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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY

Thomas L. Hughston, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHARLES MOODY BRANDENBURG,

APPELLANT

APPELLATE CASE NO. 2013-002655

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA     )  
   ) COURT OF GENERAL SESSIONS  
 COUNTY OF ABBEVILLE         )  
 STATE OF SOUTH CAROLINA,    )  
   )  
                                   v.     ) Case No. 13-GS-01-00418  
   )  
 CHARLES M. BRANDENBURG, JR.)  
   )  
                                   Defendant.    )

**TRANSCRIPT OF JURY TRIAL**

The within jury trial in the above-captioned matter was held on December 4-5, 2013, before The Honorable Thomas L. Hughston, Jr. in Court of General Sessions, Abbeville County Courthouse, 102 Courthouse Square, Abbeville, South Carolina; attended by counsel as follows:

**APPEARANCES:**

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8<sup>th</sup> Judicial Circuit  
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(None Entered)

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(None Entered)

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1           THE COURT:     Could the jury please give  
2 me your attention? First of all, let me  
3 introduce myself, my name is Tommy Hughston.  
4 I work as a Circuit Judge for the State of  
5 South Carolina and I have been assigned by  
6 the Chief Justice of the Supreme Court of  
7 South Carolina to preside over this week's  
8 term of General Sessions, or what we normally  
9 think of as criminal court here in Abbeville  
10 County.

11           We have been involved since Monday with  
12 the disposition of cases in which the State  
13 claims that someone has violated one of the  
14 laws of this state and we have asked you to  
15 come in today anticipating that we will need  
16 you to conduct a jury trial.

17           I believe the Clerk has already called  
18 the roll of the jury so we know who'all we  
19 have here.

20           At this point, I need to ask you some  
21 additional questions to make sure that you  
22 are qualified to serve on the jury. I am  
23 going to ask you a series of about ten or  
24 twelve questions, to you as a group. If  
25 your answer is yes to any of the questions,

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1 please stand where you are seated so that I  
2 can see that you are answering yes. I may  
3 need to follow up with some additional  
4 questions to you.

5 So, as I said, I am going to ask a series  
6 about ten or twelve questions to you as a  
7 group if your answer is yes to any of the  
8 questions, please stand.

9 Does any member of the jury, anyone here  
10 to serve on the jury who is not a citizen of  
11 the United States of America? If so, please  
12 stand. Anyone not a citizen of the United  
13 States of America, if so, please stand. (No  
14 response). No one's standing.

15 Anyone here to serve on the jury who is not  
16 now a resident of Abbeville County? You may have  
17 lived in Abbeville in the past but you have since  
18 moved elsewhere but you still got a notice to  
19 come and you came today in response to that  
20 notice. Anyone not now a resident of Abbeville  
21 County? If so, please stand.

22 Yes sir, tell me your name and number, if  
23 you would please, sir.

24 JUROR NUMBER 144: My number is 144.  
25 Robert C. Watt and my address is [REDACTED]

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1 [REDACTED] Building.

2 THE COURT: You live in Anderson County,  
3 then?

4 JUROR 144: Yes, sir.

5 THE COURT: All right, then we will  
6 excuse you. Thank you very much for coming.  
7 You are free to go. I don't know how we got  
8 you on the list, either through your voter  
9 registration or through the highway department  
10 driver's license but you might need to let one or  
11 both of those know that you live in Anderson  
12 County, not in Abbeville County.

13 JUROR 144: Thank you, sir.

14 (JUROR NUMBER 144 IS EXCUSED)

15 THE COURT: Thank you very much. Anyone  
16 else with a positive response to that question?  
17 If so, please stand. (No response). No one  
18 else standing.

19 Anyone present for jury duty who has less  
20 than a sixth grade education or its equivalent?  
21 If so, please stand. Anyone with less than a  
22 sixth grade education or its equivalent? If so,  
23 please stand. (No Response). No one's  
24 standing. Anyone here to serve on the jury  
25 who is unable to read, write, speak or understand

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1 the English language? If so, please stand. (No  
2 response). No one's standing.

3 Is anyone here who is a county officer, a  
4 law enforcement officer of any type, or who is  
5 employed within the walls of any courthouse?

6 If so, please stand. (No response). No  
7 one's standing.

8 Anyone here to serve on the jury who has  
9 been convicted, or pled guilty in a state or  
10 federal court to a crime punishable by  
11 imprisonment for more than one year and whose  
12 civil rights have not been restored by pardon or  
13 amnesty? If so, please stand and come down front  
14 and I will discuss that with you.

15 You all (speaking to counsel) just stay  
16 seated, just stay seated. I'll tell you what  
17 you need to know if you need to know anything.  
18 Yes, sir. Give me your name and number, please  
19 sir.

20 JUROR 104: Randy Monroe

21 THE COURT: Well, what do you think you  
22 want to tell me?

23 (SIDEBAR)

24 (SIDEBAR CONCLUDED)

25 THE COURT: Okay, all right, tell me your

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1 name again.

2 JUROR 104: Randy Monroe.

3 THE COURT: Randy Monroe.

4 THE CLERK: Juror 104.

5 THE COURT: Juror Number 104, Randy

6 Monroe will be excused. Thank you very much

7 for coming. You are free to go.

8 (JUROR NUMBER 104 EXCUSED)

9 BAILIFF: Juror Number 44.

10 THE COURT: Come on up.

11 SIDEBAR:

12 THE COURT: Yes sir, what do you  
13 want to tell me?

14 JUROR NUMBER 44: I had a failure to  
15 stop.

16 THE COURT: Okay. That, that,  
17 that failure to stop would do it then. What did  
18 you want to tell me about what the judge told  
19 you, what?

20 JUROR 44: That he said he could  
21 sentence me up to two years.

22 THE COURT: Yeah, that's right.  
23 That's right. That would, that would do it  
24 and, Okay. This is 44?

25 JUROR 44: Yes, sir.

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1 THE COURT: Juror Number 44 is excused.

2 Thank you for coming, you are free to go.

3 (JUROR NUMBER 44 EXCUSED)

4 BAILIFF: Juror 142, Your Honor.

5 SIDEBAR:

6 THE COURT: All right, what did you want  
7 to tell me?

8 JUROR NUMBER 142: (Inaudible)

9 (SIDEBAR CONCLUDED)

10 THE COURT: Okay. And your number was  
11 what?

12 JUROR NUMBER 142: One forty-two (142).

13 THE COURT: Juror Number 142 is excused.  
14 Thank you very much for coming, you are free to  
15 go.

16 Anyone else with a positive response to  
17 that question? If so, please stand. (No  
18 response). No one else standing.

19 Does anyone have any type of medical  
20 problems such as a problem with your heart or a  
21 back problem or something of that sort that you  
22 think would interfere with your ability to serve  
23 on the jury this week? Anyone with any type of  
24 medical problem that you think would interfere  
25 with your ability to serve on the jury this week?

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1 (No Response). If so, please stand and come  
2 down front and I'll discuss that with you. Yes  
3 sir?

4 JUROR NUMBER 50: Good morning.

5 THE COURT: Tell me your number,  
6 please, sir.

7 JUROR NUMBER 50: Fifty (50).

8 THE COURT: Fifty. All right,  
9 what do you want to tell me?

10 (SIDEBAR)

11 THE COURT: Uh, Okay. Well I'm going to  
12 ask you to stay with us. If you think it  
13 presents a problem during the course of the trial  
14 and you are actually selected on the jury, you  
15 let me know something that, you know, that you  
16 need a break or you need to get up and move  
17 around or whatever, and we'll try to accommodate  
18 you. Okay?

19 JUROR NUMBER 50: That works.

20 THE COURT: Stay with us.

21 JUROR 50: All right.

22 BAILIFF: Number 88, Your Honor.

23 THE COURT: Yes, ma'am. What would you  
24 like to tell me?

25 JUROR NUMBER 88: I am sick and I have

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1 trouble sitting for a long periods of time.

2 THE COURT: How about an hour, an hour and  
3 fifteen minutes?

4 JUROR NUMBER 88: Yeah, I can handle that.

5 THE COURT: Okay, but you said you were  
6 sick, what do you mean by that?

7 JUROR NUMBER 88: I have sinusitis and an  
8 ear infection.

9 THE COURT: Are you on medication?

10 JUROR NUMBER 88: No.

11 THE COURT: You need to go to a doctor?

12 JUROR NUMBER 88: Uh, yeah.

13 THE COURT: All right, all right, I'm  
14 going to transfer her then. We are going to  
15 transfer you to another term of court after the  
16 first of the year.

17 Just give her notice of whatever.

18 Okay. We are going to ask you to come  
19 back when you are feeling better, okay?

20 JUROR NUMBER 88: All right. Thank you,

21 THE COURT: That's number 88, was it?

22 CLERK: Yes, sir.

23 THE COURT: Juror Number 88 is excused  
24 from this term. Be transferred.

25 (JUROR NUMBER 88 TRANSFERRED)

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1 BAILIFF: Juror Number 128.

2 THE COURT: Come on up.

3 SIDEBAR:

4 THE COURT: Yes, ma'am, what would  
5 you like to tell me?

6 JUROR NUMBER 128: (Inaudible)

7 COURT REPORTER: Judge, I can't hear  
8 her.

9 THE COURT: That's okay. This  
10 doesn't need to be on the record. I'll let you  
11 know if we run into something we need to have on  
12 the record.

13 COURT REPORTER: Thank you.

14 THE COURT: But you said -- what are  
15 you taking for that?

16 JUROR 128: I got medicine in the car

17 THE COURT: But you think that you  
18 would be bothered by serving on the jury?

19 JUROR 128: I think it would.

20 THE COURT: You think that you would  
21 be bothered by serving on the jury, that it would  
22 upset you?

23 JUROR 128: Yes.

24 (SIDEBAR CONCLUDED)

25 THE COURT: Okay, I am going to excuse

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1 her. All right, so what number?

2 CLERK: 128

3 THE COURT: 128's excused. Thank you  
4 for coming, you are free to go.

5 (JUROR NUMBER 128 EXCUSED)

6 CLERK: Twelve.

7 THE COURT: Yes, sir, what would you  
8 like, what do you want to tell me?

9 (SIDEBAR WITH JUROR NUMBER 12)

10 THE COURT: We'll excuse you then. Thank  
11 you very much for coming, you are free to go.

12 (JUROR NUMBER 12 EXCUSED)

13 THE COURT: All right, I usually ask this  
14 at the first but I forgot it, I'm going to go  
15 back and ask it now.

16 Anyone here to serve on the jury, any one  
17 here that's been summoned in this year as a  
18 potential juror, who is under the age of eighteen  
19 or over the age of sixty-five?

20 If so, please stand. Anyone under  
21 eighteen or over sixty-five, if so, please stand.

22 (No response). No one's standing.

23 Anyone here to serve on the jury who is a  
24 full time teacher or a full time student in a  
25 school? If so, please stand. Full-time

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1 teacher, full-time student, if so, please stand.

2 No one's standing.

3 Anyone here who has a child under the age  
4 of seven for whom you have the duty of custody  
5 and care and you have not been able to make  
6 arrangements for someone to care for your child.

7 And also I include in that any elderly  
8 parent or someone that you have the duty and  
9 custody and care or anyone with any type of  
10 problem in regard to caring or a child or person,  
11 an elderly person, if so, please stand. No one  
12 is standing.

13 All right in addition to those reasons that  
14 I've gone over, for which I can excuse you from  
15 serving on the jury, there may be some particular  
16 compelling personal situation, such as a problem  
17 with your job, family obligation, or something of  
18 that sort that makes it particularly inconvenient  
19 for you to serve on the jury this week.

20 I cannot excuse you for such a reason but I  
21 can consider transferring you to a later term of  
22 court when you might be able to make better  
23 arrangements, be able to serve for a week on the  
24 jury.

25 This is a relatively short week, keep that

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1 in mind, Wednesday through Friday. So, keep  
2 that in mind as you decide whether you might want  
3 to be transferred to a full term from Monday  
4 through Friday or not. But if you would like  
5 to discuss that with me, go on down front and  
6 I'll discuss it with you.

7 BAILIFF: Juror Number 134.

8 SIDEBAR:

9 THE COURT: All right, come on up.

10 JUROR NUMBER 134: Your Honor, I'm a  
11 college basketball referee and I'm a high school  
12 basketball referee. I get my schedule like in  
13 six to eight months ---

14 THE COURT: How about that? Guess  
15 what, I used to be an official too.

16 JUROR NUMBER 134: Yes, sir. I get  
17 my schedule like six to eight months in advance.

18 THE COURT: When you've got a game.

19 JUROR NUMBER 134: I've got a game.  
20 I had a game last night. I got a game today.  
21 I've got a game tomorrow.

22 THE COURT: What time today?

23 JUROR NUMBER 134: I've got to be in  
24 North Carolina around, like 3:00.

25 THE COURT: Today?

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1 JUROR NUMBER 134: Yes, sir.

2 THE COURT: Okay, we will transfer him  
3 then. Okay. You will be transferred.  
4 She'll send you another notice. Good luck.

5 CLERK: It's Scott Sutherl?

6 JUROR NUMBER 134: Yes.

7 (JUROR NUMBER 134 TRANSFERRED)

8 THE COURT: Anyone else that would like  
9 to be considered for a possible transfer? (No  
10 response), -- no one else is standing.

11 All right, let me tell you how we normally  
12 operate. We normally start work about 9:30 in  
13 the morning and we work, we take a break, about a  
14 ten or a fifteen-minute break sometime during the  
15 morning and we work until about 1:00. And then  
16 we take a lunch break from 1:00 to 2:00 and we  
17 come back at 2:00 and we work until about 5:00 in  
18 the afternoon.

19 So those are our normal hours of operation,  
20 normal hours of being here conducting the trial  
21 of cases. So those are the times that you  
22 should plan on being with us, as you are looking  
23 forward during the week, if you are actually  
24 selected to be on a trial jury.

25 The clerk's going to go ahead now and get

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1 everything in order as far as getting all your  
2 names into the computer. Now we do everything  
3 by computer, so that we can select a jury. I  
4 am going to give you a break.

5 Actually, we have a couple of matters that  
6 we need to deal with, I think, before we can  
7 actually select a jury. Let me see the lawyers  
8 up here over to this side, if you would, they are  
9 going to be involved in the trial of the case.

10 (OFF RECORD SIDEBAR)

11 THE COURT: All right, before we actually  
12 get started with the trial of the case that we  
13 have, that we anticipate being called for trial  
14 this morning, I have to go over some matters,  
15 deal with some pretrial issues with the attorneys  
16 and there is no need in keeping you here.  
17 Actually, I cannot allow you to be in here while  
18 we are dealing with those pretrial matters.

19 So I am going to give you a break and ask  
20 that you return, be back here in the area outside  
21 the courtroom doors there by 12:00. It's  
22 about, well almost a quarter until 11:00 now.  
23 I think I should be able to do the things that I  
24 need to do with the lawyers in about an hour and  
25 fifteen minutes. So I am going to ask you to

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1 leave the courtroom. Be back outside these  
2 doors at 12:00 and we'll ask you come back in as  
3 soon as we can after that.

4 So, if you would, go out ---, before you go  
5 I need to see three, I need to see three of you  
6 down here:

7 Number 24, Jonathan Brown

8 Number 32, David Cann, I believe it is.

9 Number 81, Jeffery Johnson

10 If those three would come down front here.

11 I want to ask about something, if you would.

12 Please all three come down front. Everybody  
13 else is free to go.

14 (JURY PANEL ON RECESS)

15 THE COURT: Just wait, just wait right  
16 there. You two wait right there, one at a  
17 time. SIDEBAR:

18 THE COURT: Tell me your name?

19 JUROR NUMBER 32: David Cann.

20 THE COURT: Mr. Cann, all right. I  
21 got a juror, a copy of a, what's said to be your  
22 record and it shows on there that you were  
23 convicted of an assault on a police officer in  
24 1993. Do you remember that?

25 JUROR NUMBER 32: Yes, sir.

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1 THE COURT: Okay. That would, then  
2 that does carry a possible penalty, you didn't  
3 serve a year, but it carries a possible penalty  
4 of more than one year so that would disqualify  
5 you. So I am going to excuse you.

6 (SIDEBAR CONCLUDED)

7 THE COURT: Juror Number 32 is excused.

8 (JUROR NUMBER 32 EXCUSED)

9 THE COURT: Who's next? All right,  
10 Jonathan Brown?

11 SIDEBAR:

12 THE COURT: Okay. They gave me a  
13 copy of what shows, what's supposed to be a  
14 record that shows that in 1991 you broke into a  
15 motor vehicle. Do you remember that?

