPON, PHILLIP NEIL HAWKINS,
8 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

9 MADAM CLERK: Thank you. Please have a seat.

10 DIRECT EXAMINATION

11 SERGEANT PHILLIP HAWKINS BY SOLICITOR EPTING

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. Would you please state your full name for the record?

15 A. It's Sergeant Phillip Neil Hawkins.

16 Q. And this is a silly question given how you're attired,
17 but what is your occupation?

18 A. A sergeant, police officer for our Clover Police.

19 Q. How long have you been with Clover Police?

20 A. Just over four-and-a-half years.

21 Q. And can you briefly describe some of your duties as a
22 sergeant at Clover?

23 A. I oversee patrol officers when I work a shift.

24 Currently, right now I'm assigned as a school resource

25 officer to Blue Eagle Academy in Clover. Duties range from

SERGEANT HAWKINS: DIRECT BY SOLICITOR EPTING

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1 assisting the school in security, reports that they may
2 need to file and so forth.

3 Q. I'm going to direct your attention. Were you involved
4 with a case with Julia Coleman as a victim on the early
5 morning hours of June 19th, 2013?

6 A. Yes, I was.

7 Q. Would you please relay that experience to the jury?
8 Well, tell them how you were involved and what you did.

9 A. I was the first responding officer. We had received a
10 911 call into our dispatch who relayed the information to
11 myself, as well as another patrol officer that was working
12 at the time as well for -- to respond to the address in
13 Clover. Do you want me to give the address?

14 Q. Can you remember the -- if you can remember the
15 address off the top of your head?

16 A. Address was [REDACTED] and I was already
17 familiar with the people that resides there, but the call
18 came in through 911 and was dispatched as there is a man
19 inside of a house with a sword.

20 Upon my arrival to the area, being the first
21 responding officer, I came in from behind the residence and
22 at that point as I was coming up to the residence, I seen
23 two juveniles who I was familiar with as well, Cody
24 Passmore and T.P. running around extremely
25 confused on what needed to go on.

1 Once I exited my patrol vehicle, I believe it was Cody
2 came up to me and immediately said, you know, "There is a
3 crazy man in the house -- in our house with a sword."

4 Q. What was Cody's demeanor when he said that?

5 A. He was -- he was pretty much white as a ghost is the
6 best way to describe it and you could tell he was extremely
7 fearful and the same thing with his sister, Tara, who also
8 resided at the residence.

9 Once he initially told me that the man was in the
10 house with a sword, I'm not sure who made the statement but
11 one of the two said that it was his -- it was their dad who
12 did not live there.

13 So at that point not knowing if he was still there or
14 not inside the residence, I went to the house, waited
15 outside to see if I heard any commotion or anything inside.
16 Once I didn't hear anything, I knocked on a door after
17 seeing Ms. Coleman walking around in the kitchen and you
18 could tell she was still in fear, as well.

19 Once that -- Once I seen her walking around, I knocked
20 on the door. She came and opened the door and that's when
21 she went into describe how Mr. Passmore had came into the
22 residence, pushed her down on the couch and as she was
23 trying to get up he told her that he was going to kill her
24 if she moved, and then proceeded through the back of the
25 house looking for her boyfriend who was not at the

SERGEANT HAWKINS: DIRECT BY SOLICITOR EPTING

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1 residence at the time. And once he seen that she was not
2 -- he as not there, she left the -- he left the residence.

3 Q. Did you --

4 SOLICITOR EPTING: Well, before we get there, Your
5 Honor, may I approach the witness?

6 THE COURT: Yes.

7 Q. Officer Hawkins, I'd like to hand you ---

8 SOLICITOR EPTING: I beg the Court's indulgence.

9 Q. I'm going to hand you what has been marked as State's
10 Exhibit Twenty-three. If you would, review that and look
11 up when -- once you finish reviewing it.

12 (PAUSE.)

13 A. Okay.

14 Q. Do you recognize State's Exhibit Twenty-three?

15 A. I do. It's a -- an aerial view of the area where the
16 residence is located.

17 Q. And you testified earlier that you're familiar with
18 that area; is that correct?

19 A. That's correct.

20 Q. That's a fair and accurate depiction of that area?

21 A. It is.

22 SOLICITOR EPTING: Your Honor, at this time, the State
23 would move to enter State's Exhibit Twenty-three into
24 evidence.

25 MR. HALL: Without objection?

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1 THE COURT: In without objection.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-THREE
3 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

4 SOLICITOR EPTING: We'd ask permission to publish,
5 Your Honor?

6 THE COURT: You may. You need the lights down?

7 SOLICITOR EPTING: Yes, please.

8 Q. Officer Hawkins, I have placed State's Exhibit Twenty-
9 three on a slide projector. Does that comport with what
10 you have in your hands?

11 A. It appears to me to be the exact same drawing.

12 SOLICITOR EPTING: Your Honor, could the -- Officer
13 Hawkins step down from the stand to demonstrate his
14 testimony to the jury?

15 THE COURT: He may. Just make sure the jurors can
16 see.

17 SOLICITOR EPTING: We certainly can.

18 Q. Officer Hawkins, if you would, step down and come
19 closer.

20 (WITNESS LEFT WITNESS STAND.)

21 Q. If I can get you to stand to the side so we don't
22 obstruct anything the jury is seeing.

23 Q. Could you point out for the jury where [REDACTED]
24 Street is?

25 A. It's going to be this residence right here.

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1 Q. All right. And correct me if I'm wrong, but your
2 testimony is that you were the first responding officer; is
3 that correct?

4 A. That's correct, and I actually came up the back from
5 321 and I came down Trinity Street, because the front of
6 the residence is on this side.

7 Q. Did you pull into a driveway or a --

8 A. I did not. I actually stopped somewhere approximately
9 right in here.

10 (WITNESS INDICATING ON EXHIBIT.)

11 Q. And you testified earlier that you saw Cody and you
12 saw Tara; is that correct?

13 A. That's correct.

14 Q. Where did you see them?

15 A. They were running around. I'm not sure of the
16 address, but they were running around in the front yard of
17 this mobile home here.

18 Q. Is that address [REDACTED], is that in York
19 County?

20 A. It is.

21 Q. Is that in the City of York?

22 A. The Town of Clover.

23 Q. I'm sorry, the Town of Clover. It is?

24 A. Yes.

25 Q. And, Officer Hawkins, if you would have a seat.

1 (WITNESS RETURNING TO WITNESS STAND.)

2 Q. And you can lay State's Twenty-three on that table
3 that's in front of you.

4 If I understand your testimony correctly so far, you
5 respond to the scene, you've spoken with the Passmore
6 children and you've checked -- you've cleared the house and
7 no one's in there except for Julia Coleman; is that
8 correct?

9 A. And a child named James; I believe, was also there.

10 Q. Okay. Was that James Passmore?

11 A. Passmore.

12 Q. At some point -- So the suspects are gone?

13 A. That's correct.

14 Q. At some point did you put anything out over the radio?

15 A. I did. Once we made sure that the residence was
16 clear, we got a description of how they left from the area.
17 At that time, Ms. Coleman had told us that it was a - I
18 believe she stated a burgundy Lincoln, older model vehicle
19 that Mr. Passmore and a twin brother, as well as a female
20 driver - I don't recall if they gave us the name of the
21 female driver at that time - but said that they left in a
22 burgundy Lincoln.

23 Q. So you put that over the radio?

24 A. I did. And passed - Once we got enough information, I
25 passed it over to the York County's Sheriff's Office.

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1 Well, I'm going to correct myself. I passed it to our
2 dispatcher who in turn forwarded it to the York County
3 Sheriff's Office and then to York City Police.

4 Q. At any point did you hear a word that they had that
5 vehicle or a vehicle matching that description pulled over?

6 A. It was approximately about ten, fifteen minutes, and
7 then our dispatcher came back across and said that York
8 Police had stopped the vehicle that we had passed out the
9 information on at the intersection of Alexander Love and
10 161 or, I'm sorry, 321.

11 Q. Did you proceed to where the car was pulled over?

12 A. Yes. Myself as well as the current sergeant at that
13 time, which was Sergeant Miller.

14 Q. And had York PD pulled them over on the basis of the
15 BOLO that you put out?

16 A. As far as I know, that's what they stopped them for.
17 I don't know if they had any other probable cause other
18 than the information that we had passed on.

19 Q. So you arrive on scene. Tell the jury what you see?

20 A. Well, when our dispatcher gave us the information that
21 we had passed out that we - in the vehicle there should be
22 a sword of some sort in the vehicle, as well.

23 Once we got the information from our dispatch, they
24 did confirm that there was a sword inside the vehicle that
25 they had just stopped. At that point, the York officers

1 had told our dispatcher that - that they wanted Clover
2 officers to respond to their location and that they wasn't
3 going to touch the vehicle once they discovered that sword
4 in the vehicle.

5 Once we got there, they had already detained all three
6 people inside the vehicle. From my knowledge, you could
7 look at the vehicle and it didn't appear that anything had
8 been moved and once - While we were there, we observed a -
9 the sword that was supposed to be in the vehicle and some
10 other evidence, as well, to include an SKS with thirteen
11 rounds inside the drive - the passenger side door panel and
12 six rounds inside the SKS, so it was a loaded assault
13 rifle.

14 Also we found a crowbar, some rope, paint scraper, and
15 I'm not exactly sure of the terminology for it, but it was
16 a wooden handle with a pool ball tied on with a rope, as
17 well. Those items, some of them were inside the vehicle in
18 the passenger area and some of them was inside the trunk.

19 Q. And was that based upon you looking inside the
20 vehicle?

21 A. Yes. Once we seen the sword, that's when we had
22 arrested the Passmores and, as well as the driver, and
23 based on our inventory policy, once we arrest anybody and
24 cannot turn over the vehicle to someone at the scene, then
25 we're to inventory, notate any items of value before we

SERGEANT HAWKINS: DIRECT BY SOLICITOR EPTING

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1 have the vehicle towed.

2 Q. Did you recover brass knuckles?

3 A. We did - The Clover officers did not. We got those
4 from the York officers.

5 Q. Okay. And where did they get those from?

6 A. I believe ---

7 MR. HALL: Objection, he can't -

8 THE COURT: I sustain the objection. Just --

9 He'll ask you another question.

10 A. Okay.

11 Q. Where was the sword located in the car?

12 A. At the back passenger side of the vehicle.

13 Q. Back passenger side?

14 A. Yes.

15 Q. To your knowledge, where was Ricky Passmore seated?

16 A. In the backseat.

17 SOLICITOR EPTING: I beg the Court's indulgence.

18 (PAUSE.)

19 SOLICITOR EPTING: Your Honor. May I have permission
20 to approach the witness?

21 THE COURT: Yes, sir.

22 Q. Officer Hawkins, I'm going to hand you what has been
23 marked as State's Exhibit Eleven, Twelve, Thirteen,
24 Fifteen, Seventeen, Sixteen, Twenty, Eighteen, Fourteen,
25 Nineteen, Twenty-two and Twenty-one.

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1 If you would review all those; go all the way through
2 the stack, if you will, and look up at me when you're done
3 reviewing it.

4 (WITNESS REVIEWING EXHIBITS.)

5 Q. Do you recognize what is in those exhibits that I have
6 handed up to you?

7 A. Yes.

8 Q. Are they fair and accurate depictions?

9 A. Yes.

10 SOLICITOR EPTING: Your Honor, at this time, the State
11 would seek to introduce State's Exhibits Eleven, Twelve,
12 Thirteen, Fifteen, Seventeen, Sixteen, Twenty, Eighteen,
13 Fourteen, Nineteen, Twenty-two and Twenty-one into
14 evidence, all pictures.

15 MR. HALL: Without objection, Your Honor.

16 THE COURT: In without evidence.

17 (WHEREUPON, STATE'S EXHIBIT NUMBERS ELEVEN THROUGH
18 TWENTY-TWO, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 SOLICITOR EPTING: Your Honor, at this time, the
20 State would seek to publish those pictures.

21 THE COURT: Okay.

22 (STATE'S EXHIBITS ELEVEN THROUGH TWENTY-TWO PUBLISHED
23 TO THE JURY AT 04:15 P.M..)

24 Q. Now, Officer Hawkins, can you see from where you're
25 sitted - seated?

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1 A. I can.

2 Q. On the projector, I have put State's Exhibit Eleven.

3 Would you please explain to the jury what we're
4 looking at?

5 A. With this photograph here, the - it's just an overview
6 of the vehicle that was stopped by York Police and also the
7 information that was passed out to York police.

8 Q. Is that - Is that vehicle that's shown the one that
9 was pulled over on the side of the road?

10 A. Yes.

11 Q. We're looking at State's Exhibit Twelve now.

12 Would you please explain to the jury what we're
13 looking at here?

14 A. With this one here, it's indicating in the photograph
15 that a baseball bat was beside the front passenger seat.

16 Q. And who was seated there?

17 A. Mickey Passmore.

18 Q. Mickey Passmore was seated there. All right. We're
19 looking at State's Exhibit Seventeen right now.

20 Would you please let the jury know what we're looking
21 at here?

22 A. In this photograph here, it's a photograph of where
23 the sword was located. Also the item that had the wooden
24 handle and a pool ball attached to it is also in that
25 photograph, as well, just underneath the passenger front

1 seat.

2 Q. All right. Is this just a different angle, State
3 Exhibit Sixteen?

4 A. Yes, I believe it is. It just is more of a up-close
5 view of where the things were located on that side of the
6 vehicle.

7 Q. You mentioned earlier a pool ball stick weapon, is
8 that also visible in this picture?

9 A. It is. It's located in the floorboard and it's - and
10 it's a white and, I believe, it's a burgundy pool ball.

11 Q. Next slide, please.

12 State's Exhibit Fifteen, what are we looking at here?

13 A. That is the brass knuckles that was turned over to us
14 from York Police.

15 Q. State's Exhibit Eighteen, what are we looking at here?

16 A. This is after we had gotten back to the police
17 department. It was a - just an - a overall view of the SKS
18 assault rifle with nineteen rounds located in front of it
19 and the thirteen that was recovered from the door panel of
20 the vehicle and the six that was inside the rifle.

21 Q. What is the item in the upper portion of the picture?

22 A. The item directly above the - that photograph there is
23 a photo of the sword.

24 Q. Was that consistent with the description that you were
25 given on the scene?

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1 A. The only description that we really received on the
2 scene was that it was a long sword that looked like - kind
3 of like a Samurai sword and that it appeared to be old.

4 Q. State's Exhibit Fourteen, what we looking at here
5 also?

6 A. That is a bayonet that was also attached to the - to
7 the rifle.

8 Q. And what are we looking at here? That's the State's
9 Exhibit Thirteen.

10 A. This is a photograph of a baseball bat which was
11 located in the front, beside the front passenger seat,
12 after we had returned back to the police department, along
13 with the wooden handle with the pool ball attached. And
14 then it catches some of the white rope that was found up in
15 a top left corner, and then a portion of the sword that was
16 located in the bottom left.

17 Q. In your experience as an officer, have you come across
18 homemade weapons?

19 A. Yes.

20 Q. On - Based on that experience, is that pool ball
21 attached to a rope attached to a stick, a weapon in your
22 opinion?

23 A. I would consider that a weapon.

24 Q. State's Exhibit Nineteen, please tell us what we're
25 looking at here, Officer Hawkins?

1 A. In this photograph here, the bottom left, we have the
2 brass knuckles inside the photo, the white rope. Also we
3 got the paint scraper blade to the right of the rope, the
4 pry bar in the middle of the picture, a pocket knife above
5 the crowbar, and then an inhaler that was recovered, as
6 well.

7 Q. And this may be a little bit redundant, and State's
8 Exhibit Twenty?

9 A. Once again, it's just a photograph of the sword that
10 was recovered, as well as the baseball bat.

11 Q. And, again, I'm giving a little bit of redundancy,
12 State's Exhibit Twenty-one?

13 A. The pool ball with the wooden handle and a white rope
14 and brass knuckles.

15 Q. And one last one, State's Exhibit Twenty-two?

16 A. Rope, crowbar, brass knuckles, and the wooden handle
17 with the pool ball attached.

18 Q. And if I understood your earlier testimony that all of
19 these weapons were recovered from the car or from nearby
20 the car; is that correct?

21 A. Everything with the exception of the brass knuckles
22 was recovered by myself and Sergeant Miller from inside the
23 passenger compartment where the occupants were located or
24 in the trunk.

25 SOLICITOR EPTING: Your Honor, I beg the Court's

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1 indulgence.

2 (PAUSE.)

3 SOLICITOR EPTING: Your Honor, may I approach the
4 witness?

5 THE COURT: Yes, sir.

6 Q. Officer Hawkins, I'm going to hand you what's been
7 marked as State's Exhibit Twenty-five.

8 If you could, please look at this.

9 A. All right.

10 Q. Do you recognize State's Exhibit Twenty-five?

11 A. I do.

12 Q. What do you recognize it to be?

13 A. That is the sword that was recovered from the vehicle.

14 Q. Is it in the same or substantially the same condition
15 as it was when you last saw it?

16 A. Substantially the same.

17 Q. Okay.

18 SOLICITOR EPTING: Your Honor, at this time, the State
19 would seek to enter State's Exhibit Twenty-five into
20 evidence.

21 THE COURT: Mr. Hall?

22 MR. HALL: Without objection.

23 THE COURT: In without objection.

24 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-FIVE
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

1 Q. Officer Hopkins, can you feel if there is a blade on
2 this, please?

3 A. It is.

4 Q. In your opinion, is that a dull sword?

5 A. No.

6 SOLICITOR EPTING: Your Honor, permission to publish?
7 I will allow them to look at it rather than touch it,
8 because it is rather sharp.

9 THE COURT: Okay.

10 SOLICITOR EPTING: And, Your Honor, I'd ask the Court
11 to instruct any of the jurors that need a closer look but I
12 --

13 THE COURT: You can stand up or if you need to lean
14 forward.

15 (STATE'S EXHIBIT NUMBER TWENTY-FIVE PUBLISHED TO THE
16 JURY.)

17 SOLICITOR EPTING: I beg the Court's indulgence.

18 (PAUSE.)

19 SOLICITOR EPTING: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes, sir.

22 Q. Officer Hawkins, I'm going to show you what's been
23 marked as State's Exhibit Twenty-six.

24 If you would, please look at that.

25 A. Yeah.

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1 Q. Do you recognize State's Exhibit Twenty-six?

2 A. I do.

3 Q. What is it?

4 A. It's the SKS that was recovered from the trunk of the
5 vehicle.

6 Q. And has it been made safe?

7 A. Yes.

8 Q. It's in the same - substantially the same condition as
9 it was when you recovered it?

10 A. Substantially the same.

11 Q. All right.

12 SOLICITOR EPTING: Your Honor, at this time, the State
13 will seek to enter State's Exhibit Twenty-six into
14 evidence.

15 THE COURT: I believe you've already entered this with
16 the proper protocol involving -

17 SOLICITOR EPTING: That is correct, Your Honor. I -
18 We have placed a lock around the breach and none of the -
19 none of the bullets are in here right now and it has been
20 made safe, made sure that it is not loaded right now.

21 THE COURT: Any objection to it -

22 MR. HALL: Without objection.

23 THE COURT: In without objection.

24 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-SIX
25 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

1 SOLICITOR EPTING: Your Honor, permission to publish
2 again like with the sword?

3 THE COURT: Yes.

4 SOLICITOR EPTING: Rather than handing, I will. And,
5 again, Your Honor, should I need to do anything further to
6 let the jury see that?

7 THE COURT: Well, I - No, you -

8 Members of the jury panel, we have a protocol that
9 would require to make sure that any weapons that are
10 brought into court for display are properly inspected and
11 unloaded and unfireable by virtue of some type of lock, and
12 I have been assured that that is the case and in regarding
13 to this weapon.

14 SOLICITOR EPTING: Thank you, Your Honor.

15 (STATE'S EXHIBIT TWENTY-SIX PUBLISHED TO THE JURY.)

16 SOLICITOR EPTING: I - Your Honor, is it all right if
17 I lay this underneath here or would you rather it be stored
18 somewhere?

19 THE COURT: That's fine.

20 Q. Officer Hawkins, I am going to hand you what has been
21 marked as State's Exhibit Twenty-eight.

22 If you would, please review that.

23 A. All right.

24 Q. Do you recognize State's Exhibit Twenty-eight?

25 A. I do.

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1 Q. Was that taken by you into evidence?

2 A. Yes.

3 Q. Is it in the same or substantially the same condition
4 as it was when you last saw it?

5 A. Substantially the same.

6 SOLICITOR EPTING: Your Honor, the State at this time
7 would seek to enter State's Exhibit Twenty-eight into
8 evidence.

9 THE COURT: Any objection?

10 MR. HALL: Without objection.

11 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-EIGHT,
12 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

13 SOLICITOR EPTING: Your Honor, may I publish this?

14 THE COURT: You may.

15 (STATE'S EXHIBIT NUMBER TWENTY-EIGHT PUBLISHED TO THE
16 JURY.)

17 THE COURT: Mr. Epting, it's in evidence and it's --
18 you referenced it by exhibit number, but I don't think any
19 vocal oral identification was made. Just might help that
20 out.

21 SOLICITOR EPTING: Certainly, Your Honor. I'm
22 publishing to the jury --

23 THE COURT: Well, I mean, you need to ask him just
24 what the exhibit is.

25 SOLICITOR EPTING: The last - This exhibit, Your

SERGEANT HAWKINS: DIRECT BY SOLICITOR EPTING

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1 Honor?

2 THE COURT: Yes.

3 Q. Hawkins, we just showed you a State -- an exhibit
4 which you identified as being in substantially the same
5 condition. Could you describe that verbally?

6 A. It's the weapon, in my opinion, that has the wooden
7 handle with the pool ball attached that was in the photos.

8 Q. And is that State's Exhibit Twenty-eight?

9 A. Yes.

10 SOLICITOR EPTING: Thank you.

11 Q. Officer Hawkins, I'm going to hand you what's been
12 marked as State's Exhibit Twenty-seven.

13 Would you please look at that and tell me if you
14 recognize it?

15 A. I do.

16 Q. Is it the same - is Exhibit -- Is Exhibit Twenty-seven
17 the same or substantially the same condition as it was?

18 A. Substantially the same.

19 SOLICITOR EPTING: Your Honor, at this time, the State
20 would seek to enter State's Exhibit Twenty-seven into
21 evidence?

22 THE COURT: Any objection?

23 MR. HALL: Without objection.

24 THE COURT: In without objection.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-SEVEN

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1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 SOLICITOR EPTING: Your Honor, permission to publish?

3 THE COURT: And, again, it'd just be nice - I know we
4 got the numbers and a see-through package if our witness
5 could testify to what it is.

6 SOLICITOR EPTING: Certainly.

7 Q. What is State's Exhibit --

8 THE COURT: It might just help for the record.

9 SOLICITOR EPTING: Certainly, Your Honor.

10 Q. And what is State's Exhibit Twenty-seven?

11 A. It's the white rope that was located inside the
12 vehicle.

13 Q. Thank you.

14 SOLICITOR EPTING: I beg the Court's indulgence.

15 (PAUSE.)

16 Q. Officer Hawkins, I'm going to hand you what's been
17 marked as State's Exhibit Twenty-nine.

18 Would you please look at that? Do you recognize
19 State's Exhibit Twenty-nine?

20 A. I do.

21 Q. What is it?

22 A. It's brass knuckles.

23 Q. And are they in the same or substantially the same
24 condition as they were when you last saw them?

25 A. Substantially the same.

1 SOLICITOR EPTING: Your Honor, the State would - The
2 State would seek to introduce State's Exhibit Twenty-nine
3 into evidence at this time.

4 THE COURT: Mr. Hall, any objection to Twenty-nine?

5 MR. HALL: Without objection.

6 (WHEREUPON, STATE'S EXHIBIT NUMBER TWENTY-NINE,
7 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

8 SOLICITOR EPTING: Your Honor, permission to publish?

9 THE COURT: Please.

10 (STATE'S EXHIBIT TWENTY-NINE PUBLISHED TO THE JURY.)

11 SOLICITOR EPTING: I beg the Court's indulgence.

12 (PAUSE.)

13 Q. And, finally, Officer Hawkins, let me show you what's
14 been marked as State's Exhibit Thirty-one.

15 If you would please look over that?

16 A. All right.

17 Q. Do you recognize State's Exhibit Thirty-one?

18 A. I do. That's the red baseball bat that was located
19 inside the passenger's front seat.

20 Q. And it's in the same or substantially the same
21 condition as it was when you last saw it?

22 A. Substantially the same.

23 SOLICITOR EPTING: Your Honor, at this time, the State
24 would move to proceed to enter State's Exhibit Thirty-one
25 into evidence.

SERGEANT HAWKINS: DIRECT BY SOLICITOR EPTING

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1 MR. HALL: Without objection.

2 THE COURT: In without objection.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER THIRTY-ONE,
4 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

5 SOLICITOR EPTING: Permission to publish, Your Honor.

6 THE COURT: You may.

7 (STATE'S EXHIBIT THIRTY-ONE PUBLISHED TO THE JURY.)

8 SOLICITOR EPTING: I beg the Court's indulgence.

9 (PAUSE.)

10 Q. Officer Hawkins, is it your testimony that all of
11 these weapons that were entered into evidence were found
12 somewhere in the car?

13 A. That's correct.

14 SOLICITOR EPTING: That's all the questions I have for
15 you right now. Please answer any questions that Mr. Hall
16 may have.

17 MR. HALL: Your Honor, may we take a short recess?

18 THE COURT: All right. We'll take a refresher break.

19 Remember, Mr. Mode, when we come back in you will take
20 the foreperson's seat and the alternates will take those
21 seats. We'll take about a ten minute refresher break.

22 (JURY EXITS COURTROOM AT 04:35 P.M..)

23 THE COURT: You can step down and use the restroom.

24 THE COURT: We'll be at ease for ten minutes.

25 (COURT IN RECESS AT 04:35 P.M..)

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 (COURT BACK IN SESSION AT 04:48 P.M..)

2 THE COURT: You can have a seat. Bring in Mr.
3 Passmore.

4 (DEFENDANT, RICKY PASSMORE, REENTERS COURTROOM.)

5 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER ONE, REMARKED
6 FOR IDENTIFICATION.)

7 THE COURT: All right. Bring in the jury.

8 Counsel, we'll probably just will be able to based on
9 the time to get through with the cross and not do any other
10 witnesses' this afternoon because of Drug Court.

11 (JURY RE-ENTERS COURTROOM AT 04:50 P.M..)

12 MR. HALL: May it please the Court.

13 CROSS EXAMINATION

14 SERGEANT WILLIAM HAWKINS BY MR. HALL:

15 Q. Officer Hawkins, let me just make sure that we are
16 clear. These items that were found, brass knuckles, rope,
17 a pool ball, sword, rifle, bat - And you're the lead - you
18 were calling yourself the case agent?

19 A. Yes.

20 Q. You were in charge of the case; is that right?

21 Is that right, you were in charge of investigating
22 this case?

23 A. The only thing that I had was the first responding
24 officer. There were other things that occurred after the
25 initial charges were made.

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 Q. So you were the first person to interview Julia
2 Coleman; is that right?

3 A. That's correct.

4 Q. And in the course of your investigation, there is no
5 indication that any of these items other than sword were
6 ever used. Right?

7 A. That's correct.

8 Q. And I'm going to show you what has been marked
9 Defendant's Exhibit One. What is that?

10 A. It's an evidence sheet.

11 Q. And who prepared that evidence sheet?

12 A. Myself.

13 Q. And so that evidence sheet, it's a fair and accurate
14 representation of what you did. Right?

15 A. Yes.

16 Q. And this has been a part of this case and it has been
17 provided to the Solicitor. Right?

18 A. That's correct.

19 MR. HALL: Your Honor, move Defendant's Exhibit One
20 into evidence.

21 SOLICITOR EPTING: No objection, Your Honor.

22 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER ONE, IDENTIFIED
23 AND MARKED, RECEIVED INTO EVIDENCE.)

24 Q. And when we go through that evidence sheet, again,
25 where do you show that the rifle was found?

1 A. The trunk of the vehicle.

2 Q. The trunk of the vehicle. Is there anything illegal
3 about someone having a rifle in the trunk in their vehicle?

4 A. If they are lawfully in possession to have that rifle.

5 Q. Hunters can carry rifles in the trunk of their
6 vehicle. Right?

7 A. Yes.

8 Q.. And in fact a long gun can be carried in the passenger
9 compartment of the vehicle. Right?

10 A. Yes.

11 Q. And again, this rifle was found locked in the closed
12 trunk when you got there. Right?

13 A. That's correct.

14 Q. And then the pool ball on the rope with the wooden
15 handle, you found it in the trunk in the vehicle. Right?

16 A. That's what the evidence sheet shows.

17 Q. Well you filled it out didn't you?

18 A. Yes.

19 Q. You don't remember where you found it?

20 A. I mean, it's showing that it was found in the trunk of
21 the vehicle.

22 Q. Do you have some reason to believe that's not true?

23 A. The photographs indicating different.

24 Q. I'm sorry. Let's take a look at those photographs.
25 The photographs we looked at?

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 Would you show us - I'm not trying to trick up or
2 anything. Just tell us where you found it.

3 A. Because so many items were located, the photographs
4 before anything was disturbed shows that it was laying in
5 the back floorboard.

6 Q. So your evidence log is not correct on that. Right?

7 A. That's correct, however, there's multiple things. I
8 mean, you've got ten things within inside one vehicle.

9 Q. It's easy to get things confused isn't it?

10 A. Now I didn't say that.

11 Q. What were you saying?

12 A. That the evidence sheet shows - indicates that it's in
13 the trunk of the vehicle on this one item.

14 Q. Okay. All right. Well let's go to the other items.
15 The rope, it was found in the trunk of the vehicle. Right?

16 A. Yes.

17 Q. And then the puddy knife was inside the backseat.
18 Right?

19 A. Yes.

20 Q. And the bat, we saw a picture of that. That was
21 inside the passenger compartment of the car. Right?

22 A. That's correct.

23 Q. And the sword was inside. We saw a picture of that.
24 Right?

25 A. That's correct.

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 Q. And the crow bar inside the car. Right?

2 A. Yes.

3 Q. And then we have ammo found in the vehicle and brass
4 knuckles were found on Ricky Passmore. Right?

5 A. That's correct.

6 Q. But again, in your investigation, the part you did,
7 there is no indication that anything other than the sword,
8 all this stuff that was found, none of that according to
9 your investigation entered the house or left the car as far
10 as you know?

11 A. No.

12 Q. And according to your report, when you got there you
13 didn't see my client?

14 A. I did not.

15 Q. And obviously you didn't see the car there. The first
16 thing you saw -- the first time you saw the car was on the
17 side of the road down in York. Right?

18 A. That's correct.

19 Q. And so when you got there, everything was over?

20 A. Everything is --

21 Q. I'm sorry. As far as the incident inside the house on
22 Trinity Street, it was over?

23 A. Yes. I mean, as far as the reported incident, yes.

24 Q. Okay. I mean, it wasn't over because that's really
25 when your investigation started when you got there. It's a

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 poor choice of my words. And when you got there, you saw
2 the two children in the yard, the two teenagers. Right?

3 A. At the time I'm not exactly sure how old Cody was. I
4 mean, they were -- he was the youngest one, so I don't
5 recall how old he was. He might have been twelve.

6 Q. All right. When you got there, you saw --

7 A. I saw two children, juveniles, running around in the
8 yard.

9 Q. Okay. And Julia Coleman is not in the yard?

10 A. She was not.

11 Q. And in fact when you went to the door, you indicated
12 in your report you remember indicating and stating that you
13 observed her walking from -- through the living room towards
14 the kitchen?