16 JUROR NUMBER 24: Yes, sir.

17 THE COURT: Is that right?

18 JUROR NUMBER 24: Yes, sir.

19 THE COURT: Okay, that does carry up  
20 to five years so, you might not have served  
21 anything and all but it does carry five years  
22 with that which will disqualify you now, Okay?

23 JUROR NUMBER 24: Yes, sir.

24 THE COURT: Thanks for coming. You  
25 are free to go.

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21

1

(SIDEBAR CONCLUDED)

2

THE COURT: Number 24 is excused.

3

(JUROR NUMBER 24 EXCUSED)

4

THE COURT: Come on up, Mr. Johnson.

5

JUROR NUMBER 81: Yes, sir.

6

SIDEBAR:

7

THE COURT: Okay. I have been

8

given a copy of what's supposed to be your record

9

and all and it shows that in 1993, yeah, that's

10

it, you know, you were convicted of possession of

11

stolen property and all, is that right?

12

JUROR NUMBER 81: That was expunged.

13

THE COURT: Okay. Well, I don't

14

know, when you say expunged ---

15

JUROR NUMBER 81: Expunged, pardoned,

16

cleared off my record.

17

THE COURT: Think you were given a

18

pardon?

19

JUROR NUMBER 81: I was given an

20

expungement. Isn't that what it is called?

21

THE COURT: That's okay. That

22

doesn't necessarily disqualify you and

23

everything. That doesn't disqualify you, and

24

everything, you know.

25

One of you (solicitors) come up here

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1 just a second. You know we say the language of  
2 it we've been using is you know, civil rights  
3 have not been restored by pardon or amnesty but  
4 how expungement fits into that now. If a  
5 record has been expunged, I know it does, I mean

6 ---

7 SOLICITOR: Well, if it is has been  
8 expunged, it shouldn't be showing on the ---

9 THE COURT: He says, that what he  
10 says, he says his record has been expunged on  
11 this.

12 Mr. Johnson, did you say your record  
13 has been expunged on this, tell me about what you  
14 mean by that?

15 JUROR NUMBER 81: I had to write  
16 letters to an attorney and to the Governor of the  
17 State after not being in any trouble and met the  
18 conditions ---

19 THE COURT: Okay, I think it  
20 qualifies, I think you are qualified -- so I am  
21 going to ask you to stay with us. You come  
22 back at 12:00, Okay?

23 JUROR NUMBER 81: All right, sir.

24 SOLICITOR: I'm sorry, which number

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1 was that?

2 THE COURT: Juror Number 81.

3 Possession of stolen goods or something like  
4 that. Juror Number 81, possession of stolen  
5 property.

6 (SIDEBAR CONCLUDED)

7 (DEFENDANT PRESENT)

8 THE COURT: All right, I will be right  
9 back. I am going to bring those Motions out.  
10 I'll be right back. Keep your seat.

11 (JUDGE EXITS/RETURNS TO COURTROOM)

12 THE COURT: All right, so I have been  
13 informed that the case you want to call, that the  
14 State wants to call for trial, is the case of  
15 State v Charles Brandenburg.

16 And I have been given two Motions, one a  
17 Motion for Severance and a Motion to Quash.  
18 Which one to deal with first? I guess, I think  
19 it would be the Motion to quash.

20 MS. BOLEN: I think so, Your Honor.

21 THE COURT: All right. So I have read  
22 what you have said in your written Motion, be  
23 glad to hear from you as to anything else you  
24 want to say.

25 MS. BOLEN: I don't have a lot more in

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1 terms of oral argument on this one other than  
2 that the Indictment doesn't give any specificity  
3 about what ---

4 THE COURT: Where is, I don't have the  
5 Indictment. Let me have the Indictment. Let  
6 me have a moment to read it. (Upon review),  
7 okay. What do you have to say in response to  
8 this motion?

9 MS. WHITE: Your Honor, first of all  
10 looking at South Carolina Code Section 17-19-20.  
11 which states ---

12 THE COURT: 17-19-20. I don't have that.

13 MS. WHITE: --- that every Indictment  
14 shall be deemed and judged sufficient -- and I am  
15 paraphrasing -- if it charges the crime  
16 substantially in the language of the common law  
17 or of the statute prohibiting the crime charged.

18 Turning to the specific statute ---

19 THE COURT: Wait a minute, let me look at  
20 that, then you can go on. Section what?

21 MS. WHITE: 17-19-20

22 THE COURT: 17-19-20. (Upon review),  
23 okay.

24 MS. WHITE: And, Your Honor, I have the  
25 most recent version of the stalking statute, 16-

1 37-, ---

2 THE COURT: You want to pass it up?

3 MS. WHITE: I can, (tendering). And,  
4 Your Honor, the indictment tracks the language of  
5 the statute.

6 The statute defines stalking as a pattern of  
7 words, conduct that are intended to cause and  
8 does cause a person to fear death or bodily  
9 injury, CSC, kidnaping of the person or a member  
10 of his family. It goes on and defines pattern.

11 Also, Your Honor, *State v. Gonzales*, which  
12 is a 2004 Court of Appeals case, 600 SE 123 ---

13 THE COURT: Okay, let me see if there is  
14 any difference in the language from what I'm  
15 looking at.

16 MS. WHITE: Yes, sir.

17 THE COURT: All right. Thank  
18 you. Your position is that a pattern is -- and  
19 all you've got to do in the indictment for it to  
20 be a sufficient indictment is to track the words  
21 of the statute?

22 MS. WHITE: Your Honor, I think I  
23 said -- the position of South Carolina law, *State*  
24 *v. Gentry*, the indictment is a notice document  
25 which puts one on notice of the crime that he has

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1           alleged to have committed.

2                   THE COURT:        You have to have the  
3           facts you base ---

4                   MS. WHITE:        Well, Your Honor, I  
5           don't know if an indictment is required to  
6           enumerate all the facts.     It puts this  
7           defendant on notice.     It tracks the language of  
8           the *State v. Gonzales* wherein the statute  
9           creates and defines intent is ordinarily  
10          sufficient.

11                   Your Honor, this Motion has become ---

12                   THE COURT:        And this is for such a broad  
13          parameter of time also.

14                   MS. WHIET:        Well, stalking, Your Honor,  
15          is a pattern.

16                   THE COURT:        It is all the way from  
17          February to ---

18                   MS. WHITE:        Stalking being a pattern,  
19          there has to be a pattern.

20                   THE COURT:        I understand that, I under-  
21          stand that, and all, but it just seems like you  
22          ought to be, you ought to be able to tell  
23          somebody what words, what actions, what it is you  
24          think constitutes these different conclusions  
25          that you've reached, that you reach.

1 MS. WHITE: Your Honor, I would consider  
2 this analogous to a burglary indictment where the  
3 State alleges that they committed a crime therein  
4 but were not required to state what crime the  
5 defendant went in to commit.

6 THE COURT: Well, that's ---

7 MS. WHITE: I don't think the State's  
8 required to allege every fact that proves its  
9 case. He is on notice that between, that on  
10 this time period his conduct towards this  
11 specific victim and her family constituted  
12 stalking.

13 Now, if we said the he stalked a person,  
14 I could see where that wouldn't be sufficient  
15 notice of what he is being called to answer.

16 But he is being called to answer his conduct  
17 against this specific victim and her family  
18 between those specific dates, between September  
19 the 18<sup>th</sup> and February 28<sup>th</sup>.

20 Now, I think the statute requires the broad  
21 timeframe to encompass all of the conduct, the  
22 pattern, where it is two or more actions. This  
23 was multiple actions on multiple days spanning  
24 those four months.

25 THE COURT: All right, anything else you

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1 want to say in response to that?

2 MS. BOLEN: Thank you, Your Honor, it is a  
3 six-month timeframe that's alleged and this, part  
4 of this Motion ties in with some discovery issues  
5 that there are in the case. Where this  
6 indictment was obtained, I believe, on Monday of  
7 this week and that the timeframe is one that has  
8 been very recently expanded.

9 As Your Honor says, there is nothing in the  
10 indictment about what he is alleged to have done  
11 by words or conduct. There is a number of ways  
12 that the stalking statute alleges someone can  
13 stalk someone else and the indictment does not  
14 put us on notice for which of those they're  
15 seeking to prove.

16 Additionally, the indictment does not say  
17 anything about her family, it specifically says  
18 Angela Brandenburg.

19 MS. WHITE: It says her family at the  
20 bottom, Your Honor. Your Honor, I think  
21 procedurally, a little bit of procedural  
22 background, would probably be helpful.

23 The State alleges this conduct began around  
24 September, 2012. It continued through December  
25 the 19<sup>th</sup>, which is when he was arrested for

1 stalking by Abbeville County. He was released  
2 on bond about a week later and the conduct  
3 continued after that for another approximately  
4 two months. At that point, Abbeville City  
5 got a warrant, they saw the stalking warrant, got  
6 a harassment warrant.

7 When we got the case, they came in as two  
8 separate warrants and in the interest of judicial  
9 economy it didn't make sense to chop it up.  
10 It was the same victim, the same defendant and  
11 relatively the same timeframe so we combined all  
12 the information and got the indictment for  
13 stalking.

14 THE COURT: Well, I understand that but  
15 the basic, you know, the thing ---

16 MS. WHITE: And, Your Honor, the ---

17 THE COURT: --- what bothers me about  
18 this is, is that just does track the statute.  
19 Maybe that is the state of the law and all, that  
20 all you got to do is allege what the statute says  
21 and that's a good indictment. Then that's the  
22 law and that's what we follow and everything, and  
23 all.

24 I would, you know, I think it ought to go  
25 beyond that in that it should contain facts other

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1 than just, you know, what the statute says but  
2 apparently the case law is that's all it has to  
3 say.

4 MS. WHITE: And Your Honor, I did also  
5 want to address that the ---

6 THE COURT: Have you got a copy of the case  
7 that you said says that?

8 MS. WHITE: I don't have -- my internet  
9 connection is not working, Your Honor. I can  
10 print out a copy of it. I don't have it  
11 directly with me.

12 MS. BOLEN: Your Honor, I've got it pulled  
13 up on my computer if you want me to bring it up.

14 THE COURT: Well, I'll come down there.  
15 All right, anyone else want to say anything?

16 MS. WHITE: Your Honor, I did want to say  
17 she brought up the discovery, the, both warrants  
18 in the case allege these dates. The County  
19 warrant begins on September 18<sup>th</sup> and the City  
20 warrant is through, I think, February the 26<sup>th</sup>.  
21 So these dates are included when discovery was  
22 provided originally.

23 MS. BOLEN: Yes, I take a little exception  
24 to that. The warrant does state in this case,  
25 but especially the second warrant says just

1 Abbeville.

2 It does not give any indication -- until  
3 yesterday I had no indication that there was any  
4 alleged conduct between December 19<sup>th</sup> and February  
5 26<sup>th</sup>. And that is going to be part of my  
6 discovery motion and I guess that also ties into  
7 the severance motion, but prior to yesterday  
8 there was one allegation with a two and a half  
9 month time period with nothing and then one  
10 single date allegation.

11 MS. WHITE: Your Honor, the incident  
12 reports that she was provided did state that the  
13 victim had not reported a lot of incidents.

14 When I met with the victim and talked with  
15 her yesterday, I got the entire timeline where  
16 incidents were not reported to law enforcement.  
17 I provided that to Ms. Bolen as soon as I had  
18 it.

19 I don't think that they are, all of the  
20 information that's in the care, custody and  
21 control of the State was provided to Ms. Bolen  
22 in a timely fashion. I don't believe there is  
23 any duty on my part to tell her---

24 THE COURT: Well, I don't know about  
25 discovery, I am not really going to deal with

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1 that right now. I am dealing with the Motion  
2 to quash.

3 MS. WHITE: Yes, sir.

4 THE COURT: As far as your Motion to  
5 quash is concerned, and all, I deny your Motion  
6 to quash.

7 MS. BOLEN: Yes, sir.

8 THE COURT: Apparently the law is that to  
9 track the language of the statute is enough but  
10 there is -- and I find that there is sufficient  
11 notice to the defendant as to what he is being  
12 charged with in this indictment.

13 MS. BOLEN: Yes, sir.

14 THE COURT: All right. Now, then does  
15 that, you also had given me this Motion to sever,  
16 or whatever and all, but apparently all we are  
17 dealing with is this one indictment now.

18 MS. BOLEN: Well, yes sir, and that kind of  
19 was the basis of my Motion to sever. My client  
20 was arrested on -- well, the warrant was signed  
21 on December 13, 2012.

22 This warrant was signed by the  
23 Abbeville -- I'm sorry. The warrant from the  
24 Abbeville County Sheriff's Office is a warrant  
25 for stalking. The dates on that warrant are

1 from September 18, 2012 to November 13, 2012.

2 THE COURT: I know but -- I mean, we're not  
3 dealing with that anymore. All we are dealing  
4 with is this indictment.

5 MS. BOLEN: Right, but my severance motion  
6 goes to that one indictment -- yes sir -- in that  
7 he was charged ---

8 THE COURT: We're not dealing with the  
9 harassment charge.

10 MS. BOLEN: Correct, but the stalking  
11 charge ends on November 13<sup>th</sup> of 2012.

12 THE COURT: The indictment, the warrant  
13 did, but now we've got an indictment that goes  
14 from September 1 until February 28<sup>th</sup>.

15 MS. BOLEN: Yes, sir, and our Motion is  
16 that he was charged with two separate incidences  
17 and that is improper for the State to re-indict  
18 him on one indictment that encompasses both  
19 incidences.

20 THE COURT: Why?

21 MS. BOLEN: Why?

22 THE COURT: (Affirmative nod).

23 MS. BOLEN; Because -- well, first of  
24 all, it is unfairly prejudices my client. I  
25 provided the case law in the brief but our State

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1 Appellate Court has said that trying two cases  
2 that are maybe factually similar but are  
3 unrelated, I believe it is the Cate case that  
4 says that.

5 THE COURT: But we aren't trying but one  
6 case now.

7 MS. BOLEN: Right, but they're combining  
8 two separate warrants, basically to make their  
9 case stronger. Up until -- Ms. White did  
10 tell me last week she was intending to seek this  
11 indictment, but the indictment was not returned  
12 until Monday. That -- it does extend the time  
13 frame quite a bit, Your Honor, in that, prior to  
14 yesterday -- and I'm not faulting Ms. White, I  
15 know she did tell me as soon as she knew.

16 But prior to yesterday I was prepared to  
17 defend this case in one way and now I am provided  
18 a tremendous of information that completed undoes  
19 how I was prepared to defend this case.

20 Prior to yesterday, there was no allegation  
21 of any conduct between the 13<sup>th</sup> of December and  
22 February 26<sup>th</sup>. And the warrant that was  
23 obtained by the City on February 26<sup>th</sup> specifically  
24 says on September 26<sup>th</sup> to February 26<sup>th</sup>. There  
25 is no mention of anything before that.

1           It is true that in one of the incident  
2 reports that goes to the Sheriff's Office  
3 indictment the report notes that the alleged  
4 victim tells them that there were other  
5 unreported incidences; but that is nowhere in the  
6 second warrant.     So, we were prepared to defend  
7 a stalking based on conduct that happened  
8 September, October, November.     And then  
9 Harassment for conduct that happened on one day  
10 in February.

11           THE COURT:     Well, are you moving then for a  
12 continuance because you haven't had adequate time  
13 to prepare for this trial?

14           MS. BOLEN:     No sir, we are not asking for a  
15 continuance.

16           THE COURT:     Why not?

17           MS. BOLEN:     We are asking for ---

18           THE COURT:     It seems that what you'd be  
19 doing.

20           MS. BOLEN:     Well, we are asking for ---

21           THE COURT:     I have already ruled that this  
22 indictment is good and they can, you know, they  
23 can proceed on this indictment.

24           MS. BOLEN:     Okay.

25           THE COURT:     So why shouldn't we go to trial

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1 on it then?

2 MS. BOLEN: I am not saying we shouldn't go  
3 to trial on it, I am just saying that we should  
4 -- that the charges should be severed as the  
5 original warrant. That he was ---

6 THE COURT: I deny that.

7 MS. BOLEN: Okay. Your Honor, next we  
8 have a discovery motion. We're asking for  
9 suppression of evidence that was given to us  
10 yesterday.

11 If I can just pull up exactly what I found  
12 out yesterday. Just to give you a little bit  
13 of background, Your Honor. Ms. White and I  
14 first talked about this case, according to my  
15 records, we first talked about it, on February 8<sup>th</sup>  
16 of 2013, which would be on the first charge.  
17 We had a docket appearance on that date, for the  
18 initial appearance. My notes say that Ms.  
19 White was asking for further documentation.

20 So, it's as long as ten months ago we were  
21 asking for further documentation of these other  
22 acts alleged.

23 Last week, ---

24 THE COURT: Well, what is it that you say  
25 that you were entitled to earlier than that you

1 didn't get.

2 What does the Rules say about what you are  
3 entitled to, first of all, -- I didn't bring a  
4 copy of the Rules out here, but what is it that  
5 you are entitled to that you don't think that you  
6 got?

7 MS. BOLEN: There are a number of apparent  
8 text messages and admissions by my client that I  
9 have not been provided with until yesterday and I  
10 still don't have the actual substance of them.  
11 I was just told that they exist.

12 THE COURT: So, you looking up the rule?

13 MS. BOLEN: Yes, sir.

14 THE COURT: Hold on just let's look at the  
15 rule. You got it?

16 MS. BOLEN: Yes, sir.

17 THE COURT: Okay. Let me come down there  
18 and look at it. The first one deals with  
19 statements of the defendant.

20 MS. BOLEN: Yes, sir.

21 THE COURT: Okay. So you say that you  
22 requested those and what?

23 MS. BOLEN: And yesterday I was told that  
24 there were text messages, a letter which  
25 apparently they are not going to try to

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1 introduce, and phone calls and an admission of  
2 some type made by my client that they are going  
3 to introduce.

4 THE COURT: Do you have any response to  
5 that?

6 MS. WHITE: Your Honor, first of all  
7 regarding statements of the defendant, I found  
8 out about statements that the defendant made not  
9 to law enforcement, not to investigators, not to  
10 anyone in my office but to the victim. I found  
11 out about those yesterday, in trial prep. I  
12 told Ms. Bolen as soon as I knew about them.  
13 They are not in the care, custody or control of  
14 the State, never have been.

15 There are text messages that are on the  
16 victim's telephone. I told Ms. Bolen that  
17 she could look at them this morning, take  
18 pictures, do whatever she wanted to do regarding  
19 that. Going to, again, documents or  
20 intangible objects, again not in the care,  
21 custody or control of the State, it became known  
22 yesterday

23 ---

24 THE COURT: Hold on just a minute, let's  
25 back up. Let's back up. So are there any

1 written or recorded statements made by the  
2 defendant which you intend to introduce as  
3 evidence?

4 MS. WHITE: No, sir, I am not intending  
5 to ---

6 THE COURT: Okay.

7 MS. WHITE: I intending to introduce oral  
8 statements by the victim to the victim, just  
9 through her testimony, and also paraphrased text  
10 messages that were sent her during the time  
11 frame. Not actually introduce pictures or the  
12 substance of the text message.

13 THE COURT: Oral testimony from the  
14 prosecuting witness as to what he said to her.

15 MS. WHITE: Yes, sir. Which I think  
16 falls under an admission.

17 THE COURT: Well, I mean, you said you  
18 didn't know about these statements until  
19 yesterday?

20 MS. WHITE: Yes, sir.

21 THE COURT: All right.

22 MS. WHITE: Yes, sir. But going to the  
23 actual requirements of Rule 5, if the victim is  
24 not a State actor, she is not being represented  
25 by the State, she is merely a witness in the

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1 case. Ms. Bolen could actually have spoken  
2 with her. Ms. Bolen was perfectly free to  
3 call her, to call any of the State's witnesses.

4 THE COURT: Well, I understand that.

5 MS. WHITE: And I ---

6 THE COURT: Wait just a minute.

7 MS. WHITE: In fact, Ms. Bolen did  
8 speak with her.

9 THE COURT: All right, anything either of  
10 one of you has to say about oral statements?

11 MS. BOLEN: Yes, sir. I do believe that  
12 they need to be turned over. I understand that  
13 there are statements that the victim had. But  
14 Rule 5 states that -- our Rule 5 applies to the  
15 Solicitor says that anything that is "known to  
16 the prosecution or by exercising due diligence  
17 may become known. "

18 The State's case largely rests on the  
19 testimony of this woman and I think we should  
20 have known about these messages before yesterday.

21 I am aware of no legal authority by either  
22 our Supreme Court or the United States Supreme  
23 Court that requires the defense to preemptively  
24 find out what evidence the State is intending to  
25 introduce against the defendant at trial.

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1           It is true that I spoke with Ms.  
2           Brandenburg but I don't think I am under any duty  
3           to ask her for more evidence against my client,  
4           Your Honor.

5           MS. WHITE:   Your Honor, I think there is a  
6           duty on the part of the defense attorney to  
7           investigate.   I also think that I have an under  
8           no duty to basically disclose the entire contents  
9           of my trial prep with the victim, which I did  
10          yesterday.   I went above and beyond my duty, I  
11          believe, and disclosed every single thing that  
12          the victim told me yesterday.

13          MS. BOLEN:   Well, I ---

14          MS. WHITE:   That we intend to introduce  
15          at trial today.   I think I went above and  
16          beyond the requirements of Rule 5.

17          Regardless of what they ask for in their  
18          Motion, "anything known to the prosecution", I  
19          don't have to turn over anything known to the  
20          prosecution.   I have to turn over what is  
21          required by Rule 5 and *Brady*.

22          And I did turn it over as soon as I knew.

23          MS. BOLEN:   Your Honor, I am not  
24          contesting that at all.   She actually turned it  
25          over when -- she called me at 3:00 in the

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1           afternoon yesterday, and turned it over as soon  
2           as she knew.

3           Our Rule 5 request was specifically for oral  
4           statements made by prosecution witnesses within  
5           the possession, custody or control of the  
6           prosecution.

7           And not only were these text messages ---

8           THE COURT:   Well, Rule 5 really covers what  
9           he said and all.   So, anyway, based on the  
10          record that has been made so far, before me, I do  
11          not find any violation of Rule 5 that would  
12          require me to suppress oral statements that he  
13          made that are going to be testified to by one of  
14          the witnesses for the State.

15          MS. BOLEN:   Your Honor, also yesterday --  
16          well, last week Ms.   White had told me that  
17          there may, the victim had based, I was given five  
18          incident reports for the two warrants, one went  
19          with the February warrant, one went with, the  
20          other four went with the December warrant.

21          Last week Ms.   White told me that there  
22          might be some other incidences and she gave me  
23          sort of general parameters of them.   One of  
24          them involved something that allegedly happened  
25          in Greenwood County, one involved something that

1 allegedly happened in Berkeley County.

2 Yesterday -- again, she turned it over as soon as  
3 she knew, but yesterday she gave me a much more  
4 definite time frame with many more details about  
5 all of these incidences that prior to yesterday  
6 we didn't know anything about.

7 And we are asking for those to be suppressed  
8 on the basis that to introduce them at this late  
9 time violates our client's rights to a fair  
10 trial, the right to defend himself, and his due  
11 process rights.

12 THE COURT: I don't understand what you are  
13 talking about.

14 MS. BOLEN: Well, we were, we've been,  
15 basically until yesterday we were on notice of  
16 five difference incidences that were outlined by  
17 the incident reports that I had received from the  
18 State. Yesterday, I was informed that there  
19 are now probably an additional nine incidences  
20 that they are seeking to introduce evidence of;  
21 which I had no knowledge of prior to yesterday.

22 MS. WHITE: And Your Honor, the reason  
23 there were -- she actually did know about one of  
24 them.

25 THE COURT: Wait, wait, wait, back up.

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1 So what does that violate? I mean, what is it  
2 that you say that they have done that is contrary  
3 to the rule or law or whatever?

4 MS. BOLEN: Well, I think that it violates  
5 his rights to a fair trial, Your Honor. It's  
6 essentially that he is put on notice for one  
7 thing and then told the day before, 'well, we are  
8 actually going to try him on this other stuff.'

9 I think it violates his right to a fair  
10 trial. I think it violates his due process  
11 rights.

12 And we would just ask that we go forward on  
13 the incident reports that were provided and not  
14 on the other information that was given  
15 yesterday.

16 THE COURT: Well, I appreciate the position  
17 but I deny your Motion.

18 MS. BOLEN: Thank you, Your Honor. I  
19 think I have one last -- just want to make sure I  
20 hit everything, Your Honor.

21 Ms. White, I think Wednesday of last week,  
22 dropped off at my office a Family Court Order  
23 from Berkeley County which, among other things,  
24 contains a mutual Restraining Order. I think I  
25 referenced this Order in my motion for severance.

1 Since he is going to trial on a stalking charge,  
2 not the harassment charge, the restraining Order  
3 is not the element of stalking. It actually ---

4 THE COURT: Are you going to try and  
5 introduce that?

6 MS. WHITE: I do intend ---

7 THE COURT: Why?

8 MS. WHITE: --- to introduce it, Your  
9 Honor. I think it goes to that he was on  
10 notice that she did not want this contact to  
11 continue and it continued after this Order was  
12 issued.

13 THE COURT: Well then, is it an element of  
14 the offense of stalking?

15 MS. WHITE: I think it is intended to cause  
16 or could cause a reasonable person, the fact that  
17 even after a judge has told him, 'stay away from  
18 her and you are not to go around your children',  
19 that even after a judge has told him that ---

20 THE COURT: Well, ---

21 MS. WHITE: --- but he is still doing that.  
22 I think is very much an element of stalking.

23 It goes to the fear that she had; the fear  
24 that, you know, he would take the kids; it goes  
25 to his intent to ---

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1 THE COURT: Well, I don't know about that,  
2 I am going to have to think about that a little  
3 bit. It seems to me that it would not be, you  
4 know admissible to prove stalking if stalking as  
5 defined under the statute.

6 MS. WHITE: Also Your Honor, I think ---

7 THE COURT: And any possible relevance  
8 would be out. This is a pretrial statement and  
9 everything. If you want to try and introduce  
10 it, you can let me know in advance that that's  
11 what you want to do and we'll take it up nonjury.  
12 I will rule at that time. But my pretrial, you  
13 know, feeling is that I don't think that's  
14 relevant and any possible relevance is outweighed  
15 by potential for unfair prejudice.

16 MS. WHITE: Your Honor, I think that it also  
17 goes -- I think it also goes as unfairly  
18 prejudicial to the State to not to introduce it  
19 because this conduct has gone on for months and  
20 that she has taken no steps to end it. I think  
21 the jury could think well she wasn't that scared  
22 after all.

23 THE COURT: No, no. Well, I've given you  
24 my first impression. As I said, if you want to  
25 try and introduce that in the trial of this case

1 for stalking, then you let me know in advance and  
2 we will hear you fully and let you offer your  
3 testimony and everything nonjury and I'll rule at  
4 that time.

5 MS. WHITE: Thank you, Your Honor.

6 MS. BOLEN: Your Honor, if I could have  
7 just a brief break I need to---

8 THE COURT: All right. Let me mention  
9 something up here, you all, the lawyers come up  
10 here. I may have a surprise for all of you.

11 I'm pretty sure that there used to be part  
12 of our law, statute, whatever and everything but  
13 the defense is entitled to three days notice in  
14 regard to an indictment. This Indictment is  
15 December 2. You know, I don't know that that's  
16 three days notice. I mean, if he didn't have  
17 notice of this Indictment until December 2, you  
18 are entitled to, look at the statute and see what  
19 the statute says. I don't know if you want to  
20 raise that or not. I am just telling you that  
21 I think that is what the law, or what the law  
22 used to be.

23 MS. WHITE: I think if the indictment is  
24 standing that ---

25 THE COURT: Well, look it up on your

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1 computer, look at the statute and see what you  
2 are entitled to as far as notice.

3 I mean, I don't whether you all want to  
4 insist on that or not. But I mean, I think that  
5 is what the statute say, or at least it used to.

6 MS. WHITE: Your Honor, the statute section  
7 I see, 17-19-80 does say that persons indicted  
8 for capital offenses get at least three days.

9 THE COURT: Well, is that it? I couldn't  
10 remember.

11 MS. WHITE: It may just be capital  
12 offenses.

13 THE COURT: 17-19-30?

14 MS. WHITE: Eighty (80)

15 THE COURT: I couldn't remember. It may  
16 just be limited to that.

17 MS. WHITE: It appears to be limited to  
18 capital but I might be mistaken.

19 THE COURT: Okay. It looks like that's  
20 it.

21 MS. WHITE: Yes, sir.

22 THE COURT: I was, tried to expand it.

23 THE COURT: Are the researching that, or  
24 what are they doing back there?

25 MS. BOLEN: I am not sure, Your Honor.

1 I had one more thing I wanted to put on the  
2 record before we had the jury back.

3 THE COURT: All right. So anything else?

4 MS. WHITE: Your Honor, returning to the  
5 previous motion on behalf of the defense.

6 THE COURT: Which previous motion?

7 MS. WHITE: The Motion on restraining  
8 Order. I would like for Your Honor to read the  
9 restraining Order. There are incidents that  
10 occur after this that I think are extremely  
11 relevant.

12 THE COURT: Well, as I said, you can  
13 present all that during the trial if you want to  
14 try and do that.

15 I mean things that happen may, you know, if  
16 it is a factual matter, it's a factual matter but  
17 the fact that there was a restraining Order is  
18 what I don't think you are going to be able to,  
19 you should be allowed to prove.

20 MS. WHITE: Your Honor, I'm not certain --  
21 I think that directly goes to, to his intent to  
22 continue harassing her. It goes to his state of  
23 mind. It goes to the fear that she has because  
24 I have to prove that these calls were reasonable  
25 for a person would be in fear of death, bodily

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1 injury, etcetera, etcetera. The fact that even  
2 though a judge has told him, "you can't do this,  
3 and it is punishable by up to a year if you  
4 violate my Order", and he's still doing this, but  
5 goes to her fear. And that's an element of the  
6 offense.

7 THE COURT: You have one view and I have  
8 another. All right.

9 MS. BOLEN: Your Honor, in response to  
10 that, he is not ---

11 THE COURT: I'm not ruling, I've told you  
12 what my feeling is about it. Let's move on.

13 MS. BOLEN: Okay. I was just to be overly  
14 ---

15 THE COURT: Don't say anything more about  
16 that now. Move on to whatever else, anything  
17 else?

18 MS. BOLEN: Your Honor, I understand you  
19 denied my discovery Motion, I just wanted to make  
20 sure for the record that the record has that I  
21 was making that under both Rule 5 and *Brady*.  
22 And finally, Your Honor, --

23 THE COURT: *Brady* to do with exculpatory  
24 stuff.

25 MS. BOLEN: Right, and there is one piece

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1 of exculpatory evidence that I was given  
2 yesterday. Again as Ms. White, only found out  
3 about yesterday, but apparently at some point in  
4 November the alleged victim went to the Sheriff's  
5 Office to complain about this alleged conduct and  
6 the Sheriff's Office told her there was nothing  
7 they could do about it; which I think goes to  
8 show they didn't think there was any crime.

9 That was over a year ago. They don't know who  
10 said that to her and if I had found out earlier  
11 I could have gone over there and seen if anyone  
12 remembered. At this point, we're past a year.

13 THE COURT: All of which maybe brings me  
14 back to what I was thinking about that I want to  
15 make sure that I'm hearing you on. You're not  
16 moving for a continuance on this case.

17 MS. BOLEN: No, sir. We have actually put  
18 in a speedy trial motion, client has been  
19 incarcerated. All I am asking is ---

20 THE COURT: All right

21 MS. BOLEN: --- for the exculpatory  
22 information is that I be able to question her  
23 about that. That she went to the Sheriff's  
24 Office and that they told her ---

25 THE COURT: You ask what questions you want

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1 to ask and if there is not an objection, there is  
2 no problem.

3 MS. BOLEN: Okay. Your Honor, I believe  
4 that's all we have, outside of the issue(s) we  
5 will take up if it comes up.

6 THE COURT: All right.

7 MS. BOLEN: I would make a Motion that the  
8 witnesses be sequestered, Your Honor.

9 THE COURT: Any objection to that?

10 MS. WHITE: Your Honor, just for purposes  
11 of the Victims Bill of Rights, Ms. Brandenburg  
12 can stay?

13 THE COURT: Sure, she can stay in, she can  
14 stay.

15 MS. WHITE: And other than that, nothing.

16 THE COURT: She can stay. All right.  
17 Anything else?

18 MS. BOLEN: Nothing.

19 THE COURT: All right. Well, we will have  
20 the jury back in here at twelve. You all  
21 remember now the way I struck a jury in a  
22 criminal case is very similar to the way we do in  
23 a civil.