15 A. That's correct.

16 Q. And you knocked on the door. The door wasn't open was
17 it?

18 A. I don't think I tried to open the door.

19 Q. But you knocked --

20 A. I knocked on the door.

21 Q. I mean, it wasn't open. It wasn't standing open?

22 A. That's correct.

23 Q. And you knocked on the door and she opened it. Right?

24 A. That's correct.

25 Q. And then in your report you indicate that you knocked

1 on the door and you indicated that she stated that the
2 suspects were no longer there. Right?

3 A. That's correct.

4 Q. And then you indicate that you begin conversing with
5 Julia Coleman. Right?

6 A. Yes, sir.

7 Q. And she didn't have any problem understanding the
8 questions that you ask?

9 A. No.

10 Q. She wasn't hysterical?

11 A. I would consider her hysterical.

12 Q. And can you describe her demeanor?

13 A. I mean, other than what appeared to me that she was
14 frightened.

15 Q. She understood your questions? You asked her what
16 happened. Right?

17 A. Yes, sir.

18 Q. And to your knowledge, she had not called the police
19 had she?

20 A. She had not because she knew that --

21 Q. But again, you don't know what she knew. The answer
22 to my question is you don't know - she didn't call the
23 police?

24 A. Right.

25 Q. Okay. And you did not - You didn't take any written

SERGEANT HAWKINS: CROSS BY MR. HALL

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1 statements from Cody did you?

2 A. I got him started with the statements and that is when
3 we got the call to respond to the York police officer
4 location.

5 Q. Okay. And so you didn't do any written statements?

6 A. I did not.

7 Q. Detective Mozelle did that. Right?

8 A. Yes.

9 Q. And Detective Mozelle in fact recorded statements from
10 Julia Coleman didn't he?

11 A. That I don't know. I wasn't there so I - The
12 supplement on the report shows that he did.

13 Q. Okay. Well then you're not the - Would Lieutenant
14 Davis be the more appropriate person to understand
15 everything that went on in the case?

16 A. I would say so.

17 Q. Okay. All right. Now, when you located the rifle, do
18 you remember - you pulled the bayonet open. Right?

19 A. Yes.

20 Q. So the picture that you have with the bayonet
21 extended, that was not the condition it was in in the back
22 of the car was it?

23 A. It was not.

24 Q. Okay. And so for purposes of Court Exhibit Number
25 Fourteen, that was not - the bayonet was folder back under

1 in the back of the car. Right?

2 A. That's correct.

3 Q. So we don't see it as you're - And you are looking at
4 Exhibit Number Eighteen. Right?

5 A. Yes.

6 Q. And in that one, the bayonet is folded back under the
7 barrel of the gun?

8 A. That's correct.

9 Q. And so that was the condition it was in the trunk of
10 the car. Right?

11 A. That's correct.

12 Q. When you got there to the scene, do you remember if
13 the car was still running?

14 A. That I do not remember.

15 MR. HALL: Court's indulgence.

16 (PAUSE.)

17 Q. And during the course of your investigation those
18 items, again that gun that was found in the trunk of the
19 car, you have no evidence to believe that it or indicate
20 that it ever left the trunk of the car?

21 A. No.

22 Q. Thank you.

23 MR. HALL: I have no further questions for Mr.
24 Hawkins.

25 THE COURT: Any redirect?

SERGEANT HAWKINS: REDIRECT BY SOLICITOR EPTING

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1 SOLICITOR EPTING: Very briefly, Your Honor.

2 REDIRECT EXAMINATION

3 SERGEANT WILLIAM HAWKINS BY SOLICITOR EPTING:

4 Q. Mr. Hall motioned to the white boxes on the floor and
5 asked you if any of those had entered the house. Is the
6 sword not one of those white boxes?

7 A. Yes.

8 Q. And was it your testimony earlier that the sword in
9 fact entered the house based upon what you were told?

10 A. Yes.

11 Q. And could I have you look at that Defense Exhibit
12 Number One again? Is that up there?

13 A. I believe that's it.

14 Q. Could you please read for the jury where it stated the
15 brass knuckles were found?

16 A. Brass knuckles, it states it was found on Ricky
17 Passmore.

18 Q. Ricky Passmore?

19 A. That's correct.

20 Q. You stated earlier that you got a call to come out
21 there, to come out to the scene; is that correct?

22 A. That's correct.

23 Q. Is it fair to say that somebody probably called the
24 police for that call to come into you?

25 A. Yes.

1 Q. Do you know who that was?

2 A. The person that called initially was Mary. Mary
3 Jones, I believe is her last name, which is a nearby
4 resident of [REDACTED], and she called upon the
5 request from Cody after he left his residence, and then at
6 that point, Tara had left the residence as well and ran
7 next door and the phone was given to her so she was
8 actually the one talking to 911.

9 Q. So Tara and Cody flee the house during the incident?

10 A. That's correct. They ran out the back door.

11 Q. And is it safe to say that Mary, whoever she is, is a
12 neighbor to --

13 A. Yes. She lives on [REDACTED] right next door
14 basically. She doesn't -- Back behind how their house
15 looks.

16 Q. So while Julie might have called her children then ---

17 A. That's correct.

18 Q. --- to call 911?

19 A. Yes.

20 Q. And just to clarify, you are not the case agent; is
21 that correct?

22 A. No.

23 SOLICITOR EPTING: No further questions.

24 THE COURT: Recross.

25 MR. HALL: Nothing further, Your Honor.

KAREN MCCLURE: DIRECT BY SOLICITOR HOLLAND

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1 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

2 DIRECT EXAMINATION

3 KAREN MCCLURE BY SOLICITOR HOLLAND:

4 Q. Can you state your name for the record?

5 A. Karen McClure.

6 Q. Where are you employed?

7 A. York County 911.

8 Q. And how long have you been employed there?

9 A. Eighteen years.

10 Q. And what is the role of the York County 911 office?

11 A. We receive all the 911 calls that come in during -
12 York County.

13 Q. Okay. What is your title?

14 A. Quality Assurance Manager.

15 Q. Okay. Describe what your duties are as Quality
16 Assurance Manager.

17 A. I'm in control of all the records that are housed in
18 our center.

19 Q. And what kind of records?

20 A. Computer and dispatch records. All the calls for
21 service. All the 911 calls. Any recording. All of our
22 lines are recorded at the 911 center, emergency and non
23 emergency, and they are - I'm responsible for maintaining
24 those recordings.

25 Q. So each individual 911 call is kept in digital form?

1 A. Yes.

2 Q. And how is that done? Are they recorded at the time
3 they are made and how are they stored?

4 A. Yes. They are actually recorded. 911 calls are
5 actually recorded before the 911 operator answers the
6 phone. It begins recording and then it records the entire
7 call until the call is disconnected.

8 Q. Okay. And are they maintained as a regular course of
9 business? You do that on all calls?

10 A. Yes.

11 Q. And how are they retrieved once they're stored?

12 A. We have a digital recording system so it's web-based,
13 a web-based server, so we sign on and retrieve them out of
14 the digital recording system.

15 Q. Okay. And pursuant to a request from my office did
16 you prepare a 911 call that was relevant to this case?

17 A. Yes.

18 Q. Okay.

19 SOLICITOR HOLLAND: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes, ma'am.

22 Q. I'm handing you what has been marked as State's
23 Exhibit Ten. Can you tell us what that is?

24 A. This is the CD containing the 911 call from this
25 incident.

KAREN MCCLURE: DIRECT BY SOLICITOR HOLLAND

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1 Q. And have you listened to what's on that CD?

2 A. I did.

3 Q. How do you know?

4 A. Because I initialed it and dated it.

5 Q. Okay. And so is that a true and accurate copy of the
6 911 call that was made for the emergency at [REDACTED]
7 [REDACTED] on June 19th?

8 A. It is.

9 SOLICITOR HOLLAND: Request to admit State's Exhibit
10 Number Ten into evidence.

11 MR. HALL: Without objection.

12 THE COURT: In without objection.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER TEN, IDENTIFIED AND
14 MARKED, RECEIVED INTO THE RECORD.)

15 SOLICITOR HOLLAND: Request to publish?

16 THE COURT: Yes, ma'am.

17 (STATE'S EXHIBIT TEN PUBLISHED TO THE JURY AT 09:54
18 A.M..)

19 SOLICITOR HOLLAND: That's all the questions the State
20 has.

21 Please answer any questions Mr. Hall may have.

22 MR. HALL: I have no questions for this witness.

23 THE COURT: You can step down and be excused. We
24 appreciate your time.

25 MS. MCCLURE: Thank you.

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 THE COURT: Thank you.

2 (WITNESS LEAVING WITNESS STAND.)

3 THE COURT: Call your next witness.

4 SOLICITOR HOLLAND: The State calls Julia Coleman.

5 Just step right up there to the Bible.

6 MADAM CLERK: Raise your right hand, place your left
7 hand on the Bible.

8 (WHEREUPON, JULIA COLEMAN, BEING
9 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 MADAM CLERK: Thank you. Please have a seat.

11 THE COURT: Do you have some gum in your mouth?

12 MS. COLEMAN: Cough drop.

13 THE COURT: Okay. Go ahead.

14 DIRECT EXAMINATION

15 JULIA COLEMAN BY SOLICITOR HOLLAND:

16 Q. Could you just state your name for the record?

17 A. Julia Coleman.

18 Q. Okay. And where do you live?

19 A. [REDACTED], Clover, South Carolina.

20 Q. Is that within the city limits of Clover?

21 A. Yes.

22 Q. And that's within York County?

23 A. Yes.

24 Q. How many - Do you know Ricky Passmore?

25 A. Yes.

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 Q. How do you know him?

2 A. I'm the mother of three of his children.

3 Q. And how old are your children and what are their
4 names?

5 A. Tara is 16, Cody is 14, and James is 10.

6 Q. And where do they reside?

7 A. James currently reside with his grandmother. Tara and
8 Cody reside with me.

9 Q. You and Ricky have not been together for a number of
10 years. Correct?

11 A. Correct.

12 Q. And do you also know Ricky Passmore's twin brother,
13 Micky Passmore?

14 A. Yes.

15 Q. Okay. Are you currently in a relationship with
16 someone?

17 A. Yes.

18 Q. Okay. And what is his name?

19 A. Everybody knows him as Chip.

20 Q. And what race is Chip?

21 A. African American.

22 Q. How long have you been in a relationship with Chip?

23 A. Um, just about a year now.

24 Q. And so do you live with your three - with Tara and
25 Cody in your home currently?

1 A. Yes.

2 Q. Okay. Is it a mobile home?

3 A. Yes.

4 Q. How many bedrooms and bathrooms do you have?

5 A. Two bedrooms; one bathroom.

6 Q. Okay. Can you kind of describe the layout of the
7 house to us?

8 A. It's a very small mobile home. You come through the
9 front door to your right - immediately to your right is the
10 kitchen - you are standing in the living room. There is a
11 small hallway; first door on the left would be Tara's
12 bedroom, second door is the bathroom, the third door at the
13 time of the incident was the two boy's room.

14 Q. Okay.

15 SOLICITOR HOLLAND: May I approach the witness, Your
16 Honor?

17 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE THROUGH EIGHT,
18 PREMARKED FOR IDENTIFICATION.)

19 Q. Julia, I'm going to hand you what we've marked as
20 State's Exhibits One through Eight.

21 If you could look through those and let me know if you
22 recognize them.

23 A. Yes.

24 Q. Okay. What are those photos of?

25 A. Our mobile home.

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 Q. Okay. Is that both the exterior and interior?

2 A. Yes.

3 Q. Is that a true and accurate picture of how your home
4 looked at the time of this incident?

5 A. Yes.

6 Q. Okay.

7 SOLICITOR HOLLAND: State would request to move in
8 State's Exhibits One through Eight.

9 MR. HALL: Without objection.

10 THE COURT: In without objection.

11 (WHEREUPON, STATE'S EXHIBIT NUMBERS ONE THROUGH EIGHT,
12 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

13 SOLICITOR HOLLAND: I'll take those from you.

14 Q. Had Ricky or Mickey ever been to your house?

15 A. Yes.

16 Q. Did they have standing permission to come to your
17 house?

18 A. No.

19 Q. Did either of them have a key to your house?

20 A. No.

21 Q. Now the night this incident occurred, that was June
22 19th of last year. Correct?

23 A. Correct.

24 Q. Okay. And at this time were you dating Chip?

25 A. Yes.

1 Q. Did Ricky Passmore know about your relationship with
2 Chip?

3 A. Yes.

4 Q. Okay. How did they learn about it?

5 A. A phone conversation that Ricky and I had and he asked
6 me was I - that he had heard that I was dating a nigger and
7 I told him that that was not accurate. That if he was
8 asking if I was dating a black man, then the answer was
9 yes.

10 Q. Did he indicate that he approved of that relationship?

11 A. He very much disapproved.

12 Q. Were you ever contacted by Micky Passmore about your
13 relationship with Chip?

14 A. Yes.

15 Q. Okay. Describe that.

16 A. He left voice mails. There were like four, I believe,
17 if I'm not mistaken. Very, very derogatory, nasty voice
18 mails left to me about a week and a half, maybe two weeks
19 prior to this incident.

20 Q. Did you report those incidents to law enforcement?

21 A. I did.

22 Q. When you spoke to Ricky about your relationship with
23 Chip, was any mention ever made of him coming to your
24 house?

25 A. Yes.

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 Q. Describe that.

2 A. In that conversation he said, "let that nigger be
3 there when I get there, we'll see who the real man is."

4 Q. And what was your response?

5 A. I told him don't come to - "Ricky, don't show up at my
6 fucking house."

7 Q. This incident occurred on June 19th 2013. Correct?

8 A. Correct.

9 Q. About what time was it when this happened?

10 A. Five o'clock in the morning.

11 Q. Was it dark outside?

12 A. Yes.

13 Q. Where was everybody sleeping at the time?

14 A. Cody was still up or had gotten back up playing video
15 games. I was sleeping on the couch in the living room.
16 Tara was in her room. James was in him and Cody's room on
17 a bunk bed.

18 Q. Were Tara and James asleep?

19 A. Yes.

20 Q. But Cody was awake?

21 A. Right.

22 Q. Was Chip there that night?

23 A. No.

24 Q. Okay. Had he been there?

25 A. Yes.

1 Q. About what time did he leave?

2 A. 10:30.

3 Q. Describe what happened that night around midnight.

4 A. Tara woke me up with my phone.. She said "mama, mama.
5 I just got off the phone with daddy. He said he is coming
6 over here. You better to listen to this." And I listened
7 to about thirty seconds, maybe forty-five seconds of the
8 conversation. I said, "I don't want to hear his bull crap
9 and propaganda." I put the phone under my pillow and I
10 just laid back down.

11 Q. Is that the same phone call that Tara recorded?

12 A. Yes.

13 Q. And did you recognize the voice on that phone call?

14 A. Yes.

15 Q. Whose voice was it?

16 A. It was Ricky and Tara.

17 Q. And what did you do after that? Once you refused to
18 listen to the rest of the phone call, what did you do?

19 A. I went back to sleep.

20 Q. And did something wake you up around 5:00 a.m.?

21 A. Yes.

22 Q. What happened?

23 A. There was a knock on the door. Cody got up - and we
24 had like a triangular shaped window in the door - he looked
25 out the door, he said, "Mama, it's Chip." I said "open the

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 door." He opened the door slightly and then he said, "Mama
2 it's daddy" but by that time Ricky was already coming
3 through the door.

4 Q. Okay. So you said Ricky was already coming through
5 the door. Was anybody else with him?

6 A. Mickey was immediately behind him.

7 Q. Okay. When they come to the house, it's dark outside.
8 Correct?

9 A. Correct.

10 Q. Okay. So what did you do when they come into the
11 house?

12 A. I went to get off the couch. The first thing Ricky
13 said to me is, "where is Chip"? I said, "he's not here."
14 "Where is he?" I said, "it doesn't matter. He is not
15 here." I said, "what are you doing here?" And then I
16 said, "as a matter of fact, where's my phone" and I started
17 looking for the phone and that's the point where he pushed
18 me down on the couch, produced a sword, and said, "bitch
19 you move, you die."

20 He proceeded towards the hallway. I would say about
21 three steps into the hallway, he turned around, he told his
22 twin brother, "she moves, she fuckin dies."

23 He went to Tara's room. Forced the door open or
24 slammed it open, whatever. Woke her up. "Get the fuck up.
25 You are going with me."

1 Proceeded to James and Cody's room. Woke James up.
2 Something about him being brainwashed by Ricky's mother to
3 be a nigger lover and you were never my son - that whole
4 conversation was stupid, but then he came back towards the
5 living room. He asked, where is Cody? Again he said,
6 "where the fuck is Cody?" Tara said, "Daddy I sent him out
7 the back door to call the police." He said, "the police,
8 Tara? Really? The fucking police, Tara?" She said, "yeah
9 daddy. I love you but I love my mama too and I can't watch
10 you kill my mama." At that point they were pretty much
11 ready to exit the house.

12 Q. Okay. Just briefly let's touch on what Mickey did.
13 So when Ricky looked at Mickey and said, she moves; she
14 dies. Did Mickey do anything to restrain your freedom?

15 A. No.

16 Q. Okay. But he stood there in the living room while
17 Ricky was looking for the children?

18 A. Yes.

19 Q. Just for some small minor details. Does the door to
20 your home, does it open in or out?

21 A. Out.

22 Q. So kind of the opposite of most? It doesn't open in.
23 You have to pull it out?

24 A. Right.

25 Q. And you said Ricky had a sword. Did you see the sword

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 when he entered the house initially?

2 A. No.

3 Q. Where was it?

4 A. He had it behind his back, I guess inside his
5 overalls.

6 Q. Okay. So he had on overalls?

7 A. Yes.

8 Q. And so Cody ran to a neighbor's house and called 911?

9 A. Yes.

10 Q. Okay. What did Ricky and Micky do once they learned
11 that police had been called?

12 A. Mickey was already saying, "come on, man, let's go.
13 Let's go." They went out on the porch. I stepped like on
14 the porch too. Ricky made a comment something to the
15 effect, "remember you turned your back on us" and I said,
16 "whatever, get the hell away from here". They went down
17 the steps and I pulled the door back and locked it.

18 Q. Okay. Did you see who was driving the car at the
19 time?

20 A. I could not really see.

21 Q. Okay. Throughout the incident, what did Ricky appear
22 to be doing in the house while he was waking up the
23 children?

24 A. Looking for Chip.

25 Q. Did it appear that Ricky was there picking up his

1 children?

2 A. No.

3 Q. Would it be common for Ricky to come pick up Tara?

4 A. No.

5 Q. Would it be common for Ricky to come pick up James?

6 A. No.

7 Q. At five o'clock in the morning?

8 A. No.

9 Q. How long did it take police to arrive?

10 A. I - maybe - I don't know. I estimate, maybe eight to
11 ten minutes.

12 Q. Okay. And did you meet with law enforcement and give
13 a statement?

14 A. Yes.

15 Q. And did your children?

16 A. Yes.

17 Q. You have three children that witnessed this. Correct?

18 A. Yes.

19 Q. The oldest is Tara and she is going to testify?

20 A. Correct.

21 Q. Your youngest child is James. How old is he?

22 A. Ten.

23 Q. Okay. Is he testifying?

24 A. No.

25 Q. Why not?

JULIA COLEMAN: DIRECT BY SOLICITOR HOLLAND

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1 A. I -- his age. I just don't think --

2 Q. Your middle child Cody, was he under subpoena?

3 A. Yes.

4 Q. Okay. Is he going to testify for the State?

5 A. No.

6 Q. Okay. And why is that?

7 A. Because we didn't feel that it -- Cody has mental
8 issues that could be very detrimental to any progress that
9 he has made in the last six months.

10 Q. We've been talking about Ricky and Micky Passmore
11 throughout all of this so I want to make it really clear
12 who we are talking about. The man who entered home with
13 the sword that you have been referring to as Ricky
14 Passmore, do you see him in the courtroom?

15 A. Yes.

16 Q. Okay. Can you point to him and tell us what he is
17 wearing.

18 A. A camouflage shirt and overalls.

19 SOLICITOR HOLLAND: Please let the record show she has
20 identified the defendant, Ricky Passmore.

21 (WITNESS INDICATED TO DEFENDANT, RICKY PASSMORE.)

22 SOLICITOR HOLLAND: I beg the Court's indulgence for
23 just one moment.

24 (PAUSE.)

25 Q. Julia, I want to go back, I just skipped one thing.

JULIA COLEMAN: CROSS BY MR. HALL

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1 When you said Ricky pulled out a sword and had you on
2 the couch, how did you feel?

3 A. Scared. Frightened.

4 SOLICITOR HOLLAND: If you can answer any questions
5 Mr. Hall may have.

6 MR. HALL: May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS EXAMINATION

9 JULIA COLEMAN BY MR. HALL: .

10 Q. Ms. Coleman, you got off the couch. Right?

11 A. Yes.

12 Q. And nobody hit you with a sword when you got off the
13 couch?

14 A. When are you talking about? Initially he did push me
15 back on the couch and say, "bitch, you move, you die".

16 Q. Your testimony is that you went out on the porch.
17 Right?

18 A. When they were leaving.

19 Q. And so you got off the couch?

20 A. Yes.

21 Q. And again my question is nobody touched you with a
22 sword. Right?

23 A. No.

24 Q. In fact a sword never touched anybody?

25 A. No.

JULIA COLEMAN: CROSS BY MR. HALL

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1 Q. Nothing was torn up in your house. Right?

2 A. No.

3 Q. The door wasn't knocked down was it?

4 A. It doesn't knock down. It snatches out so.

5 Q. But your testimony is, is that there was a knock on
6 the door and your testimony is is that Cody thought it was
7 Chip. Right?

8 A. Correct.

9 Q. And he opened the door?

10 A. I told him to open the door, yes.

11 Q. All right. He opened the door. And when you looked
12 at the pictures of your house, you've got a window on your
13 door. Right?

14 A. Correct.

15 Q. And it's clear. Right?

16 A. Not exactly. That morning the window was fogged up.

17 Q. But again, Ricky knocked on the door?

18 A. Correct.

19 Q. He didn't snatch the door open?

20 A. The door was locked.

21 Q. And let me get this straight. As far as when Ricky
22 came in, Tara was asleep in her room. Right?

23 A. Correct.

24 Q. James was asleep in the back in his room. Right?

25 A. Correct.

1 Q. And Cody obviously was playing video and he hears the
2 knock on the door; he answers the door?

3 A. Yes.

4 Q. And you were asleep on the couch?

5 A. Yes.

6 Q. So as far as anything what Tara saw or heard, she
7 didn't see or hear when Ricky came in the door?

8 A. Right.

9 Q. Because she was back in her room. Right?

10 A. Right.

11 Q. And as far as what James saw or heard, he was back in
12 his room. He didn't see Ricky come in?

13 A. James, I believe said that he did hear Ricky.

14 Q. But he didn't see anything?

15 A. Not until Ricky entered the bedroom.

16 Q. And Ricky went down the hall looking for Tara and
17 James?

18 A. No. He opened the door to Tara's room and woke her
19 up. He opened the door to the bathroom too. Nobody sleeps
20 in there so. Then he opened the door to Cody and James'
21 room and woke James up.

22 Q. And then that's when - By that time Tara was out and
23 she said, "Cody go call the police"?

24 A. Yes.

25 Q. And so this would have been after Ricky had gone down

JULIA COLEMAN: CROSS BY MR. HALL

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1 the hall when she said go call the police?

2 A. Yes.

3 Q. And as you've stated, you have known Ricky Passmore
4 for a long time. Right?

5 A. Yes.

6 Q. And you are the mother of three of his children?

7 A. Yes.

8 Q. All right. And you all's relationship, would you
9 describe it as being up and down over the time you've known
10 Ricky?

11 A. Yes.

12 Q. And in fact you know him well enough that when you
13 talk about on your testimony when he was talking to James,
14 he must have been saying some things. You called it
15 propaganda. Right?

16 A. That was the conversation on the phone that I called
17 propaganda.

18 Q. It sounds like also in your testimony that when he had
19 gone back to the bedroom where James was asleep and got him
20 up that he questioned him - you know, goes into this rant
21 about James and the black boyfriend. And in your direct
22 you said that - I'm sorry. Yeah the propaganda was about
23 the phone conversation.

24 A. Correct.

25 Q. And then this conversation with James, you called that

1 a stupid conversation. Right?

2 A. The parts that I heard about James being brainwashed
3 by his mother.

4 Q. And so you know Ricky well enough that propaganda and
5 stupid conversations really is part of who he is isn't it?

6 A. Exactly.

7 Q. For a long time?

8 A. Yes.

9 Q. He'll say anything, won't he?

10 A. Yes.

11 Q. And your testimony is that you listened to that phone
12 conversation around midnight when Tara brought it to you
13 and said you need to hear --

14 A. No, that was not my testimony. I listened to about
15 fifteen seconds of that conversation.

16 Q. Typical stuff from Ricky. Right?

17 A. Um, somewhat.

18 Q. In fact, you again call it propaganda.

19 A. What I heard of it, yes.

20 Q. And you didn't call the police then did you?

21 A. No.

22 Q. Tara didn't call the police then?

23 A. No.

24 Q. In fact, you all all went to sleep?

25 A. Yes.

JULIA COLEMAN: CROSS BY MR. HALL

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1 Q. And your testimony is that the first words he said
2 when he came in was "where is Chip?"

3 A. Yes.

4 Q. And do you remember telling the police officers that
5 everything happened - it all happened so fast?

6 A. Yes.

7 Q. Everything happened real fast?

8 A. Yes.

9 Q. You did testify your home is small?

10 A. Correct.

11 Q. And do you remember telling the officers that Mickey
12 needed to be - Mickey needed to be - we're talking about
13 the charges that Micky needed to be charged with
14 trespassing at least. Right?

15 A. Yes.

16 Q. You didn't say anything to the police about kidnapping
17 did you?

18 A. I told the police what happened.

19 Q. I understand that. But you didn't say anything about
20 kidnapping?

21 A. No.

22 Q. And you didn't say anything about burglary?

23 A. No.

24 Q. And did you see Rebecca Rogers that night?

25 A. I did not see Rebecca.

1 Q. Did you see the car they came up in?

2 A. Yes.

3 Q. What kind of car was it?

4 A. It's an older model Lincoln Town car.

5 Q. And where was it when you saw it?

6 A. Parked in front of my house in the road.

7 Q. So that was when you had gotten up off the couch and
8 went out on the porch. Right?

9 A. Yes.

10 Q. And you went out on the porch and when you were out on
11 the porch, you told them to leave, you didn't have time for
12 this, didn't you?

13 A. I told them to leave. When they first came in, I told
14 them, you need to leave my house.

15 Q. And when you went out on the porch, do you remember
16 saying, "I don't have time for this shit I gotta go to
17 work."

18 A. I did say that.

19 Q. And you were smoking a cigarette then. Right.

20 A. I don't recall.

21 Q. And they left. Right?

22 A. Yes.

23 Q. They got in the car and left. Right?

24 A. Yes. Well, that was after Ricky made the statement
25 about, you remember you turned your back on us and that's

JULIA COLEMAN: CROSS BY MR. HALL

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1 when I told him, I don't have time for this shit. I have
2 to go to work in the morning.

3 Q. And they left?

4 A. Yes.

5 Q. And when you indicated that he brandished the sword,
6 you are not sure whether he got it out of his back or
7 whether he had it on his side that he had the sword.
8 Right?

9 A. No. I clearly seen him bring it from behind his back.

10 Q. But my question is, you don't know whether it was
11 stuck in his overalls or whether he -- you just know that it
12 came from his back. Right?

13 A. Correct.

14 Q. You weren't -- And you had indicated in your testimony
15 that he pushed you on the couch?

16 A. Yes.

17 Q. You weren't injured, were you?

18 A. Physically?

19 Q. Right.

20 A. No.

21 Q. You didn't go to the doctor?

22 A. No.

23 Q. Nobody was injured. Cody wasn't injured ---

24 A. Physically, no we were not.

25 Q. --- and Tara and James.

1 A. Physically, no they were not either.

2 Q. And you didn't tell them to go call the police, did
3 you?

4 A. We were not tog - I was in the proximity to tell them.
5 I was looking for my phone to call the police.

6 Q. But you didn't - And I understand that. You testified
7 to that, but you didn't instruct them to go out and call
8 the police?

9 A. No.

10 Q. All right.

11 A. Actually this was part of a plan that we had enacted
12 way before this in case he ever came to the house.

13 Q. Right. Now you're not testifying that Ricky never
14 came to your house ---

15 A. No.

16 Q. --- to see the children did he? And in the year that
17 you had been - Your testimony is you were in a relationship
18 with Chip. You had seen Ricky during that year hadn't you?

19 A. Yes.

20 Q. And he had been to your house with your permission on
21 occasions during ---

22 A. Like two occasions, yes.

23 Q. --- that year? And some of the children had been with
24 him during that year?

25 A. Yes.

JULIA COLEMAN: CROSS BY MR. HALL

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1 Q. In fact, just right - not too long before this, they
2 had all been out at the river swimming and carrying on.
3 Right?

4 A. I don't know about that.

5 Q. You weren't with them but they were with their daddy.
6 Right?

7 A. The last time Cody seen Ricky was New Year's Eve.

8 Q. And Tara had seen him more frequently than Cody?

9 A. No. Cody actually saw him more frequently than Tara.

10 Q. So is it your testimony the last time any of your
11 children saw him was on New Year's Eve?

12 A. I don't remember exactly when the last time Tara saw
13 him was. I believe it was at a birthday party that he had,
14 which would have been prior to New Year's Eve.

15 Q. So from January to mid-June, your testimony is, is
16 that Ricky had not seen any of his children?

17 A. He had seen them, yes, because he had come to my house
18 I believe on two occasions.

19 Q. Had they ever been - Had they ever left their house -
20 your house to go with him from January to June?

21 A. Not that I recall. I don't recall him ever picking
22 them up at my house. Any time he seen the children, I
23 provided transportation and carried them to his house.

24 Q. And that's because he can't - he doesn't drive does
25 he? He doesn't have a driver's license.

JULIA COLEMAN: CROSS BY MR. HALL
REDIRECT BY SOLICITOR HOLLAND

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1 A. He found a way to get to my house that night, but you
2 are correct, he doesn't have a license.

3 Q. But you are not testifying that he drove that night
4 are you?

5 A. No, I'm not.

6 Q. Just a couple more questions, Ms. Coleman. You would
7 just like to be - You would like to have Ricky out of your
8 life wouldn't you?

9 A. Yes. He's been out of my life.

10 Q. And you are mad at him today aren't you?

11 A. No.

12 Q. You were mad at him that night weren't you?

13 A. Yes.

14 MR. HALL: Thank you. No further questions.

15 THE COURT: Redirect?

16 SOLICITOR HOLLAND: Just briefly, Your Honor.

17 REDIRECT EXAMINATION

18 JULIA COLEMAN BY SOLICITOR HOLLAND:

19 Q. Did Ricky ever come see your kids at five o'clock in
20 the morning?

21 A. No.

22 Q. You said on direct that you told him not to come to
23 your house. When was that?

24 A. About maybe a week and a half, two weeks prior to this
25 incident.

JULIA COLEMAN: REDIRECT BY SOLICITOR HOLLAND

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1 Q. Okay. You talked about when Ricky came in that he
2 pushed you on the couch. Just to highlight this again, how
3 did you feel when he did that? Like were you scared?