24 You are going to have a list, it's five  
25 strikes for each side in a case like this, okay.

1 So that's twelve plus ten is twenty two plus four  
2 more for a possible alternate and all so that  
3 will be twenty-six people. You will have one  
4 through twenty-six. You'll have the list, both  
5 sides will have the list. I start at the top  
6 and ask you will the State accept or excuse juror  
7 number one, we go by the number next to the left  
8 hand side number. If you accept, I ask you if  
9 you accept. Of course, if they excuse we'll go  
10 to number two and so forth down the line until  
11 we've got our twelve jurors and one alternate.  
12 You understand that?

13 MS. WHITE: Yes, sir.

14 THE COURT: Okay.

15 MS BOLEN: One more question, Your Honor.  
16 Since there is not a ruling yet on the restrain-  
17 ing Order can we ask that the State refrain from  
18 mentioning that.

19 THE COURT: They shouldn't mention that,  
20 no, they shouldn't mention that in opening  
21 statements. No.

22 MS. BOLEN: Thank you, Your Honor.

23 MS WHITE: And Your Honor, I would like to  
24 mention, I am not going to mention the restrain-  
25 ing Order but Ms. Brandenburg did have sole

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1 custody of the children. I would like to  
2 mention that in opening.

3 MS. BOLEN: I don't ---

4 THE COURT: I don't know that has anything  
5 to do with the case but, you know, the charges  
6 but anyway. You know, basically the opening  
7 statement really should be what the claim is,  
8 that you claim that he stalked her and, you know,  
9 what the elements of the offense are. Now we  
10 have gotten beyond that to a certain extent.

11 But, you know, basically is let the  
12 testimony come from the witnesses, both sides,  
13 let the testimony come from the witnesses.

14 So you have an objection during the course  
15 of her argument or her opening statement to the  
16 jury, you raise your objection and I'll rule.

17 But stay away from anything that is going to  
18 be controversial is what I'm telling both sides.

19 MS. BOLEN: Well, that the custody is not  
20 something that happens until that very same  
21 restraining Order.

22 THE COURT: I don't see where that has  
23 anything to do with it.

24 MS. WHITE: That is part of the exact same  
25 Order.

1 THE COURT: Well, I don't think that has  
2 anything to do with stalking. Let that be a  
3 guide. I am going to keep your book up here  
4 unless you want it back.

5 MS. WHITE: I might want it for opening,  
6 Your Honor.

7 THE COURT: Well, has anyone got a copy of  
8 the book? They don't have a copy up here (on the  
9 bench).

10 MS. WHITE: I think we can get somebody to  
11 bring another copy.

12 THE COURT: If you have a copy machine,  
13 that's ---

14 CLERK: Yes, sir.

15 THE COURT: Make me copies of this,  
16 because it's not in the book over there. So 16-  
17 3-1700. Guess that's the only one that we need  
18 to start with anyway. Thank you.

19 (BRIEF RECESS)

20 (MARKED STATE'S EXHIBIT 1 - ID ONLY

21 TEMPORARY RESTRAINING ORDER)

22 (DEFENDANT PRESENT)

23 THE COURT: Go ahead and bring all the jury  
24 in. I thought they were already letting them  
25 in. Go ahead and bring the jury in.

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1 MS. WHITE: Your Honor, may we approach?

2 SIDEBAR:

3 THE COURT: Sure.

4 MS. WHITE: I have a question about time.

5 Are you wanting to pick and go straight into  
6 opening and testimony?

7 THE COURT: Well, it depends on how long it  
8 takes us to pick the jury. You know, we got a  
9 little bit of time and we will do it -- or, do  
10 you have a preference?

11 MS WHITE: I would think to do opening  
12 after lunch.

13 THE COURT: All right, we'll try to do  
14 that, we'll try to do that.

15 (SIDEBAR CONCLUDED)

16 THE COURT: All right, members of the  
17 jury, please give me your attention. We are  
18 about to pick a jury for trial of the case of  
19 State of South Carolina against Charles Moody  
20 Brandenburg.

21 Mr. Brandenburg, if you would stand please  
22 and turn that way so that way so the jury can see  
23 you.

24 DEFENDANT: (Complies)

25 THE COURT: Thank you, you can be seated.

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1 Mr. Brandenburg has been charged by the State  
2 with violating a provision of the law found in  
3 Section 16-3-1730 -- that's just the number that  
4 is assigned to this particular provision of the  
5 law -- or 16-3-1700 is where it is actually  
6 defined and all. I will read that to you later  
7 on but it is commonly called stalking.

8 That is what the State claims that Mr.  
9 Brandenburg violated the particular provision of  
10 the law commonly referred to stalking, and I will  
11 define that in its entirety later during the  
12 trial, during the period of time from September  
13 1, 2012 through February 28, 2013. And this  
14 involved Angela Brandenburg.

15 Mrs. Brandenburg, if you would please stand  
16 and all wherever she is seated over here.

17 MS. BRANDENBURG: (Complies).

18 THE COURT: Angela Brandenburg. All  
19 right you can be seated.

20 So those are the people directly involved  
21 in the charges that are made against Mr.  
22 Brandenburg.

23 To this charge of stalking, he has said, 'I  
24 am not guilty. And that is why we are going to  
25 have the trial for a jury to determine whether

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1 the State can prove him guilty of this crime  
2 beyond a reasonable doubt. That's why we are  
3 going to have this trial for a jury to determine  
4 whether the State can, though the evidence  
5 presented here in Court prove him guilty of this  
6 charge beyond a reasonable doubt.

7 Now, I would ask the lawyers who are going  
8 to be trying the case to stand and introduce  
9 themselves to the jury also. We'll start with  
10 the Solicitor.

11 MS. WHITE: Thank you. Ladies and  
12 gentlemen, I am Elizabeth White. I am an  
13 assistant solicitor here in Abbeville County.  
14 Trying the case with me today is Assistant  
15 Solicitor Yates Brown and this is Angela Priest  
16 from the Abbeville Police Department.

17 THE COURT: All right, and if you would,  
18 go ahead and call out the names of potential  
19 witnesses that you might call on behalf of the  
20 State.

21 MS. WHITE: Potential witnesses are:  
22 Angela Brandenburg  
23 Robert Faggart  
24 Cynthia Kennedy with the Abbeville  
25 Police Department

1 Joe Berryfield with the Abbeville  
2 Police Department  
3 Donna Brown with the Long Primary  
4 Dr. Carl Costner with Long Cane Primary  
5 Jeffrey Abercrombie with the Abbeville  
6 Sheriff's Office  
7 Angela Priest with the Abbeville Police  
8 Department, and  
9 Georgia Shobe

10 THE COURT: All right. Members of the  
11 jury panel I want to know if you are related by  
12 marriage or blood or marriage to any of those  
13 people or do you know any of those people whose  
14 names were just called out to you in any way,  
15 shape, form, or fashion.

16 Anyone on the jury panel related by blood or  
17 marriage or do you know in any way any of those  
18 people whose names were just called out to you,  
19 the lawyers that were introduced down here, the  
20 police representative, all the people that were  
21 just introduced to you. Names called out to  
22 you, if you know them in any way, related to them  
23 in any way, please stand.

24 We will start with the gentleman there, the  
25 first one. Tell me your name and number.

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1 JUROR NUMBER 133: Brandon Sutherland,  
2 Juror 133.

3 THE COURT: What's your response?

4 JUROR NUMBER 133: Me and Angela are first  
5 cousins.

6 THE COURT: All right, thank you very  
7 much. We will excuse him in this case.

8 (JUROR NUMBER 133 EXCUSED)

9 THE COURT: Thank you. Yes, sir, your  
10 name and number?

11 JUROR NUMBER 109: William Patterson, 109.  
12 I used to work for Robert Faggart and I know  
13 Angela and I'm a Scout Master for their son,  
14 Forrest Faggart.

15 THE COURT: All right, thank you very much  
16 for that information.

17 The gentleman that stood and said that y'all  
18 were cousins, if you would, go ahead and move  
19 over to the other side of the courtroom, we'll  
20 just separate you out at this point. All right,  
21 thank you very much.

22 All right, now we switch over to this side  
23 and I'll ask the lawyers to introduce yourselves  
24 to the jury and call out the names of witnesses  
25 you that you might call for the defense.

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1 MS. BOLEN: Thank you, Your Honor. I'm  
2 Patricia Bolen. I am an attorney here in  
3 Abbeville. Trying the case with me is Jana  
4 Nelson, also an attorney here. Together we  
5 represent Mr. Brandenburg.

6 Any potential witnesses the court would call  
7 are Vince Wilkie or Brian Davis.

8 THE COURT: All right, and the same  
9 question as far as of the attorneys and of  
10 course, the defendant, Mr. Brandenburg and those  
11 potential witnesses. Anyone on the jury panel  
12 related by blood or marriage or do you know in  
13 any way any of these people? If so, please stand.

14 Anyone on the panel related by blood or  
15 marriage or do you know in any way these people  
16 that we just introduced to you and whose names  
17 were just called out to you?

18 We'll start with the gentleman that's  
19 closest to the aisle. Tell me your name and  
20 number please, sir.

21 JUROR NUMBER 15: Michael Botts, Juror  
22 Number 15. Courtney Caldwell is my second cousin.

23 THE COURT: All right, thank you very much  
24 for that information. Yes, sir, your name and  
25 number.

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1 JUROR NUMBER 109: William Patterson, 109.  
2 I know Courtney, grew up with her, went to school  
3 with her brother.

4 THE COURT: All right. Thank you very  
5 much for that information. Yes ma'am, tell me  
6 your name and number.

7 JUROR NUMBER 16: Belinda Bowie, I'm Juror  
8 Number 16. Vince Wilkie, I known since he was  
9 little boy and also Courtney Caldwell.

10 THE COURT: All right. Thank you very  
11 much for that information.

12 Anyone else with a positive response to that  
13 question, if so, please stand. (No response).  
14 No one else standing.

15 Does any member of the jury panel have any  
16 knowledge or information or think you know  
17 anything at all about any fact or circumstance  
18 that may be involved in the trial of this case?

19 Anyone know anything, may think you know  
20 anything at all about any fact or circumstance  
21 that may be involved in the trial of this case in  
22 which Mr. Brandenburg, as I said, is charged with  
23 stalking Angela Brandenburg between September 1,  
24 2012 and February 28, 2013.

25 Anyone have any knowledge of anything at all

1 to do with this case, if so, please stand. No  
2 one's standing.

3 Is any member of the jury panel aware of any  
4 bias or prejudice, either in favor of or against  
5 the State of Mr. Brandenburg? (No response).  
6 Charles M. Brandenburg, Jr. or the State? (No  
7 response).

8 You all ready? All right both sides ready?

9 MS. WHITE: Yes, sir, Your Honor.

10 THE COURT: All right, ready?

11 MS. BOLEN: Yes, Your Honor.

12 THE COURT: All right, members of the jury  
13 panel as I said, we have this list of names and  
14 the computer has given us to use to pick a jury  
15 for the trial of this case. And we go by the  
16 numbers in the order in which the computer put  
17 them out, put the names out. So we are going to  
18 refer to numbers, not names, and the numbers of  
19 course in no way correspond to your juror number;  
20 so don't think that they are talking about you if  
21 you hear your juror number called out because  
22 that's not the number we're dealing with. So  
23 will the State accept or excuse juror number one.

24 MS. WHITE: Please excuse juror number one.

25 THE COURT: All right. Will the State

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1 accept or excuse juror numbered two?

2 MS. WHITE: State accepts juror number two.

3 THE COURT: Defendant?

4 MS. BOLEN: Your Honor, Defendant accepts  
5 juror number two.

6 THE COURT: Number three?

7 MS. WHITE: State accepts juror number  
8 three.

9 MS. BOLEN: Defense accepts juror three,  
10 Your Honor.

11 THE COURT: Number four?

12 MS. WHITE: State accepts juror number  
13 four.

14 MS. BOLEN: Defense accepts juror number  
15 four.

16 THE COURT: Number five?

17 MS. WHITE: State accepts juror number  
18 five.

19 MS. BOLEN: Defense accepts juror five.

20 THE COURT: Number six.

21 MS. WHITE: State excuses juror six.

22 THE COURT: Number seven?

23 MS. WHITE: State accepts juror seven.

24 MS. BOLEN: Defense accepts juror seven.

25 THE COURT: Number eight?

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1 MS. WHITE: State accepts juror eight.  
2 MS. BOLEN: Defense accepts juror eight.  
3 THE COURT: Number nine?  
4 MS. WHITE: State accepts juror nine.  
5 MS. BOLEN: Defense excuses juror nine.  
6 THE COURT: Number ten?  
7 MS. WHITE: State accepts juror ten.  
8 MS. BOLEN: Defense accepts juror ten.  
9 THE COURT: Number eleven?  
10 MS. WHITE: State accepts juror eleven.  
11 MS. BOLEN: Defense accepts juror eleven.  
12 THE COURT: Twelve?  
13 MS. WHITE: State accepts juror twelve.  
14 MS. BOLEN: Defense accepts juror twelve.  
15 THE COURT: Thirteen?  
16 MS. WHITE: State accepts juror thirteen.  
17 MS. BOLEN: Defense accepts juror thirteen.  
18 THE COURT: Fourteen?  
19 MS. WHITE: State accepts juror fourteen.  
20 MS. BOLEN: Defense accepts juror fourteen.  
21 THE COURT: Fifteen?  
22 MS. WHITE: State asks juror fifteen be  
23 excused.  
24 THE COURT: Sixteen?  
25 MS. WHITE: State accepts juror sixteen.

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1 MS. BOLEN: Defense asks that juror sixteen  
2 be excused.

3 THE COURT: Seventeen?

4 MS. WHITE: The State accepts juror  
5 seventeen.

6 MS. BOLEN: Defense accepts juror  
7 seventeen.

8 THE COURT: All right. I believe that's  
9 our twelve jurors, everybody agree on that? I  
10 think that's twelve.

11 MS. WHITE: Yes, Your Honor.

12 MS. BOLEN: Yes, Your Honor.

13 THE COURT: All right. Now we've got an  
14 alternate. One excuse per the State and two  
15 for the defendant to pick an alternate. Will  
16 the State accept or excuse juror eighteen as the  
17 alternate?

18 MS. WHITE: The State accepts juror  
19 eighteen.

20 THE COURT: Defendant?

21 MS. BOLEN: Defense accepts juror  
22 eighteen.

23 THE COURT: All right. Any exceptions to  
24 the jurors as presently constituted by the State?  
25 Any exceptions?

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1 MS. WHITE: None from the State, Your  
2 Honor.

3 THE COURT: Defendant?

4 MS. BOLEN: None from the defense, Your  
5 Honor.

6 THE COURT: All right. You want to  
7 call the names or you want me to call them?

8 THE CLERK: I will call them.

9 THE COURT: All right, the Clerk will  
10 call the names of those who have been picked as  
11 the jury in this case.

12 If she calls your name, come forward and  
13 over here, and have a seat in these chairs, that  
14 is the jury box over there and bring any personal  
15 belongings that you may have with you.

16 Call the names.

17 THE CLERK: Yes, sir:

18 Trevor Price

19 Rebecca McCaslan

20 David Ellis

21 Tennison Dawson

22 Tracy Duncan

23 Johnny Martin

24 Ethan Powell

25 Ida Hudson

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1 Russell Ackerson

2 Kayla Kwist

3 Harry Ramey

4 Joseph C. Powell

5 As alternate:

6 Gloria Marshall.

7 THE COURT: Over here, Ms. Marshall.

8 You're the alternate, we got you a special seat  
9 over here for the alternate juror.

10 All right and the first thing we ask the  
11 jury to do if you would follow the bailiff out,  
12 take them and show them the jury room. I will  
13 be back with you in just a few minutes. If you  
14 would, follow the bailiff out, he will show you  
15 to your jury room. I'll be back with you in  
16 just a few minutes.

17 Take those note pads with you and put your  
18 name on the front of them, because you are going  
19 to keep that throughout the trial. Put your name  
20 on the front page there so you can easily  
21 identify it as yours.