4 A. Scared. Yes.

5 Q. And you didn't have any physical injuries?

6 A. Correct.

7 Q. But what did you think was going to happen?

8 A. I didn't know what he was capable of doing.

9 Q. And he never hit you with the sword?

10 A. No.

11 Q. But was he within striking distance of you?

12 A. Yes.

13 Q. At that time, could you have gotten up? Were you
14 fearful of getting up?

15 A. Yes. At that very moment, yes.

16 Q. Did you feel like you were confined?

17 A. Yes.

18 Q. And what would you have done if you realized it was
19 Ricky Passmore on the other side of that door when the
20 knock came?

21 A. Never told Cody to open it.

22 Q. And when you told Cody to open it, who did you believe
23 was on the other side of that door?

24 A. Chip.

25 Q. I want you to describe exactly what happened when you

JULIA COLEMAN: REDIRECT BY SOLICITOR HOLLAND
RECROSS BY MR. HALL

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1 told Cody to open the door. Tell us what happened.

2 A. Cody opened the door slightly. The door opens out so
3 I don't know maybe three to four inches. Cody turns back,
4 he says, "Momma, it's daddy" but by that time Ricky had
5 already opened the door the rest of the way and was coming
6 into the residence.

7 Q. Okay. So Cody didn't open the door all the way?

8 A. No.

9 SOLICITOR HOLLAND: Beg the Court's indulgence for
10 just one moment.

11 (PAUSE.)

12 SOLICITOR HOLLAND: Thank you, Julia.

13 THE COURT: Any recross?

14 MR. HALL: Just one.

15 RECROSS-EXAMINATION

16 JULIA COLEMAN BY MR. HALL:

17 Q. So he knew it was daddy? He said - Cody - it's daddy.

18 A. After he opened the door. When he looked out the
19 window, he said it's Chip.

20 Q. And when he opened the door, he said the words "it's
21 daddy?"

22 A. Yes.

23 Q. All right. Thank you.

24 THE COURT: All right. You can step down. Thank you.

25 (WITNESS LEAVING WITNESS STAND.)

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1 THE COURT: All right. We'll take a short, about a
2 ten minute refresher break.

3 (JURY EXITS COURTROOM AT 10:30 A.M.)

4 (COURT IN RECESS AT 10:30 A.M..)

5 (DEFENDANT RICKY PASSMORE REENTERS COURTROOM AT 10:40
6 A.M..)

7 (COURT BACK IN SESSION AT 10:44 A.M..)

8 THE COURT: Thank you. Take your seats.

9 The State ready?

10 SOLICITOR EPTING: The State's ready, Your Honor.

11 MR. HALL: The Defense is ready, Your Honor.

12 THE COURT: All right. Bring in the jury.

13 (JURY ENTERS THE COURTROOM AT 10:45 A.M..)

14 THE COURT: You can call your next witness.

15 SOLICITOR EPTING: Thank you, Your Honor.

16 The State calls T.P. to the stand.

17 MADAM CLERK: Please raise your right hand and place
18 your left hand on the Bible. You left-handed?

19 MISS PASSMORE: Uh-uh.

20 MADAM CLERK: There you go.

21 (WHEREUPON, T.P.

22 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

23 MADAM CLERK: Thank you. Please have a seat.

24 DIRECT EXAMINATION

25 T.P. BY SOLICITOR EPTING:

T.P.

DIRECT BY SOLICITOR EPTING

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1 Q. Good morning.

2 A. And good morning.

3 Q. Could you please state your full name for the record?

4 A. Tara Elizabeth Passmore.

5 Q. And how -- Is it all right if I call you Tara?

6 How old are you, Tara?

7 A. Sixteen.

8 Q. Do you go to school?

9 A. Yes, sir.

10 Q. What school do you go to?

11 A. Blue Eagle Academy.

12 Q. And what, if any, is your relationship with the
13 defendant, Ricky Passmore?

14 A. That's my father.

15 Q. He's your father. I would like to talk to you about
16 an incident that occurred at your house involving Ricky
17 Passmore on June -- This is the house on Trinity, all
18 right.

19 A. Yes, sir.

20 Q. About twelve o'clock that night, did you receive some
21 type of - some type of phone call or message?

22 A. Yes, sir. To be exact, around 12:31.

23 Q. All right. Could you please let the jury know about
24 it? Tell them the substance of that phone call.

25 A. It had like he said stuff, a lot of cussing, putting

T.P.

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1 my momma down, a lot of racism. That's really about it.
2 He did talk about some things that would happen when he
3 come into the house.

4 Q. What kind of things was he talking about?

5 A. He told me that he might - and like that he do - he
6 would do something that I might hate him for a little while
7 for. And at first, I just brushed it off until I asked him
8 what it was that he was talking about.

9 Q. And you said that was around 12:30 in the morning?

10 A. Yes, sir.

11 Q. At some point that night, did he come into the house?

12 A. At around 5:30 the next morning.

13 Q. When you say the next morning, is that five hours
14 later or is that the next day?

15 A. About five hours later.

16 Q. Okay. When - So you spoke with your father, Ricky
17 Passmore, on the phone; is that correct?

18 A. Yes, sir.

19 Q. Did you recognize his voice?

20 A. Yes, sir.

21 Q. What phone call did - What phone did he call?

22 A. He called a Motorola phone.

23 Q. And --

24 A. It was my mother's.

25 Q. It was your mother's phone. Approximately, how long

T.P.

DIRECT BY SOLICITOR EPTING

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1 did you all talk if you remember?

2 A. About forty-five minutes to an hour, somewhere in
3 between there.

4 SOLICITOR EPTING: I beg the Court's indulgence.

5 (PAUSE.)

6 SOLICITOR EPTING: May I approach the witness, Your
7 Honor?

8 THE COURT: Yes, sir.

9 Q. Tara, I'm doing the mark - what's been marked as
10 State's Exhibit Nine. If you would, take a look at that
11 and please let me know if you recognize that?

12 A. Yes, sir. I dated and signed it with my initials.

13 Q. Well, what do you recognize that State's Exhibit Nine
14 to be?

15 A. Huh?

16 Q. What do you recognize State's Exhibit Nine to be; what
17 is it?

18 A. This?

19 Q. Uh-huh.

20 A. This is the recording of the phone conversation.

21 Q. Okay. So you actually recorded the phone call between
22 your father and yourself. Have you listened to a copy?

23 A. Yes, sir. I listened to this very copy.

24 Q. And how do you know that's the very copy that you
25 listened to?

T.P.

DIRECT BY SOLICITOR EPTING

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1 A. I put my initials on it.

2 Q. Did you date it as well?

3 A. Yes, sir.

4 Q. And are those the initials that you put on there at
5 the time that you listened to it?

6 A. Yes, sir.

7 Q. After listening to it, is that a fair and accurate
8 depiction of your conversation with your father on the
9 night in question?

10 A. Yes, sir.

11 SOLICITOR EPTING: Your Honor, at this time, the State
12 would seek to enter State's Exhibit Nine into evidence.

13 THE COURT: Any objection.

14 MR. HALL: Without objection.

15 THE COURT: In without objection.

16 (WHEREUPON, STATE'S EXHIBIT NUMBER NINE, IDENTIFIED
17 AND MARKED, RECEIVED INTO EVIDENCE.)

18 SOLICITOR EPTING: Beg the Court's indulgence.

19 Q. Now, you say that you spoke with him that night and
20 you talked about coming in the house and all those things.

21 Did you talk to him before you started actually
22 recording it?

23 A. I did.

24 Q. What made you start recording it?

25 A. About the time when he said that he was going to do

T.P.

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1 something that I might hate him for for a really long time,
2 and I said, "I don't think I could hate you," and then I
3 thought about it a minute and I was like, okay, well, I'm
4 going to ask him what it was and that's when I started
5 recording. Right around that time is when I started
6 recording. So we were on the phone maybe two minutes.

7 Q. Okay. So it concerned you the things he was saying to
8 you such that you actually recorded it?

9 A. Uh-huh.

10 Q. Is that --

11 A. Yes, sir.

12 Q. And did you tell your mom about that phone
13 conversation?

14 A. Yes, sir.

15 Q. Tell the jury how that happened?

16 A. I went in there. I handed her the phone and I told
17 her, "You might want to listen to this recording," and she
18 listened to maybe three minutes of it, if that, and put the
19 phone down and just blew it off.

20 Q. Okay. Now, after that call, did Ricky Passmore come
21 to the house?

22 A. Yes, sir.

23 Q. Could you tell the jury how that came about?

24 A. You mean like --

25 Q. Just from your - what you firsthand experienced? Did

T.P.

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1 - well, I - let me approach it like this. You talked to
2 him on the phone for - you said for approximately thirty,
3 forty-five minutes; is that correct?

4 A. Yes, sir.

5 Q. Did you go to bed afterwards?

6 A. Yes, sir.

7 Q. And was this at the house on 210 Trinity?

8 A. Yes, sir.

9 Q. Did you sleep all the way through the night or did
10 something wake you up?

11 A. I remember - Where my bed was, the door flung open,
12 hit my bed, and I jumped up. The first thing I done was
13 rolled out of bed and checked on Momma. At the time, Momma
14 was -- Mickey was going to let my mother out of the house.
15 You know, she got out the door and she turned around and I
16 guess she was going to call the police, so she turned
17 around to get her phone and couldn't find her phone, and
18 she ended up looking for it and I went down the hallway
19 where my daddy had went to check on my little brothers.

20 As I went down the hallway, Cody was coming up the
21 hallway. I slung the backdoor open. I pushed Cody out the
22 backdoor and I told him to go call the police. Daddy
23 turned around. When he turned around he said -- he said
24 something to the effect of, "Where the F is Cody. Cody,
25 were the F are you," and I told him, I said, "I sent him

T.P.

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1 out the backdoor to call the police, Daddy." He said,
2 "Really, Tara, the F-ing police," and I - I told him, I
3 said, "Well, Daddy, I love you, too, but I love my momma,
4 too, and I can't see my mama die. I can't do it."

5 Q. What was his demeanor when all this was happening?

6 A. I can tell that he was disappointed in me. I could
7 tell it was something that he didn't want, but it was
8 already too late. He had done what he had done and.

9 Q. How was your mother reacting while all of this was
10 going on?

11 A. She was scared. She was scared. She was - at one
12 point, she was trying to get out the door, and then she
13 turned around to grab the phone and couldn't find the phone
14 and it was - it was crazy. It was almost like a movie.

15 Q. Did Ricky have anything in his hands, your daddy?

16 A. A sword.

17 Q. A sword. What was he doing with the sword while he
18 was inside the house?

19 A. I remember when I come down the hallway, he was coming
20 up the hallway, and he had told Momma -- or he had turned
21 around and told Mickey, "She moves, she dies," and that's
22 when he went on down the hallway.

23 Q. So you heard Ricky say to your mother, "She moves, she
24 dies?"

25 A. To Mickey.

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1 Q. To Mickey. Got you. To Mickey, "She moves, she
2 dies." Who did you take "she" to be?

3 A. My momma.

4 Q. Did he do anything with the sword when he said that?

5 A. He was still holding it at the time. He didn't really
6 swing it around, and then when I told him that I sent Cody
7 out the backdoor, it kind of scared me and my first thought
8 was he's going to hit me next, and when I looked back over
9 my shoulder, my youngest brother was standing behind me.

10 Q. Is that James? And how old was James?

11 A. Ten.

12 Q. So Cody leaves to go call 911. You stay in the house
13 for a little bit. You hear him say that to your - to
14 Mickey, "She moves, she dies." Your mother's afraid,
15 you're afraid. At some point, do you leave the house as
16 well?

17 A. I had walked back to the livingroom. Daddy and Mickey
18 was walking out. Momma was trying to lock the door, shut
19 and lock the door, and she told me, she said, "Run to check
20 on your brother and make sure they don't stop him halfway"
21 and I got out the backdoor and I got up there to where he
22 was and I was like, he's okay.

23 When I got there, he was - he was stuttering and
24 couldn't get the words out right. He was trying to get the
25 police to the house. I grabbed the phone but I guess Cody

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1 had given them the address and stuff and when I grabbed the
2 phone, I seen the lights coming from the direction that
3 Momma's store is in and I dropped the phone immediately,
4 ran down to the road and started waving the police to the
5 house. I think Officer Hawkins was the first one to report
6 to the scene.

7 Q. Do you remember speaking with him?

8 A. He - I was almost in front of him and he had to get
9 out and everything and he kept telling me, "Get behind me.
10 Get behind me. Get behind me." But that was all that was
11 really said at that time.

12 Q. Did you see him do anything else at the scene that you
13 can remember? At some point, did other officers arrive on
14 the scene as well?

15 A. Yes, sir.

16 Q. Now, before Mickey and Ricky leave the house, before
17 you see them leave, are they looking in any other rooms?

18 A. They were flipping on lights. I know when they come
19 back down the hallway, they flipped on the bathroom light.
20 They flipped on my light. They flipped on Cody and James'
21 light, or Daddy did, and I guess after that they didn't
22 find Chip in the house so they left especially when they
23 knew the police were coming.

24 SOLICITOR EPTING: Beg the Court's indulgence.

25 (PAUSE.)

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1 SOLICITOR EPTING: Your Honor, may I have permission
2 to approach the witness?

3 THE COURT: Yes.

4 Q. For the record, Tara, I'm handing you what's been
5 marked State's Exhibit Twenty-eight.

6 Do you recognize State's Exhibit Twenty-eight?

7 A. Yes, sir.

8 Q. Where do you recognize that from?

9 A. It was in the house. There was a bar right there
10 between the kitchen and the living room and --

11 Q. Now, when you say in "the house" whose house are we
12 talking about here?

13 A. Daddy's house.

14 Q. So Ricky Passmore's house? So you said it was in the
15 house. And I interrupted you, please continue?

16 A. It was hanging up by this piece right over the bar.

17 Q. Okay. Could you hold that up so the jury could see?
18 It's hanging up by what piece?

19 A. This piece right here.

20 Q. And that's in his house? Have you ever seen him take
21 that outside his house?

22 A. Uh-uh.

23 MADAM COURT REPORTER: Mr. Epting, I need a verbal
24 response.

25 THE COURT: Yes, you need to answer yes or no.

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1 Q. I'm sorry.

2 A. Yes, sir.

3 Q. Okay. So you had - You had never seen him take that
4 outside the house?

5 A. No, sir.

6 Q. Is that part of a series or is that a stand-alone
7 piece?

8 A. He had a few of these. I don't --

9 Q. And what -- And did he have a name for that?

10 A. He called I a "nigger beater."

11 Q. I'm going to - And you can lay that down.

12 I'm going to hand you what's been marked State's
13 Exhibit Twenty-two.

14 Do you recognize that?

15 A. Yes, sir.

16 Q. What do you see on there?

17 A. What do you mean?

18 Q. Tell - if you - if you - What do you recognize from
19 that item?

20 A. I know that it used to be in the back room.

21 Q. Okay. When you say "it?"

22 A. The rope.

23 Q. Okay. So you see rope on there; is that correct, and
24 you recognize that rope?

25 Where do you recognize -

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1 THE COURT: You got -- You got to have an answer yes
2 or no.

3 A. Yes, sir.

4 Q. Where do you recognize that rope from?

5 A. It used to be in the backroom. It was in where the
6 dog food and like the stuff for the laundry, you know,
7 would sit.

8 Q. Is it still at your daddy's house?

9 A. I'm not sure.

10 Q. Okay. I'm handing you what's been marked State's
11 Exhibit Nineteen.

12 Do you recognize any of the items on State's Exhibit
13 Nineteen?

14 A. I do the crowbar. It was usually out in the backyard.

15 Q. Okay. Have you ever seen him take that crowbar
16 outside the house?

17 A. I know sometimes they did take it fishing with them.

18 Q. Okay. And the knife that's in the picture, do you
19 recognize that?

20 A. I have seen it once or twice. He usually kept it in
21 his pocket. He didn't usually pull it out or nothing. I
22 know they took that fishing with them, too.

23 Q. I'm going to hand you what's been marked as State's
24 Exhibit Eighteen.

25 If you would take a look at that and let me know if

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1 you recognize that?

2 A. Yes, sir.

3 Q. What's pictured in State's Exhibit Nineteen?

4 A. There is a sword and a gun.

5 Q. We'll start with the gun. Do you recognize the gun?

6 A. Yes, sir.

7 Q. Where do you recognize the gun from?

8 A. I took a picture holding it at one point in time with
9 my little brother, not the youngest, but the other younger
10 one.

11 Q. Where is the last time you saw it?

12 A. It was standing in a corner between a white shelf and
13 the door.

14 Q. In whose house?

15 A. My daddy's.

16 Q. And by your daddy, you mean Ricky Passmore?

17 A. Ricky Passmore.

18 Q. And what about the sword, have you seen the sword
19 anywhere?

20 A. Yes, sir.

21 Q. Where did you see the sword?

22 A. I seen the sword a couple of times sitting there with
23 the gun.

24 Q. At your - Still at your daddy's house, I'm presuming?

25 A. Yes, sir.

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1 Q. And had you ever seen your daddy take the sword or the
2 gun out of the house?

3 A. No, sir.

4 SOLICITOR EPTING: Beg the Court's indulgence.

5 (PAUSE.)

6 Q. Well, let me ask you about one last picture, State's
7 Exhibit Thirteen.

8 Do you recognize any of the items on State's Exhibit
9 Thirteen?

10 A. Yes, sir.

11 Q. What do you recognize?

12 A. The bat.

13 Q. And where do you recognize the bat from? Where is it
14 usually kept?

15 A. It was usually kept in the living room over there
16 beside my Uncle Mickey's chair or either in the middle
17 bedroom where they kept a lot of their belongings.

18 Q. Okay. Whose house?

19 A. Ricky Passmore.

20 Q. And you said your Uncle Mickey's chair. Does your
21 Uncle Ricky and Mickey live together?

22 A. Yes, sir.

23 Q. All right.

24 SOLICITOR EPTING: Beg the Court's indulgence.

25 (PAUSE.)

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1 SOLICITOR EPTING: Your Honor, at this point, I would
2 like to publish State's Exhibit Nine.

3 THE COURT: You may.

4 (STATE'S EXHIBIT NUMBER NINE PUBLISHED TO THE JURY AT
5 11:02 A.M..)

6 Q. Tara, is that the end of the call or this ends the
7 recording?

8 A. Yes, sir.

9 Q. And this was approximately five hours before the
10 incident, right?

11 A. Yes, sir.

12 Q. The man in the house that you saw with the sword that
13 was threatening your momma that you've identified as Ricky
14 Passmore, do you see him present here in the courtroom
15 today?

16 A. Yes, sir.

17 Q. Would you please point him out?

18 (WITNESS INDICATED TOWARD DEFENDANT RICKY PASSMORE.)

19 Q. Let the record reflect that T.P. has
20 identified Ricky Passmore that's seated at Defense Counsel
21 table in a camouflage shirt and overalls.

22 SOLICITOR EPTING: Beg the Court's indulgence.

23 (PAUSE.)

24 SOLICITOR EPTING: Tara, that's all of the questions I
25 have for you right now. Please answer any questions Mr.

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1 Hall may have for you.

2 THE COURT: Mr. Hall.

3 MR. HALL: May it please the Court?

4 THE COURT: Sure.

5 CROSS-EXAMINATION

6 T.P. BY MR. HALL:

7 Q. Tara, it's really hard to get stuck between your momma
8 and daddy isn't it?

9 A. Yes, sir.

10 Q. The phone, the recording we just listened to, you had
11 testified that you had actually talked to your daddy for
12 about forty-five minutes or an hour, so did you keep
13 talking to him after you cut the recording off?

14 A. No, I acted like the phone went dead.

15 Q. All right. And - But you had talked to him for a good
16 bit of time before you turned it off; is that right?

17 A. Yes, sir.

18 Q. And all of these things that the Solicitor went
19 through and showed you, the pool ball, it wasn't in your
20 house the night your daddy came over there was it?

21 A. No, sir.

22 Q. And you never saw that?

23 A. No, sir.

24 Q. And the rope, State's Exhibit Twenty-seven, it never -
25 it never came into your house ---

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1 A. No, sir.

2 Q. --- that night, did it? And the bat, he showed a
3 picture of the bat. You - it didn't come into the house
4 ---

5 A. No, sir.

6 Q. --- that night, did it? And he showed you a picture
7 of the gun, and it never came in your house did it?

8 A. No, sir.

9 Q. And he showed you a picture, Number Nineteen, of the
10 crowbar, and it never came into the house, right?

11 A. No, sir.

12 Q. And let's go back and talk about what - what happened
13 or where you were. You testified that you, you talked to
14 your daddy on the phone ---

15 A. Yes, sir.

16 Q. - and then you let your momma listen to the phone
17 call, right?

18 A. Yes, sir.

19 Q. And then you went to bed?

20 A. Yes, sir.

21 Q. And you slept in your room?

22 A. Yes, sir.

23 Q. And I believe you testified that your door must have
24 been shut, because the first time you saw your daddy was
25 when he slung your door open. Right?

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1 A. Yes, sir.

2 Q. He told you to get up?

3 A. Yes, sir.

4 Q. And then he went on down the hall to James' room; is
5 that right?

6 A. Cody and James, yes, sir.

7 Q. Cody and James. So you don't know - you don't - You
8 didn't see him come in the door?

9 A. No, sir.

10 Q. And you didn't - And you weren't in the room when he
11 first came in? The first time you saw him was when he was
12 in the hall; is that right?

13 A. Yes, sir.

14 Q. When was the last time you had seen your daddy?

15 A. When he turned in the hallway and the last thing I
16 told him was, "I love you, Daddy, but I love my momma, too,
17 and I'm not going to see her die."

18 Q. Then, you went out the door then?

19 A. He went to the living room. As I was walking behind
20 him to the living room trying to make sure that my mother
21 was okay. Mama was trying to get them out the door. I
22 remember turning back around, because mother told me to go
23 check and make sure they didn't stop Cody halfway, so I
24 turned around and I ran out the backdoor and ran to the
25 neighbors where Cody was at.

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1 Q. And your testimony is she was trying to get them out
2 the door. She was up off the couch by then, right?

3 A. Yes, sir.

4 Q. And how was she trying to get them out the door?

5 A. She was telling them to leave, and as they were
6 walking out, she was getting the door shut and locking the
7 door.

8 Q. So she told them to leave and the last thing you saw,
9 they were leaving, right?

10 THE COURT: You got to say yes or no.

11 A. Yes, sir.

12 Q. Now, before this night, before this phone conversation
13 with your daddy, when was the last time you saw your daddy?

14 A. I'm not really sure.

15 Q. Do you remember going to the strawberry festival with
16 him over in Fort Mill?

17 A. Yes, sir.

18 Q. That would have been at the end of May, do you
19 remember that?

20 A. I don't know.

21 Q. And at some point, did you go - Did you all go out to
22 the river?

23 A. No, sir.

24 Q. You didn't go with him that - anytime in June, but you
25 had seen him in May or whenever you went to the strawberry

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1 festival, you remember that?

2 A. Yes, sir.

3 Q. And your daddy, he talks a lot, doesn't he?

4 A. Yes, sir.

5 Q. And, in fact, he can get real loud ---

6 A. Yes, sir.

7 Q. --- and he gets pretty deliberate and he just says all
8 kinds of stuff, doesn't he?

9 A. Yes, sir.

10 Q. That's just -- And that's just the way he is?

11 A. Yes, sir.

12 Q. Is that the -- I assume that's the way the Passmore
13 men are. The Passmore ladies are not that way are they?

14 A. They can be.

15 Q. They can be.

16 A. They can be.

17 Q. And when -- And, in fact, he's always been that way,
18 right?

19 A. Yes, sir.

20 Q. And you testified that when you let your momma listen
21 to the - that - the recording that we just heard, you - I
22 believe you said that she'd listened to about three minutes
23 of it and she just blew it off, right?

24 A. Yes, sir.

25 Q. And, in fact, you didn't call the police after you had

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1 the conversation with him did you?

2 A. No, sir.

3 Q. And to your knowledge, she didn't call the police, you
4 all went on to bed, right?

5 A. Yes, sir.

6 Q. When you - When you got through talking to your daddy,
7 you knew he was concerned about you and Cody and James,
8 didn't you?

9 A. Yes, sir.

10 Q. And he had told you that he was going to - he was
11 going to talk to your momma one more time, right?

12 A. Yes, sir.

13 Q. And then about you all and being in the house with her
14 and her boyfriend, right?

15 A. Yes, sir.

16 Q. And, in fact, you told your daddy on the recording
17 that Chip and his nephew, they had been at the house that
18 day, right?

19 A. I know they had been there a few times, but I don't
20 know if I was exactly referring to that day.

21 Q. All right. You didn't give him any indication that -
22 You didn't tell him Chip was there that night, did you?

23 A. Uh-uh.

24 Q. And, because, in fact, Chip was not there was he?

25 A. No, sir. I don't think so.

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1 Q. He was - he wasn't in - He wasn't in your room was he?

2 A. No, sir.

3 Q. And in fact during the phone conversation, you got a
4 little bit aggravated, because your daddy talked so much,
5 you know, you said, "Daddy, you just won't listen," right?

6 A. Yes, sir.

7 Q. And at this point in that conversation with him, he
8 did listen to you for a while, right?

9 A. Yes, sir.

10 Q. And you told him that you love him and your momma?

11 A. Yes, sir.

12 Q. And that's - That's the hard thing about being here,
13 right?

14 A. Yes, sir.

15 Q. When your daddy came in, he never touched you or
16 threatened you, did he?

17 A. No, sir.

18 Q. And he never touched or threatened Cody, did he?

19 A. No, sir.

20 Q. And you - he never - To your knowledge, he never
21 threatened or touched James?

22 A. No, sir.

23 Q. And you didn't - you didn't see him when he - And as
24 far as your momma, as far as you know, he never touched her
25 did he?

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1 A. I didn't see that part.

2 Q. So anything you know about what happened in there is
3 because your momma told you, right?

4 A. Uh-huh. Yeah. Him - her and my - one of my younger
5 brothers.

6 Q. Does your daddy - Your daddy gets into this thing, he
7 likes to send messages to people, doesn't he?

8 A. Well, what do you mean?

9 Q. Well, he'll say stupid stuff to try to get messages to
10 people, right?

11 A. Sometimes, yes.

12 Q. So would it be - Would it be fair to say when he's
13 having that conversation with you and he's trying to send a
14 message to your momma --

15 SOLICITOR EPTING: Your Honor, I'm going to object
16 to the -

17 THE COURT: Yeah, and I sustain the objection. She
18 can't know what his intentions were.

19 MR. HALL: I understand.

20 Q. And when you went out the door, you went out the
21 backdoor, right?

22 A. Yes, sir.

23 Q. When you went out the door and your daddy said - I
24 think you testified- your daddy said - when you said
25 calling the police he goes, "Tara, really, the police?" Is

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1 that what he said?

2 A. Yes, sir.

3 Q. And he was standing there at the backdoor then, right?

4 A. He was about where my room door is.

5 Q. All right. And so at that point, you could see your
6 momma standing up in the den?

7 A. I could see her - I could see her - Where I was, I
8 could see maybe part of her, but I couldn't see all of what
9 she was doing, none of that. I could - I could see her
10 arm, so I could see her standing up and then I couldn't see
11 her no more after that, and I remember that's when I told
12 Daddy what I did.

13 He turned around. Before he turned around, I looked
14 over my shoulder and when I looked over my shoulder, my
15 youngest brother was standing behind me.

16 Q. He was in the hall behind you?

17 A. He was - he was about maybe two, three feet away from
18 his room.

19 Q. Okay. All right. So that would be at the -- his is
20 at the end of the hall, so he was at the end of the hall
21 behind you, you're standing at the door and you could see
22 part of your momma in the den, right? I just wanted to
23 make sure that when you saw her, she was standing up trying
24 to get them out, tell them to leave, get out of the house,
25 right?

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CROSS BY MR. HALL
REDIRECT BY SOLICITOR EPTING

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1 A. She - At that point, she was looking for her phone to
2 call the police.

3 Q. And - and then you went out the door?

4 A. I sent my brother out the door.

5 Q. All right. And you and your momma, you all have
6 talked about this a lot since June, hadn't you?

7 A. We don't like to talk about it a lot.

8 Q. You and your momma did talk to the police about it
9 afterwards, right?

10 A. Yes, sir.

11 Q. And you - when you talked - But you do talk to your
12 momma. Your mama has talked to you about coming to court,
13 right?

14 A. She has told me that we were.

15 Q. All right. Thank you. I have no further questions.

16 THE COURT: Redirect?

17 SOLICITOR EPTING: Very briefly, Your Honor.

18 REDIRECT EXAMINATION

19 T.P. BY SOLICITOR EPTING:

20 Q. Tara, Mr. Hall was asking you some questions about
21 your daddy being a big talker and talking a lot, loud, all
22 that kind of stuff ---

23 A. Yes, sir.

24 Q. --- and I believe you said he was a big talker or is a
25 big talker; is that correct?

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1 A. Yes, sir.

2 Q. When you were talking with him that night, was he big
3 talking on the phone that night, too?

4 A. Kind of.

5 Q. But at some point, he said something that caused you
6 to start recording this conversation?

7 A. Yes, sir.

8 Q. And, again, remind the jury of why you started the
9 recording.

10 A. He said something to the effect of you're going to -

11 MR. HALL: Your Honor, this has been asked and
12 answered. I don't believe that's proper for redirect.

13 SOLICITOR EPTING: It's in response -

14 THE COURT: I think it's in response to the quote big
15 talker questions, so I will allow it.

16 Q. What caused you to record, Tara?

17 A. He said something to the effect of, "I'm going do - I
18 might do something that you all might hate me for a really
19 long time for.

20 Q. At that point, did you think he was big talking?

21 A. I - At that point, I wasn't sure, but I wanted to be
22 on the safe side and make sure. I wasn't sure exactly
23 where he was going to go with it. I just wanted to make
24 sure if he did go anywhere with it, I had it.

25 Q. And five hours after that conversation, he shows up at

T.P. REDIRECT BY SOLICITOR EPTING
LIEUTENANT TANNER DAVIS: DIRECT BY SOLICITOR HOLLAND

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1 your house?

2 A. Yes, sir.

3 Q. With a sword?

4 A. Yes, sir.

5 SOLICITOR EPTING: No further questions, Your Honor.

6 THE COURT: Mr. Hall?

7 MR. HALL: Nothing further, Your Honor.

8 THE COURT: All right. You can step down. Appreciate
9 your time. You can be excused. Thank you.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Call your next witness.

12 MS. HOLLAND: The State calls Tanner Davis.

13 (WHEREUPON, TANNER DAVIS,

14 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 MADAM CLERK: Thank you.

16 DIRECT EXAMINATION

17 LIEUTENANT TANNER DAVIS BY SOLICITOR HOLLAND:

18 Q. Please state your name for the record.

19 A. Tanner Davis.

20 Q. And where are you employed?

21 A. I work for the Clover Police Department.

22 Q. And how long have you been with Clover?

23 A. Seven and a half years.

24 Q. Is that the extent of your law enforcement experience?

25 A. Yes, ma'am, it is.

LIEUTENANT TANNER DAVIS: DIRECT BY SOLICITOR HOLLAND

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1 Q. What's your current rank?

2 A. I'm a Lieutenant.

3 Q. Okay. What are your current duties?

4 A. I'm the Lieutenant of investigations. I oversee,
5 delegate, and conduct investigations myself.

6 Q. So in addition to being a Lieutenant you also are kind
7 of a detective?

8 A. Yes, ma'am. We're small.

9 Q. What sort of training and experience do you have as a
10 law enforcement officer?

11 A. I attended the South Carolina Criminal Justice Academy
12 where I received my basic certification and since that
13 time, I've attended numerous basic and advanced training
14 classes, all of which I can't recall by memory.