22 (JURY OUT)

23 THE COURT: All right, assuming this  
24 case takes the rest of the day and probably a  
25 little bit into tomorrow, at least to try, and

1 all, what do you want me to tell the rest of the  
2 jury?

3 MS. WHITE: They are excused, Your  
4 Honor.

5 THE COURT: Members of the jury  
6 panel that are still sitting in the audience, I  
7 have just been informed by the Solicitor that  
8 this is the only case that they intend to call  
9 for trial this week, for a jury trial this week.

10 We've got some other things that we will be  
11 dealing with where we don't need a jury, but this  
12 the only case that we needed a jury for this  
13 week. So you are through, your service on the  
14 jury panel is complete.

15 I want to thank you very much, want to at  
16 least thank you for coming in, you didn't have  
17 any choice but nevertheless, thanks for coming  
18 in. The Clerk will be mailing a paycheck to you  
19 for coming in today. If you don't get that by  
20 sometime next week, get in touch with Ms.  
21 MacMahan, the Clerk of Court so she can follow up  
22 and get it to you. Thank you very much, you are  
23 free to go. You can stay if you want to, but you  
24 are free to go.

25 (JURY PANEL EXCUSED)

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1 THE COURT: Now you all want to wait  
2 until after lunch to do your opening statements?

3 (PANEL RELEASED AT 12:32 P.M.)

4 MS. WHITE: Yes, sir.

5 THE COURT: All right, Okay. Well, let  
6 me, wait just a second. Yes, that will be fine,  
7 bring the jury back in.

8 (JURY IN AT 12:33 P.M.)

9 THE COURT: Just come in and have a seat  
10 wherever it is comfortable to you, wherever you  
11 want to sit right now. All right, we have the  
12 jury back with us and the defendant is present  
13 along with everybody's attorney, all the  
14 attorneys are present.

15 All right. Well, first thing I am going to  
16 do is give you a break and all. I still have a  
17 few little preliminary matters that I have to  
18 deal with the lawyers about and before we can get  
19 started with the actual trial of this case and  
20 all and I'll get any further involved in the  
21 trial of this case so I am going to let you go to  
22 lunch a little bit early today. There is no  
23 sense in keeping you back there in that jury room  
24 while I am dealing with them about some other  
25 matters. So, I am going to let you go in just

1 a minute and tell you to back in the jury room,  
2 back there, not in the Courtroom, not outside.

3 When you get back, don't hang around  
4 outside. Other people may be coming and going,  
5 the lawyers, witnesses, whatever and so it's best  
6 when you get back to the area of the courthouse  
7 after your lunch break, to come straight in, go  
8 straight to the jury room. That way you avoid  
9 any contact with any of the people that may be  
10 involved in the trial of the case. Okay?

11 So do that, keep that in mind throughout the  
12 trial if we go into tomorrow which I imagine we  
13 probably will, keep that in mind.

14 Another thing, you cannot discuss the case  
15 even amongst yourselves during the trial of the  
16 case. The only time you are to discuss it is  
17 when the twelve of you are together at the  
18 conclusion of the case when you have heard  
19 everything, you have heard my instructions, you  
20 have heard all the testimony. You have heard  
21 the lawyers argue and everything. That is when  
22 you'll discuss it, that's when you'll talk about  
23 it, back there in the jury room, the twelve of  
24 you.

25 So during the trial, don't talk about the

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1 case, you can talk about anything else, the  
2 weather, whether you pull for Clemson or  
3 Carolina, whatever you want to during the trial,  
4 but don't talk about the case. Keep that in  
5 mind throughout.

6 The only time you are to discuss it is when  
7 the twelve of you are in the jury room, at the  
8 end of the case when you are considering your  
9 verdict.

10 So with that, I will let you go. Be back  
11 in the jury room at 2:00, we'll get started just  
12 as soon as we can after that. Leave your note  
13 pads there in your chair, we'll take them up and  
14 give them back to you, we'll have them in the  
15 jury room when you come back. Just leave them  
16 in the chair there, we'll take them up, give them  
17 back to you later. Have a nice lunch.

18 (JURY OUT AT 12:35 PM)

19 THE COURT: All right, anything else  
20 before we break then? You all probably had, you  
21 wanted to have Mr. Brandenburg to shave, is there  
22 any problem? I don't know whether y'all take him  
23 somewhere or whatever. If they've got the razor  
24 and shaving cream or whatever. Any problem with  
25 letting him shave?

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1 SECURITY OFFICER: No, Your Honor.

2 THE COURT: Okay, all right.

3 MS. BOLEN: Thank you.

4 THE COURT: Anything else? (No response).

5 All right, be back a little before 2:00 then.

6 (LUNCH RECESS)

7 (DEFENDANT PRESENT)

8 THE COURT: Please be seated. Come on

9 out. All right bring the jury out.

10 (JURY IN @ 2:00 P.M.)

11 THE COURT: Let see, if you would leave  
12 that first seat, move over there, and let's see,  
13 I am looking for Juror Tracy Duncan, Juror Number  
14 45, where is Tracy Duncan?

15 JUROR NUMBER 45: (Raises hand).

16 THE COURT: Tracy Duncan. Okay, come on  
17 around to the front here, if you would. I am  
18 going to ask you to sit in that seat right there.  
19 Ms. Duncan, I am appointing you as foreperson of  
20 the jury. If you would occupy that seat at all  
21 times during the trial.

22 The alternate juror, that's the seat, Ms.  
23 Marshall, that's the seat that we reserve for  
24 you.

25 The rest of you are free to sit anywhere you

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1           like in the jury box at such times as you come  
2           and go from the courtroom but if you would, let  
3           the foreperson sit there and the alternate juror  
4           sit there. All right.

5           Oh, I forgot about that the Clerk's not here  
6           yet, do you have a copy of the oath? I sent her  
7           on an errand and I didn't realize she wasn't  
8           back.

9           All right, if you would please, stand and  
10          raise your hand, all of you please. Do you  
11          solemnly swear that you will well and truly try  
12          the issue before this Court in this case, this is  
13          the case of The State of South Carolina against  
14          Charles Moody Brandenburg, and a true deliverance  
15          make and a true verdict render according to the  
16          evidence and the law presented, so help you God?

17          If you accept this oath, please indicating  
18          by saying "I will". Thank you all the jurors are  
19          in accord then. You may be seated. Thank you.

20          As I told you earlier, each one of you has  
21          a note pad and a pen. I do allow jurors to take  
22          notes during the course of a trial. Some people  
23          don't think that is a very good idea. Some  
24          people think that it may distract you from what  
25          is actually being said and done during the

1 presentation of the testimony and the evidence.

2 (CLERK ENTERS COURTROOM)

3 THE COURT: Come on in. I took care of  
4 the oath for you. Good. She was out doing  
5 something and I took care of part of her job.

6 I do allow jurors, as I said, to take notes  
7 during the course of a trial. Those notes are to  
8 be used only as memory aides. Notes are not  
9 entitled to any greater weight than the  
10 recollection or the impression of each juror as  
11 to what the testimony or evidence actually was.

12 Those are your notes and your notes only.  
13 No one will be looking at them, checking to see  
14 what you wrote or didn't write or anything of  
15 that sort. At the conclusion of the trial, I'd  
16 ask you to tear out any notes you may have made,  
17 take them with you, tear them up, whatever you  
18 want to do. As I said, those are your notes and  
19 your notes only and notes are not entitled to any  
20 greater weight than the recollection or the  
21 impression of each juror as to what the testimony  
22 or evidence actually was.

23 Ms. Duncan, as I have said, I have  
24 appointed you as Forelady, Foreperson of the  
25 jury. In addition to sitting in that seat, it

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1 will be your job at the conclusion of the case to  
2 preside over the jury deliberations when you are  
3 considering your verdict. Your vote counts no  
4 more than anybody else's vote in deciding this  
5 case, it is just your job to get the discussion  
6 going, keep it on track, and to report to us when  
7 you have reached a verdict.

8 Also, if there is any need for you as a  
9 jury to communicate with me about any matter  
10 during the course of the trial, you would be the  
11 jury spokesperson here in Court for that purpose.

12 As I told you earlier, this is a case in  
13 which the State of South Carolina, charges/claims  
14 that Mr. Charles Moody Brandenburg, that I  
15 introduced to you earlier, violated one of the  
16 laws of this State that is commonly referred to  
17 as stalking. And we will hear more about  
18 exactly what that term means before you retire to  
19 consider your verdict. I will define it for you  
20 and tell you more about what is exactly meant  
21 when we use the work "stalking" in terms of a  
22 criminal statute.

23 But to that charge, Mr. Brandenburg has  
24 said, "I'm not guilty" and that places the burden  
25 of proving him guilty on the State.

1           A person who is charged is never required to  
2 prove himself or herself innocent. The burden of  
3 proof is always on the State to convince you by  
4 the evidence presented here in Court that he is  
5 guilty beyond a reasonable doubt.

6           Really that is the question that you'll  
7 answer at the conclusion of this case, has the  
8 State met the burden of proof of proving him  
9 guilty of this charge beyond a reasonable doubt?

10           You are the sole judges of the facts of the  
11 case. I haven't anything to do with the facts.  
12 During the course of the trial, my job is to make  
13 sure that the parties follow the rules.

14           We have certain Rules of Evidence and Rules  
15 of Procedure that they are supposed to follow in  
16 presenting the facts to you. My job during the  
17 trial is to make sure that they follow those  
18 rules. Perhaps during the trial, one or more of  
19 the attorneys will get up and say something like,  
20 "Your Honor, I object", or "we need to discuss a  
21 point of law or point of procedure" or something  
22 like that with you and all. When the lawyers do  
23 that, they are talking to me, they are not  
24 talking to you. They are calling a possible  
25 violation of one of those rules of evidence or

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1 rules of procedure to my attention. Don't you  
2 concern yourselves with those objections or how I  
3 may rule on those objections, whether I overrule  
4 it, sustain it, whatever because it is has  
5 absolutely nothing to do with your job in this  
6 case; which is to be the finders or the judges of  
7 the facts of the case.

8 Probably, if one of those occasions arise,  
9 I'd ask you to leave the courtroom, go to the  
10 jury room, let me discuss the rule, let me  
11 discuss the application, let me make a decision,  
12 bring you back in and go on with the trial of the  
13 case. I'm not trying to hide anything from you  
14 by doing that. it is just that we have found over  
15 the years that that's the best way for me and the  
16 lawyers to be able to discuss the Rules, discuss  
17 how they should be applied in a particular case,  
18 make a decision and go on with the trial.

19 So, how are we going to go about learning  
20 about this case? First of all, each attorney, an  
21 attorney for each side will have an opportunity  
22 to make an opening statement to you. These  
23 are not arguments, the arguments will come at the  
24 conclusion of the case. But I do allow each  
25 side to introduce themselves a little further,

1 tell you a little bit about, more about what the  
2 charge is, what the State claims in this case,  
3 and whatever the Defense wants to say in response  
4 to those charges in this case.

5 After those opening statements, then we have  
6 witnesses. People will come up here and sit in  
7 this chair and tell you what they know about this  
8 case, about the charges that are being made  
9 against Mr. Brandenburg in this case. After  
10 all the testimony and all the evidence has been  
11 presented, then we will have summations and  
12 arguments from the attorneys and then after that,  
13 I will discuss with you more fully what your  
14 duties and responsibilities are as a jury in this  
15 case and the law that applies in this case and  
16 then you go to the jury room and the twelve of  
17 you would deliberate and you'll answer that  
18 question, has the State met the burden of proof  
19 in regard to this charge made against Mr.  
20 Brandenburg in this case.

21 Keep in mind what your job is going to be at  
22 the conclusion of the case.

23 Ms. White, would you like to make an opening  
24 statement?

25 MS. WHITE: I would, Your Honor. Ms.

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1 Bolen has a ---

2 MS BOLEN: If we can approach for just a  
3 sidebar or something.

4 (BENCH CONFERENCE)

5 THE COURT: Members of the jury panel, I  
6 need you to go to the jury room for a moment.  
7 I've got to discuss something with the lawyers.  
8 Go to the jury room, please. One of those  
9 occasions.

10 (JURY EXITS)

11 THE COURT: All right, we have the jury  
12 out. All right, Ms. Bolen what would you like  
13 to say?

14 MS. BOLEN: Thank you, Your Honor. I  
15 wanted to bring this to the Court's attention.  
16 During our lunch break, I was waiting in line for  
17 the Women's restroom downstairs, there was  
18 someone in it. As I was waiting, Ms. Davenport  
19 from the Solicitor's Office was, as well as, I  
20 believe, Ms. Shope and Mr. Keith were walking  
21 down the hall.

22 THE COURT: Who is Ms. Davenport?

23 MS. BOLEN: She is right here, she works  
24 with the Solicitor's Office. The woman who left  
25 the bathroom, I don't have a great memory for

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1 faces, but at the time I did recognize her as a  
2 juror, but she and Ms. Davenport both said  
3 something about "oh, it's you" or something  
4 indicating they knew each other and I believe  
5 they made some kind of physical contact and I  
6 think they talked a little bit. I went into the  
7 restroom. I heard the woman, I heard Ms.  
8 Davenport ask 'what are you here for' and she  
9 said for jury duty.

10 It turns out she is on the jury and I just  
11 wanted that on the record and have both of them  
12 asked, I guess, what they talked about, what  
13 their relationship is. That's contact within  
14 the Solicitor's office and a juror.

15 MS. WHITE: Your Honor, I haven't had a  
16 chance to talk to Ms. Davenport about it. I know  
17 that she ---

18 THE COURT: Come on around, Ms. Davenport  
19 and let's hear what you have to say. Just come  
20 on up here. Up here. Raise your right hand.  
21 Do you swear or affirm the testimony you are  
22 about to give to be the truth?

23 MS. DAVENPORT: Yes, sir.

24 THE COURT: Have a seat. And your job  
25 with the Solicitor's office is what?

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1 MS. DAVENPORT: Court administrator.

2 THE COURT: Court administrator. Okay.

3 All right. Tell us what happened downstairs  
4 with the ---

5 MS. DAVENPORT: I was walking in from lunch  
6 and I saw this girl, she saw me. I've known her  
7 -- come to find out it is the little girl that  
8 went to nursery school with my daughter, who is  
9 now twenty-five years old. And we just, she  
10 recognized me as Monica's mom and, I mean, it was  
11 just ---

12 THE COURT: Okay. Do you know who it is?

13 MS. DAVENPORT: Her names is Kayla used  
14 to be, uh, -- (pause).

15 THE COURT: Kwist it must be.

16 MS. DAVENPORT: She would have been born in  
17 '88 or '89.

18 THE COURT: All right, any questions you  
19 want to ask her?

20 MS. BOLEN: What was the gist of the  
21 conversation between the two of you?

22 MS. DAVENPORT: I asked her why she was  
23 here, because the last time I had seen one of  
24 Monica's friends they were in trouble. But I  
25 just, we just hadn't seen each other, and it was

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1 'how are you doing and everything.' I mean, it  
2 was ---

3 MS. BOLEN: Was there anything said about  
4 her being on the jury.

5 MS. DAVENPORT: She said that she was here  
6 for jury duty but I didn't know, honestly, that a  
7 jury had been chosen, I thought she was one of  
8 everybody. I thought she was leaving. But I  
9 never would have -- I mean, she doesn't know  
10 where I work, she doesn't know that unless  
11 something was said when I wasn't in here.

12 I mean, I did not know. I'm sorry. I just  
13 hadn't seen her as this little girl since high  
14 school.

15 THE COURT: Did you say anything about  
16 this case at all?

17 MS. DAVENPORT: No. Heavens no.

18 THE COURT: Okay. All right. Any  
19 other, anything else?

20 MS. BOLEN: I don't believe so, Your Honor.

21 THE COURT: Anything you want to ask?

22 MS. WHITE: Did she even know that you  
23 worked in the Solicitor's Office?

24 MS. DAVENPORT: No, she didn't know where I  
25 worked.

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1 MS. WHITE: Have you recently had any  
2 involvement in this ---

3 MS. DAVENPORT: No, this is the first time  
4 I have been in here since you guys started on  
5 this.

6 THE COURT: Okay.

7 MS. DAVENPORT: I'm sorry.

8 THE COURT: That's all right.

9 MS. DAVENPORT: I promise I didn't know  
10 what was going on.

11 THE COURT: Anything else anybody wants to  
12 say?

13 MS. BOLEN: No sir.

14 THE COURT: Thank you very much, you can  
15 return to your room. "Banished from the  
16 courtroom."

17 Remind me, Ms. Nelson and Ms. Bolen, I've  
18 got that report from SCDC about that young man  
19 that you all represent that I sent down for  
20 evaluation and everything and I can give you all  
21 a copy of it afterward today.

22 MS. BOLEN: You got the report back?

23 THE COURT: I got a report today, yeah.

24 MS. BOLEN: Okay. Thank you, Your Honor.

25 THE COURT: Actually we could forward it to



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1 to make any sense, you can't tell what the  
2 pictures is until you start filling in every-  
3 thing. And once you see the big picture, what  
4 is going to see is that Mr. Brandenburg over here  
5 is guilty of stalking his estranged wife.

6 They're separated and she is seeking a divorce.

7 Now, stalking is defined by, it's a statute  
8 in South Carolina. What it is, it's a pattern  
9 of words or conduct that causes somebody to fear  
10 death, bodily injury, kidnapping, which is a big  
11 one in this case, for themselves or a family  
12 member.

13 The kidnapping is the big one in this case,  
14 it is of Mrs. Brandenburg's two children.

15 And "pattern" just means two or more  
16 incidents.

17 "Family" means exactly what you think it  
18 means. And without getting to much into what  
19 happened, because you all are going to hear  
20 everything in just a few minutes from the witness  
21 stand that from about February -- excuse me. That  
22 from September 18, 2012 through February 26,  
23 2013, the defendant, Mr. Brandenburg, was  
24 everywhere she turned around. He was calling, it  
25 was texting, it was following her from work, it

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1 was showing up at the kid's school, it was  
2 showing up at her parent's house, showing up at  
3 her house, every time she turned around, there he  
4 was. After being told, "I don't want you  
5 around". And that is what is in this case.  
6 Now, what this case is not about is custody.

7 Mrs. Brandenburg made every effort to be  
8 reasonable about these children, about him seeing  
9 these children. So that is what this case is not  
10 about. This case is about a man who wanted  
11 things his way, to be in control over his wife  
12 and his kids and was more concerned over what he  
13 perceived his rights to be than respecting her  
14 right to be left alone.

15 Now, we have to prove this case beyond a  
16 reasonable doubt. That's a burden that we  
17 welcome. The Judge has already told you all  
18 about it once, you will hear it again throughout  
19 the trial. And what it means, it doesn't mean  
20 all doubt, because I couldn't convince twelve of  
21 you all beyond all doubt that we all get pizza  
22 for dinner. There is no way humanly possible to  
23 do that.

24 What it means is, that when go back into the  
25 jury room, you are firmly convinced that he did

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1           what he's accused of doing. That when you  
2           go back there, and you say, 'did Charles  
3           Brandenburg stalk Angela Brandenburg and make her  
4           fear bodily injury, or kidnapping or death' that  
5           your answer is "yes." And when you have heard  
6           all the evidence, you have heard all the  
7           testimony, I think that you will come back with  
8           that verdict, that he is guilty of stalking.  
9           Thank you.

10           THE COURT: All right, Ms. Bolen.

11           MS. BOLEN: Thank you, Your Honor, may it  
12           please the Court. Ladies and gentlemen this case  
13           is not a puzzle at all. I agree with the  
14           Solicitor that there is a big picture. I  
15           disagree about what that big picture is.

16           The big picture that this case is about a  
17           woman who wants her own way. She wants to call  
18           all the shots, she wants to be in control of  
19           everything. She wants everything her way.  
20           Charles and Angela were married -- in fact, they  
21           still are. She chose to marry him. She chose  
22           to have kids with him.

23           And then when she decided it was over, that  
24           was it. It was over. She didn't want to have  
25           contact with him. She wanted him out of their

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1 lives entirely. And when things didn't go her  
2 way, that is why we are here today.

3 Once you hear the evidence of what he is  
4 accused of doing, you'll agree he is not guilty  
5 of stalking her. He is not guilty of doing  
6 anything illegal to her. And when you hear all  
7 the evidence, match it up with the statute, then  
8 you will agree he that he is not guilty. Thank  
9 you.

10 THE COURT: Thank you, call your first  
11 witness.

12 MS WHITE: State calls Angela Brandenburg.

13 (WITNESS TAKES THE STAND)

14 ANGELA BRANDENBURG, having been duly sworn  
15 to tell the truth, the whole truth, and nothing  
16 but the truth, testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR WHITE:

19 Q. Will you please tell us your name?

20 A. Angela Brandenburg.

21 Q. Okay. And where do you live, Mrs.  
22 Brandenburg?

23 A. In Abbeville.

24 Q. How long have you lived in Abbeville?

25 A. Since last year. I came up here June 28,

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1 2012.

2 Q. Are you familiar with the defendant, Charles  
3 Brandenburg?

4 A. Yes, I am.

5 Q. And who is he to you?

6 A. My estranged husband.

7 Q. Okay. Is he present in the courtroom today?

8 A. Yes, ma'am.

9 Q. Can you point him out for us?

10 A. Right over there.

11 MS. WHITE: Your Honor, let the record  
12 reflect that she pointed out the defendant.

13 DIRECT EXAMINATION CONTINUED

14 BY MS. WHITE:

15 Q. Now you said, he's your estranged, when did  
16 you all get married?

17 A. August the 25<sup>th</sup>, 2005.

18 Q. And do you have any children together?

19 A. We have two children. A boy and a girl.

20 Q. When were they born?

21 A. Tripp was born 2006; Bailey, 2007.

22 Q. Now, you said you'd left June 28<sup>th</sup>, 2012.

23 In the months prior to that, can you describe Mr.  
24 Brandenburg's behavior?

25 MS. BOLEN: Objection, relevance.

1 THE COURT: Would you like to be heard,  
2 Solicitor?

3 MS. WHITE: Yes, sir, I would.

4 THE COURT: Members of the jury panel, need  
5 you to go to the jury room then.

6 (JURY OUT AT 2:24 P.M.)

7 THE COURT: All right, let me say, --  
8 well, I believe you testified you separated June  
9 28, 2012. If she testified to that, I missed it  
10 but we'll assume that is when you did separate.  
11 Is that correct?

12 MS. BRANDENBURG: Yes, sir,

13 THE COURT: Okay. All right. And your  
14 question was, as I understood it, 'would you tell  
15 us about his conduct prior to your separation.'

16 MS. WHITE: Yes, sir.

17 MS. BOLEN: And, Your Honor, I'm  
18 objecting on relevancy.

19 THE COURT: Well, why is that relevant?

20 MS. WHITE: Your Honor, and I can proffer  
21 the testimony if necessary.

22 THE COURT: All right, go ahead.

23 MS. WHITE: All right, we will start with  
24 -- how would say in the months prior to your  
25 separation, how would you describe Mr. Branden-

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1 burg's behavior?

2 MS. BRANDENBURG: His behavior was very  
3 erratic. He would have violent outbursts. He  
4 would pack up the kids multiple times saying that  
5 he was moving somewhere, that we were all going  
6 somewhere. I had not had a job since the middle  
7 of April, I believe, because of his behaviors --  
8 he would call or he would show up at ten or  
9 eleven o' clock at night saying he was taking the  
10 kids somewhere.

11 MS. WHITE: So would he pack up the  
12 children and come to find you wherever you were?

13 MS. BRANDENBURG: Yes, he would, call and  
14 say that he had the kids packed up and they were  
15 leaving and I needed to be there in thirty  
16 minutes.

17 MS. WHITE: All right. Did he ever say  
18 anything that caused you to fear for the  
19 children's safety?

20 MS. BRANDENBURG: He -- a couple of time  
21 he said that he was willing to sacrifice the kids  
22 if need be.

23 MS. WHITE: Your Honor, I think it's  
24 relevant. It goes to the fear of bodily injury  
25 to himself or a family member. It goes to

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1 kidnaping. It explains why she -- and this case  
2 isn't going to make sense to the jury why she  
3 didn't want the defendant to be alone with the  
4 children, that she was perfectly happy with,  
5 supervised visitation but did not want him to be  
6 alone with them, absent the background of his  
7 behavior.

8 MS. BOLEN: Your Honor, first of  
9 all, this had to do with what happened in  
10 Berkeley County. It doesn't have anything to do  
11 with the charge of stalking in Abbeville County.

12 Ms. White said in her opening statement that  
13 this is not about custody. There shouldn't be  
14 any talk about supervised visitation.

15 Additionally I'm objecting on a Rule 5 basis  
16 with my pretrial Motion, that this is  
17 information, particularly the last statement  
18 about him saying something about sacrificing the  
19 kids. This is an addition which I was not  
20 provided with.

21 MS. WHITE: Which was provided to her  
22 yesterday.

23 MS. BOLEN: Yesterday. But I don't see  
24 that it is relevant. I don't think it is  
25 probative, I see it as overly prejudicial and we

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1 ask for it to be excluded as -- something that  
2 happened in June of 2012 in Berkeley County, I  
3 don't see how that ties into a stalking charge in  
4 Abbeville County between September, 2012 and  
5 February, 2013.

6 MS WHITE: Your Honor, it's the reason she  
7 left. And it is the reason he followed her.

8 MS. BOLEN: It's 404(b), as well, Your  
9 Honor.

10 THE COURT: Well, ---

11 MS. WHITE: It's *res gesti*. It also goes  
12 to goes to *Lyle*: common scheme or plans, absence  
13 of mistake, ---

14 MS. BOLEN: But it's not his ---

15 THE COURT: Well, I sustain the objection.  
16 I think, it is not relevant to the charges in the  
17 Indictment for September 1, '12 to February 28,  
18 '13 and any possible relevance is outweighed by  
19 the potential for unfair prejudice, in my  
20 opinion, bringing in things that are outside the  
21 timeframe of the indictment.

22 MS. WHITE: Your Honor, I think the threat  
23 that he made toward the children safety goes  
24 directly to the fear that he could kidnap ---

25 THE COURT: Well, I appreciate it. I

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1 understand what you said but I sustain the  
2 objection to that testimony.

3 MS. BOLEN: Thank you, Your Honor.

4 THE COURT: Bring the jury back in.

5 (JURY IN AT 2:37 P.M.)

6 THE COURT: All right. We have the jury  
7 back with us. You may continue to examine the  
8 witness.

9 DIRECT EXAMINATION CONTINUED

10 BY MS. WHITE:

11 Q. All right, when did you say you separated again?

12 A. I left Charleston, September the 13<sup>th</sup>, June the  
13 28<sup>th</sup>. Excuse me

14 THE COURT: I couldn't hear you. You left  
15 when?

16 MS. BRANDENBURG: June 28<sup>th</sup>.

17 THE COURT: Okay.

18 MS. BRANDENBURG: Sorry, I ---

19 THE COURT: Okay. That's all right.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. WHITE:

22 Q. And did Mr. Brandenburg know you were leaving?

23 A. As in?

24 Q. Had you talked about separating?

25 A. No, we did not.

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1 Q. Where did you go when you separated?

2 A. I came to parents' home, here in Abbeville.

3 Q. And, I'm sorry, I may have already asked you,  
4 where were you living with him, where was your  
5 marital home?

6 A. We were in Berkeley County.

7 Q. Okay. So you came back here to Abbeville?

8 A. Yes, ma'am.

9 Q. Where do your parents live in Abbeville?

10 A. They live out on [REDACTED]

11 Q. Did you have any conversations with Mr.  
12 Brandenburg about him seeing the children?

13 A. From?

14 Q. From June 28<sup>th</sup> through the rest of the summer?

15 A. During July he did. He would call every now  
16 and again. After a couple of weeks, I did take his  
17 phone calls. But at no time did he really mention  
18 wanting to see the kids.

19 He would ask to speak to them. I would ask them  
20 if they wanted to speak him and if they did, I let  
21 them speak to him. If they didn't, I, you know,  
22 wouldn't. I left it up to them.

23 And then the first part of September he started  
24 talking about wanting to come see them. I suggested  
25 to him that we meet in Columbia at his mother's

1 house. That I would bring the kids to Columbia and  
2 let him see them then.

3 Q. Sorry, you said September was the first time  
4 he started talking about wanting to see them?

5 A. Uh-huh.

6 Q. When was the first time you saw Mr.  
7 Brandenburg after you left in June?

8 A. He came to Abbeville on September the 18<sup>th</sup>.

9 Q. Okay. And what happened on September the  
10 18<sup>th</sup>?

11 A. He showed up at my parent's house about  
12 8:30 that evening.

13 MS BOLEN: And Your Honor, I just renew  
14 my pretrial Rule 5 Motion on this testimony .

15 THE COURT: All right. I overrule your  
16 objection, I will allow them to continue. Go  
17 ahead.

18 DIRECT EXAMINATION CONTINUED

19 BY MS. WHITE:

20 Q. And where is your parent's house?

21 A. It's on [REDACTED]

22 Q. And is that in Abbeville County?

23 A. Yes, ma'am.

24 Q. Okay. So he showed up on September the  
25 18<sup>th</sup>, what happened when he showed up then?

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1 A. When he showed up, my father went out and  
2 met him and told him he wasn't welcomed there and  
3 that he needed to leave.

4 Q. Did he leave?

5 A. Yes.

6 Q. All right. When was the next time you saw  
7 him?

8 A. The next morning, when I was taking the  
9 children to school. He was at the school.

10 Q. And where do the kids go to the school?

11 A. Long Cane Primary.

12 MS. BOLEN: Just renewing my Rule 5, Your  
13 Honor.

14 THE COURT: Go ahead.

15 DIRECT EXAMINATION CONTINUED

16 BY MS. WHITE:

17 Q. When were they enrolled in Long Cane?

18 A. I enrolled them in August, when I knew I  
19 was moving up here.

20 Q. That is August of 2012?

21 A. Yes, 2012.

22 Q. Okay. And so you saw him at the Long Cane  
23 school on September the 19<sup>TH</sup>?

24 A. Yes.

25 Q. Did you have a conversation with -- where

1 was he at the school?

2 A. In front of the school, there is about eight  
3 parking spots. He was parked there. I pulled  
4 into another one of the parking spots. He got  
5 out of his car and intercepted us walking toward  
6 the school and spoke with the children. Then  
7 when I took them on in and then he spoke with me  
8 some more.

9 Q. Did you set up any additional times to meet  
10 when you talked on the 19th?

11 A. No. We had discussed prior to that, that,  
12 that Saturday we were going to meet in Columbia  
13 so I explained to him, you know, that this wasn't  
14 what we had planned, what I thought we'd agreed  
15 on. He decided that was better for him to be  
16 there and so I agreed that after I picked up the  
17 kids at school that afternoon, I would let him  
18 see them for a little bit then.

19 Q. So he had met, he met you as you were  
20 taking the children into school, right?

21 A. Yes, ma'am.

22 Q. Okay. When was the next contact you had  
23 with Mr. Brandenburg?

24 A. He saw the kids after school that afternoon  
25 and then tried to get us, talk us into going to

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1 the motel with him to spend the night. I'm like,  
2 'No, it's not safe to take the children out of  
3 the house to a hotel', that he needed to go back  
4 to Charleston. You know, we had agreed to meet  
5 Saturday, I will still bring them then. 'I will  
6 still come on, you know, on Saturday.'

7 I did receive a text on the 20<sup>th</sup> that had ---

8 MS. BOLEN: Your Honor -- Your Honor, I  
9 renew my Rule 5 objection.

10 THE COURT: Hold on just a minute.  
11 Members of the jury panel I need you to go the  
12 jury room, please.

13 (JURY OUT AT 2:56 P.M.)

14 THE COURT: All right. We have the jury  
15 out now. All right, Ms. Bolen, I want to be  
16 clear about what it is that you're objecting to.

17 MS. BOLEN: Your Honor, I just want to make  
18 sure that my pre-trial objection based on Rule 5  
19 is ---

20 HE COURT: Tell me exactly what you are  
21 talking about under Rule 5 that you didn't get  
22 that you think that you should be objecting to  
23 now.

24 MS. BOLEN: Well, with this testimony,  
25 this is ---

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1 THE COURT: If you mean, you mean that you  
2 in some way, the things that he told her or said  
3 to her, during the course of that, you think that  
4 was something that had to be revealed to you  
5 under Rule 5?

6 MS. BOLEN: Yes, sir.

7 THE COURT: All right. I overrule that  
8 objection. And that objection continues  
9 throughout of that kind of testimony.