15 Q. Okay. We've talked a lot about Micky Passmore in this
16 case who is not being tried here today. Are his charges
17 currently pending?

18 A. Yes, ma'am. They are still pending.

19 Q. He is subject to being called to trial just like Ricky
20 Passmore?

21 A. Yes, ma'am. That's correct.

22 Q. Let's talk about how - How did you first become
23 involved in this case?

24 A. The morning following the incident I arrived to work
25 and was greeted by the officers, Officer Hawkins and

1 Sergeant Miller, who were involved with the case. They
2 brought to me the facts of the case and I got involved from
3 that point.

4 My second detective that I had at the time, who is no
5 longer with us, he was assigned to certain duties and we
6 further investigated the case from that point.

7 Q. Okay. What did you do specifically?

8 A. I went to the jail and spoke with the Passmore
9 brothers as well as serving them with their warrants and I
10 also spoke with Ms. Coleman and listened to the cell phone
11 messages and the recordings and retained those.

12 Q. And you spoke about a second detective. Who was that?

13 A. Detective Lizzell.

14 Q. Okay. What did he do?

15 A. He also interviewed them. He conducted interviews
16 with the children that I believe he recorded. He also
17 spoke with the Passmore brothers and I believe Ms. Rogers,
18 who was found to be the driver of the car.

19 Q. And obviously he is not here. Where is he?

20 A. He now works for the Berkeley County Sheriff's Office.

21 Q. And when did he leave the Clover Police Department?

22 A. Before the first of the year. Some time around
23 December. No, it was before that. October.

24 Q. And why did he leave?

25 A. His wife got a much better job offer there in Berkeley

LIEUTENANT TANNER DAVIS: DIRECT BY SOLICITOR HOLLAND

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1 County.

2 Q. Okay.

3 A. And so he followed her there.

4 Q. Okay. Did you ever go to the incident location?

5 A. I did.

6 Q. Where is that located?

7 A. It's in the City of Clover.

8 Q. Okay. Is that within York County?

9 A. Yes, ma'am.

10 Q. Okay. And have you had any -- Have you handled the
11 evidence at all, the physical evidence?

12 A. I have.

13 Q. Okay. What did you do with that evidence?

14 A. The items I sent to -- Some of the items were sent to
15 the forensic service unit here at York County Sheriff's
16 Office.

17 Q. And you used to work for the forensic services unit.
18 Correct?

19 A. Yes, ma'am, I did that prior.

20 Q. Describe what they do.

21 A. They handle the tangible evidence, searching for
22 fingerprints, DNA, more subtle work to attempt to identify
23 offenders of crimes.

24 Q. Okay. Did you specifically handle the rifle that was
25 bring --

1 A. I took it to the forensics unit so that they could
2 process it. Yes, ma'am.

3 Q. And who does that rifle belong to?

4 A. Micky Passmore.

5 Q. Okay. And did you take the evidence to have it
6 fingerprinted?

7 A. Yes, ma'am.

8 Q. Were any fingerprints lifted?

9 A. No, ma'am.

10 Q. Is that common?

11 A. It is. It is often determined by the surface or the
12 condition of the item.

13 Q. Were the items swabbed for DNA.

14 A. They were.

15 Q. And were those tested?

16 A. They were not.

17 Q. Can you describe what it's like to be DNA tested in
18 South Carolina?

19 A. Not --

20 Q. Is it a lengthy process?

21 A. It is very -- it's a difficult process.

22 Q. Okay. And why were those not tested?

23 A. Mr. Micky Passmore had already claimed the ownership
24 of the gun so there was no need. We already knew who they
25 belonged to and quite certain we would find their DNA on

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1 it.

2 Q. So you would expect some of his DNA to be on their own
3 property?

4 A. Yes, ma'am.

5 Q. Okay.

6 SOLICITOR HOLLAND: Beg the Court's indulgence.

7 (PAUSE.)

8 SOLICITOR HOLLAND: Please answer any questions Mr.
9 Hall may have.

10 LIEUTENANT DAVIS: Yes, ma'am.

11 CROSS-EXAMINATION

12 LIEUTENANT TANNER DAVIS BY MR. HALL:

13 Q. Lieutenant Davis, so Detective Mozelle did most of the
14 actual field investigation; is that right?

15 A. More than I, yes, sir. I kind of served as a
16 supplementary role.

17 Q. And so he talked to T.P. Right?

18 A. Yes, sir.

19 Q. And he recorded that?

20 A. I believe so. Yes, sir.

21 Q. And he talked to Cody Passmore and he recorded that?

22 A. Yes, sir. I believe so.

23 Q. And whoever you talked to, there are recordings of
24 those. Right?

25 A. Yes, sir. I believe so.

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1 Q. And you said he went to work for the Berkeley County
2 Sheriff Department in Berkeley County, South Carolina?

3 A. Yes, sir. He's still in South Carolina.

4 Q. Still in South Carolina. All right. Thank you.

5 MR. HALL: No further questions.

6 SOLICITOR HOLLAND: Your Honor, that's all we have for
7 this witness.

8 THE COURT: You can step down. As the case agent you
9 will remain with us.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Call your next -

12 SOLICITOR HOLLAND: Your Honor, may we take a short
13 break?

14 THE COURT: All right. We'll take a short refresher
15 break.

16 (JURY EXITS COURTROOM AT 11:50 A.M..)

17 (COURT IN RECESS AT 11:50 A.M..)

18 (COURT BACK IN SESSION AT 12:05 P.M..)

19 THE COURT: Thank you. You may take your seats
20 please.

21 State ready?

22 SOLICITOR. EPTING: The State is ready, Your Honor.

23 THE COURT: I understand the State is resting?

24 SOLICITOR EPTING: That's correct, Your Honor.

25 THE COURT: And I'll let the State rest on the record

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1 when the jury comes back in. We will treat this as the
2 dividing line between the State's case, the end of the
3 State's case and move into motions at this time the
4 Defendant may have and I'll talk to -

5 MADAM COURT REPORTER: Will you get that door? I
6 can't hear.

7 MR. HALL: Your Honor, I do have a motion. I would
8 like to make a motion for a directed verdict on the charge
9 of kidnaping. There is no indication from the facts
10 presented by the State that there was any kidnaping taken
11 the facts presented in the light most favorable to the
12 State. The testimony is that when Mr. Passmore was in the
13 house, that he did push her down, he did not confine her.

14 In fact, the testimony is, is that she got up off the
15 couch and told them to leave, all this by her own testimony
16 for a very short period of time and so that - And when she
17 told them to leave, they did leave. There is not
18 sufficient evidence for a kidnaping elements for it to go
19 to the jury and we ask that the Court direct a verdict on
20 the element of kidnaping.

21 On the element - on the charge of burglary, testimony
22 is, is that he knocked on the door, the door was opened, he
23 came in. He was not told to not come in, he came on in.
24 Hunted - By the State's evidence was hunting for Chip. He
25 didn't touch anybody. He didn't harm anybody. He didn't

1 commit any crimes. Again we ask the Court for a directed
2 verdict for burglary first degree.

3 Criminal domestic violence: The victim in the case,
4 the only victim in the criminal domestic high and
5 aggravated nature case would be the wife. Definition of
6 household member does not include children. It's a spouse
7 and children are not included in that statutory definition
8 of household member. She did not -

9 THE COURT: That's the only one he is charged with as
10 far as criminal domestic violence. The only victim
11 alleged in the indictment is her.

12 MR. HALL: Right. And --

13 THE COURT: The wife.

14 MR. HALL: Out of abundance of caution, sometimes
15 family members or household members in a general sense - I
16 know I'm sort of arguing some practical to a jury argument.
17 I understand the Court clearly understands the household
18 member in this case is limited to the wife.

19 THE COURT: They won't have any indictments with them
20 in the jury room. You can certain point out and I probably
21 will in my charge that she is the only victim alleged in
22 that. So I deny - I'm not sure what your motion is on that
23 indictment, that is criminal domestic violence of a high
24 and aggravated nature. What is your motion on that?

25 MR. HALL: Your Honor, for the record we would ask the

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1 Court to weigh the evidence and ask for a directed verdict
2 on criminal domestic violence high and aggravated nature
3 for my client.

4 Certainly if the Court directed a verdict on the two,
5 the burglary and kidnaping, then the Court would have to
6 direct a verdict on unlawful possession of a weapon during
7 the commission of a violent crime.

8 THE COURT: Well, I deny all three motions. Criminal
9 domestic violence alleges and the law is and there is
10 certainly evidence of putting the victim, Ms. Coleman, in
11 fear of intimate serious bodily injury and death by using a
12 deadly weapon. I think that a non legal and a legal point
13 of view a deadly weapon, a sword, would be considered a
14 deadly weapon.

15 As to burglary, his testimony if not direct at least
16 substantial circumstantial evidence that he entered without
17 consent. The only reason the door was opened is because
18 the young man felt that it was somebody other than his
19 father and there was no non-consent, that is he wasn't told
20 to stay out. He just barged in and I certainly think
21 that's a jury question.

22 Same is true for the kidnaping. I think the jury with
23 the evidence could determine that it was an unlawful
24 seizure that he did restrict her movement by threats and
25 that she was confined. Even if it was just temporarily,

1 her freedom of movement was confined. And if it was at
2 least an attempt, although I'm not going to charge attempt,
3 I don't believe, but she was subject to being - she was
4 subject to confinement at least by virtue of his
5 instruction to the brother regarding what to do if she did
6 not obey his command as he went down the hall, so, I deny
7 those motions.

8 And that leaves possession of a weapon during the
9 commission of a violent crime, kidnaping is by law is a
10 violent crime, and I've already commented on the fact that
11 the sword would be considered a weapon so I deny the motion
12 for all - all motions for a directed verdict.

13 Mr. Passmore, could you hear me?

14 MR. PASSMORE: Yes, sir.

15 THE COURT: We've reach a point in the trial where you
16 have a right to present a defense if you wish. You do not
17 have to present any witnesses or present a defense because
18 by our law you are presumed innocent of these charges, and
19 the State must prove your guilty beyond a reasonable doubt
20 before you can be convicted. So you don't have to present
21 any defense. You may call witnesses if you wish and you
22 may testify if you wish.

23 You have a right to testify. You have a absolute
24 right to remain silent. If you chose to remain silent,
25 that is if you exercise your right to not to testify, I

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1 will tell the jury that you have exercised that right.
2 They cannot use that against you in any fashion whatsoever.
3 That they cannot use your exercising your constitutional
4 right to remain silent as any mitigation against you, that
5 is, they cannot hold that against you, they cannot factor
6 into, they cannot discuss it. I will tell them that and I
7 will tell them they cannot factor into their own reasoning,
8 decision making process, the fact that you exercise your
9 constitutional right reminding the jury that you are
10 presumed innocent and you need not prove your innocence the
11 State must prove your guilt beyond a reasonable doubt.

12 Since the evidence has already been produced on
13 defense's behalf, it is not a situation where if you don't
14 present evidence you would be entitled to final argument
15 because there is already evidence in the record on the
16 defense's behalf.

17 Do you understand all that?

18 MR. PASSMORE: You said if I don't present evidence on
19 me, entitled to a last argument?

20 THE COURT: If there is no evidence presented by the
21 defense and there is already evidence, there has already
22 been an exhibit put in.

23 Do you have any questions about any of that?

24 MR. PASSMORE: I'm not sure I fully grasp it enough.
25 I'm not sure what I'm missing.

1 THE COURT: Well, here is what the situation is. If
2 you present any evidence, if you call witnesses, or you
3 testify, or if you put any exhibits into the record, the
4 State gets final argument and that has happened here so the
5 State will get final argument. We're not to that stage yet
6 but I just wanted to call that to your attention.

7 Mr. Hall, you obviously -

8 MR. HALL: Your Honor, and I have discussed that with
9 my client. And ever since I have been representing him, he
10 has indicated a strong desire to present evidence and in
11 fact I informed the court that he intends to testify and -
12 but we have discussed the options of not testifying and not
13 putting up evidence. Mr. Passmore has understood that in
14 my opinion and has always decided that he would be
15 presenting evidence.

16 THE COURT: All right. Mr. Passmore, do you
17 understand that, all of that now?

18 MR. PASSMORE: I think I got it. Yes, sir.

19 THE COURT: Do you have any questions about any of it?

20 MR. PASSMORE: No, sir.

21 THE COURT: Do you plan - It is your decision. It's
22 not mine. It's not your attorney's. It's not your
23 family's. It's not the State's. It's Mr. Ricky Passmore's
24 decision whether to testify or not. Have you reached a
25 decision on that at this point?

1 MR. PASSMORE: Yes, sir.

2 THE COURT: And do you intend to testify or to
3 exercise your right to remain silent.

4 MR. PASSMORE: I intend to testify.

5 THE COURT: Okay. All right. We'll bring the jury
6 back in and go to about 1:15 or 1:30.

7 Bring in the jury.

8 (JURY REENTERS COURTROOM AT 12:20 P.M..)

9 THE COURT: Ms. Holland.

10 SOLICITOR HOLLAND: Your Honor, the State rests.

11 THE COURT: Members of the jury panel, the State has
12 rested. That means they have finished placing into
13 evidence the evidence they intend to present in their case
14 in chief. Under certain circumstances, they could have a
15 right to later present other evidence, but basically in
16 essence you have heard the State's case.

17 The Defense now has the right to call witnesses and
18 present evidence but has no obligation to do so I'll turn
19 it over to Mr. Hall.

20 MR. HALL: Your Honor, the State would call Ricky
21 Passmore.

22 THE COURT: All right. Please come up and be sworn.

23 MR. HALL: I'm sorry. Defense would call Ricky
24 Passmore.

25 THE COURT: Stop right there please.

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1 MADAM CLERK: Raise your right hand, place your left
2 hand on the Bible.

3 (WHEREUPON, RICKY PASSMORE,
4 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

5 MADAM CLERK: Thank you. Please have a seat.

6 MR. HALL: Ricky, you may need to speak or turn that
7 microphone where when you speak you can be heard.

8 MADAM COURT REPORTER: The chair won't move, Mr.
9 Passmore.

10 MR. PASSMORE: Okay.

11 DIRECT EXAMINATION

12 RICKY PASSMORE BY MR. HALL:

13 Q. Ricky, would you state your full name, please?

14 A. Ricky Eugene Passmore.

15 Q. How old are you, Ricky?

16 A. Forty-six.

17 Q. And where do you live?

18 A. I was living at [REDACTED] in York.

19 Q. All right. And when you say you were living there,
20 that was on June the 19th of last year, you were living on

21 [REDACTED] in York. Right?

22 A. Yes, sir.

23 Q. And who was living there with you?

24 A. Me, Tabitha, Mickey Passmore and Rebecca Rogers.

25 Q. And when you say Tabitha, you would mean your

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1 girlfriend, Tabitha?

2 A. Yeah.

3 Q. All right. So two brothers and their girlfriends?

4 A. Yeah.

5 Q. And how long have you lived in York County?

6 A. Since I was nineteen.

7 Q. And you've been convicted twice of offenses that carry
8 more than a year haven't you?

9 A. Yes, sir.

10 Q. And on June the 19th, can you tell the jury what
11 happened on June the 19th of last year?

12 A. You want me to start with the conversation with Tara?

13 Q. Let's start with ---

14 A. I had a ---

15 Q. Let's start with the conversation -- you've heard the
16 -- that recording.

17 A. On June the 19th, I spent all day, me and my brother,
18 cutting firewood, stacking firewood, burning brush. I had
19 a conversation with Tara that evening that ya'll heard. A
20 conversation where she was telling me for what seemed like
21 the hundredth time how they didn't like Chip and didn't
22 want him or his friends around the house.

23 Me and Julia had spoke about this. Had several
24 conversations. We agreed that she would keep him away from
25 the kids. I told her, "I don't care what you do with him,

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1 But I think it'd be best to keep him away from the kids."

2 She agreed during our conversation and everything was
3 fine. Well, then, like you heard on that recording, Tara
4 started telling me how Chip was sleeping over there and
5 bringing some of his little crack thugs over there. Chip
6 is a street name for crack rock, 'cause it chips off in
7 pieces. Julia knows --

8 SOLICITOR EPTING: Your Honor, I object. He hasn't
9 established his basis of that knowledge for street names of
10 any drugs whatsoever.

11 THE COURT: I sustain the objection.

12 Just disregard the reference of Chip being somehow
13 connected to crack cocaine.

14 Go ahead.

15 Q. All right. So ---

16 A. Anyway.

17 Q. --- go ahead.

18 A. Anyway, Tara and them had been telling me how they
19 didn't want him around and we had agreed that she wouldn't
20 have him around. Well, Julia some how or another got in a
21 financial bind, insurance lapsed on her car. They come out
22 there and took her tag and if I'm not mistaken, they
23 revoked her drive's license. Now, she couldn't go and meet
24 this guy, because we had agreed that she would meet him --
25 she -- let me get this straight. She told me -- I asked

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1 her in the conversation I'm talking about, I said, "Julia,
2 why are you doing this, you can't tell me you love him."
3 She said, "No, I don't love him, but I need my bills paid."

4 And I asked her, I said, "Well, there's plenty of
5 white men out there that would help you pay your bills, why
6 didn't you find one of them?" She said, "Because white men
7 ain't shit," and I said, "Okay. Is this what you're
8 telling our son?" I mean, imagine this. This conversation
9 went on. By the end of the conversation, she agreed that
10 she'd keep him away.

11 Tara starts calling me informing me that she wasn't
12 keeping him away. The last conversation is the one you all
13 heard. Like you heard in that conversation, I told Tara,
14 "I'm going to try one more time to talk to your momma."

15 At the time that conversation took place, that car
16 that we were in was sitting in the driveway with a flat
17 tire. We had no way to pump it up. The car was old. A
18 Jed Clampett car.

19 But that little dude sitting right there with them
20 glasses came over, them two right there to watch movies
21 with Tara while I was having that conversation. While I
22 was having that conversation with Tara on the phone, they
23 had a tire pump in the car that you plug in the cigarette
24 lighter. They pumped the tire up and bam, an unexpected
25 ride, so I went to talk to Tara - Julia.

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1 I called three time - no, twice. I called once and
2 told Tara, left a message that Mickey and Becky were
3 bringing me over there, that I would be over there as soon
4 as they got back from the store to talk to their mother. I
5 called again in route to Clover. I told them I'm almost
6 there to talk to your momma. If I had been going over
7 there with the intention of hurting Chip, I would not have
8 called and gave Julia time to have law enforcement waiting
9 on me when I got there. I would not have called and gave
10 them a warning so he could have some his little armed thugs
11 waiting on me when I got there. I was going on ---

12 SOLICITOR EPTING: Your Honor, I object to him adding
13 editorial comments about Chip's friends being thugs.

14 THE COURT: I overrule the objection. He's got his
15 opinion as to that obviously.

16 Q. Wait, tell me who - how - When you left Railroad
17 Avenue, who was - who left Railroad Avenue with you?

18 A. Becky was driving and Mickey was in the passenger side
19 up front. It was their car. They were giving me a ride.
20 I don't have a car.

21 Q. And what happened after you all got in the car? You
22 got the tire pumped up, then what happened?

23 A. After we got the tire pumped up, Mickey and Becky went
24 to the store for something. That's when I called Tara back
25 and told her they was gone to the store, when they got

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1 back, we'd be headed that way to talk to Julia, because I
2 told Tara I'd try to talk to her momma one more time.

3 I didn't want to fuss and fight with Julia. I wanted
4 Julia to work with me and keep this guy away from my kids.

5 Q. All right.

6 A. People want to sit here and call me a racist. I got
7 nothing against a black person that don't hurt white
8 people, nothing. But I do have some issues with things
9 that's happened in my life, such as my mother being gang-
10 raped.

11 SOLICITOR EPTING: Objection, Your Honor.

12 THE COURT: Yeah, I sustain the objection.

13 Q. All right. Let's go ahead and tell what happened when
14 you and Mickey and Rebecca got in the car?

15 A. We went to Clover.

16 Q. All right.

17 A. We went to Clover. I called halfway there and told
18 Julia and then I was almost there to talk with their
19 mother. I did not try to creep up in the middle of the
20 night because it was dark. It was the only opportunity I
21 had. I had like a week to go. I was supposed to be in
22 child support court. I had all ideas I was going to the
23 chain gang, because I was dead broke. I didn't have the
24 money to pay them. This was the last opportunity I was
25 going to have to try to get Julia to work with me and keep

1 him away from our kids. I told --

2 Q. Go ahead. What happened when you got to Clover?

3 A. We pulled up in front of the house, the trailer, right
4 up to the curb. We didn't park down the road trying to
5 sneak through no shadows, hide around back or none of that
6 whoo-whoohere come a burglar thing. We pulled up right
7 beside the curb up under a security light right in front of
8 all the neighbors. I got out and walked up and knocked on
9 the door.

10 Q. And --

11 A. Well ---

12 Q. Go ahead.

13 A. --- let me - let me - I looked in the window. Julia
14 was asleep in her normal place on the couch. That alone
15 told me that Chip was not there, because it's a two-bedroom
16 trailer and the kids have the bedrooms unless somebody
17 wants to say there is reason to think that Julia would let
18 him sleep in the bed with one of the kids, that told me he
19 wasn't there before I ever even knocked on the door, much
20 less entered.

21 Q. All right. What happened when you knocked on the
22 door?

23 A. When I knocked on the door, Cody came to the door.
24 There was lights coming from down the hall. The living
25 room, the kitchen, there was no lights on. There was

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1 enough light coming from down the hall. Tara's bedroom
2 light was on but her door was closed. The bathroom door
3 was open. The light was on. The hall light was on.
4 Cody's bedroom light was on and his door was opened, too,
5 so there was enough light coming in there for me to see.
6 Cody come up and looked at me.

7 Julia and Cody got to the door at the same time, right
8 about the same time. Cody went to open the door. Julia
9 grabbed him and said, "Wait a minute, Cody. See who it is
10 first." She said, "Who is it?" I said, "It's me, Ricky."
11 Cody said, "It's Daddy." Julia said, "Okay, Cody," and
12 turned and started walking back toward the couch. Cody
13 opened the door and let me in.

14 I walked in. Cody went back to his bedroom and was
15 doing whatever he was doing back there. I'm assuming
16 playing video games or something. I don't know. Julia
17 started digging her hand down in the cushion on the couch.
18 I assumed she was looking for her cigarettes, because Tara
19 will sneak and smoke them, so when she sleeps on the couch,
20 she has to stick them down in the cushion if she wants to
21 have any left in the morning.

22 Q. Did you have a sword with you?

23 A. Yes, I did.

24 Q. Why did you have a sword?

25 A. I carried the sword with me to send Chip a message. I

1 told Tara that if it come, if it come to it then I would
2 get violent with him to keep him away from my children. I
3 was trying to keep it from coming to that by sending him a
4 message. Tara told me that he had been sleeping over
5 there.

6 Now, if I'm seeing a woman who has an ex, who has
7 children by another man, and I know this man is subject to
8 show up at anytime with God knows what in his hand, I'm not
9 going to sleep. I'm not going to be hanging around that
10 house and I'm going to tell her, you got to come to me.
11 You got to come to my house. So I was sending him a
12 message to stay away from my kids. I was trying to keep it
13 from coming to a physical confrontation between me and him.
14 I could have just waited on him to be there and show up
15 when he was.

16 Q. And so you had - Where was the sword when you went in?

17 A. In my right hand.

18 Q. What happened when you stepped inside the door?

19 A. Julia asked me how I got out that way. I told her
20 Mickey and Becky brought me. I called you twice and told
21 you we were on the way over here. She said, "What are you
22 going out this way?" I said, "I come to talk to you about
23 your boy and our agreement for you to keep him away from
24 the kids." She said, "He ain't here." I said, "He was
25 here. He's been here, sleeping here, and he brought more

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1 thugs with him."

2 Q. And then what happened?

3 A. She said, "Well, he ain't here now!" At that point, I
4 think I said it again, "He was here, Julia, and we agreed
5 you wouldn't have him here around the kids." And --

6 Q. Did you ever push her?

7 A. No, I didn't push her. She was digging for her
8 cigarettes on the couch or I assumed her cigarettes. I
9 didn't see what she as digging for. But she said, "Well,
10 he ain't here now," and I started down the hall. I told --
11 I said something about the kids. No, she said, "I'm not
12 going to talk to you about him!" That's what she said. I
13 said, "Well, fine, talk to the kids about him," because
14 they were telling me as you heard on that recording, they
15 were telling me they didn't want him there. It's not like
16 they were telling me we like him, Daddy, we want him here,
17 he's a good person. That's not what they were telling me.
18 So I went over there with backing them up -

19 Can I sit this right here?

20 I went over there with backing them up in my mind.

21 Q. And - and --

22 A. So I went to wake them up. I wanted them to come in
23 the living room and tell their mother what they were
24 telling me.

25 Q. And so who - Whose room did you go to first?

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1 A. I stopped at Tara's room first.

2 Q. And what did you do there?

3 A. Tara's door has a crack in it about like that.

4 (WITNESS DEMONSTRATED.)

5 A. Now, I know Tara has a habit of sleeping in her bra
6 and panties, so I did not open her door like they said I
7 did, and I hope that God will put me in Hell with his own
8 hands if that's - if I ain't - if I'm lying to you. I did
9 not open her door. I looked through the crack. I see -
10 could see she was covered up. I could see this much of
11 her. I knocked on the door and said, "Tara, get up and
12 meet me in the living room." I went down the hall to wake
13 James up. I went in there --

14 Q. And did you wake James up?

15 A. Yes, I did.

16 Q. All right.

17 A. But I think he went back to sleep, because he was
18 groggy when he opened his eyes.

19 Q. And then what happened?

20 A. I went back to the other end of the hall. Right when
21 I got to the other end of the hall, Tara come out of her
22 bedroom and the first thing she did, she never asked me
23 what was going on or nothing. The first thing she did was
24 scream, "Call the cops, Cody!" I said, "The damn cops,
25 Tara, really? Are you serious? You called me over here to

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1 speak up for you and you call the cops and you won't even
2 ask me what's going on?" I said, "Okay."

3 At that point, I got aggravated at Tara. I said,
4 "Okay. I see what's up here. You handle it. I'm out,"
5 and I started walking toward the door. Julia and Mickey
6 were out on the front porch. Julia was smoking a cigarette
7 out there talking to Mickey. When I come out the door I
8 heard her say, "Yes, Mickey, but for right now, I need you
9 all to leave." I stopped and started to say something to
10 her. Mickey interrupted and said, "If you going with us,
11 come on, man, we leaving." I said, "Hold on a minute, I'm
12 coming." He started walking toward the car. I said,
13 "Julia, you going to keep him away from here, away from
14 these young'uns?" She said, "No."

15 I said, "You going to let the kids come stay with us?"
16 She said, "No!" I said, "Okay, Julia. Have it your way,
17 but when I come back, you remember who turned their back
18 first. Now, tell your boy I'll be back to see him." And
19 then I started walking toward the car. Julia stood there
20 on that porch smoking that cigarette with that look on her
21 face watching us drive off, because I looked back at her.

22 Q. And when you say, "We drove off," who was driving when
23 you left?

24 A. Becky.

25 Q. And who else was in the car?

1 A. And Mickey.

2 Q. Do you remember about how long it was from the time
3 you knocked on the door until the time you went out of the
4 house?

5 A. I tell you this, if it was a minute-and-a-half, it
6 wasn't two minutes. That's just how quick that happened.
7 I did not go there to stay there. I never - They said I
8 was opening doors and flipping on lights. I never opened
9 one door on or inside of that residence. The only door I
10 opened up that night was the back driver's side door of
11 that Lincoln and when I got out and when I got back in.
12 That is the only doors I opened on Trinity Street.

13 Q. Did you ever touch anybody?

14 A. No, not a soul.

15 Q. Did you ever threaten anybody with the sword?

16 A. No, I did not. That sword was specifically to send
17 Chip a message and when I was walking down the hall, Julia
18 hollered and asked me either who or what -

19 I'm just going to say it like she said it, Your Honor.
20 "Who or what that fucking sword is for?" I said, "That's
21 for your boy when I catch him around my kids. Now, you
22 make sure you go back and tell him that." So she knew that
23 sword was not for her. She knew he would get the message
24 that I was sending him and that he wouldn't be hanging
25 around that house. He'd have to tell her -- he'd tell her

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1 you come to my house and that's the reason she told them
2 all she told them on me. She sat there and lied to them
3 police and told them that so she could have me in jail
4 where he could feel safe to come back over there.

5 Q. And - And then when you got in the car, what did ya'll
6 do after that?

7 A. We left.

8 Q. Had you ever - Did the police ever stop you?

9 A. Yeah, they did.

10 Q. Where was that?

11 A. If I remember right, it was Alexander Love Road.

12 Q. That'd be out near the Bi-Lo?

13 A. Yeah, in York.

14 Q. Okay. And you got - They got you out of the car then,
15 right?

16 A. Yes, sir.

17 Q. And you've seen what's been marked State's Exhibit
18 Twenty-nine.

19 A. Yes, sir.

20 Q. What are those?

21 A. That is my property. That is a pair of metal
22 knuckles.

23 Q. All right. And where were they?

24 A. They were in my left front pocket.

25 Q. And why do you carry --

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1 A. Because that - This is what I was wearing. I wanted
2 to wear exactly what I had on that day for this jury to
3 see. This is what I had on. Me and my brother had been
4 out in the back yard chopping firewood, cutting firewood,
5 stacking firewood and burning brush. I had bags of ice in
6 the freezer froze solid. I had that on my hand earlier
7 that day breaking the ice up to go in my tea. I put it in
8 my pocket. During the course of the day when we stopped
9 drinking - that night when we were burning the last of the
10 brush and stopped drinking ice tea, we started drinking a
11 few beers. I forgot it was in my pocket.

12 Q. So you --

13 A. But I do carry that but that particular day, it was in
14 my pocket because I was breaking blocks of ice with it.

15 Q. You never brought those out when you were at Julia's?

16 A. No, sir.

17 Q. All right. And I'm going - You've seen the - And
18 you've heard the testimony on this rope. Do you know
19 anything about this rope, Number Twenty-seven, State's
20 Exhibit?

21 A. Yes, sir. That rope belongs to Mickey Passmore. It
22 was in the car. I think they were showing footage of the
23 car with a sword in the backseat.

24 Q. Right.

25 A. You seen that big mess looked basically like a bag of

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1 trash or something sitting there. That was a tent in the
2 back or a makeshift tent where we had been to the river and
3 they had that strung between two trees and had that over it
4 ---

5 Q. All right.

6 A. --- 'cause it was raining. It started raining on us.
7 That's why that was in the car.

8 Q. And then State's Exhibit 28, what is that?

9 A. That is a pool ball mace. I made that - I'm going to
10 lie and say seven years ago. I made that for Julia so she
11 could carry it across the parking lot of the store at
12 night, the grocery store, because she didn't have a gun. I
13 wanted her to have something in her hand.

14 Q. And you - Did you ever get it out of the car that
15 night?

16 A. No, sir, I did not. I didn't even know it was in the
17 car.

18 Q. And you saw a picture and saw this rifle. Whose rifle
19 was that?

20 A. That's Mickey's rifle.

21 Q. And where was it?

22 A. It was in the trunk of the car.

23 Q. And would it be fair to say that this car is sort of
24 like a - maybe like a four-wheel storage shed?

25 A. That's exactly what it is, and they was living partly

1 out of it. Half of everything they owned was in that car.

2 Q. And whose car was it?

3 A. It was Mickey and Becky's car.

4 Q. But none of - Did you put any of that stuff in the car
5 that night?

6 A. The only thing I put in that car that night was that
7 sword.

8 Q. And what about the base - the bat?

9 A. No, that's Mickey and Becky's bat. I think it's
10 actually Becky's but both of them claim it. From what I
11 understand, she's had that bat for years and it stays in
12 there. It's always been in that car. I guess, they figure
13 it's better to have it and not need and need it and not
14 have it.