10 MS. BOLEN: Yes, sir.

11 THE COURT: Okay.

12 MS. BOLEN: Since the jury is out, I'd like  
13 to know what you know what she is reading from as  
14 she testifies. I have seen her looking at a  
15 sheet of paper. And I don't know what that ---

16 MS. BRANDENBURG: I have the ---

17 THE COURT: Okay. Let me, I mean, you  
18 are certainly welcomed to cross-examine her about  
19 that and you have, and you can look at all that  
20 before you cross examine her if you want to under  
21 the Rules.

22 MS. BOLEN: Yes, sir.

23 THE COURT: Okay. All right. So as far  
24 as I'm concerned your objection is, is that you  
25 were not provided with the oral testimony, that

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1 is what she's now testifying that he said to her  
2 during the course of their entire dealings with  
3 this matter, you think you should have been given  
4 that under Rule 5.

5 MS. BOLEN: Right.

6 THE COURT: I appreciate the position but  
7 I overrule that objection. And your objection  
8 will run throughout as far as any of that kind of  
9 testimony is concerned.

10 MS. BOLEN: Thank you, Your Honor. It  
11 was also an objection to some of the previous  
12 incidences not disclosed. I understand your  
13 ruling and I not object. I just wanted to make  
14 sure that it was preserved.

15 THE COURT: All right. I am not sure I  
16 understand that, you know. I am not sure I  
17 understand what your objection is there.

18 MS. BOLEN: Well, in that I was provided  
19 with five incident reports, the first of which is  
20 dated in November, November 27<sup>th</sup> and all this  
21 testimony is before that. And these were  
22 incidences that I found out about, some of them  
23 last week and some of them yesterday.

24 THE COURT: And what is it in Rule 5 that  
25 says you are entitled to any of that?

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1 MS. BOLEN: I believe it's the State's,  
2 oral statements of the State's witnesses.

3 THE COURT: Okay. That's oral statements.

4 MS. BOLEN: Uh-huh.

5 THE COURT: But the incident reports that  
6 you are talking about, what is it under Rule 5  
7 that says you are entitled to that?

8 MS. BOLEN: I don't think there is anything  
9 particular that requires the -- I mean I have the  
10 incident reports.

11 THE COURT: Okay. Bring the jury back in.

12 (JURY BACK AT 3:12 P.M.)

13 THE COURT: You all are getting some early  
14 afternoon exercise, work off your lunch. All  
15 right you may continue to examine the witness.

16 MS. WHITE: Thank you, Your Honor.

17 DIRECT EXAMINATION CONTINUED

18 BY MS. WHITE:

19 Q. Mrs. Brandenburg, we were talking about  
20 September the 19<sup>th</sup>, that at -- and I apologize, but I  
21 want to ask you about that again. I think some of  
22 it got a little bit lost. Was that September 19,  
23 2012?

24 A. Yes, Ma'am.

25 Q. Okay. And where was this happening?

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1           A.     Okay.     September the 19<sup>th</sup> was the day he  
2           had been at the school.     He went to see the  
3           children into the school and then I told him he  
4           just needed to go back to Charleston.     And, if  
5           he wanted to see the kids he could see them on  
6           Saturday in Columbia as we had discussed several  
7           days prior to him coming.

8                     And, then it was on September the 20<sup>th</sup> that I  
9           had gotten a text that said "GW".

10          Q.     Okay, now going back to the 19<sup>th</sup>, he had said  
11          something about a motel, I think you testified?

12          A.     Yes, he had asked that me and the children  
13          follow him, accompany him to a motel to spend the  
14          night.     And I told him that I wasn't comfortable  
15          in taking the children out of my family's home to  
16          a motel, that it wasn't safe, that, you know,  
17          that he just needed to go back and he could see  
18          them on Saturday as we had planned.

19          Q.     Okay.     And then you said on September 20<sup>th</sup>  
20          you got a text message?

21          A.     I got a text message that said something  
22          about "GW".     And I texted him back "what do you  
23          mean?"     He sent me another text that said  
24          something like, "I'm going to follow those pretty  
25          blue eyes."     I wasn't sure what he meant.

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1           Then on the 21<sup>st</sup>, I got another text that had  
2           a room number, or what I assumed was a room  
3           number. It was 206, and then he called me later  
4           and told me that he was in Greenwood and wanted  
5           to meet me and wanted to see the kids. And I  
6           said "'I'm going -- you know, 'I have already  
7           told them that we are going to the zoo, we're  
8           going to Columbia.'

9           Q.     And this was the day that you had planned  
10          to meet him in Columbia?

11          A.     Yes, ma'am.

12          Q.     That he was up here in Greenwood?

13          A.     Yes, he ---

14          Q.     In Abbeville?

15          A.     Yes, he'd come to Greenwood.

16          Q.     What was the next time you had contact with  
17          him?

18          A.     The next time was October the 5<sup>th</sup>. I was  
19          at work and had gotten a text, and a call from  
20          him and it had another room number on it. And  
21          when I left work on the morning of the 6<sup>th</sup>, I work  
22          overnight, and when I left that Saturday morning,  
23          there was a note on my truck and he was in the  
24          parking lot.

25          Q.     And where do you work?

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1 A. At Self Regional Hospital.

2 Q. What do you do there?

3 A. I am a nurse.

4 MS. BOLEN: Your Honor, I have an  
5 objection, this is outside the venue and the scope  
6 of the Indictment.

7 THE COURT: I'm sorry. This was  
8 Saturday, you said a note or something?

9 MS. WHITE: This was on October 5<sup>th</sup>.

10 THE COURT: And what was your objection?

11 MS. BRANDENBURG: October the fifth and  
12 into the sixth.

13 THE COURT: Okay. And what is your  
14 objection?

15 MS. BOLEN: My objection is apparently she  
16 works in Greenwood and the indictment states  
17 Abbeville County.

18 THE COURT: I appreciate that. I overrule  
19 your objection, I will allow it. Go ahead.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. WHITE:

22 Q. All right. So you said there was a note  
23 on your truck on the 5th?

24 A. Yes, Ma'am.

25 Q. Okay. And what did that note say?

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1 A. It was basically asking me to come to a  
2 hotel that he was in and had the room number on  
3 it.

4 Q. And what was the next time you saw him or  
5 heard from him after that?

6 A. He had texted me later that night that said  
7 something about me working all night and then he  
8 had called about five o' clock that morning and  
9 was like "would you like to go get breakfast?  
10 Can we talk?" I think that phone call was about  
11 5:00 in the morning and when I left work probably  
12 around 7:00, give or take fifteen minutes, he was  
13 out in the parking lot.

14 THE COURT: Where is it that you work, did  
15 you say?

16 MS. BRANDENBURG: Self Regional Hospital,  
17 ER.

18 THE COURT: Okay. I just didn't  
19 understand you.

20 DIRECT EXAMINATION CONTINUED

21 BY MS. WHITE:

22 Q. What do you do in the ER?

23 A. I am a nurse.

24 Q. So he is in the parking lot on the morning  
25 of the October 6<sup>th</sup>?

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1 A. Yes.

2 Q. And what happened then?

3 A. He starts talking to me, basically, not  
4 wanting a divorce. He said, 'I'm coming to pick  
5 the kids up today.' I'm like, I told him he  
6 wasn't, that plans had already been made, that he  
7 wasn't going to be allowed to show up decide that  
8 he was seeing the kids. If he wanted to, you  
9 know, discuss with me times and set up something,  
10 but given the fact that I work nights, I couldn't  
11 readily be available on the day time and he kept  
12 demanding to see the kids.

13 He and was not listening to anything I said, so I  
14 was like 'Okay, I'm going home. If you want to  
15 see the kids, you know, plan on letting me know  
16 beforehand.' Then I left to go to my parent's  
17 house with him behind me, following me.

18 Q. And how long did you talk to him that  
19 morning?

20 A. Probably about thirty minutes.

21 Q. So as you left to go to your parent's house  
22 and he followed you, what happened from there?

23 A. He arrived a couple of minutes after I did  
24 and my father went outside and told him he needed  
25 to leave and he said no, that he was here to see

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1 the kids and he wasn't leaving.

2 My mother called, I think my mother called  
3 911, and the Sheriff's Department came out to the  
4 house.

5 Q. And at this point, was your parent's house  
6 in Abbeville?

7 A. Yes, ma'am, in Abbeville.

8 Q. So the Sheriff's Department comes out and  
9 what happens?

10 A. They came out and he suggested to him that  
11 if he wanted -- that, you know, technically since  
12 he had a vested interest at the house, that they  
13 couldn't make him leave or that is wasn't  
14 trespassing but that if he wanted to see the kids  
15 that maybe he should talk to me and come up with  
16 a plan to see them. That the best thing to do  
17 would be for him to go ahead and leave at this  
18 time and after about an hour of talking back and  
19 forth he left.

20 Q. And after that, what's the next time that  
21 you saw him?

22 A. The morning, Sunday morning of the 18<sup>th</sup>.  
23 I was down-staffed from work at 5 AM and leaving  
24 the hospital I noticed a car following me. And  
25 it followed me to Abbeville and I made several

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1 turns, I did not go to my house because I  
2 suspected that it might be him. But, I never  
3 stopped. Then, I finally lost the vehicle, went  
4 to my house, and then kind of kept an eye out and  
5 never saw the car come back around.

6 Q. Okay. Going back, the 18<sup>th</sup> of what month?

7 A. Of November.

8 Q. Of November or October?

9 A. November.

10 Q. And, you said, going to your house, were  
11 you still living with your parents at the time?

12 A. No. I'm sorry, I had moved out of my  
13 parent's house the first part of November and had  
14 gotten a house for me and the children.

15 Q. Okay. Where is that place at?

16 A. It's on Burns Avenue.

17 Q. Okay, is that here in Abbeville County?

18 A. Yes, ma'am, it's in Abbeville as well.

19 Q. And you said that the car was behind you  
20 and following you. Did you ever find out who  
21 was driving that car?

22 A. He admitted to me later that it had been  
23 him following me because he felt that he had a  
24 right to know where me and the children were  
25 living.

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1 Q. And when you said "he", you are talking  
2 about Mr. Brandenburg?

3 A. Yes.

4 Q. What's the next time that you saw him?

5 A. The next time was on November the 26<sup>th</sup>.  
6 I had gotten a message from his mother that said.

7 Q. Don't tell them what his Mom said.

8 A. Okay. That he was on his way. I went  
9 and picked up the kids from school. I got a  
10 message from him that said something, 'I can't  
11 believe you got the kids out of school early,  
12 what are you doing?' It was a real angry  
13 message.

14 And I basically had gone and gotten the  
15 kids and taken them to one of my relative's  
16 house. And then later that night, when I was  
17 going to work -- (cough) -- excuse me..

18 Then later that night when I was going to  
19 work he was at the corner of I think it is West  
20 Alexander going into the backside of Self  
21 Hospital. He was sitting on the corner waiting  
22 for me to go into work.

23 Q. What time of day would you say that was?

24 A. That was probably about 6:30.

25 Q. Okay. So was the Highway Department

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1 closed at that time?

2 A. It was closed. Yes.

3 Q. Was there any other in the car in that  
4 parking lot?

5 A. No other cars, and he was actually outside  
6 of his car leaning up against his car.

7 Q. And, that was November the 26<sup>th</sup>? Did  
8 anything happen on November 27<sup>th</sup>?

9 A. On November the 27<sup>th</sup>, I got a call from one  
10 of the school officials telling me that he was at  
11 the school. And I just said, "Okay" because, I  
12 had kept the children out of school that day  
13 because I was, you know, with him being as mad as  
14 he was, and him being around, I wasn't sure what  
15 he was doing.

16 And, I just said okay and hung up the  
17 phone and then me and the children went to  
18 another relative's house that he did not know the  
19 address of.

20 And then later that morning, as I was  
21 riding by the school, I saw his car parked up at  
22 the Shell station, which is just above the  
23 school.

24 Q. Did you see him, or just his car?

25 A. I saw somebody in the car that I believed

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1 to him.

2 Q. Where was it sitting at the Shell station?

3 A. At the corner, the Shell is -- kind of hugs  
4 the corner of, I think it is Graystone.

5 Q. Was it facing the highway?

6 A. It was facing the highway. It was facing  
7 Highway 72.

8 Q. Did you make any reports to law enforcement  
9 during this time frame other than when they came  
10 to your parent's house?

11 A. That morning I went to the Sheriff's  
12 Department and asked if I could make some type of  
13 report since it seemed like he was always there  
14 and they told me that they could not; that was a  
15 Family Court issue that they could not get into  
16 the middle of spousal disputes. I explained to  
17 them that we had a Court date for December the  
18 3<sup>rd</sup> in Family Court but was there not anything  
19 that could be done in between the two times and  
20 the victim's advocate in the Sheriff's Department  
21 was like 'no we can't really do anything'.

22 Q. Okay. Now, going back to, did Mr.  
23 Brandenburg ever file anything in Family Court?

24 A. Not that I am aware of.

25 Q. So you were never served with any papers?

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1           A.     I was never served with any papers.     I had  
2           actually -- when he refused to listen to me in  
3           September regarding that, I had gone ahead and  
4           contacted a lawyer and started the process which  
5           is why we had that December the 3<sup>rd</sup> date because  
6           he didn't, on the 6<sup>th</sup> when he showed up demanding  
7           to see the kids and I said, you know, "it's not  
8           convenient"; "well, then, I want to see them next  
9           week".     I had actually rearranged my schedule  
10          somewhat the following week in anticipation of  
11          him being there Saturday or contacting me and he  
12          never contacted me to follow through with that  
13          visitation.

14                 And so from that point on, I was, you know,  
15                 I felt like I needed to do something to protect  
16                 the children.

17          Q.     Now, when was the next time, skipping ahead  
18          until December, when was the next time that you  
19          saw him?

20                 A.     I saw him in Berkeley County on  
21          December 3<sup>rd</sup> at our Family Court hearing.     That  
22          was the next time that I saw him.

23          Q.     Okay, and after that?

24                 A.     After that, he, on the 12<sup>th</sup>, I took the  
25          kids to school and then went to Greenwood to do

1 Christmas shopping. I had left WalMart and was  
2 coming across to Kohl's and he was there in that  
3 parking lot and pulled me over. And was  
4 basically talking and, you know, trying to see if  
5 we could work things out and I'm like "no,  
6 everything has been said and done".

7 Q. When he said, trying to work things out,  
8 what did he say that afternoon, regarding the  
9 marriage or regarding the kids?

10 A. The marriage.

11 Q. And this was in the Kohl's parking lot in  
12 Greenwood?

13 A. Yes.

14 Q. Did you see him again on December 12<sup>th</sup>?

15 A. I did. I saw him that afternoon, I went  
16 to pick up the kids, and that afternoon he was  
17 across the street from the school, yelling and  
18 screaming towards us.

19 Q. What was he doing?

20 A. I don't know if he was trying to get the  
21 children's attention, trying to -- but he was, I  
22 had gone, at that time you could park on the side  
23 and go under awning and pick up the children. I  
24 had gone ahead and done that because I didn't  
25 want him to get there first and get the children

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1 or be stuck in the -- I don't know if anyone has  
2 picked up their kids, but it's a long line and  
3 you are stuck there for several minutes and I  
4 was, I didn't want him to get to the kids before  
5 I did basically because I wasn't sure if he was  
6 going to get, take them, or do anything.

7 And so I went, and as I am walking across  
8 the street, he starts yelling their names. And  
9 I am just trying to get them in the car and go  
10 ahead. As I am leaving that is when the police  
11 department had come. I pulled over and I told  
12 them, you know, that is my estranged husband.

13 I think he is trying to get the children's  
14 attention because he wants to see them. I had  
15 already agreed to meet him after school. My  
16 thought was that I could pick them up and then  
17 let him know 'we will be at this spot.'  
18 Then I told the police then, I said that 'if he  
19 wants to meet me at McDonald's, I will take the  
20 children to McDonald's and let him see them.'  
21 And then he met me at McDonald's a short while  
22 later.

23 Q. Was there any law enforcement present at  
24 the time?

25 A. Uh, yes, there happened to be a police

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1 officer just below in the Bi Lo parking lot and  
2 ironically enough, one of the, an off duty  
3 Sheriff's Department person was inside McDonald's  
4 as well. It was coincidence.

5 Q. Okay. That was on December the 12<sup>th</sup>.

6 Did anything happen the day after that?

7 A. The day after that, I took the children to  
8 school and ended up coming in and waiting a few  
9 minutes to make sure that he didn't come behind  
10 me and try to go back to the school.