15 Q. And you were arrested that night; is that right?

16 A. Early that morning, yeah.

17 Q. Early that morning, that next morning.

18 A. 6:40, I believe the paperwork says was when the arrest
19 happened.

20 Q. Is there anything else you want to tell this jury?

21 A. Julie Coleman said that I come in the house with that
22 sword stuck down in the back of my overalls. I don't know
23 if we're allowed to show it, but the traffic stop video
24 will show when I was arrested fifteen minutes later, that's
25 how I was wearing these overalls just like I wore them all

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1 day cutting firewood.

2 (WITNESS STOOD AND DEMONSTRATED.)

3 A. You could not have stuck a sword in the back of that,
4 it would have fell down your leg and been dragging up the
5 steps. You can watch that video, it'll show you when they
6 got me out of the car fifteen minutes later, that strap was
7 still undone. I did not have that sword. They're trying
8 to paint a picture of me drawing the sword and creating a
9 Ninja Turtle threat or something, I guess, but that's not
10 the case. I had it in my hand.

11 Q. And did you ever waive the sword around?

12 A. No, I did not. I wasn't threatening anybody with that
13 sword. If - Listen, if I had wanted Julia Coleman to sit
14 on a couch in fear, I assure you, I could have accomplished
15 that. I would not have needed the help of Mickey Passmore,
16 as she said, and especially with a sword in my hand. She
17 says that I made her sit on a couch, yet she admits that
18 she was outside smoking a cigarette. Hold on a minute.
19 There was several other things that they said.

20 SOLICITOR EPTING: Your Honor, I believe under this
21 format, Mr. Hall needs to ask Mr. Passmore a question.

22 THE COURT: Yeah. Just ask --

23 Just wait, Mr. Passmore, and you'll be asked
24 questions.

25 Q. Mr. Passmore, did you ever - You didn't break anything

1 when you were in the house did you?

2 A. No, sir. I did not go over there to break anything.
3 I did not go over there to harm anybody. If you were
4 listening to that recording that the Solicitor played, I
5 stated that I would talk to Julia one more time for the
6 children. When I woke the children up, I did that for
7 three reasons really. I wanted the children to see the
8 sword and relay the message to Chip. I wanted the children
9 to tell their mother what they had been telling me about
10 not wanting him there, and I wanted the children to see me
11 do what I told them I would do and do my best to talk with
12 their mother. Well, that's why I woke them up.

13 I was not intending for them to leave with us that
14 night or anything. Julia Coleman not only had any - not
15 only did she not have any fear of me that night, she had no
16 reason to have any fear of me. If a total stranger had
17 come in her house with a sword, then I can understand her
18 saying she was scared, but during the course of ten years
19 that I was with Julia, she gave me every reason in the
20 world to ring her bell and I never done it. She had no
21 reason to believe I was going to do it that night.

22 Q. And when you were standing outside on the porch
23 knocking on the door, and I believe your testimony that you
24 saw her sleeping on the couch, did you enter the house
25 intending to harm Chip?

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1 A. No.

2 Q. Why?

3 A. Because I knew he wasn't there. I knew he was not
4 there. If I had got there and this guy had actually been
5 there that night, then what would have - would or would not
6 have happened at that point would have been depending
7 entirely on him. I was not trying to ruin the rest of my
8 life. I was trying to stop it from coming to a point to
9 where I had to as I told them in that recording, to
10 sacrifice myself and give up the rest of my life to protect
11 my children which I would have done if it come to that, but
12 it had not come to that, and I was trying to talk to her to
13 get - to stop it from coming to that.

14 Q. So was - Would it be fair to say this was that one
15 last time to talk to Julia?

16 A. Yes, that's what I went over there for to reason with
17 her before I finally had to say, okay, Tara, now I need
18 ya'll to call me and let me know when he's there, then I'm
19 going to come to him.

20 MR. HALL: Thank you. Answer any questions that the
21 Solicitor has.

22 CROSS-EXAMINATION

23 RICKY PASSMORE BY SOLICITOR EPTING:

24 Q. You went over there to reason with her; is that
25 correct?

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1 A. Yes, I did.

2 Q. Five o'clock in the morning?

3 A. Yeah, it was the only time I had a ride.

4 Q. Mickey Passmore was your twin?

5 A. Yeah.

6 Q. Armed with a Samurai sword?

7 A. Who was armed with it?

8 Q. You?

9 A. Yeah, I had a sword.

10 Q. Is that not correct?

11 A. I had a sword.

12 Q. And while you quibble on when it came out, you
13 actually say that you had it in your hand the entire time;
14 is that correct?

15 A. Yeah.

16 Q. Entered the door, sword in your hand?

17 A. Yeah.

18 Q. Walking around the house sword in your hand?

19 A. Yeah.

20 Q. To send a message?

21 A. Yeah.

22 Q. What's your message?

23 A. For Chip to stay away from my kids.

24 Q. Or what?

25 A. Or what? Leave it up to him to decide or what.

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1 Q. Where's the sword play into that?

2 A. Where?

3 Q. Yeah. How? How does a sword play into any of that?

4 A. It's sending a psychological message for him to stay
5 away from my children. He has no right around my children.
6 I don't want him around my children, and my children were
7 telling me they did not want him around them. Like I said,
8 it's not like they were telling me we like him, he's a
9 great guy, leave him alone, Daddy.

10 Q. Uh-huh. So the message, then, was that you were going
11 to kill Chip?

12 A. No, the message was please stay away from my children
13 before this escalates any further.

14 Q. And the sword helped you to communicate that?

15 A. Well, it would tell me to stay away from a man's
16 house.

17 Q. This wasn't a man's house, though, wasn't it?

18 A. Julia Coleman authorized me as the protector and
19 defender of that home. On several occasions, she even told
20 me that I was - No, how she put it, "My home is your home."
21 There was an occasion where a man threatened to blow her
22 house up. She did not contact law enforcement, Clover
23 Police to report that. She called - She contacted Ricky
24 Passmore and reported that and had me on standby to protect
25 her house.

1 Q. Fair to say, Chip was a sore point in your
2 relationship with Julia?

3 A. A sore point?

4 Q. Uh-huh.

5 A. I --

6 Q. That's putting it mildly, isn't it?

7 A. I did not - Just like I told Tara on that recording
8 you just heard. I don't care what him and Tara - Julia do
9 on their own. Me and Julia had an agreement that he would
10 do it up the road, stay away from my kids. I have talked
11 to many people who know this guy and every one of them say
12 he's a crack dealer. The whole town ain't lying on him.

13 Q. Do you have any evidence of that?

14 A. I think my lawyer said something to me about a record,
15 a small record of some sort.

16 Q. No evidence then?

17 A. Yeah. My belief.

18 Q. Your belief?

19 A. Yeah.

20 Q. That's your evidence?

21 A. Based on what people in the community told me about
22 him who know him.

23 Q. You go to this house at five o'clock in the morning.
24 Julia has told you several weeks prior that you were not
25 allowed there; isn't that right?

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1 A. No, she did not. That's a lie and I hope God will
2 snatch me off this chair and put me in Hell with his own
3 hands. That is not - that is not true.

4 Q. You say that's a lie?

5 A. That's a lie. Julia Coleman never ---

6 Q. So back --

7 A. --- told me I wasn't welcome at her house.

8 Q. And you say that you know that Chip was not there that
9 day; is that right?

10 A. I know he wasn't there. Even if I hadn't known it for
11 a one hundred percent certainty on the way, I knew it when
12 I looked in that door and seen Julia asleep on that couch.
13 There was no Chip on a pallet on the floor. I don't even
14 think it's a full-sized couch. I think it's like a love
15 seat and she takes the whole thing up, so he ain't on a
16 pallet. I'm assuming that there's enough sense left in
17 her head that she ain't letting him sleep in there with the
18 kids so that right --

19 Q. Is it your testimony today that you did not want a
20 confrontation with Chip?

21 A. Do what now?

22 Q. Is it your testimony that you did not want a
23 confrontation with Chip?

24 A. Yes, it is.

25 Q. That's your testimony?

1 A. Yes, it is.

2 Q. You didn't want it? You've heard the play -- the
3 audio recording, have you not?

4 A. Yeah.

5 Q. Do you remember the part where you're asking Tara to
6 tell you when Chip is there?

7 A. Yeah.

8 Q. And do you remember telling her why you wanted to know
9 that Chip was there?

10 A. Yeah.

11 Q. Enlighten the jury, why was that?

12 A. Why?

13 Q. Uh-huh.

14 A. Because I believe I said in that recording that I
15 would come over there and take him out or something to that
16 effect.

17 Q. Correct. You would come over there and take him out.
18 I believe your exact words were, and correct me if I'm
19 wrong, "You would go over there and show him who the real
20 man was." Who the real man of the house was; isn't that
21 right?

22 A. That's right. I remember saying that.

23 Q. Even though this is Julia Coleman's house?

24 A. Julia Coleman told me I was the man of that house.

25 Q. But ya'll hadn't been together for quite some time?

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1 A. Not for lack of trying on Julia Coleman's part.

2 Q. Uh-huh. But she's been with Chip for approximately a
3 year?

4 A. Julia usually goes with three or four people at a time
5 and lies to all of them.

6 Q. And we got --

7 A. Believe me, I know.

8 Q. And we got your word for that here today in Court?

9 A. Well, if you'd have gave me advanced notice, I'd have
10 brought you a hundred people up here to tell you that.

11 Q. How long has this case been scheduled for trial, sir?

12 A. Well, I have not been in exactly in a prime position
13 to assist too much.

14 Q. Months?

15 A. Huh?

16 Q. Months?

17 A. A month?

18 Q. Months?

19 A. This case has been going on like two months.

20 Q. Uh-huh. That's not enough time for you to -- could
21 have gather up whatever witnesses you needed?

22 A. Not in my position. I've been in jail over here for
23 ten months without bond.

24 Q. It offended you that Julia Coleman brought an African-
25 American male into the house?

1 A. Julia Coleman can do what she wants to, but I didn't
2 want him around my kids. My kids were telling me just like
3 you heard on that recording, they didn't want him around
4 them.

5 Q. Didn't you say that part of the reason that you
6 believed this black man was in your house, this African-
7 American, was to get to your daughter?

8 A. Exactly. You think he's looking at Julia.

9 Q. And what evidence do you have at that?

10 A. He's looking at the - What evidence do I have?
11 Because I know plenty of them. I've listened to them talk.

12 Q. You've listened to them talk?

13 A. Yes.

14 Q. By them you mean?

15 A. I mean, street thug African-Americans. I know how
16 many times I cannot tell you I've heard, "Yeah, white
17 girl," this, "Yeah, white girl," that, and just because I
18 recognize that, you want to call me a racist.

19 Q. And it's your testimony today that you called over
20 several times? You were letting them know that you're
21 coming over a five o'clock in the morning?

22 A. Yeah.

23 Q. Is that a usual thing for you to do, show up at the
24 house at five a.m.?

25 A. Well, in our social circle, which Julia has been a

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1 part of for years, we never had to set appointments to come
2 to each other's house. Julia's been to my house several
3 times. I've been to her house and never one time was we
4 required to call ahead. I did that just for the sake of
5 doing it, to let them know I was coming.

6 Q. Don't you think it would have been better to wait till
7 more decent hours ---

8 A. I did not have a car.

9 Q. --- perhaps when Julia is off at work?

10 A. I could have done that if I had my own car. I took
11 the only ride I had and that tire on their car, in a few
12 hours, would be leaked back down flat.

13 Q. But this has to be a face-to-face conversation,
14 correct?

15 A. With Julia?

16 Q. Absolutely.

17 A. Why not? It's legal.

18 Q. Because you want her to see that sword, don't you?

19 A. No, I want Chip to know that sword was there.

20 Q. You want Chip to know that sword -

21 A. Julia knows I wouldn't hurt her with it for nothing in
22 the world. I don't - I'm not in love with Julia, but I
23 still don't want to see nothing bad happen to her.

24 Q. Your testimony today is that you don't think Julia
25 would be scared of you coming to her house at five o'clock

1 in the morning with a sword?

2 A. Julia has never been scared of me in her life and if
3 she was scared as she says, why did she tell me while I was
4 standing there with a sword in my hand, "No, I'm not going
5 to keep him away from your kids. No, I'm not going to let
6 the kids go live with you. Who or what is that fucking
7 sword for, Ricky?" If she was so cared, why would she stand
8 there and defy me like that?

9 Q. Well, that's your version.

10 A. I'm going to tell you why, 'cause she knew it, she
11 knew full-well that sword wasn't for her.

12 Q. Well, that's your version of it, Ricky, isn't it?

13 A. That's mine, God's, Julia's if she'd tell the truth.

14 Q. Your version. That's Tara's version, too, from so far
15 as what she heard, is it not?

16 A. Tara said a whole lot of things up here. I don't know
17 exactly what point you talking about right now.

18 Q. We'll move on from that. You say all these items -
19 What did you call this again?

20 A. I called that a pool ball mace. That's what I called
21 it when I made it.

22 Q. Pool ball mace.

23 A. And I made it for Julia to carry in her pocketbook ---

24 Q. Created this yourself?

25 A. --- across grocery store parking lots, because she

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1 stopped at night, because things do happen to females in
2 grocery store parking lots.

3 Q. And when was this created?

4 A. When?

5 Q. Uh-huh.

6 A. I said earlier I'll lie and say seven years. I can't
7 be exact.

8 Q. I got you. Got you. You did say that. Would not
9 mace be a more effective deterrent, mace spray?

10 A. Well, you are familiar with what an old mace is. It's
11 a handle with a chain and a steel ball and spikes on it
12 like the Gladiator's use.

13 Q. Is it not true this is part of a series?

14 A. No, that's the only one I made.

15 Q. This is the only one in existence?

16 A. Check the handle out. It came off of one of Julia's
17 pots when I made it and she pitched a fit.

18 Q. And this is usually kept in your house wouldn't you
19 say?

20 A. Yeah, I kept it in the house.

21 Q. But it wasn't that night, was it?

22 A. That night it was in the car, obviously, even though I
23 didn't know it was in the car.

24 Q. Some mystery person just threw this in your car?

25 A. Well, let's clarify this right here. From the last

1 time Tara says that she saw that in the house until the
2 night in question was what, weeks? I don't know which one
3 of the kids coming around took that out and was playing
4 with it, how it ended up in the car, I don't know.

5 Q. Where were you sitting in the car when you left the
6 house?

7 A. Behind Becky who was driving.

8 Q. On the driver? See the pictures where that was
9 located?

10 A. Yeah.

11 Q. Is it not true that would have been pretty much right
12 at your feet?

13 A. No, 'cause my feet were in this floorboard.

14 Q. And it's found right here in that floorboard?

15 A. That was in that floorboard ---

16 Q. Correct.

17 A. --- under a whole bunch of stuff it look like to me.

18 Q. Visible in the photo, though, correct?

19 A. And as ya'll pointed out, it was dark. I didn't have
20 a flashlight looking in the floorboard. I wouldn't have
21 seen it down there anyway.

22 Q. And that's not the end of either, because there was
23 something else found next to that, right?

24 A. I don't know what you mean.

25 Q. Do you know what I'm talking about?

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1 A. What was found?

2 Q. The sword?

3 A. I've never denied carrying the sword with me.

4 Q. No, you haven't?

5 A. I've never denied and, matter of fact, when they
6 pulled us over he asked me, "Do you have a sword in the
7 car?" I said, "Yes, I do."

8 Q. A sword found right next to where that was found
9 within a foot, wouldn't you say, based on the pictures?

10 A. The same floorboard. When I come out, the car was
11 sitting in front of the house, I opened the door up,
12 throwed the sword in there. The tent was right there. I
13 walked around to the other side of the car, got in and said
14 go.

15 Q. So this pool ball mace which you can see it is usually
16 kept in your house is in the car that night, right?

17 A. I don't know how long it'd been in that car. It
18 didn't go in that car that night.

19 Q. And when --

20 A. It went in that car prior to that night and prior to
21 that day if you ask me, it had to, 'cause that whole day it
22 wasn't but four people there: me, Mickey, Becky and Tab
23 ---

24 Q. How --

25 A. --- and neither one of us put it in there that day.

1 Q. However long it had been there before, it was there.
2 that night?

3 A. So.

4 Q. Do you deny that?

5 A. The whole car was there that night --

6 Q. Do you admit it or not? Was it in the car that night?

7 A. The whole car was there that night, but it ain't a
8 weapon. We didn't try to run over nobody with it.

9 Q. Do you have another name for this weapon?

10 A. I might have had a nickname for it at one time. One
11 time I called it a redneck doorbell, 'cause I hung it on a
12 nail by the door and you can grab that pool ball and boom,
13 boom, boom on the door with it.

14 Q. Any other --

15 A. I had a lot of names for that thing over the years.

16 Q. Any other nicknames that would be of relevance for
17 this thing?

18 A. Oh, yeah. I heard her say earlier that I called it a
19 nigger beater or something like that. That is a lie.

20 Q. That's a lie?

21 A. If I said that, I will tell you I said that, 'cause I
22 don't care if you don't like the fact that I don't like
23 certain people.

24 Q. Uh-huh.

25 A. I don't care.

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1 Q. And these --

2 A. But like I said, I do not have anything against black
3 people who do not hurt white people.

4 Q. These knuckle - these brass knuckles. I'm calling
5 them brass - it could be any other material - with the
6 skulls on the end of it. It's your testimony here today
7 that these were in your pocket, right?

8 A. Yeah, the left front pocket.

9 Q. In your pocket when you went to the house that night,
10 right?

11 A. Yeah.

12 Q. So not only did - were you armed with a sword, but
13 you're armed with these --

14 A. Now, you can use the word armed.

15 Q. --- but these weren't intended as a - these weren't
16 intended as a weapon, not that night, right, 'cause you ---

17 A. That sword wasn't intended as a weapon ---

18 THE COURT: Mr. --

19 A. --- that night either.

20 THE COURT: Mr. Epting, you tend to ask him a
21 question, and then make a comment before he has a chance to
22 answer. Please let him answer.

23 SOLICITOR EPTING: Certainly.

24 Q. Anything else?

25 A. That or that sword wasn't intended as a weapon as a

1 night. That was in my pocket completely for slip of mind.

2 The sword was intended to send a message.

3 Q. And if I got your testimony earlier right, it was for
4 punching ice?

5 A. Yeah.

6 Q. Did I get that right?

7 A. Yeah.

8 Q. Would you not concede there are better tools to break
9 up ice than brass knuckles?

10 A. Well, Tab keeps a hammer on top of the refrigerator,
11 but I busted a freezer like that one time, so I don't use
12 hammers or ice picks or butcher knives or her pair of
13 scissors out of her sewing box or none of that crap no
14 more. That right there was laying on top of the
15 refrigerator easily right there at hand. I put it on boom,
16 boom, boom. I broke up ice, fixed my tea, put it in my
17 pocket.

18 Q. Punch it with your hand?

19 A. You ever punched a big block of ice with your bare
20 hand? That's like punching a boulder, man. My hands are
21 getting older now. I ain't no spring chicken no more.

22 Q. And you say that's more efficient than another tool
23 which perhaps would not involve you punching your hand in
24 the ice?

25 A. I wasn't punching forward. I was doing this.

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1 (WITNESS DEMONSTRATED.)

2 Q. What was the custody situation between yourself and
3 Tara and --

4 A. The custody situation?

5 Q. Uh-huh. Concerning Tara, Cody and James?

6 A. I am not sure I follow what you're asking. I mean ---

7 Q. Did you ---

8 A. --- me and Julia have never had a custody dispute over
9 the kids.

10 Q. Where do they usually stay?

11 A. With their mother.

12 Q. Julia?

13 A. James, he usually stays with my mother.

14 Q. But Tara and Cody usually stay with Julia, correct?

15 A. Yeah.

16 Q. Would you admit that it is unusual for you to show up
17 at five a.m. to try to pick them up?

18 A. No.

19 Q. Would you -

20 A. Well we've never - like I said, we've never had to --
21 in our social circle, which Julia is a part of and has been
22 for years, it's been socially acceptable. It gets
23 aggravating sometimes when somebody shows up at two o'clock
24 in the morning, "Hey boy, come on," and want to talk to
25 you. It gets aggravated, but it's been socially acceptable

1 among our social circle.

2 Q. Take me through the events of that night again. You
3 get your car started. The car is having some trouble; is
4 that right?

5 A. It had a flat tire on it.

6 Q. A flat tire and maybe some engine problems?

7 A. You had to pop the hood, unhook a little whatever you
8 call it and do some stuff with the battery. That was their
9 car.

10 Q. And you drove over?

11 A. No, I did not drive. Becky drove.

12 Q. You rode?

13 A. Yeah, I rode.

14 Q. And may be - I'll try to be more exact with that.
15 Becky drove?

16 A. Yeah.

17 Q. Mickey rode front passenger, am I right? You're
18 backseat driver's side passenger?

19 A. Yeah.

20 Q. Ya'll drive out there and park the car; is that right?

21 A. Yeah.

22 Q. Get out. You claim that you announced yourself?

23 A. I did.

24 Q. How did you announce yourself?

25 A. I said, "It's me, Ricky. Open the door and let me

RICKY PASSMORE: CROSS BY SOLICITOR EPTING

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1 in."

2 Q. Have a sword in your hand at that time?

3 A. Yeah.

4 Q. And you claim you were just let in?

5 A. That's the truth.

6 Q. You walk in --

7 A. The door wasn't forced open. I didn't use that crowbar
8 you all got over there to get in.

9 Q. Brandishing the sword?

10 A. You can call it brandishing. I had it actually like a
11 walking cane in my hand.

12 Q. You deny saying anything threatening in any way, shape
13 or form to Julia Coleman?

14 A. Uh-huh.

15 Q. And never told her to sit down?

16 A. No.

17 Q. Never told her that if she moved she died?

18 A. No.

19 Q. What's Mickey doing while you're walking around
20 brandishing the sword?

21 A. At some point, Mickey had come in the door behind me.
22 I didn't see exactly when he came in.

23 Q. Did you go in and you checked on --

24 A. I was looking at Julia?. Huh?

25 Q. You go and you check on Julia -- and Tara?

1 A. Check on her?

2 Q. Uh-huh.

3 A. No, I went and knocked on her door and woke her up,
4 and I did not open her door. I knocked on her door and
5 told her to get up. Then, I went down the hall into James'
6 and Cody's room. James was asleep on the bunk - top bunk
7 bed. I woke him up. Time I got down the hall, right at
8 the end of the hall and turned back around, Tara came out
9 of her bedroom and hollered, "Call the cops, Cody!" Cody
10 said, "Really, Tara?" And she said "Yes, really, Cody,"
11 and out the door he went, so I'm assuming at that point -
12 he could see me standing in the hall. He knew I wasn't
13 hurting anybody.

14 Q. But Cody had no reason to be afraid of you, right?

15 A. No.

16 Q. No reason whatsoever?

17 A. No.

18 Q. Tara had no reason to be afraid of you, right?

19 A. Tara based what she --

20 Q. No reason?

21 A. When she hollered, "Call the law. Call the cops,
22 Cody," she based that solely on that conversation me and
23 her had earlier, but it sounded to me like - and I know
24 Tara when Tara smokes a little weed. It sounded to me like
25 Tara was high and a little laid back in that conversation

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1 and maybe when she woke up in her groggy state and seen me
2 with that sword, she didn't remember me telling her in that
3 conversation you all heard, "I'm going to try to talk to
4 your momma one more time." Maybe if she'd have remembered
5 that she wouldn't have hollered, "Call the cops, Cody," and
6 overreacted.

7 Q. So Cody shouldn't have been afraid according to you?

8 A. He wasn't afraid until she hollered and scared him.
9 They ain't nobody else scared him. He was just fine until
10 she hollered and scared him.

11 Q. But because Tara yelled, he was terrified all of the
12 sudden at the drop of a hat?

13 A. He couldn't see -- he could see me. He could -- he
14 knew I wasn't harming anybody. She caught me and him both
15 off-guard when she come out of there and screamed that.
16 I'm assuming at that point that he couldn't see his mother
17 or Mickey. I'm assuming at that point, he thought Mickey
18 was in the living room or around the corner somewhere
19 hurting his mother, but that wasn't the case. They were
20 standing out on the porch smoking a cigarette and talking.

21 Q. Cody runs?

22 A. Yeah, he jetted.

23 Q. Tara stays?

24 A. Yeah.

25 Q. At least for a little bit, right?

1 A. Yeah. Wasn't there long.

2 Q. What happens then?

3 A. What happened? I asked Tara, "The cops really? The
4 damn cops, really, are you serious? Why did you do that?"
5 She told me she didn't want nobody to get hurt around here
6 tonight." And I said, "Well, neither do I, Tara. This
7 sword ain't for you. It's for Chip." She said, "I told
8 you Chip ain't here." I said, "I know damn well he ain't
9 here. This Chip's -- this sword's so he'll get the message
10 not to come back, which is what you told me you wanted.
11 You could have at least asked me what was going on before
12 you just walked out of that bedroom and hollered, "Call the
13 cops, Cody?"

14 Q. And you're basing your knowledge of Chip not being
15 there based on one look through a window, through the side
16 window?

17 A. No, I'm basing it on the fact that Tara told me, as
18 you heard in that recording, "When Chip and his nephew were
19 here earlier," that told me he was not there.

20 Q. Uh-huh. When you talked on the phone, right?

21 A. Yeah, that recording you all played.

22 Q. It's about five hours before this incident occurred,
23 right?

24 A. Say it again?

25 Q. That was about five hours before this incident?

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1 A. That's what you all say. I wasn't keeping up with the
2 time. Like I said, I was dog tired that day.

3 Q. Drinking a little bit?

4 A. Yeah, I drank probably about three beers, three
5 twenty-two ounce. I was two hundred and sixty pounds then.
6 Three twenty-two ounce don't do nothing for a two hundred
7 and sixty pound country boy.

8 Q. So based upon that conversation and upon you peeking
9 through the window, you know Chip's not there; is that
10 right?

11 A. It made me believe he wasn't there, because as crazy
12 as Julia is, I don't believe she'd let him sleep in one of
13 the two bedrooms with the kids and when he wasn't sleeping
14 with her and he wasn't on a pallet right there and he
15 wasn't in the kitchen, I don't see him out here on the
16 porch nowhere and he's not there.

17 Q. And you've said several times during your testimony
18 that Julia Coleman would have no reason to fear you; is
19 that right?

20 A. Absolutely none.

21 Q. And that's always been true?

22 A. Yeah. She's gave me every reason in the world to want
23 to ring her bell. You believe me she has tested me many
24 times.

25 Q. But you never have?

1 A. No.

2 Q. Assault rifle in the car, would you agree?

3 A. Yeah, there was a rifle in the car.

4 Q. Loaded?

5 A. I'm not sure if it was loaded or not.

6 Q. It's not your weapon, right?

7 A. No, it's not mine.

8 Q. It's Mickey's?

9 A. Matter of fact, the reason it was in the car is
10 because I told Mickey he couldn't keep it in the house.

11 Q. A crowbar?

12 A. He told me - Yeah, there was over two hundred tools in
13 that car. But they got a crowbar out of there and a sheet
14 rock tile -- trowel. I guess we were going to finish the
15 ceilings for them before we left or something. I don't
16 know what that's about.

17 Q. So let's get the tally. Crowbar in the car, correct,
18 yes or no?

19 A. Yeah, there was a crowbar in the car.

20 Q. Bat in the car?

21 A. Yes, there was a bat in the car. The crowbar was in
22 the car because Micky - if they had looked up under that
23 Lincoln, if anybody's in here that's ever owned a Lincoln,
24 it had air bags under it. They call it the Lincoln curse,
25 'cause those air bags will rot. They'll leak down. The

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1 car sets down and Mickey had went to "You Pull It" junkyard
2 and got some big heavy-duty springs and put under that car.
3 That's why that crowbar was in that car.

4 Q. Well, it looks in there does it, because we got the
5 crowbar, we got the bat, rope in the car. We've already
6 heard your explanation for the rope. Brass knuckles --

7 A. Can I ask you what was I going to do with that rope?

8 THE COURT: Well, he asks the questions.

9 A. Okay. Well, I'm sorry.

10 Q. Brass knuckles in your pocket, Ninja sword in the car.
11 That was a sharp sword, wasn't it?

12 A. Sharp as I could get it to prune tree limbs in the
13 yard. If you look at it, it's got tape around the handle.
14 That's how the handle got broke. I was using it to prune
15 tree limbs.

16 Q. You were chopping trees with it? Uh-huh.

17 A. Yeah. That's how the handle got broke on it.

18 Q. The mace or whatever name you have for it, that was
19 also in the car; is that right?

20 A. Yes, it was, apparently.

21 Q. More bullets to the gun that was in the car; is that
22 right?

23 A. I never saw one bullet. I wasn't looking for bullets.
24 I didn't have a gun or bullets on my mind and like I said,
25 it was dark.

1 Q. And didn't you say earlier it was loaded?

2 A. I don't even think - I don't even think the dome light
3 worked in that car. No, I said I don't know if it was
4 loaded or not.

5 Q. You've heard the tape that was played?

6 A. Yeah.

7 Q. The audio tape of you and Tara?

8 A. Yeah.

9 Q. You stated that you had problems with Chip being
10 around your children?

11 A. Yeah, I do have a problem with that.

12 Q. You said that if Julia Coleman was dating a white man,
13 you wouldn't have that problem?

14 A. Not as bad.

15 Q. Not as bad?

16 A. Not as bad.

17 Q. You stated that you had - that you felt personally
18 disrespected by her bringing this - I'll use my words, not
19 yours, African-American man around your children; is that
20 right?

21 A. No, I did not state that I felt personally
22 disrespected. I believe if you will listen to that
23 conversation, I made it clear that I was concerned for my
24 children.

25 Q. I believe your words, and correct me if I'm wrong,

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1 were that it made you feel "lower than a piss ant?"

2 A. I said men are born with a natural instinct in them to
3 protect their women, and when they do not stand up and do
4 that, it makes them feel less than a man. It makes them
5 feel like a piss ant and start making them feel worthless,
6 and that is what Cody - When she first brought him -- when
7 Cody first found out that she was dating a black dude, Cody
8 flipped out. Tara called me on the phone telling me about
9 it. So I called Julia and talked to her about it. "Julia
10 you know just like you said or you all said, Cody's got
11 some little issues going on in his mind. He's having a
12 hard enough time. Why add this stress to it?"

13 Q. You told --

14 A. You're telling me white man ain't shit was her exact
15 words to me. Now, you telling my son this? What kind of
16 psychological scripting are you doing to my son's mind
17 right now?

18 Q. You told Tara that you were going to lay it all on the
19 line for them?

20 A. I would lay it all on the line for them anytime.
21 That's what I'm supposed to do.

22 Q. By killing Chip?

23 A. If it had came to that. Like I said in that
24 recording, if it comes to that. It had not come to that.
25 The meeting - I went to meet with Julia Coleman was to stop

1 it from escalating to that point, but if I had to meet this
2 man face-to-face in order to protect my children, that's
3 exactly what I would have done.

4 Q. So it's your testimony that this de-escalation you
5 wanted to happen between then would be best accomplished by
6 you showing up there armed with a Ninja sword, is that your
7 testimony?

8 A. Say that again.

9 Q. You wanted to de-escalate things you said?

10 A. I wanted to escalate things?

11 Q. De-escalate?

12 A. Yeah, I wanted things to stay normal. I didn't want
13 it to reach a point to where I had to give up my life to
14 protect my children, but if it come to that, I would have
15 done that.

16 Q. So you bring a sword to the house that night?

17 A. So what?

18 Q. Do you find that weapons tend to de-escalate things?

19 A. Do I find -- well, now, look here. I tell you what,
20 if you bring a boy home that come up here and ask for your
21 daughter's hand on a date and you sitting here cleaning a
22 .12-gauge on the porch when you say have him -- or have her
23 home by ten o'clock, yeah, that's probably going to de-
24 escalate things. He's probably going to say yes, sir, and
25 have her home about 9:30.

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1 Q. And do you think that was the equivalent of what you
2 did that night?

3 A. Yeah.

4 Q. Brandishing a sword ---.

5 A. I sure do.

6 Q. --- in front of your children?

7 A. I wasn't brandishing a sword. My kids have seen me
8 with all kind of stuff in my hand. They know I won't mean
9 them any harm.

10 Q. At five o'clock in the morning?

11 A. My kids have seen me up all hours of the day and
12 night.

13 Q. They're surprised to see you that morning?

14 A. No, they weren't.

15 Q. They weren't?

16 A. No.

17 Q. Didn't Tara yell to call the cops when she saw you
18 there with that sword?

19 A. Yeah.

20 Q. Is it fair to say she was surprised?

21 A. I don't think she was surprised. I told her I was
22 coming. I called and I know she got the two messages I
23 called, because it was on one of your police recording we
24 listened to, "He called twice and told us he was coming."

25 Q. You said that you would give Julia Coleman one last

1 time?

2 A. I said I will talk - to try one last time to talk to
3 your momma.

4 Q. Then, what did you say?

5 A. After that, I would want - I need her to call me and
6 let me know when he was there, and then when I come in the
7 door, it'd be a whole different story.

8 Q. When the role goes down?

9 A. When the role goes down, that's what I said.

10 Q. You'd be there with like-minded people?

11 A. I never one time mentioned Mickey Passmore being
12 involved in that role whatsoever, his car being involved or
13 nothing else. I never called anybody's name.

14 Q. You said when the role goes down that you would be
15 there with like-minded people?

16 A. Now, I never used the word like-minded people.

17 Q. Well, the jury has the tapes. They can determine
18 that. "And they would not be playing?"

19 A. They're objective would be to protect Tara, Cody and
20 James.

21 Q. Uh-huh. And finish up that, what did you say then?

22 A. "Everybody else is expendable and can be put down."

23 Q. "Everybody else is expendable and can be put down."

24 A. Which is exactly what I was trying to avoid by sending
25 that message on the night in question. What you're talking

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1 about was intended for another time in the future when Chip
2 was there, and only if it came to that, and only if
3 somebody called me and let me know he was there. There is
4 a whole lot of only-ifs in there.

5 Q. "Expendable but can be put down." Am I correct in
6 believe ---

7 A. To protect my children.

8 Q. --- am I correct in believing that that means that you
9 were going to kill them?

10 A. That means that they would be - I would remove that
11 threat from my children.

12 Q. Permanently?

13 A. Either which way. I mean, and like I said earlier,
14 that would be entirely up to that individual when me and
15 him saw each other.

16 Q. Do you deny going through that house?

17 A. If he stood there and told me, no, I ain't going to
18 stay away from your kids, then I ain't going to sit here
19 and told you that wouldn't have got a little ugly.

20 Q. Uh-huh. So if he'd had been there that night, you
21 would have killed him, is that your testimony?

22 A. Nope, that is not my testimony.

23 Q. You'd have just said hey, look at this cool sword I
24 got, stay away from my kids?

25 A. No, I probably wouldn't have said that either, but

1 he'd have got the message that I didn't want him around my
2 kids.

3 Q. What would you have done?

4 A. I cannot say that, because the situation did not
5 arise.

6 Q. You had no plan?

7 A. No plan. My only plan was to send him a message and
8 speak to Julia.

9 Q. And a carload full of weapons?

10 A. Carload full of weapons? I had them knuckles by
11 accident ---

12 Q. Uh-huh.

13 A. --- and that sword as a message. All the rest of that
14 right there is irrelevant to me. That was not my car.
15 That's not my property, that's theirs.

16 Q. You had access to it, did you not?

17 A. I never at any point had possession or control of
18 anything other than that sword and those knuckles.

19 Q. You rode with them, did you not?

20 A. So what?

21 Q. You rode with --

22 A. Mickey had a pocketknife in his pocket. I rode in the
23 same car with it.

24 Q. You did? And the weapons were found at your feet,
25 some of the weapons?

1 A. No, they weren't. They were found over there under
2 all that stuff ya'll seen there.

3 MR. HALL: Your Honor, this has all been asked and
4 answered.

5 THE COURT: Yeah, I - Let's move on. We're going in
6 circles here.

7 SOLICITOR EPTING: I beg the Court's indulgence.

8 (PAUSE.)

9 SOLICITOR EPTING: Your Honor, I have no further
10 questions at this time.

11 THE COURT: Redirect?

12 MR. HALL: No redirect.

13 THE COURT: All right. And you can step down.: Thank
14 you.

15 MR. PASSMORE: Thank you, Your Honor.

16 (WITNESS LEAVING WITNESS STAND.)

17 THE COURT: Let me see counsel up here just a minute.

18 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
19 THE JURY AT 01:10 P.M..)

20 THE COURT: Members of the jury panel, I think it's
21 probably best to break for lunch now till 2:30, so I'm
22 going to let you go for lunch until 2:30. We'll see you
23 back and we'll try to start as promptly at 2:30 as we can.

24 Have a pleasant lunch.

25 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 01:12 P.M.)

1 THE COURT: Counsel, we need to start working on the
2 charge so if any of you have any request to charge if you
3 will hand them up before we start back.

4 MR. HALL: Let me have one more word.

5 (PAUSE.)

6 SOLICITOR EPTING: Your Honor, I do believe we have
7 some request.

8 THE COURT: Anything else, Mr. Hall, before we break
9 for lunch?

10 MR. HALL: No. And I don't have any objection to
11 their request. The Court can certainly decide and as far
12 as any request from the defense I assume the Court will
13 define the definition for household member under the
14 statute.

15 THE COURT: Right.

16 MR. HALL: And that's the only thing out of the
17 ordinary that I'd - And that is in fact an ordinary part of
18 the charge.

19 THE COURT: What's the position from the State and the
20 Defense as to lesser included's? Think about that over
21 lunch too.

22 MR. HALL: That I think the main issue would be the
23 lesser included burglary would possibly be a trespassing.
24 I'll be honest with you, I think the presence of a knife
25 removes that that is not really a factual basis for

1 trespassing with the presence of a deadly weapon.

2 THE COURT: And I think maybe the same goes for
3 criminal domestic violence of a high and aggravated nature
4 to simple criminal - criminal domestic violence is the
5 lesser included but we'll think about it. Both of you give
6 your thoughts.

7 Thank you. Have a pleasant lunch.

8 SOLICITOR EPTING: Thank you, Your Honor.

9 (COURT IN LUNCH RECESS AT 01:15 P.M..)

10 (COURT BACK IN SESSION AT 02:45 P.M..)

11 THE COURT: Thank you. Take your seats.

12 Is the State ready?

13 SOLICITOR HOLLAND: Yes, Your Honor.

14 THE COURT: Is The Defense ready?

15 MR. HALL: The Defense is ready.

16 THE COURT: All right. And you have one witness I
17 understand?

18 MR. HALL: That's correct.

19 THE COURT: Okay. Bring in the jury.

20 (JURY REENTERS COURTROOM AT 02:46 P.M..)

21 THE COURT: All right. Mr. Hall.

22 MR. HALL: The Defense would call Rebecca Rogers.

23 MADAM CLERK: Raise your right hand and place your
24 left hand on the Bible.

25 . (WHEREUPON, REBECCA ROGERS,

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1 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

2 MADAM CLERK: Thank you. Please have a seat.

3 DIRECT EXAMINATION

4 REBECCA ROGERS BY MR. HALL:

5 Q. Ms. Rogers, I need to ask you to speak up so the
6 microphone will pick up your so that the jurors can hear
7 your voice. Would you tell us your name?

8 A. Rebecca Rogers.

9 Q. And, Ms. Rogers, where were you living back in -- on
10 June the 19th of last year?

11 A. At [REDACTED] in York.

12 Q. And who was living there with you?

13 A. Ricky Passmore, Tabitha Passmore and Mickey Passmore.

14 Q. And Tabitha would be Ricky's girlfriend?

15 A. Girlfriend.

16 Q. And tell us where do you work?

17 A. I work at Wal-Mart.

18 Q. And had you worked that day, June the 19th? Do you
19 remember?

20 A. Let's see. I was scheduled to work the 19th. We were
21 actually - but I did work the 18th.

22 Q. All right. So the day before. And so the 19th would
23 have been an early morning, Wednesday morning. You -- what
24 you're telling the jury is you worked on Tuesday ---

25 A. Yes, sir.

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1 Q. --- the 18th? Do you remember what time you got off
2 work?

3 A. I really don't.

4 Q. And on the -- and do you remember what time you went
5 to bed that night?

6 A. I was probably -- I laid down to watch a movie before
7 dark I would say, and I fell asleep.

8 Q. All right. And at some point, did Ricky or Mickey
9 Passmore wake you up?

10 A. I was awakened about 3:00 a.m., 2:30-3:00. Well,
11 probably before that, Mickey had woke me up wanting to go
12 get some more beer and I wouldn't go, 'cause I was
13 sleeping.

14 Q. All right.

15 A. And then around 2:30-3:00 o'clock somewhere along
16 those lines, I -- he -- they woke me back up and wanted to
17 go pick up Ricky's children from Clover.

18 Q. All right. And why did they have to wake you up to do
19 that?

20 A. Because I had the car, the license and I was sober.

21 Q. Okay. And whose car is it?

22 A. It was my car.

23 Q. I was your car. And what kind of car do you have?

24 A. I'm sorry, I don't remember. A Lincoln.

25 Q. It was a Lincoln.

1 A. A Lincoln Town car.

2 Q. And old Lincoln Town car?

3 A. Uh-huh.

4 Q. We'll get back to that in just a minute. And so they
5 don't drive? They can't drive, right?

6 A. Right.

7 Q. And so they get you up. What did you do?

8 A. I -- I didn't even get dressed. I went in my pajamas.
9 We went to the convenience store in York. I had to put air
10 in the tire, 'cause I had to put air in it twice a day. We
11 put \$20 worth of gas in the car, bought beer and went to
12 Clover.

13 Q. And tell me about the car, how do you start the car?

14 A. We go under the hood. We have to connect a little
15 gray box. I don't know what it is really and hook the
16 battery cables back up to it and Mickey does something
17 under there and I turn the key and it starts.

18 Q. Okay. And you -- and then -- and is this a 1992
19 Lincoln Town car?

20 A. I think it was.

21 Q. And you have -- what you have a slow leak in the tire?

22 A. Yes.

23 Q. Is there anything else peculiar about the car?

24 A. We had to turn it off the same way we started it. You
25 have to go under the hood and go in reverse.

REBECCA ROGERS: DIRECT BY MR. HALL

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1 Q. And anything about the brakes?

2 A. Mostly did not have brakes. I had to put brake fluid
3 in the car every day. If it got completely empty, it took
4 two or three days for it to build back up for me to have
5 brakes.

6 Q. Okay. And so did ya'll take anything and put it in
7 the car when ya'll left?

8 A. No, not that I'm aware of. I didn't put anything in
9 the car but myself.

10 Q. All right. And so you were driving. Who else --
11 where was Ricky and Mickey?

12 A. Mickey was beside me in the passenger seat and Ricky
13 was in the backseat.

14 Q. And you stated that you stopped at the convenience
15 store?

16 A. Right.

17 Q. After you left the convenience store, what did you do?

18 A. We went to straight to Clover.

19 Q. Where did you go in Clover?

20 A. To Julia Coleman's home.

21 Q. Is that at [REDACTED]?

22 A. That's what I was told. I never knew the address. I
23 just knew how to get to her home.

24 Q. Okay. And is that a -- and do you remember where you
25 parked?

1 A. I parked right in front of her mobile home.

2 Q. What happened when you parked your car there?

3 A. Ricky got out of the car. Well, wait, let me back
4 track a second. My brake lights got stuck in the on
5 position on the way, and so when Ricky got out of the car,
6 I asked Mickey, "I said what's he doing? I got to get this
7 car off the road?" He said, "Let me go see." Ricky
8 knocked on the door, the door opened, Ricky went in, Mickey
9 went in, and I was trying -- my brakes lights were hooked
10 with a toggle switch and my toggle switch had broken off,
11 and I was trying to get my brake lights to go in the off
12 position, 'cause I couldn't ride down the road with my
13 brake lights on.

14 Q. So did you see -- did you see how Ricky - did Ricky go
15 in first?

16 A. Yes.

17 Q. And then where was Mickey when Ricky went in?

18 A. He went in shortly behind him. I think Ricky had
19 already gone in the door before Mickey made it to the
20 porch, the steps.

21 Q. And so about how far from the -- if you're looking at
22 the back of the courtroom, about how far are you from the
23 door of the house?

24 A. I would say maybe halfway to the benches back there.

25 Q. You tell me where to stop?

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1 A. About there, maybe.

2 Q. You're sitting in the car and this is the porch on the
3 trailer?

4 A. Yeah.

5 Q. All right. Did you see who opened the door?

6 A. No, I didn't.

7 Q. Did you see if Nicky -- did Ricky knock?

8 A. I wasn't paying attention to be honest.

9 Q. But you saw the door open ---

10 A. Right.

11 Q. --- and them go in? Did you hear anything at that
12 point?

13 A. Well, what I heard was after Julia came out on the
14 porch, she was standing there with Mickey on the porch.

15 Q. Well, we'll get to that in just a minute.

16 A. Okay.

17 Q. So when they first went in, you didn't hear anything
18 then?

19 A. No.

20 Q. And then what did you do in your car at that point?

21 A. I was still messing with my toggle switch.

22 Q. How long was it before you looked up and saw anything
23 if you did?

24 A. When I heard Mickey and Julia talking on the porch,
25 'cause the window was down. I could hear. I looked up to

1 see what was going on and Julia standing there on a porch
2 smoking a cigarette in a agitated manner telling Mickey,
3 and pardon my language, "I ain't got time for this shit, I
4 got to go to work."

5 Q. All right. Well, let's back up just a minute. The
6 car, your car window, does it roll down?

7 A. No, we push and pull it up by hand.

8 Q. And so was -- and when you got to Julia's was it up or
9 down?

10 A. It was down.

11 Q. All right. It was down then. Okay. And about how
12 long had you been there until you saw Julia and Mickey on
13 the porch?

14 A. It had to be less than two minutes.

15 Q. All right. Now, could you -- and when did you -- when
16 you saw -- how long after that when you saw Mickey and
17 Julia on the porch was it before you saw Ricky?

18 A. Thirty seconds.

19 Q. All right.

20 A. He told me, "We got to go. Let's go."

21 Q. All right. We'll come back to that just a minute.
22 Can you stand up and show us how Julia was acting?

23 A. She was here. Say Ricky - Mickey was here on the
24 porch. She was smoking her cigarette swinging her arm
25 around, "I ain't got time for this shit, I've got to go to

REBECCA ROGERS: DIRECT BY MR. HALL

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1 work," smoking her cigarette.

2 Q. And what happened next?

3 A. Mickey said, "All right. Let's go."

4 Q. And then did they leave?

5 A. Yeah.

6 Q. All right. And did they -- and so Ricky and Mickey
7 came and got in the car?

8 A. Uh-huh.

9 Q. Did you see what, if anything, Julia did after that?

10 A. No, I didn't.

11 Q. Did you hear Ricky or Mickey or Ricky say anything
12 about the children?

13 A. Oh, yeah. I heard one of them. I don't know if it
14 was Mickey or Ricky ask, "Are you going to let Cody come
15 with us?"

16 Q. Did you hear Julia's answer?

17 A. I didn't hear an answer, but Cody didn't come with us
18 either so.

19 Q. All right. Did you ever see Ricky get out of the car
20 with a sword?

21 A. No, I did not.

22 Q. And did he -- did he -- and, certainly, did he get out
23 with anything and did you see him get out with anything?

24 A. I did -- all I saw was them get out of the car.

25 Q. All right. And you -- the same thing with Mickey, you

REBECCA ROGERS: DIRECT BY MR. HALL
CROSS BY SOLICITOR HOLLAND

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1 didn't see anything in his hand?

2 A. No.

3 Q. Now, tell me why did you not get out of the car?

4 A. Because you would have to go through the trouble,
5 opening my hood, turn the car off. I'm not going to leave
6 my car running on the side of the road in a neighborhood
7 that I'm not familiar with. I mean, it's just too much
8 trouble.

9 Q. All right.

10 MR. HALL: Answer any questions the State may have for
11 you.

12 CROSS-EXAMINATION

13 REBECCA ROGERS BY SOLICITOR HOLLAND:

14 Q. Good afternoon, Ms. Rogers. You live with Ricky and
15 Mickey Passmore, correct?

16 A. Right.

17 Q. Were you aware that Julia was in a relationship with
18 an African-American man?

19 A. No, I wasn't.

20 Q. You weren't at the time. Okay.

21 Now, it's your testimony today that you guys were
22 going there to pick up the kids?

23 A. Right.

24 Q. Okay. Were you aware - I know you said you didn't see
25 the Ricky with the sworn, but were you aware that it was

REBECCA ROGERS: CROSS BY SOLICITOR HOLLAND

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1 in your car?

2 A. No, I wasn't.

3 Q. So he would have had to put that in the car before you
4 got involved, correct?

5 A. Correct.

6 Q. So it's possible they were put in - They, obviously,
7 were putting stuff in your car before you were involved?

8 A. No, not stuff. No, you can't say they put stuff.

9 Q. Uh-huh. Well, they had to put something in your car
10 before you got involved, correct?

11 A. Apparently, a sword.

12 Q. So you had no idea that that sword was in the car at
13 the time?

14 A. No, I didn't.

15 Q. And you did not see Ricky get out with it at all?

16 A. No, I didn't.

17 Q. And you stated you had to stop by the convenience
18 store to put air in your tire, correct?

19 A. Uh-huh.

20 Q. Do you know what convenience store?

21 A. It was - I don't know the name of it. It's the one up
22 at WalMart at York.

23 Q. Okay.

24 A. The Kangaroo or Mark - not a - Kangaroo.

25 Q. Up here in York?

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REDIRECT BY MR. HALL

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1 A. Yeah.

2 Q. Okay. So when you woke up, your car was flat - your
3 tire was flat, correct?

4 A. No, it wasn't all the way flat, but I'd been going
5 through this for weeks to put air in my tire twice a day
6 and I was good.

7 Q. But it didn't have enough air for you to get to Clover
8 at the time?

9 A. No.

10 SOLICITOR HOLLAND: I beg the Court's indulgence for
11 just one moment.

12 (PAUSE.)

13 Q. And - And, Ms. Rogers, I know you said you stayed in
14 the car the whole time, correct?

15 A. Uh-huh.

16 Q. So you have no idea what happened in that house,
17 correct?

18 A. Right.

19 Q. Thank you very much.

20 THE COURT: Redirect?

21 REDIRECT-EXAMINATION

22 REBECCA ROGERS BY MR. HALL:

23 Q. Stuff in the car. You all - A lot of stuff in your
24 car on the 19th?

25 A. Yes, there was - We half lived in my car; we half

REBECCA ROGERS: REDIRECT BY MR. HALL

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1 lived with Ricky and Tab. Sometimes we stayed with my
2 mother, 'cause we had lost everything we had. We had lost
3 our home. The car was - We lived out of that car a lot.

4 Q. All right. Thank you.

5 MR. HALL: No further questions.

6 THE COURT: Re-cross?

7 SOLICITOR HOLLAND: Nothing, Your Honor.

8 THE COURT: All right. You can step down and be
9 excused. We appreciate your time.

10 (WITNESS LEAVING WITNESS STAND.)

11 THE COURT: Mr. Hall.

12 MR. HALL: Your Honor, that's the Defense case.

13 THE COURT: Anything in reply?

14 SOLICITOR HOLLAND: Your Honor, can we just have a
15 few-minute break. I hate to do this after such a short
16 witness, but could we just have a few minutes?

17 THE COURT: All right. We'll take a short break.

18 The State rested, now the Defense is resting, and
19 we're to the point where I've got to kind of see what's
20 next.

21 (JURY EXITS COURTROOM AT 03:00 P.M..)

22 SOLICITOR EPTING: May it please the Court.

23 THE COURT: Yes, sir.

24 SOLICITOR EPTING: Your Honor, we, the State does have
25 one reply witness, a James Passmore.

JAMES PASSMORE: DIRECT BY SOLICITOR EPTING

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1 THE COURT: All right. Let's bring the jury back in.
2 (JURY RE-ENTERS COURTROOM AT 03:05 P.M..)

3 THE COURT: The State.

4 SOLICITOR EPTING: Your Honor, in rebuttal, the State
5 would call James Passmore.

6 THE COURT: All right. If you'll have him come up
7 here and show him where to be sworn in.

8 MADAM CLERK: All right.

9 (WHEREUPON, JAMES PASSMORE,
10 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

11 MADAM CLERK: Please have a seat.

12 DIRECT EXAMINATION

13 JAMES PASSMORE BY SOLICITOR EPTING:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Could you please state your name for the record?

17 A. James Passmore.

18 Q. And what relation to you are - or what relation are
19 you to the Defendant in this case, Ricky Passmore?

20 A. I am his son.

21 Q. You're his son. I want to ask - I only have a couple
22 of questions for you and I want to ask you about a question
23 -- I beg the court's indulgence.

24 I want to ask you about something that occurred on
25 June 19th at your house on [REDACTED]. Do you

1 remember that night?

2 A. Yes, sir.

3 Q. At some point, did your daddy come in your trailer?

4 A. Yes, sir.

5 Q. Could you please tell the jury about that?

6 A. Well, he came into my house and when the door slammed,
7 I woke up and he came in my room and starting saying,
8 "James, you letting a M F'ing nigger up in your house," and
9 he left the room.

10 Q. Did you hear anything said after the door slammed?

11 A. Yes. He - I heard - I didn't hear the entire thing,
12 but I did hear, "You move, you die."

13 Q. You heard, "You move, you die?"

14 A. Yes.

15 Q. Did you recognize that voice to be a male or female,
16 boy or girl?

17 A. Male.

18 Q. Male. And did you recognize that voice to belong to
19 anybody in particular?

20 A. No.

21 Q. All right. That's all the questions I have for you,
22 James. Now, Mr. Hall, the Defendant's attorney in this
23 case may have some questions for you. Please answer any
24 questions he might have.

25

CROSS-EXAMINATION

1 JAMES PASSMORE BY MR. HALL:

2 Q. Hey, James. My name is Mr. Hall. I'm going to ask
3 you just a couple of questions.

4 A. Okay.

5 Q. How old are you, James?

6 A. I am ten.

7 Q. You're ten. So what grade are you in?

8 A. I'm in the fourth.

9 Q. In the fourth grade. And you've talked about when
10 your daddy came to your house up in Clover back in June.

11 Did you talk to the police about what happened?

12 A. Yes.

13 Q. And your mama wrote out a statement for you, right?
14 But she wrote that, didn't she?

15 A. Yes.

16 Q. And what you're telling the jury today is that you
17 were asleep when your daddy came to the house, right?

18 You sleep in the back room. Who sleeps in the room
19 with you?

20 A. Me and my brother share a room.

21 Q. You and your brother shared a room. And when you were
22 back there and you were asleep, what you've told this jury
23 is what your daddy said was after you woke - after he had
24 come to your room, right?

25 A. Yes, sir.

JAMES PASSMORE: CROSS BY MR. HALL

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1 Q. Did your mama tell you that's what he said?

2 A. No, sir.

3 Q. He didn't. Did - When he was out there, did - where
4 was Tara when you heard that? Do you know where Tara was?

5 A. I think she was in the living room.

6 Q. She was in the living - You don't really know where
7 she was - Do you know where she was?

8 A. Well, not exactly the --

9 Q. All right. And you've talked to - Have you talked to
10 your mama about this case?

11 A. A few times.

12 Q. A few times? All right. And, again, when you - when
13 the - when you talked to the police, your momma wrote that
14 statement, right?

15 A. Yes, sir.

16 Q. Okay.

17 MR. HALL: Thank you.

18 SOLICITOR EPTING: Nothing further from the State,
19 Your Honor.

20 THE COURT: Thank you, you may stepped down and be
21 excused.

22 (WITNESS LEAVING WITNESS STAND.)

23 THE COURT: Anything else from the State?

24 SOLICITOR EPTING: Nothing else, Your Honor.

25 THE COURT: All right. Members of the jury panel, I

1 know you feel like you going in and out and you are, but we
2 have now reached the point where we have some short matters
3 to take up and when you come back in, both sides have
4 rested, so the attorneys will present their closing
5 arguments. They're different from the opening statements,
6 because now they will be trying to convince you why the
7 evidence should lead you to a certain verdict based on the
8 law that I will charge to you after they make their closing
9 arguments. So I'm going to let you go in just for a quick
10 refresher, and we've got a little bit of work to do, but
11 we'll take a short refresher and then we'll bring you back
12 in for closing arguments.

13 (JURY EXITS COURTROOM AT 03:11 P.M..)

14 MR. HALL: And, Your Honor, at this time, the Defense
15 would renew all the previous motions.

16 THE COURT: I - My ruling is the same. I believe
17 there is evidence both direct and substantial
18 circumstantial evidence from which a jury could make a
19 determination that the State has proven Mr. Passmore's
20 guilty of unanimous - of one or more of the charges for
21 which he is - one or more of the offenses which he is
22 charge. So let's take a real short refresher break which I
23 know the jury is and when we come back in, we'll be ready
24 for arguments and charge.

25 We have verdict forms if you want to look at them over

1 break.

2 (COURT IN RECESS AT 03:12 P.M..)

3 (COURT BACK IN SESSION AT 03:26 P.M..)

4 THE COURT: All right, bring in Mr. Passmore.

5 (DEFENDANT RICKY PASSMORE REENTERS COURTROOM.)

6 THE COURT: Any comments on the Verdict Form?

7 MR. HALL: Nothing from the Defense, Your Honor.

8 SOLICITOR HOLLAND: Nothing for the State.

9 THE COURT: Okay. And, of course, on the kidnapping,
10 that would go in and I've got - they put the verdict on
11 back of -

12 SOLICITOR HOLLAND: Okay.

13 THE COURT: -- the back of that. And, Ms. Stephanie
14 will help me remember.

15 All right. Bring in the jury.

16 (JURY ENTERS COURTROOM AT 03:27 P.M..)

17 THE COURT: Members of the jury panel, as I told you,
18 you will now hear the closing arguments, first from Mr.
19 Hall on behalf of Mr. Passmore, and then from the State,
20 then I will charge you the law.

21 During their presentation as the attorneys may
22 represent to you their view or they'll certainly represent
23 to you their view, but they may cite testimony, so you
24 remember witness so-and-so testified X, Y, and Z. I'm sure
25 they will be accurate as they can on that but if they were

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1 to inadvertently misstate some testimony, you remember what
2 the witness said, because they're not - the attorneys are
3 not witnesses.

4 They also know what I'm going to tell you about the
5 law. We've gone over that. One of the things we did while
6 you were out of the room. So they know what legal
7 principals I intend to tell you, to charge. If they tell
8 you I will charge you something and I don't, again, it
9 would not be intentional, it would be inadvertent. It
10 doesn't apply. It only applies if it comes from me.

11 MR. HALL: May it please the Court?

12 THE COURT: Yes.

13 MR. HALL: Well, you've heard the term "redneck rant"
14 and you've actually heard from the mouth of Julia Coleman
15 about stupid redneck propaganda or redneck rant.

16 Well let me give you another term. Redneck divorce.
17 Redneck divorce is a way to get rid of your spouse,
18 boyfriend, children's momma quick and easy. Come to
19 criminal court, talk to the police. It's called a redneck
20 divorce if you want to get somebody out of your life.
21 That's what this case is about, a redneck rant and a
22 redneck divorce.

23 This case is about Julia Coleman versus Ricky
24 Bassmore. It's ugly, it is embarrassing. We have to sit
25 here and listen to this family's life, how they live,

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1 things they do, the words that they choose, the values that
2 they choose. It's ugly and it's embarrassing, but that's
3 the nature of redneck rants and redneck divorces. And I
4 submit to you it's ugly and it's embarrassing as those
5 things are, it is not against the law.

6 Let's look at Julia Coleman's testimony in this case
7 of Julia Coleman versus Ricky Passmore. Julia comes to the
8 stand and she tells us what happened. And she never says
9 she's scared. She never says she's afraid. She never says
10 that she's upset except when the Solicitor goes, "You're
11 afraid" or when the Solicitor says, "You were scared?"
12 "Yes, yes."

13 She was mad. She's still mad. Her testimony is that
14 she heard the first part of that very offensive recording
15 and what was her response? Her words, "It was stupid, it
16 was propaganda." What she actually said was that the
17 recording was propaganda. The conversation he was having
18 with his son, James, at the end of the hall was stupid, but
19 when you put them altogether, it's a stupid redneck
20 propaganda.

21 What does she do when Ricky comes in? They start
22 cursing each other. She's searching for her phone. She
23 eventually stands up, smokes a cigarette before going out
24 on the porch. Tells Ricky Passmore and Mickey Passmore to
25 get out. Says, "I ain't got time for this shit, I got to

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1 go to work."

2 The car is stopped. I guess we call it a car. It may
3 - The proper term may be a four-wheel storage building. In
4 fact, without being too offensive, a redneck storage
5 building, which Julia Coleman and Mickey Passmore were
6 living in it sometimes, living in and out of it because --
7 or not Julia Coleman, Rebecca Rogers and Mickey Passmore,
8 because they didn't have a place to live. The car is full
9 of stuff - junk. Junk that normal people may not
10 necessarily have, but their junk, their belongings.

11 The State brings a lot of that stuff in here to try to
12 tell you that this was some plan to load up the car with
13 all of this stuff to go up to Clover to start a war.

14 Now, Ricky Passmore told you what he had. He had this
15 long knife, or a sword, to send his message. Use your
16 common sense. He and Mickey Passmore and Rebecca Rogers
17 did not get into a 1992 Lincoln Town car that you have to
18 crank by opening the hood and connecting wires and putting
19 the hood down and the tires going down and it has a slow
20 leak that you have to pump up twice a day and the toggle
21 switch that operates the brake light doesn't work,
22 kidnappers and burglars who are planning what they want you
23 to say, planning some big event don't carry that and do it
24 that way.

25 That's not what this case is about. It's not about

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1 burglary. It's not about kidnapping. It's not about
2 Criminal Domestic Violence of a High and Aggravated Nature.
3 It's about Julia Coleman versus Ricky Passmore here in
4 Criminal Court. A redneck divorce. The State reaches and
5 reaches and reaches and reaches and reaches and reaches to
6 make it something that it's not, but it is not a burglary,
7 it's not a kidnapping, it's not a Criminal Domestic
8 Violence of a High and Aggravating Nature.

9 In a little bit, the Solicitors are going to get up
10 and they'll probably tell you what the law is. If they
11 don't, certainly the Judge will tell you what the law is
12 that you have to - that you'll consider when you're in your
13 deliberations. And the first is that my client, Ricky
14 Passmore, is charged with burglary first degree, and he
15 will tell you that a person is guilty of burglary in the
16 first degree if the person enters a dwelling without
17 consent and with intent to commit a crime in the dwelling.

18 And then it goes on to say one of the elements of
19 burglary first degree is to be armed with a deadly weapon.
20 And there's other parts about physical bodily injury, those
21 kind of things and that's not in there.

22 But when the Judge reads you that and you must keep
23 this in mind, intent is a - is an important part of this
24 case. It's extremely important, because admittedly, Ricky
25 Passmore went to Clover at five o'clock in the morning on

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1 June the 19th and he went to the house with this long knife
2 and he went in.

3 Now, one, his testimony is, is that he knocked on the
4 door, the door was opened and he went in. Pardon the
5 expression, but sort of a redneck entrance. The door was
6 opened, he went in with his knife to send his message.

7 Now, he's testified clearly what his intent was. It
8 was not to commit a crime. He testified that when he was
9 standing outside, he knew Chip was not there. How did he
10 know Chip was not there? He had had this conversation with
11 his daughter, the rant with his daughter earlier, she said
12 they'd been there earlier that day. You saw the picture
13 and you can look at the picture of the front door to that
14 mobile home and he's standing on the door, you can see
15 through the window. What does he see? Julia Coleman
16 asleep on the couch. Where is Julia Coleman say she was
17 when the knock was on the door? Asleep on the couch.
18 Where were the children? She said Tara was in the back of
19 the house, James was in the back in his room asleep and
20 Cody was playing some type of video games. He could look
21 through the window. He knew Chip wasn't there. He had no
22 intent to go in and commit any crime. Certainly, his
23 intent was, and he accomplished it, to send this message
24 out of concern for his children, yet another redneck way of
25 communicating. That's not a crime.

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1 The State must prove his intent beyond a reasonable
2 doubt, and then that - the Judge is going to tell you that
3 reasonable doubt is the kind of doubt that would cause a
4 man - a reasonable person to hesitate to act. In this
5 case, we've got Julia Coleman's testimony. We've got Ricky
6 Passmore's testimony. And I submit to you that the
7 testimony of - you know, the State calls this ten-year-old
8 little boy, a ten-year-old little boy, they call a
9 ten-year-old little boy to come up here and testify in a
10 case between a momma and a daddy. A ten-year-old little
11 boy has to come take this stand, and then testify to what
12 his momma had written in a police statement.

13 Secondly, the Judge is going to talk to you about
14 kidnapping. Kidnapping is a little more complicated. It
15 says that - the kidnapping statute says, "Whoever shall
16 unlawfully seize, confine and inveigle, decoy, kidnap,
17 abduct, or carry away any other person by any means
18 whatsoever without authority of the law is guilty" and then
19 the Judge is going to prove to you that each - that the
20 elements of kidnapping must be proven beyond a reasonable
21 doubt.

22 Now, there's a dispute about whether my client pushed
23 his wife down. Julia says that she[sic] pushed him[sic]
24 down. He says that he didn't. The pushing down on a couch
25 is not an element of kidnapping. In fact, what we - what

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1 we've learned from Julia Coleman, herself, she didn't stay
2 on the couch. He didn't put the - There is no testimony
3 about him putting a sword up to her. There was a lot of
4 this back and forth about words and cursing, but what did
5 she do? She got up during this minute, minute-and-a-half
6 episode, according to Rebecca Rogers, had a cigarette in
7 her mouth standing on the porch, "I ain't got time for this
8 shit, go to work -- I got to get to work." And they - What
9 did they do? They left. She was not kidnapped.

10 The Judge is going to tell you about Criminal Domestic
11 Violence of a High and Aggravated Nature. And that is
12 defined as an assault upon a household member. Now, he's
13 going to explain to you and you'll have - And he's going to
14 explain to you the law of household member to be guilty of
15 Criminal Domestic Violence does not mean children that are
16 afraid. It means that a spouse or someone who you have
17 children in common if the definition of Criminal Domestic
18 Violence, if they are in, in this case, fear of eminent -
19 fear of serious bodily injury or death, then the person
20 that put them in that fear can be found guilty of Criminal
21 Domestic Violence of a High and Aggravated Nature.

22 So, and you have to remember that you've got to be
23 thinking about Julia Coleman, Julia Coleman, Julia Coleman
24 versus Ricky Passmore.

25 Now, let's again look at Julia Coleman's actions as

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1 far as any fear or of any bodily injury and, again, as I
2 told you a little bit earlier as she was on the stand, the
3 Solicitor said the words afraid. The Solicitor said the
4 words confined. The Solicitor said the words fearful. Not
5 Julia Coleman. And I submit to you when you look and judge
6 her actions and the way she told what happened on the - on
7 this stand today that what Julia Coleman is today, and was
8 on June the 19th, is a mad woman. Not a fearful, scared
9 woman of her husband who runs his mouth and spits out
10 propaganda and has done it for years and years and years.
11 She didn't call the police. She didn't call the police
12 after she heard the rant, the twenty-minute recorded rant.
13 She didn't call the police when he showed up at her door.

14 And then he's going to tell you about possession of a
15 weapon during the commission of a violent crime and
16 certainly, without a burglary or in this case without a
17 kidnapping, which he's not guilty of, you cannot find him
18 guilty of possession of a weapon during the commission of a
19 violent crime. That doesn't mean he didn't - You're not to
20 decide when you go back there, all right, did Ricky
21 Passmore have a big ole knife or a sword with him? We need
22 to decide whether he had one. That's not an issue. He had
23 it. He admitted that he had it.

24 And so just the fact that he had it with him does not
25 make him guilty of either burglary or Criminal Domestic

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1 Violence of a High and Aggravated Nature or kidnapping and
2 the Judge will inform and tell you that his intent is what
3 matters. We can determine his intent by what he said, and
4 then we can also determine what it appeared his intent was
5 by the reactions of Julia Coleman when he was in her house.

6 Now, certainly, you would have to - We would have to
7 all agree that that's not a proper way to resolved marital,
8 or in this case, family disputes bringing a sword to send a
9 message. We're not here telling you that that's what
10 people ought to do. However, just because you do it does
11 not mean you've violated the laws of this state and are
12 guilty of a burglary or a kidnapping or Criminal Domestic
13 Violence of a High and Aggravated Nature.

14 But the Judge is going to tell you there are two other
15 charges that you could find him guilty of if you decided
16 that it - if you decided that was justice in this case and
17 that is the crime of Criminal Domestic Violence which
18 states that it is unlawful to - in this case to offer to
19 cause physical harm or injury to persons own household
20 member, the mother of his children, with present ability
21 under circumstances reasonably creating fear of imminent
22 peril. So even if you - even if you believed that there is
23 some amount of fear, because he came into the house, you
24 can still find him guilty of Criminal Domestic Violence.

25 And then lastly, he's going to charge you with

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1 trespassing which states that it basically, and ya'll
2 probably know this, that if somebody, you've warned them
3 not to come on your property and they come anyway, you give
4 them that warning, then they do it, then that's trespassing
5 and in this case, there was testimony from Julia Coleman
6 that said that she told him not to come back and my client
7 says he never -- he never got that message and -- but you
8 can find him guilty of trespassing for going to his wife's
9 house or the house where his children was.

10 Ricky got on the stand. He told you his intent. He
11 knew that Chip was not there and in his redneck way was
12 sending a message, don't come around my children. Sending
13 a message through his wife. A terrible way to communicate
14 it, but that's what he was communicating.

15 You know, divorces, separation, child support, family
16 issues are not pleasant. There is a proper place for
17 those, but it's not in General Sessions Court. It's not in
18 Criminal Court in this case.

19 As I told you in the beginning redneck rants and
20 redneck divorces are ugly, they're embarrassing, they're
21 not pleasant and this hasn't been pleasant, this has been
22 embarrassing. Ten-year-old children put on the stand. But
23 the actions of Ricky Passmore on the night of January 19th
24 did not rise to a level of a very serious, extremely
25 serious crimes that he's charged with.

CLOSING STATEMENT: BY SOLICITOR EPTING

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1 Ricky Passmore asks that you return a just verdict in
2 this case and that is not guilty. Thank you.

3 SOLICITOR EPTING: May it please the Court.

4 THE COURT: Yes, sir.

5 SOLICITOR EPTING: Defense counsel.

6 Redneck rants, redneck divorce, redneck storage
7 buildings, redneck entrances. These are all kinds of buzz
8 words, cute little phrases. Makes him sound almost like a
9 cartoon character, doesn't it?

10 Ladies and gentlemen, I ask myself how much of a
11 cartoon character Ricky Passmore seemed when he walked
12 through Julia Coleman's door and asked in a threatening
13 tone, "Where's Chip," and pulled out that sword and turned
14 to her and said, "Bitch, you move, you die." Nothing cute
15 about that.

16 What this was was not a redneck entrance; it was not a
17 redneck divorce. It was a burglary. It was Criminal
18 Domestic Violence. It was a kidnapping and it was the use
19 of a weapon during a violent crime. Julie Coleman is a mad
20 woman. Who can blame her after what happened that night?

21 And, ladies and gentlemen, during my presentation,
22 this is a very important case to the State as I'm sure it's
23 a very important case for the Defense, so I'm going to be
24 referring to my notes. I'm going to use a PowerPoint to
25 help to collect my thoughts, and I thank you ahead of time

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1 for your attention.

2 The first question, what are we here to determine?
3 We're not here to determine whether Ricky Passmore is a
4 racist. That's not a divorce. We're not here to determine
5 whether he's a good or a bad person. Trials would be
6 endless if that was the case. The only thing we're here to
7 determine is whether he is guilty of the crimes with which
8 he is charged. What happens after that and what he is
9 sentenced to, if anything, is completely in the Judge's
10 providence. That's - You're to put that out of your mind.
11 The only question, did he commit the crimes, we have to
12 prove to the highest legal standard, beyond a reasonable
13 doubt.

14 There are several definitions as lawyers love to
15 define things several different ways. I'm sure you all
16 can empathize with that. One of those definitions is as
17 stated by Mr. Hall. A reasonable doubt is one that causes
18 you to hesitate to act, but what does that really mean?
19 Because we do not have to prove our case or any case beyond
20 any doubt. If that were the case, we would never win a
21 case, 'cause they are very, very, very few things in life
22 that you can know with zero doubt, zip doubt.

23 Another definition that I believe the Judge will
24 instruct you on is with a proof beyond a reasonable doubt
25 is proof that leaves you firmly convinced in the

1 Defendant's guilt. And, ladies and gentlemen, I submit to
2 you after all the evidence is in, and after you've heard
3 these arguments, you will be firmly convinced that Ricky
4 Passmore is guilty beyond a reasonable doubt as charged.
5 You will be firmly convinced.

6 What must we prove? We know the standard. We know
7 what we're looking at here. We're just looking at the
8 charges. We know what level we have to prove them to, so
9 what must we prove? Let's start with the first charge,
10 Criminal Domestic Violence of High and Aggravated Nature.
11 That constitutes one, assault, or threat of an assault on a
12 household member or somebody that you have a child in
13 common with which would make that household member fear
14 serious bodily injury or death.

15 What is assault? It's threat of eminent harm with the
16 capability of doing so. I've heard it described as the
17 raising a stick within striking distance of a person that
18 puts you in fear of me hurting you, and I have the ability
19 to do it, because I'm close enough.

20 What evidence have we provided? You heard the tape
21 that goes to his intent on what exactly he planned on doing
22 when he was getting there. We have heard testimony from
23 the Defendant, from Julia, and from Tara that these are his
24 children living in this residence and that they are
25 children had by Julia, so she's a house - so she qualifies

CLOSING STATEMENT: BY SOLICITOR EPTING

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1 under the CDV statute.

2 We heard Hawkins tell what happened. We heard Julia
3 tell what happened. He entered the house; he pulled out
4 the sword and within striking distance, points to her and
5 says, "If you move, you die." How's a reasonable person to
6 take that? It's a threat. It's a threat to do harm. The
7 implication is he's going to hurt you with a sword and
8 Julia had testified that he was within striking distance
9 when he said that. That's all the elements of assault, so
10 an assault did occur.

11 The victim, Julia, and the Defendant, Ricky Passmore
12 had at least one child in common. Did she fear serious and
13 bodily injury to them? Well, what's he using to threaten
14 her, a sword? If you get struck with a sword, it's
15 reasonable - a reasonable person knows that could very well
16 kill you.

17 Think about the time of night. It's five o'clock in
18 the morning. Think about Ricky's demeanor. Is he saying
19 it calmly? Not according to the testimony we've heard.
20 He's extremely upset. "You move and you die." Not sit
21 there while I go take care of some things. Not, don't you
22 move. "You move and you die." How did the children react
23 to that? The question is what would a reasonable person
24 think when they heard that threat made. How would the
25 children react? Under Officer Hawkins' testimony when he

1 spoke with those children, white-faced, terrified. "My
2 daddy is in the house threatening to kill my mother with a
3 sword." Certainly, they believed the threat was real so
4 why shouldn't you? So CDV HAN proved.

5 An assault occurred with a deadly weapon. In this
6 case, the sword. The victim, Julie, had at least one child
7 with in common. Julia had reason to believe that she was
8 going to be injured based upon the Defendant's words, as
9 well as his conduct inside the house.

10 We move onto kidnapping, what it's not. A lot of
11 times people hear kidnapping and when I was doing this, I
12 thought this myself. You think baby stolen and a ransom
13 note. You think somebody shoved into the trunk of a car,
14 taken away. You get a ransom note in the mail; this is
15 what you have to pay to get your loved one back. That's
16 not the law in South Carolina. In South Carolina in our
17 jurisdiction, we value our freedom to move, our freedom to
18 move about with interference very highly and anytime
19 somebody by threat of force or by use of force restricts
20 that freedom, that's kidnapping.

21 What evidence have we shown? You heard it on the
22 tape. He's all - He's got all kinds of ill-will towards
23 Julia on the tape. He's going to put her in the ground.
24 He's going to do all kinds of bad stuff to her. He's going
25 to show her the exact same amount of mercy that he's going

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1 to show that nigger in the house which is none.

2 We had Julia's testimony. He walks in the house,
3 pulls out the sword and goes to her, "Bitch, you move, you
4 die." She testified that at some point, she even tries to
5 stand back up to kind of confront him and say get out, you
6 know, and do all that and what? He pushes her back down.
7 He actually pushes her back down on the couch. Tara
8 testified to the same thing. She saw it. Against her own
9 father there on the stand, she testified to that. She saw
10 it with her own eyes. Based on the evidence we've shown,
11 firmly convinced he kidnapped her. He restricted her
12 movement.

13 Burglary first, and I imagine this will be the
14 remaining ground of battle in this case. Strictly speaking
15 we have several elements just like we have on the other
16 case. First element, "Entry without the consent of the
17 homeowner." As the owner of a house, that's a person who
18 can decide who comes in and comes out. They got a lot of
19 power. You get to decide who can come in and you get to
20 decide who can't come in. If somebody enters into a
21 dwelling which is a place where people live and if you have
22 an intent to commit a crime, then at that point you've
23 committed a burglary. The only question becomes what kind
24 of burglary. In this case, it's a burglary of first degree
25 based upon aggravating circumstances. "It occurred during

1 the hours of darkness." I think that's undisputed that it
2 was dark outside when this happened. I think it's also
3 undisputed that when Mr. Passmore entered the house, he was
4 armed. I say "a" when he come up there, but according to
5 his testimony, probably two weapons, 'cause he had the
6 sword which according to him, he's banting it about which
7 according to Julia, he pulled out.

8 Don't forget about the brass knuckles. He has those
9 on when he was arrested. Those are in evidence. And, of
10 course, it has to occur in York County or else it would be
11 heard in Chester or it'd be heard in Lancaster, some other
12 place. There's a couple of elements that are very, very
13 easy. Obviously, this was a dwelling. There's no -
14 There's no dispute that Tara[sic] and her children lived
15 there. That's what constitutes a dwelling. People live
16 there and they call it home.

17 Obviously, this occurred in York County. We have
18 the address. We've had multiple people testify that this
19 was, in fact, in York County. Entry without consent seems
20 to be the thing that's been argued about the most. How do
21 we know entry was without consent in this case? What was
22 the understanding of Ricky's ability to be at the house
23 based upon prior dealings? What'd Julie testify? That at
24 some point shortly before this, approximately a week or a
25 week-and-a-half, Ricky asked to come over there to see the

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1 children. Do you all remember when Julia testified to
2 "Nah-uh, no way. You cannot come over." He came over
3 there with the understanding that he was not allowed to be
4 there.

5 Which kind of informs the next thing, 'cause when
6 did they show up? Are we really given to believe that
7 because whomever he's riding with has a crappy car that the
8 only time he can show up at this house is five o'clock in
9 the morning? Witnesses testified that him showing up that
10 early would have been extremely unusual, extremely unusual,
11 and I submit to you that it was unusual in this case for a
12 reason, 'cause they wouldn't be expecting him then.

13 Anyone called ahead? Well, Ricky says he called
14 ahead, but anyone else? Anyone else here in this courtroom
15 to testify that he called ahead to try to make sure that
16 they knew he was coming? Anyone announce themselves? Does
17 anyone ID themselves at all? Again, that depends on who
18 you believe. Ricky, the sole person in all this courtroom
19 that says yes, we did announce our self. Anyone else?
20 They never heard a voice. As a matter of fact, Julia says
21 that her son who was closest to the door and mistook that
22 for her African-American boyfriend, Chip, and that's why
23 she told him to crack the door open to see who it was.

24 What - That's a grammar mistake. Please forgive me.
25 What do they show up with? Much has been made about the

1 weapons in the car and the reason that we presented that
2 evidence to you is because science is not yet at a point
3 where we can determine what's in somebody's mind by putting
4 them in some type of device where we can read their mind.
5 And we determine what somebody's thinking, what somebody's
6 planning, what's in their heart by extrinsic things,
7 because that's the only way we can know how. The words
8 they say. The actions they take. The things they have
9 with them.

10 What did they have in that car? I submit to you that
11 they had more of an amount of weapons in that car, and I
12 submit to you that it is just a mind-boggling coincidence
13 for them to have all of these weapons, the brass knuckles,
14 the menacing weapon, this sword, this assault. - And this
15 loaded assault rifle, this bat, this crowbar, this length
16 of rope. All those things, just coincidently in the very
17 car that you're taking to your ex-wife's house at 5:00 a.m.
18 in the morning, knowing she doesn't want you there, knowing
19 that you have an antagonistic relationship with her
20 boyfriend, what are the odds?

21 What does Ricky do inside first thing? Well,
22 according to his testimony the first thing is the sword.
23 He comes in with a sword. Compare that to Rebecca's
24 testimony, his witness. She never saw a sword. Isn't that
25 interesting? That she was watching the door, saw them let

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1 him in, which in their defense would possibly eliminate
2 entry without consent, but she didn't see him with a sword.
3 That big old long sword that I held out in front of you
4 when we entered it into evidence, isn't that interesting?
5 So either her perception is terrible or she is saying
6 something in court to try to help out somebody that she
7 loves. We put a great deal of faith in your like-minded
8 and I'll leave you to parse that out.

9 He pulls out a sword and what's the first thing he
10 says, "Where's Chip?" He wants you to believe that he
11 knows Chip isn't there. He knows he's not there, because
12 Tara did say, "Chip's not here." But think again, that
13 call was five hours before he actually showed up there.
14 What guarantee does he have that Chip was not here? I
15 would submit to you that he believes there is a substantial
16 possibility that Chip could be there or else why is he
17 saying, "Where's Chip?" Why's he coming in with a sword?
18 Why did he bring all those weapons? Why did he bring
19 backup in the person of his brother, Mickey? Why, if he
20 believed that Chip absolutely was not there?

21 Who can give - Who can give someone permission to be
22 in the house? Is it as simple as an open door? I'd submit
23 not. I'd submit it's the homeowner, being the person who
24 pays the bills, being the person who owns the house can
25 decide who comes in and who stays out. It's a fundamental

1 principal of property law. Who's the homeowner in this
2 case? Because as much as Ricky would like to say on the
3 stand that this is his house 'cause his children are in
4 there, Julie Coleman pays the bills; that's her house. She
5 has the power to decide who stays and who goes, who can
6 come in and who can't.

7 And she was clear when she testified that Ricky
8 Passmore was not allowed in that house and, ladies and
9 gentlemen, I submit to you Ricky knew it, and that's why he
10 didn't announce himself when he was at the door. He knows
11 he doesn't have permission to be in the house, so he shows
12 up at the house in darkness at 5:00 a.m. and never
13 announces himself, 'cause he knows if he says it's Ricky
14 Passmore, she's going to either call the police or she's
15 going to deadbolt the door. He's never getting in.

16 He never asked permission to enter or covering the
17 audio call in more detail, but think back to it now. He
18 rolled up in the house just like he said he was going to
19 do. Think of the time distance between the call where he
20 said he was going to roll up in the house, five hours.
21 Five hours, long enough for him to drink and to stew and
22 get angrier and angrier and angrier that he is allowing
23 this black man to be around his children.

24 What do we have to prove to intent - to show that he
25 intended to commit a crime inside? This has been covered

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1 over similar to what I already talked about. Science isn't
2 there yet. What you say, what you do and what you have.
3 Let's listen to what he says.

4 (AUDIO PUBLISHED TO THE JURY).

5 SOLICITOR EPTING: It personally offends him. He is
6 weak and worthless, because he cannot stop his wife from
7 bringing this black man in front of his children. He feels
8 an essential duty to protect women and children in
9 particular.

10 (AUDIO PUBLISHED TO THE JURY).

11 SOLICITOR EPTING: Part of the reason that he feels so
12 inferior is because he believes, and I don't intend to do
13 him any dishonesty, that his children are upset.

14 (AUDIO PUBLISHED TO THE JURY).

15 SOLICITOR EPTING: Males are somebody that needs to
16 stand up and fight against a nigger assault, but his
17 children are too young to do it or too scared to do,
18 because their mother is dating the person in question. I
19 will submit to you this puts in his mind that he has to do
20 something about it.

21 (AUDIO PUBLISHED TO THE JURY).

22 SOLICITOR EPTING: Does that sound like he's trying to
23 de-escalate? Does that sound like he's trying to just give
24 a warning shot that's going to just let this guy know that
25 he's not cool with it and to back off? He wants to

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1 escalate. He wants to surreptitiously be told when this
2 black man is going to be over there so that he can show him
3 who the man of the house is. What does your common sense
4 tell you that means?

5 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY.)

6 SOLICITOR EPTING: And what will he do to anyone that
7 stands in his way? Keeping in mind that this call was made
8 five hours before.

9 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY.)

10 SOLICITOR EPTING: "Everybody else is expendable and
11 can be put down." What does that tell you about his mind
12 set when he goes to the house, not only in the house but
13 before when he's trekking through there. When he's
14 gathering up these things in his car? Is it not reasonable
15 to believe he might use this to put somebody down if they
16 get in the way, or this, or that gun he had in the trunk at
17 the time, or the sword that he actually brought into the
18 house? He's talking about putting people in that house
19 down if they get in his way, and he's coming in the house
20 armed with a deadly weapon. That's how you know what he
21 intended to do before he went to the house.

22 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY).

23 SOLICITOR EPTING: I submit that he'll do anything he
24 can to end that situation with Julia and with Chip her
25 African-American boyfriend, even if it means killing Chip,

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1 even if it means killing Julia.

2 We don't look at any one fact in this case. We look
3 at the facts together. He made that phone call five hours
4 before this happened. Five hours later, he shows up at the
5 house armed on his person with a sword and not twenty feet
6 away in the car waiting for him with all these other
7 weapons.

8 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY).

9 SOLICITOR EPTING: He put it on the line. What does
10 your common sense tells you that - tell you that means?
11 Does that mean that he's going to - he expected to walk
12 away from this and if he's not expecting to walk away from
13 that incident why? I would submit to you that a common
14 sense reader, like-minded hearing of that is that he's
15 planning on doing something to their mother, or to the
16 boyfriend, that's going to put him out of their lives.
17 He's going to put it on the line. Or, as he says in the
18 next clip, sacrifice himself.

19 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY).

20 SOLICITOR EPTING: Sacrificing himself by putting an
21 end to that situation. Common sense, what does that tell
22 you he plans on doing? He's gonna do something in that
23 house that's going to one, end the situation and two,
24 sacrifice Ricky Passmore.

25 How does he describe his visit if that speaks to his

1 frame of mind?

2 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY).

3 SOLICITOR EPTING: He's going to show up there with
4 several people who he says are like minded. Did he show up
5 alone that night? No. He showed up with his twin brother.
6 Who could be more like minded than your twin? He is
7 describing exactly what he did five hours later. I know I
8 don't usually describe a social visit as when the role goes
9 down or when I roll up over into someone's house.

10 Aside from intent, you look at the things they
11 carried. All those weapons. Ladies and gentlemen, I
12 submit to you that is not a social visit. That is not a
13 social visit, nor is that, nor is that, nor is that, nor is
14 that, nor is that, and nor is that. The one instrument he
15 brings, all of these things known to his daughter Tara, all
16 very commonly kept in the house against more coincidences.
17 All these are kept in the house except for maybe the bat
18 and the crowbar, which they sometimes take fishing. They
19 don't take the brass knuckles fishing. They don't take the
20 assault rifle fishing nor the sword, nor what they
21 described as a "nigger beater" yet all of those things are
22 present in the car that night. We don't look at anything
23 in a vacuum. We look at the totality.

24 Weapons are at the ready. Remember the testimony of
25 where - of where Ricky Passmore was seated? Backseat

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1 driver. Where is that sword found? Backseat. Here's a
2 close-up. Sword, pool ball mace and the edge of the bat
3 all ready at the reach.

4 Ladies and gentlemen, that sword was described by the
5 police over the radio as possibly an old sword. I would
6 submit to you, if the Court allows, to test the edge on it
7 very carefully, 'cause it's sharp. It's certainly not a
8 normal sword.

9 What would happen if Chip was there? Why is that
10 relevant? Well, when we're looking at burglaries, we're
11 questioning what was in their heart when they went through
12 the door without permission? What did they intend as they
13 walked through the threshold? You hear from Ricky's own
14 mouth that if Rick[sic] had a been there, it very well
15 could have killed him. What would he have done? Let's tie
16 it back to the tape:

17 (STATE'S EXHIBIT NINE PUBLISHED TO THE JURY).

18 SOLICITOR EPTING: I will submit to you that we're all
19 very lucky that Chip was not in the house that night.

20 When is the crime of burglary completed? As soon as
21 the person enters into the house with the intent to commit
22 a crime in their heart. It's completed as soon as he
23 stepped through that door with the weapon with the intent
24 to commit a crime, whether that crime means he kidnap
25 Julia, whether that crime being he commit CDV HAN against

1 Julia. Whether that crime be to take the children out of
2 the house unlawfully. Whether it be to scare Chip
3 unlawfully. As soon as he entered the house with that
4 intent with that weapon in the hours of darkness, the
5 burglary was completed. He entered without consent. He
6 knew he wasn't welcome there by the homeowner and, again,
7 that's consistent with everything that the State testified
8 to, everything.

9 He didn't announce himself and it was too dark for
10 them to see. They actually thought it was Chip. Why
11 didn't he announce himself, 'cause they knew they wouldn't
12 let him in? He knew he wasn't allowed to get in there. He
13 showed up unannounced and armed and intending to commit a
14 crime inside and for the purpose of burglary any crime will
15 suffice.

16 Armed with a weapon, entry without consent in the
17 hours of darkness, intent to commit a crime. It's the
18 residence of Julie Coleman in York County. They are not
19 there just to get the kids. They're not there just to send
20 a message.

21 I stated before, we pay - place great value and great
22 weight in your common sense as jurist. That's how our
23 judicial system works. You heard Ricky Passmore testify
24 that he was kind of marching around this apartment just
25 explained the sword as a sign of fear to Chip, who he

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1 claims he knew for a fact would not be there. Does that
2 make sense to you? Given everything else we know, given
3 all the weapons that they have in the car, given all the
4 things that he said on that recorded phone call that scared
5 his daughter, his blood daughter bad enough that she
6 recorded it and showed it to her momma.

7 No, ladies and gentlemen, much, much more than a
8 redneck rant. Much more than a redneck divorce. Much,
9 much more than any cute phrase we can put on it. The roll
10 went down. Let's call it like it is. The roll that he
11 talked about on that tape went down and he showed up with
12 like-minded people to scare Julia, to try to find Chip and
13 if Chip was in the house, to harm him and possibly kill
14 him. He had a weapon when he did this. That's undisputed.
15 He had that sword.

16 It's your turn to fulfill your oath. All the
17 evidence is in. Mercifully, I'm going to be able to sit
18 down. I'm not going to be talking to you anymore and
19 pretty soon this case is going to be in your hands. Just
20 because you hesitate to act does not mean that you have to
21 find the Defendant guilty. Just because you have doubt in
22 your mind doesn't mean that you have to find the Defendant
23 not guilty. I would submit to you a hundred percent of the
24 Defendants that are convicted are convicted with some
25 doubt. Your doubt must be a reasonable doubt in order to

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CHARGE ON THE LAW:

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1 find him not guilty.

2 An old attorney in our office used to say there are
3 used to say there are chairs in the deliberation room for a
4 reason. If you had to hesitate to act on every case, then
5 you wouldn't even have time to sit down. It would be
6 irresponsible not to hesitate on any case that you're
7 deliberating on because you got to think about it. It's an
8 important decision. You wouldn't hesitate before buying a
9 house, before buying an expensive car, before deciding
10 which college to go to. All of those are important
11 decisions. This an important decision. Do hesitate. Go
12 over the evidence. Share your doubts. Share what you
13 think are the strengths of the case. Sit down in those
14 chairs, deliberate, but at the end, don't lose sight of the
15 totality of the case.

16 Ladies and gentlemen, the totality of the case, the
17 truth of this case screams as to Ricky Passmore's guilt.
18 And at the end of deliberations, I'm confident you will
19 return the only verdict in this case that is just and it
20 speaks the truth, the real truth. Not a catch phrase, the
21 truth, and that's guilty on all counts as charged.

22 I thank you for your time and your service.

23 THE COURT: Members of the jury panel, I appreciate
24 the attention that you have given to the witnesses, to the
25 attorneys and to me. Now it is time for me to charge you

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1 the law that you are to apply to the facts as you
2 determine them to be.

3 Mr. Passmore is charged with burglary in the first
4 degree; kidnaping; possession of a weapon during the
5 commission of a violent crime that being kidnaping, and
6 criminal domestic violence of a high and aggravated nature.
7 I will explain the elements of those to you in a few
8 moments.

9 I emphasize to you that the fact that the charges have
10 been made; the fact that Mr. Passmore was arrested; the
11 fact that he was indicted; and the fact that he is on trial
12 is not evidence and you cannot base a finding of guilt on
13 that. That's just the way our system works. Nor does the
14 fact that he is on trial create any presumption of guilt.
15 I will talk to you more about that in just a moment.

16 These indictments which you will have in the jury room
17 are simply the formal paperwork by way of which one is
18 charged; by way of which one knows what they are charged
19 with; and by way of which ultimately the jury's unanimous
20 verdict will be enrolled.

21 Each of these charges as I mentioned yesterday stand
22 on their own. That is, you look at each charge and examine
23 the facts; apply the law as to that charge but the one
24 exception I mentioned yesterday. And that is if you find
25 that the State has failed to prove Mr. Passmore guilty of

1 kidnaping beyond a reasonable doubt, you would not even
2 consider the possession of a weapon during the commission
3 of a violent crime because you would have found that he did
4 not commit the violent crime of kidnaping. Burglary is not
5 included as a violent crime in our law.

6 To the charges Mr. Passmore has entered pleas of not
7 guilty. His pleas of not guilty place on the State the
8 burden of proving his guilty beyond a doubt, beyond a
9 reasonable doubt, not beyond all nor every doubt.

10 This presumption of innocence is not a mere legal
11 theory or a mere legal phrase. It is a substantial right.
12 It is a bedrock right of our judicial system.

13 The presumption of innocence attaches to an individual
14 at the time they are arrested and remains with them as
15 their case is processed through our court system.

16 The presumption of evidence in Mr. Passmore's favor
17 remains with him at this moment and remains with him as you
18 deliberate.

19 The presumption of innocence in his favor is removed
20 if and when, and only if and when, you find that the State
21 has proven his guilt as to a charge beyond a reasonable
22 doubt.

23 A reasonable doubt has been described and defined by
24 our courts as the kind of doubt that would cause a
25 reasonable person to hesitate to act. Proof beyond a

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1 reasonable doubt is proof that leaves you firmly convinced
2 of someone's guilt.

3 There are very few things in our world that we can
4 know with absolute certainty and our law does not require
5 absolute certainty in a case such as this.

6 If based on your consideration of the evidence, you
7 are firmly convinced that Mr. Passmore is guilty of one or
8 more of the offenses, you would find him guilty of that
9 particular offense.

10 If on the other hand you think there is a real
11 possibility that he is not guilty of a particular offense,
12 you would give him the benefit of that reasonable doubt and
13 find him not guilty. He is entitled to all reasonable
14 doubts you have in regard to the facts in this case.

15 I will remind you that I am the sole judge of the law
16 in this case and you must take, accept and apply the law as
17 I charge it. This is true even if you think I charge the
18 law in error or if you think the law should be different.
19 Your oath requires you to take, accept and apply the law as
20 I charge it.

21 You are not to infer from anything I say or do or have
22 said or done as being an indication of an opinion of mine
23 on the facts. Our law does not allow a trial judge to
24 formulate or express to a jury any opinion on the facts.
25 You are the sole judges of the facts. It is solely up to

1 you to examine the evidence and give to the evidence the
2 effect, the value, the weight and the truth you believe the
3 evidence should have.

4 In doing this you may believe one witness as opposed
5 to several; several witnesses as opposed to one. You may
6 believe all or part or none of a witness' testimony. Use
7 your common sense, your sense of logic, your sense of
8 reason. Use your experiences in life as you analyze the
9 evidence.

10 As judges of the facts that I mentioned yesterday, you
11 also must judge their - the witnesses' who have testified
12 believability, their credibility.

13 In assessing credibility, used the things I've just
14 talked about. Just the things that you find in your day to
15 day life as being indicators of truthfulness and you can
16 use further indicators. How a witness acts on the stand,
17 that is their demeanor. Are they hesitant or
18 straightforward in responding to questions. Is their
19 testimony consistent or inconsistent.

20 Consider the opportunity a witness had to know those
21 things to which the witness testified. And you can
22 consider whether a witness has any bias or prejudice, that
23 is whether a witness wished to help or hurt one side or the
24 other.

25 Mr. Passmore was asked if he had two prior offenses

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1 which carried in excess of one year or more in jail and he
2 said he did. That is no evidence that can be used against
3 him regarding these offenses. You only consider prior
4 offenses of a defendant when examining their believability;
5 not as to their guilt in regard to the particular charges.

6 There are generally in cases such as this, two types
7 of evidence presented, direct and circumstantial evidence.

8 Direct evidence is the testimony of someone who claims
9 to have actual knowledge of a fact, such as an eye witness,
10 is evidence which immediately establishes the facts sought
11 to be proven.

12 Circumstantial evidence is a proof of a chain of facts
13 and circumstances which indicate the existence of a fact.
14 Circumstantial evidence is evidence which immediately
15 establishes collateral facts from which the main fact may
16 be inferred. Circumstantial evidence is based on inference
17 and not on personal knowledge or personal observation.

18 Our law makes absolutely no distinction between the
19 weight or value to be given to either direct or
20 circumstantial evidence.

21 Our law does not require a greater degree of certainty
22 in circumstantial evidence as compared to direct evidence.

23 What you should do is weigh all of the evidence.
24 After weighing all the evidence you are not convinced of
25 Mr. Passmore's guilty beyond a reasonable doubt as to an

1 offense, you would find him not guilty.

2 The first charge I am going to go over is burglary.
3 Now as to burglary and criminal domestic violence of a high
4 and aggravated nature, they are what we call lesser
5 included offenses. They are not like the possession of a
6 weapon during the commission of a violent crime which is
7 actually charged in count two in the indictment.

8 These offenses which are not charged but by law are
9 second tier offenses which you can consider. I describe
10 this as a set of steps.

11 At the top would be the initial crime, that is the
12 charge for which Mr. Passmore is on trial, but our law has
13 a step-down offense which you may, if you determine
14 appropriate, consider that it's lesser - a lesser degree or
15 fall, like a step going down.

16 As to burglary and criminal domestic violence of a
17 high and aggravated nature, there are lesser included
18 offenses. You would only consider those if you determine
19 that the State has not proven the charged offense beyond a
20 reasonable doubt and you would only consider those to the
21 degree that you believe they have been proven beyond a
22 reasonable doubt.

23 Mr. Passmore is charged with first degree burglary.
24 Here the State must prove beyond a reasonable doubt that
25 Mr. Passmore entered a dwelling without consent.

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1 A dwelling is any building or portion of a building in
2 which a person ordinarily sleeps. The State must show
3 there was an entering, that is that Mr. Passmore actually
4 went into the dwelling or some part of it. No force need
5 to be used to gain entry. Literally entry is the act of
6 going into a place.

7 In addition to entry, the State must prove beyond a
8 reasonable doubt that the defendant intended to commit a
9 crime, either a felony or a misdemeanor, at the time of the
10 entry.

11 The mere entry into a dwelling without consent is not
12 burglary. If Mr. Passmore entered the dwelling without
13 consent and intended to commit a crime at the time of the
14 entry, it is burglary, even if the intent was abandoned
15 later after the entry. It does not matter whether the
16 intended crime was or was not committed.

17 Intent may be shown by acts and conducts of a
18 defendant and other circumstances which you may naturally
19 and reasonably infer intent.

20 Finally, the State must prove beyond a reasonable
21 doubt as to the charge of burglary that the defendant, Mr.
22 Passmore, entered or remained in the dwelling in the night
23 time. Night time is the period between sunset and sunrise
24 during which there is not enough daylight to recognize a
25 person's face except by artificial light - moonlight.

1 Now as to burglary, there is a lesser, that's a step-
2 down I mentioned earlier, called trespassing.

3 Trespass is a lesser included offense. One is guilty
4 of trespass when they enter upon the lands or home of
5 another without consent of the landowner after being told
6 by the landowner not to come upon their land or into their
7 home.

8 To prove - To find Mr. Passmore guilty of either
9 burglary or the lesser included trespass, you must be
10 convinced that the evidence supports that beyond a
11 reasonable doubt.

12 The next charge I'm going over is kidnapping. Mr.
13 Passmore is charged with kidnapping. Again, the State must
14 prove beyond a reasonable doubt that Mr. Passmore knowingly
15 and unlawfully seized or confined another person without
16 authority of law. To do anything unlawfully or without the
17 authority of law is to do it willfully and against the law.

18 Knowingly means that it is done with knowledge,
19 consciously. It is not something that is done accidentally.
20 Seize means to take hold of suddenly or forcibly. And
21 confine means to limit one's or restrict one or includes
22 one within boundaries or to shut or keep that person in.

23 The State does not have to prove both a seizure and
24 confinement. Instead, the State has proven beyond a
25 reasonable doubt that the defendant did either one of those

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1 as to the alleged victim, you would find the defendant -
2 you must find the defendant committed one of those, either
3 seized or confined the victim, but you need not find them
4 both. If you find one beyond a reasonable doubt, you may
5 find that the defendant committed a kidnapping.

6 And Mr. Passmore is also charged with the offense of
7 possession during the commission of a violent crime. Here,
8 you must first find the defendant guilty of either
9 committing or attempting to commit a violent crime. Here,
10 kidnapping is a violent crime.

11 The State must also prove that at that time Mr.
12 Passmore was in possession of a weapon. A knife and a
13 sword, which is a form of a knife, means - under our law it
14 is a weapon and it means an instrument or tool with a sharp
15 cutting blade which can be used to inflict, cut, slash or
16 wound. So if you find the defendant guilty of kidnapping,
17 then you may consider whether or not he is guilty of having
18 possession of a weapon during the commission of the
19 kidnapping.

20 The third indictment is that criminal domestic
21 violence of high and aggravated nature. Here, the State
22 must prove beyond a reasonable doubt that the defendant
23 caused physical harm and injury to a member of his own
24 household or that he altered or attempted to cause physical
25 harm or injury to a member of his own household with at the

1 time having the apparent present ability to cause harm or
2 injure under circumstances which would reasonably create a
3 fear of imminent danger.

4 Household members include former spouses, and
5 individuals with whom a defendant has a child in common.

6 Now as to the charge of criminal domestic violence of
7 a high and aggravated nature, I told you what criminal
8 domestic violence means. There is the lesser included
9 offense of simple criminal domestic violence, but he is
10 charged with criminal domestic violence of a high and
11 aggravate nature, which means that in addition to being
12 criminal domestic violence, that is causing physical harm
13 or injury with present ability to cause harm or injury and
14 creating imminent fear, in order to find Mr. Passmore
15 guilty of that offense, as a high and aggravated offense,
16 the State must prove an aggravated circumstance. They must
17 prove that there was an assault and battery of a high and
18 aggravated nature. That is, that he must - the act must
19 have been accompanied by circumstances of aggravation.

20 An assault occurs when someone attempts to or offers
21 to commit a violent injury upon another with the present
22 ability to complete the attempted injury.

23 An assault is the intentional creation of a reasonable
24 fear of immediate bodily harm. It is not necessary that
25 the attempted injury or harm actually take place for it to

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1 constitute an assault. The example I always use is that if
2 I'm standing close enough to you and I rear back my fist in
3 a rude and angry manner, close enough to strike you, and I
4 inflict the fear in you that I will strike you, that is an
5 assault.

6 A battery is the unlawful touching of another person
7 by a person who has committed an assault, and following
8 through or completion of an assault.

9 A battery is applying force or using force to another
10 in a rude, angry or resentful manner without legal
11 justification for doing so. My earlier example if I draw
12 back and I put you in fear and I follow through and I
13 actually make contact with you however slight, if I have
14 touched you I committed a battery.

15 Now the State must prove as to both criminal domestic
16 violence of a high and aggravated nature and as to the
17 lesser offense of criminal domestic violence, that the
18 alleged victim was at the time a household member as I
19 defined it and was put in fear of imminent danger.

20 Circumstances of aggravation include the use of a
21 deadly weapon. As to the charge of criminal domestic
22 violence of a high and aggravated nature, I told you that
23 you can consider yet that offense and the lesser offense of
24 simple criminal domestic violence.

25 Now, I did not mention to you when I charged you the

1 law on kidnapping that a kidnaping does not have to be any
2 personal or monetary gain or for any illegal purpose. A
3 kidnapping may occur for any reason, not necessarily for
4 ransom, it only requires the seize and confinement as I
5 defined that for you earlier.

6 Now the defendant is also charged with the possessing
7 a weapon during the commission of the violent crime of
8 kidnapping and I explained that to you and I defined for
9 you what constitutes a deadly weapon which includes a
10 knife.

11 Now, as you consider this verdict to return, I
12 instruct you that your verdict must be unanimous. All
13 twelve jurors must agree on the verdict. Once all twelve
14 have agreed, Mr. Foreman, you will write the verdict and
15 I'll go over the verdict forms in just a minute.

16 I have forms with two of the indictments and one is
17 the kidnaping indictment. It simply has two counts of one
18 on the back of the indictment itself.

19 If you have any questions while you are deliberating,
20 please write them down and send them out by way of the
21 bailiff. I will consider them, I will go over them with
22 the attorneys and I will determine how to respond.

23 I can bring you back in and charge you on the law if
24 you wish me to go over any part or all of the law. It may
25 be when you send out a question that I can write an answer

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1 to that question on the piece of paper itself and return it
2 to you.

3 And if I do that, Mr. Foreman, keep that and turn it
4 in with the evidence because it has to be part of the
5 record. We can play testimony back if you need to hear
6 testimony.

7 Your verdict may not be based on sympathy, passion,
8 prejudice or matters outside the record.

9 In just a moment I'm going to let you go to the jury
10 room but I instruct you not to start deliberating yet. You
11 must follow to the letter the charge that I have give to
12 you so I have to check with the attorneys to make sure I
13 have charged you correctly.

14 If I have made an error in my charge, I will bring you
15 back in and correct it. If I have not, the bailiff will
16 bring in to you the exhibits and the indictments and the
17 verdict forms and instruct you to start deliberating.

18 When you have reached a verdict, knock on the door and
19 tell the bailiff. I may be doing some other things, but I
20 will send for you as promptly as I can.

21 Now as to criminal domestic violence of a high and
22 aggravated nature, I have a verdict form. There are three
23 options. They are in no particular order other than the
24 fact that I always put them in this order. That means that
25 one does not have any higher import than do the other two.

1 I simply have to put them in some order and this is the
2 order I put them in.

3 If you find the defendant guilty of criminal domestic
4 violence of a high and aggravated nature as charged, you
5 would put a check in front of the line that says that, the
6 top line. The second line you would use if you find the
7 defendant guilty of the lesser included offense of what I
8 will call simple criminal domestic violence. The third
9 line says we find the defendant not guilty and you would of
10 course mark that if the State has failed to prove Mr.
11 Passmore as to either criminal domestic violence of a high
12 and aggravated nature, or simple criminal domestic
13 violence, and you have found him not guilty and you would
14 put an X there or a check there, sign it and date it, today
15 is April the 1st.

16 Burglary in the first degree is very similar. It has
17 three options. We find the defendant guilty of Burglary in
18 the first degree and that is the charge. If you find the
19 State has failed to prove that but has proven Mr. Passmore
20 guilty of the lesser included offense of trespass, as I
21 have defined that for you, you would put an X or a check in
22 front of the second line. And if the State has failed to
23 prove Mr. Passmore guilty of either, you would use the
24 third line to say we find the defendant not guilty.

25 As to kidnapping, it is a little different. I do not

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1 have a form attached to it but on the back you will see a
2 word - the word verdict, Mr. Foreman, down in the bottom
3 left hand corner. Under there I have written count one and
4 count two. There is a place for you to sign and a place
5 for you to date.

6 Count one is kidnaping; count two is the weapon
7 charge. Whatever the verdict is as to those charges, you
8 would write. If the State has failed to prove Mr. Passmore
9 guilty of kidnaping, you would of course write the word,
10 one word not guilty. Two words if the State has failed has
11 failed to prove him guilty beyond a reasonable doubt of
12 kidnaping as to count one, you would put not guilty and
13 that would automatically mean count two would be not
14 guilty.

15 If on the other hand you find the State has proven him
16 guilty of kidnaping as to count one, you would write the
17 one word guilty beside count one. And then you would
18 consider count two and determine whether the State has
19 proven that and either write not guilty if the State has
20 failed to prove beyond a reasonable doubt or guilty if the
21 State has proven it beyond a reasonable doubt.

22 Ms. Tweet and Mr. Privette, I'm going to ask you two
23 to stay in here while the jury goes to the jury room and
24 I'm going to excuse the jury for a few minutes. Do not
25 start deliberating. I have to go over my charge with the

1 attorneys.

2 (COURT EXITS COURTROOM AT 04:45 P.M.):

3 THE COURT: I will be with you two.

4 Anything from the State?

5 SOLICITOR HOLLAND: Your Honor, I could have missed
6 it, I didn't hear criminal intent. But I could have missed
7 it.

8 MR. HALL: You did charge on intent under burglary
9 provision when you explained burglary intent. You did
10 charge that portion. You did not give a general --

11 THE COURT: I usually don't but I will.

12 SOLICITOR HOLLAND: You didn't have to. I just didn't
13 now if you typically did. That was the only thing.

14 THE COURT: And which one were you concerned about?

15 SOLICITOR HOLLAND: There was none specifically. I
16 just wanted to make sure out of abundance of caution. If
17 one is not needed, then that's fine with me. I just asked
18 out of abundance of caution. But if Dan feels like this is
19 sufficient I'm fine with mine.

20 MR. HALL: You - certainly an element, statutory
21 element of burglary first degree with the intent to commit
22 a crime and you usually define intent in that portion of
23 the charge.

24 SOLICITOR HOLLAND: I'm fine. If he's fine then I'm
25 fine with it.

1 THE COURT: Anything else?

2 SOLICITOR HOLLAND: Nothing further.

3 THE COURT: All right.

4 SOLICITOR EPTING: Your Honor, how would you like to
5 handle the rifle going back? It does have - It has no
6 ammunition. It has been made safe, but it does have a
7 bayonet attached to it that can be -

8 THE COURT: All right. We'll leave the rifle here and
9 if the bailiffs will take the exhibits back and tell them
10 if they want to examine the rifle we will send it back.

11 Any objection to that, Mr. Hall?

12 MR. HALL: No, sir.

13 THE COURT: Any objection from the State?

14 SOLICITOR HOLLAND: No objection.

15 THE COURT: Just put a note if you want these played.

16 (ALTERNATES DISMISSED AT 04:47 P.M..)

17 THE COURT: All right, Madam Solicitor, do you all have
18 some work for us?

19 SOLICITOR HOLLAND: I can check and see.

20 THE COURT: All right. I want to thank - This does
21 not have to be on the record.

22 (COURT AT EASE AT 04:48 P.M..)

23 (JURY NOTE AT 06:15 P.M..)

24 (COURT BACK IN SESSION AT 07:02 P.M..)

25 THE COURT: Thank you. You may take your seats.

THE VERDICT:

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1 The jury has indicated they have reached verdicts.

2 Of course I do not know what the verdicts are but I
3 will go ahead and tell everybody that's here that whatever
4 the verdict is, if you think you are not going to be able
5 to take it in and digest it without making a scene, so to
6 speak, you better go ahead and leave now, because the Court
7 will no tolerate any outbursts. And if there are any
8 outbursts, I can assure you that anybody doing that is
9 gonna be spending thirty days in the county jail.

10 I'm not saying that as a threat, but we have to have
11 decorum here so whatever the verdict is the Court will not
12 tolerate any outbursts. So if you don't think you can
13 handle the verdict, whatever it may be, now would be the
14 time to leave.

15 We do have a verdict. We will have the jury brought
16 in. Anything before the jury comes in?

17 SOLICITOR HOLLAND: Nothing from the State, Your
18 Honor.

19 MR. HALL: Nothing from the Defense.

20 THE COURT: Okay. Bring the jury in.

21 (JURY REENTERS COURTROOM AT 07:05 P.M..)

22 THE COURT: Mr. Foreman, I understand the jury has
23 reached verdicts in the case.

24 MR. FOREMAN: Yes, sir, we have.

25 THE COURT: If you'll hand them to the Bailiff, he'll

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1 hand them up to me.

2 MR. FOREMAN: Well, sir, I need to finish the
3 paperwork.

4 THE COURT: Oh, I'm sorry. I thought when I got your
5 message - Well, you can go back. We'll take the jury -

6 I'll let the jury go back and when you finish the
7 paperwork, let the Bailiff know.

8 MR. FOREMAN: Okay.

9 THE COURT: I'll let the whole jury go back. I'm
10 sorry.

11 MR. FOREMAN: Okay. Can I make sure somebody - I'm
12 doing - I'm writing these down correct? I mean, doing the
13 right thing on these forms.

14 THE COURT: Well, do them like I instructed you to do
15 ---

16 MR. FOREMAN: Okay.

17 THE COURT: --- and if there is any problem with them,
18 we will address it, but you need to do it -- if you
19 remember my instructions, you need to go ahead and do it
20 and then if it's not done exactly right, we'll work on that
21 afterwards.

22 MR. FOREMAN: Okay. Yes, sir. I can do that.

23 THE COURT: Okay. Everybody go back out.

24 (JURY EXITS THE COURTROOM AT 07:07 P.M..)

25 THE COURT: I don't anticipate this will take him very

THE VERDICT:

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1 long, we'll just remain in session at ease.

2 (JURY RE-ENTERS THE COURTROOM AT 07:09 P.M..)

3 THE COURT: Mr. Foreman, if you will hand the verdicts
4 to the Bailiff, he will bring them up to me.

5 MR. FOREMAN: Thank you, sir.

6 THE COURT: Thank you. You can be seated.

7 (VERDICTS RECEIVED UP BY THE COURT.)

8 THE COURT: All right. I think these are fine.

9 I would go ahead and tell the attorneys that the jury
10 did not actually use the verdict forms but rather wrote the
11 verdicts on the indictments, but they appear to be in
12 order. After they are announced, I will certainly let
13 everybody look at them to see if they have any issues, but
14 they appear to me to be in perfect order, so I'll let the
15 Clerk announce the verdicts.

16 MADAM CLERK: Indictment 2013-GS-46-2903, the State
17 versus Ricky Eugene Passmore, Indictment for burglary in
18 the first degree, verdict guilty, signed by the Foreperson
19 dated today's date.

20 Indictment 2013-GS-46-2902, the State versus Ricky
21 Eugene Passmore, Indictment for Criminal Domestic Violence
22 of a High and Aggravating Nature, verdict not guilty, sign
23 by the Foreperson dated today's date.

24 Indictment 2014-GS-46-219, the State versus Ricky
25 Eugene Passmore, Indictment for kidnapping, verdict not

THE VERDICT:

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1 guilty signed by the Foreperson and dated today's date.

2 Indictment 2014-GS-46-219A, the State versus Ricky
3 Eugene Passmore, Indictment for possession of a weapon
4 during the commission of a violent crime, verdict not
5 guilty signed by the foreperson dated today's date.

6 Ladies and the gentlemen of the jury, if that be your
7 verdicts so say ye all by raising your hand.

8 Let the record show all jurors affirmed this verdict.

9 (ALL JURORS AFFIRMED.)

10 THE COURT: Anything from the State before the jury is
11 dismissed?

12 SOLICITOR HOLLAND: Nothing, Your Honor.

13 THE COURT: Anything from the Defense before the jury
14 is dismissed?

15 MR. HALL: Nothing from the Defense, Your Honor.

16 THE COURT: All right. Members of the jury panel, we
17 appreciate your help. I'm going to allow you to leave for
18 the evening and report back - I'm sorry, call back tomorrow
19 after one and you will receive instructions about what to
20 do next. I think everything is in order, is that?

21 MADAM CLERK: I was going to get him to date them.

22 THE COURT: Okay. All right. We'll get the -- The
23 Clerk will step out with you into the library and get you
24 to date them.

25 But everybody have a pleasant evening and call back

THE SENTENCE:

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1 tomorrow after one. Thank you so much for your help in
2 this case.

3 (JURY DISMISSED AT 07:12 P.M..)

4 THE COURT: I'd ask, I'd assume everybody is satisfied
5 with the verdict. Although they didn't use the verdict
6 forms, they did write the verdicts appropriately in the
7 right place and where the verdict is indicated. And while
8 we had the jury in, I asked if anybody have any issues.
9 Nobody indicated they did, so the jury unanimously did.

10 Anything from the State at this time before we bring
11 -- begin the sentencing?

12 SOLICITOR HOLLAND: Nothing prior to sentencing.

13 THE COURT: Anything from you, Mr. Hall?

14 MR. HALL: Your Honor, may I, just out of a abundance
15 of caution, might I look at the verdict form and the
16 indictment on the burglary?

17 THE COURT: Yeah. Well, there was no verdict form on
18 the burglary?

19 MR. HALL: That's what - Right.

20 THE COURT: Yes, there was. Yes, there was. And you
21 - They didn't fill that out.

22 SOLICITOR HOLLAND: Just they didn't fill it out and
23 they wrote it on the indictment.

24 MR. HALL: Yeah, I'd just like to see the indictment.

25 THE COURT: Any issues, Mr. Hall?

THE SENTENCE:

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1 MR. HALL: No, sir.

2 THE COURT: Well, we will be glad - I don't see any of
3 the victim's family still here. I'd be glad to hear from
4 any of the victims if they wish to address the Court
5 regarding sentencing. I presume the State has a sentencing
6 sheet prepared ---

7 SOLICITOR HOLLAND: I do.

8 THE COURT: --- and I'll be glad to hear from Mr.
9 Hall. Any motions first.

10 MR. HALL: Your Honor, I would just renew all of my
11 previous motions and then it does seem a little bit odd
12 that they found him guilty of the burglary first degree
13 which requires an intent to commit a crime and then they
14 found him not guilty of all the other crimes that were
15 attached. That seems to be inconsistent with the element
16 they were charged with and that's really the proper form is
17 not a judgment notwithstanding the verdict, but in light of
18 that make the motion.

19 THE COURT: I deny that, your motion. I don't see
20 it's inconsistent. Apparently, the jury could have thought
21 he went there after Chip and went and took the sword and
22 was going after Chip and Chip wasn't there, so the burglary
23 statute says and they're - the charge very clearly says
24 that if you go in with the intent even if you abandon it or
25 it's not accomplished so I don't see there's any

THE SENTENCE:

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1 inconsistencies in the verdict.

2 I can't tell you what the jury - how the jury reached
3 their decision, but I certainly can tell you that that is a
4 valid observation that one thing that could have been
5 considered in determining. And, of course, also whether -
6 Well, in any event, and it didn't - there was evidence it
7 took place in the nighttime, so I deny any motions
8 regarding the guilty verdict on the burglary.

9 All right, do you want to bring around Mr. Passmore.

10 (DEFENDANT APPROACHED THE BAR.)

11 THE COURT: Anything from the State involving the
12 sentencing? What, he has two prior assault and batteries
13 that were -

14 SOLICITOR HOLLAND: Your Honor, he has a very
15 significant prior record if you would like for me to read
16 it.

17 THE COURT: Please.

18 SOLICITOR HOLLAND: The victims did not pass on any
19 information. Ms. Coleman had to go to work, unfortunately.
20 I obtained when I first got this case a transcript of a
21 plea from Mr. Passmore from 1990. It was a second degree
22 sexual offense. That was in North Carolina. He is a
23 registered sex offender. In 2003, he was sentenced on an
24 ABHAN. At that time, that would have been common-law
25 ABHAN. In 2007, he was sentenced on the sex offender

THE SENTENCE:

-282-

1 registry. In 2008, on violation of sex offender registry.

2 Going back to 1987, he was charged with breaking and
3 entering on a boat. That was a felony in North Carolina.
4 There is also a felony larceny that same year. Attempting
5 to break and enter in 1987. Injury into personal property
6 in 1987.

7 1990 is the second degree sexual offense which I
8 already referenced. And I believe he received a ten-year
9 sentence on that and that was in 1990.

10 In 1996, he had a DUI. In '97, a simple assault and
11 battery. It has a notation it's from Georgia of family
12 violence.

13 In 1999, carry a pistol without a license, carrying a
14 pistol by a convicted felon. I believe that might be the
15 same charge.

16 In 2003, we have the ABHAN that I referenced.

17 2006, the violation of sex offender registry that I
18 referenced. The same thing in 2008.

19 1988, DUI. 1990, trespassing carrying a concealed
20 weapon. Giving false information to police in 1999.

21 Your Honor, that's the extent of his record. I would
22 like to just point out for the Court that Mr. Passmore was,
23 I believe, eligible for life without parole. I chose not
24 to do that since he was facing life already on this
25 burglary first charge, but I given - I believe given that

THE SENTENCE:

-283-

1 second degree sexual offense from the research we did when
2 the case came in that that would have qualified as a most
3 serious offense and would have qualified under the two
4 strikes rule, so we just ask that you sentence him
5 appropriate according to that.

6 THE COURT: Okay. All right. Mr. Hall?

7 MR. HALL: Your Honor, as my client stated to the
8 Court, he's forty-six years old. He has four children, one
9 grandchild. You certainly heard all the facts of the case.
10 I'd ask that the Court consider giving him the fifteen-year
11 sentence that require on the burglary first degree. He's
12 going to be close to sixty years old when he gets out.
13 Certainly, his view would be as a sixty-year-old man is
14 going to be a lot different than if he was twenty being
15 convicted of same offense. He's spent 286 days in jail
16 awaiting disposition of his charges and, Your Honor, I
17 believe he would like to address the Court.

18 THE COURT: Mr. Passmore.

19 MR. PASSMORE: I don't know what to say, you know. I
20 don't know what to say, Your Honor. I don't feel like I
21 did anything wrong. The only thing I tried to do was
22 protect my children. Julia Coleman never told me I wasn't
23 welcome in her house like she testified. I did not enter
24 her house in a - with criminal intent. I did not enter her
25 house in a forceful way. When she told me to leave, I

THE SENTENCING:

-284-

1 left. I don't know what else to say, Your Honor.

2 THE COURT: Well, I think you made the problem, and I
3 certainly understand how you feel, but you made the
4 problem. And what you started off by saying is that you
5 don't feel like you did anything wrong and that's
6 apparently what your life has been like. You've done a
7 lot, covered a lot of ground, probably harmed some people.
8 You got a pretty extensive record. The sentence is thirty
9 years. Give you credit for 286 days. Thank you.

10 MR. HALL: Thank you, Your Honor.

11 THE COURT: We're adjourned until ten in the morning.

12 (COURT ADJOURNED AT 7:35 P.M..)

13 (END OF TRANSCRIPT OF RECORD.)
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25

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

INDICTMENT

At a Court of General Sessions, convened on August 22, 2013, the Grand Jurors of York County present upon their oath:

BURGLARY IN THE FIRST DEGREE

The Defendant, Ricky Eugene Passmore, did in York County, South Carolina, on or about June 19, 2013, willfully and unlawfully enter the dwelling, located at [REDACTED] [REDACTED] Clover, South Carolina, without consent and with the intent to commit a crime therein. Said entering or remaining did occur during the nighttime hours. All in violation of Section 16-11-311, Code of Laws of South Carolina, (1976, as amended).

CERTIFIED TRUE COPY
2014 APR - 3 PM 4:35
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

255
WITNESSES

CLOVER PD/ Davis

sgb

ARREST WARRANT NUMBER

2013A4620100090

ACTION OF GRAND JURY

TRUE BILL

Sammy Ekins

Foreperson of Grand Jury

Date:

8/22/13

VERDICT

Gailtz

Samuel Z. White

Foreperson of Petit Jury

Date:

4/1/14

DOCKET NO. 2013-GS-46- 02903

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

August 22, Term 2013

THE STATE

vs.

RICKY EUGENE PASSMORE

Indictment for

BURGLARY IN THE FIRST DEGREE

SC Code: 16-11-311

CDR Code: 079

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury:

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

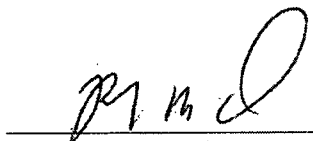
Witness:

C.C.C. PLS. AND G.S.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 3, 2015



Robert M. Dudek
Chief Appellate Defender

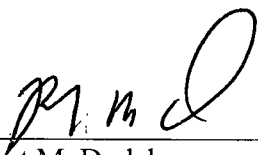
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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August 3, 2015



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
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ATTORNEY FOR APPELLANT

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

John C. Hayes, III, Circuit Court Judge

 ORIGINAL

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AUG 03 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

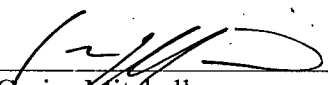
RICKY EUGENE PASSMORE,

APPELLANT

APPELLATE CASE NO. 2014-000727

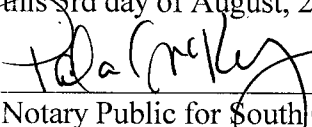
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 3rd day of August, 2015.



Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 3rd day of August, 2015.



(L.S.)
Notary Public for South Carolina

My Commission Expires: July 24, 2022