11 Dr. Costner was a little upset from the incidence  
12 of the day before so I told him ---

13 Q. I'm sorry, who is Dr. Costner?

14 A. Dr. Costner is the principal of Long Cane  
15 Primary.

16 Q. Okay.

17 A. And he was aware of the situation and I had  
18 tried to keep him informed of all that was going  
19 on and my concerns. And, he had basically  
20 asked me to stay to make sure that he didn't come  
21 back to the school behind me that morning.

22 And then about thirty minutes, about 8:30 school  
23 starts at 8:00, by 8:30 since he had not come  
24 back, I left and no sooner had I left the school  
25 parking lot than I pass him on (Highway) 72. He

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1 flags me down, and tries to talk to me again.

2 Q. And did you talk to him?

3 A. I talked to him for about thirty minutes but  
4 he, you know, -- 'basically like you need to  
5 leave us alone, you need to focus on what you  
6 need to do and the things you are doing and, you  
7 know, we could go from there once you focus on  
8 what is going on.' Knew we were still waiting  
9 on the results of the Court but that hadn't been  
10 said then and then finally I'm like you know,  
11 'there is no use in talking to you, I'm, you  
12 know, going home' and I left.

13 Q. Did you make any additional reports to law  
14 enforcement?

15 A. I did not.

16 THE COURT: What date did you say the  
17 Family Court hearing was?

18 MS. BRANDENBURG: It was on December the 3<sup>rd</sup>.

19 THE COURT: The third, Okay. I just  
20 didn't get that date. Okay.

21 MS. BRANDENBURG: Actually I take that  
22 back, I did because that was the afternoon that I  
23 went out to the Sheriff's Department and was like  
24 this is, you know, ridiculous. Every time I  
25 turn around he's there and at that time they were

1           like, 'well given the fact that had shown up at  
2           your parent's house, he was at the school on the  
3           27<sup>th</sup>', and then this incidence where he was across  
4           the street from the school, they are like, you  
5           know, this is a pattern of him.

6           MS. BOLEN:   Your Honor, I am objecting as  
7           to hearsay and as to legal conclusions.

8           THE COURT:   Just tell us what happened  
9           next.

10          MS. BRANDENBURG:   I went out to the  
11          Sheriff's Department and explained to them what  
12          all was going on and said, 'I am tired of looking  
13          over my shoulder and seeing him everywhere I turn  
14          around, is there not anything that can be done?'  
15          That's when they felt that they had enough to  
16          issue a warrant.

17                                   DIRECT EXAMINATION CONTINUED

18          BY MR. WHITE:

19           Q.       And so a warrant was issued?

20           A.       A warrant was issued on that day.

21           Q.       Do you know that he was arrested on that  
22           warrant?

23           A.       He was arrested on that warrant on the 19<sup>th</sup>.

24           Q.       Okay.   And did anything else happen on the  
25           19<sup>th</sup>?

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1 A. On the 19<sup>th</sup>, he knocked on my door.

2 Q. And, I'm sorry, are we in December;  
3 correct?

4 A. We are in December, yes. On the 13<sup>th</sup>  
5 after he pulled me over in the parking lot, that  
6 was a Thursday morning, I left, he's like 'I want  
7 to see the kids after school.' And I was like,  
8 'I don't know, I'm going home now.'

9 And then he ended up leaving for Charleston that  
10 afternoon. On Friday he sent me a text that  
11 said "Congratulations".

12 MS. BOLEN: And, Your Honor, I have a  
13 matter of law at this point.

14 THE COURT: Members of the jury panel, I  
15 need you to go to the jury room, please.

16 (JURY OUT A 2:56 P.M.)

17 THE COURT: All right. We've got the jury  
18 out, what would you like to say.

19 MS. BOLEN: Thank you, Your Honor. I  
20 believe that this is going to be in territory  
21 where she is going to start testifying about this  
22 Restraining Order, in that we've heard.

23 THE COURT: I don't know. What do you want  
24 to ask her?

25 MS. WHITE: Your Honor, I was going to, Ms.

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1 Bolen back to your question wasn't meant to  
2 solicit any testimony about the restraining Order  
3 but she is correct, I was about to start getting  
4 in to the restraining Order.

5 THE COURT: Well, what was the question  
6 that you asked?

7 MS. WHITE: The question that I asked I  
8 think was when was the next time she had contact  
9 after, what happened, did anything else happen on  
10 December 19<sup>th</sup>?

11 THE COURT: What was the answer, what's  
12 your answer to that? You said something, what I  
13 remember you saying was something about you got a  
14 text saying "congratulations". And then that  
15 was when the objection came, I think, and all.  
16 Okay. Continue from there.

17 MS. WHITE: You want me, Your Honor, to  
18 proffer the testimony?

19 THE COURT: Well, whatever.

20 MS. WHITE: Okay. You said you went to  
21 Family Court hearing on December the 3<sup>rd</sup>?

22 MS. BRANDENBURG: Yes, Ma'am.

23 MS. WHITE: When did you find out the  
24 results of that hearing?

25 MS. BRANDENBURG: On December the 14<sup>th</sup>, I

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1 got a text from him that said "Congratulations."  
2 I called my lawyer's office and the court order  
3 from, the results from the 3<sup>rd</sup> were released.

4 MS. WHITE: Okay. And what were those  
5 results from the 3<sup>rd</sup>?

6 MS. BRANDENBURG: The results of that was  
7 I had sole custody of the children. He could  
8 not have visitation until he had a mental  
9 evaluation and there was a mutual no harm/  
10 harassment -- basically we weren't supposed to  
11 contact each other. Any communication had to  
12 go through our lawyers.

13 MS. WHITE: Okay. And I am going to  
14 hand you what has been marked for identification  
15 as State's Exhibit 1. Do you recognize that  
16 document?

17 MS. BRANDENBURG: Yes, Ma'am.

18 MS. WHITE: And what is that?

19 MS. BRANDENBURG: This is the temporary  
20 order that we received from Berkeley County.

21 MS. WHITE: Okay. Is that stamped by  
22 the Berkeley County Clerk of Court?

23 MS. BRANDENBURG: It is.

24 MS. WHITE: And is it signed by a judge?

25 MS. BRANDENBURG: It is.

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1 MS. WHITE: Okay. And that Order  
2 basically memorializes what Judge Creech ordered?

3 MS. BRANDENBURG: Yes.

4 MS. WHITE: In regards to the restraining  
5 Order?

6 MS. BRANDENBURG: Uh-huh.

7 MS. WHITE: When was that Order clocked  
8 in, when was the time stamp on it?

9 MS. BRANDENBURG: This was clocked in on  
10 January the 9<sup>th</sup>.

11 MS. WHITE: Okay. Your Honor, if you  
12 would care to review this?

13 THE COURT: I mean are you offering that  
14 into evidence?

15 MS. WHITE: I am offering that.

16 THE COURT: All right, let me look at it.  
17 Let me look at it.

18 MS. WHITE: Judge, I had a couple of  
19 additional questions with respect to relevancy.

20 THE COURT: All right, go ahead and ask  
21 them.

22 MS. WHITE: Okay. After this, you found out  
23 about the Order on December 14<sup>th</sup>, did he come to  
24 your house any more?

25 MS. BRANDENBURG: Yes, he was at my house

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1 on December the 19<sup>th</sup>.

2 MS. WHITE: Okay.

3 THE COURT: Well, that's before. This is  
4 dated December the 28<sup>th</sup>, I believe.

5 MS. WHITE: That is correct, Your Honor.  
6 And it was clocked on January the 9<sup>th</sup>, signed by  
7 the Judge on January the 9<sup>th</sup>.

8 THE COURT: Okay, but anyway, but, so,  
9 wait, wait, wait, I am trying to get this, get  
10 this timeline here. You said on December the  
11 14<sup>th</sup>, you got this "congratulations" text and then  
12 you, what did you call your lawyer?

13 MS. BRANDENBURG: Yes, sir, on -- since  
14 he was *pro se* in Family Court, all transcripts  
15 from the Clerk of Court go to him via e-mail and  
16 then to my lawyer and on December the 14<sup>th</sup> --  
17 incidence it is only my lawyer, she is the one  
18 who basically filed everything for the Berkeley  
19 County Family Court. On December the 14<sup>th</sup>, the  
20 Clerk sent out the Orders for that the typed up  
21 to my lawyer so it had everything that was on,  
22 that the Judge requested to be put into that  
23 order.

24 THE COURT: All right. I'll, Okay. So,  
25 really actually on December the 14<sup>th</sup>, there was an

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1 e-mail from the Judge to your lawyer saying  
2 "prepare a proposed Order along these lines."

3 MS. BRANDENBURG: Exactly.

4 THE COURT: Okay.

5 MS. BRANDENBURG: And Mr. Brandenburg  
6 received one as well.

7 THE COURT: So there really wasn't an Order  
8 until December the 28<sup>th</sup>. But anyway ---

9 MS. WHITE: And then did you have any  
10 contact with him after December 28<sup>th</sup>?

11 MS. BRANDENBURG: After December?

12 MS. WHITE: After the Order went into  
13 effect when the Judge signed in on December 28<sup>th</sup>,  
14 or ---

15 MS. BRANDENBURG: Wait, December the 14<sup>th</sup>  
16 is when we ---

17 MS. WHITE: When you found out about it.

18 MS. BRANDENBURG: --- we found out about  
19 it.

20 MS. WHITE: Did you have contact with him  
21 in February, I guess is what I am asking now?

22 MS. BRANDENBURG: Yes.

23 THE COURT: Well, I mean I guess you can  
24 ask her about anything, after the 14<sup>th</sup> up to the  
25 28<sup>th</sup>. I mean as far as any contact is concerned,

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1 I don't know whether there was or not.

2 MS. WHITE: Well, he came to the house.

3 MS. BRANDENBURG: Well, on December the  
4 19<sup>th</sup>, he knocked on the door and I told him he  
5 needed to leave, that we -- that he wasn't  
6 supposed to be there and that we were not  
7 supposed to have contact. I told him I was  
8 calling the police and he ended up leaving.  
9 The kids were having their Christmas parties that  
10 day so I put them in the car to take them to  
11 school and as I was leaving Burns, turning onto  
12 72, onto Burns Avenue.

13 And the police had been called, I went and  
14 took the children to school and my understanding  
15 is that he was detained shortly thereafter.

16 MS. WHITE: And the next time you saw him  
17 was when?

18 MS. BRANDENBURG: The next time I saw him  
19 was on February the 8<sup>th</sup>. He was on the, he was  
20 actually at the school when I took the kids to  
21 school.

22 I dropped them off at school, came back to the  
23 house, and then later in the afternoon, at  
24 lunch time, he was sitting on the Square, where  
25 I saw him several other times.

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1 MS. WHITE: Did he contact you after the  
2 8<sup>th</sup>?

3 MS. BRANDENBURG: He called me on the 24<sup>th</sup>  
4 saying that he was going to be in Abbeville to  
5 meet with the lawyer and would I talk to him at  
6 some point in time. I didn't call him back, I  
7 didn't contact him. And then I saw him again on  
8 the 26<sup>th</sup> when he rode by the house several times  
9 and at one point put toys in my back yard.

10 THE COURT: Are you talking about February  
11 the 26<sup>th</sup>?

12 MS. BRANDENBURG: I am.

13 THE COURT: Oh, Okay.

14 MS. WHITE: And did he attempt to speak  
15 to the children on the 26<sup>th</sup>?

16 MS. BRANDENBURG: Yes, on one of his ride-  
17 bys, my son was coming back from a friend's house  
18 and he tried to make contact with our son.

19 THE COURT: I mean, did you see that?

20 MS. BRANDENBURG: I did. I was in my back  
21 yard because as soon as I saw his car and I knew  
22 my child was outside, I went out into the  
23 backyard and called him and as he was coming  
24 across. Chad was trying to call Tripp as he was  
25 coming in the yard.

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1 MS. WHITE: And that's when the second  
2 warrant was issued, was after the 26<sup>th</sup>?

3 MS. BRANDENBURG: Well, that day since  
4 there had been other incidences where I hadn't  
5 filed and I felt that I should have filed, I  
6 called the Police Department and asked them to  
7 come by and do an incident. The officer came  
8 by, wrote out an incident and the next morning he  
9 came by and said the he had taken it before the  
10 Judge and that there had been an Harassment  
11 since, in his mind, he had not followed though,  
12 you know, he was not leaving me alone basically.

13 MS. WHITE: And how many times did he  
14 ride by your house on the 26<sup>th</sup>?

15 THE COURT: Well, I, let's deal with that  
16 and everything. I am still of the opinion that  
17 any proof of a harassment warrant is not relevant  
18 insofar as this case is concerned and all. Now  
19 you can have her testify about what happened as  
20 far as him being there, doing things and so  
21 forth, what contacts and all that sort of stuff  
22 but leave out anything about another warrant  
23 being sworn out charging harassment.

24 MS. WHITE: Okay.

25 THE COURT: You understand that?

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1 MS. WHITE: I do.

2 THE COURT: Okay. All right. Now  
3 let's talk about here, Okay. I think I've got  
4 enough as far as you wanting to offer this Order  
5 in evidence now and, all right, will be glad to  
6 hear from you as far as statement of position.

7 MS. BOLEN: Thank you, Your Honor, may it  
8 please the Court. Our position is that it is  
9 simply not relevant to the stalking charge. It  
10 is not an element of stalking.

11 It -- he is not charged with violation of an  
12 Order of Protection, or a violation of a  
13 Restraining Order. It would be relevant on one  
14 of those charges. He is not charged with that.

15 He is also not charged as far as I know,  
16 with any sort of contempt action in Family Court.  
17 I think the remedy is if someone believes he  
18 violated Family Court Orders to seek a remedy in  
19 Family Court and have him held in contempt. That  
20 is not what we are here for today. I think it's  
21 not relevant, it's not an element, it may be an  
22 element of other crimes that he is not charged  
23 with.

24 Additionally, Your Honor, I think it is  
25 overly prejudicial and I also think that it is

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1 intruding on the providence of the jury because  
2 you have this Order, which is findings made by  
3 another fact finder. When those listed as, we  
4 don't know what that evidence is. And it would  
5 be intruding on the providence of the jury as the  
6 fact finders in this case. It would be far too  
7 easy for them say, "oh, well some Family Court  
8 judge heard this and issued this, this all must  
9 be true." That's impeding their job and their  
10 duty.

11 My main objection is it's simply not  
12 relevant and it doesn't go to any of the elements  
13 charged.

14 However, if Your Honor were to let it in, we  
15 would ask for either a stipulation or a redaction  
16 that it went into effect when it was clocked and  
17 -- even the Rules of Civil Procedure Rule, 58,  
18 the Order is effective when clocked. We also ask  
19 that everything other than a Mutual Restraining  
20 Order be redacted in that is totally prejudicial  
21 and contains hearsay statements as well as  
22 findings of fact made by some other tribunal that  
23 would considering it.

24 But we argue that it is not relevant and  
25 should be kept out entirely.

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1 THE COURT: What you want to say?

2 MS. WHITE: Your Honor, it goes directly to  
3 the intent. It goes to -- that Order represents  
4 ironclad notice and is the mutual restraining  
5 Order. So, she couldn't contact him either.

6 I know in her opening that Ms. Bolen stated  
7 that this is a woman who wanted it all her own  
8 way. After this Order was issued, she couldn't  
9 respond to his phone calls. She couldn't  
10 respond to his text messages. But setting that  
11 aside, it goes to his intent, this is ironclad  
12 notice setting aside what the father will testify  
13 to as to saying, "don't come around here".  
14 Setting aside her not wanting contact with him,  
15 this is ironclad notice from a Judge saying "you  
16 are not to have contact, this is unwanted  
17 contact. If you contacting her, this is  
18 harassment."

19 THE COURT: Well, it doesn't say it is  
20 harassment.

21 MS. WHITE: It does not say that, Your  
22 Honor but it does say that neither party is to  
23 contact the other in any way. It also goes to  
24 the pattern, it is an element of stalking, we  
25 have to show a continuity of purpose that he

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1 intends to keep talking her or contacting her,  
2 visiting her, despite having been told not to.  
3 This goes to that continuity of purpose because  
4 it shown it doesn't matter who tells him not to  
5 contact her, he is still going to do it.

6 With regards to the visitation portion of the  
7 Order, again, this shows someone who is now at  
8 this point in January has no legal right to come  
9 around whatsoever. Has no visitation with the  
10 children, has no -- is supposed to have no  
11 contact with Ms. Brandenburg and is still coming  
12 around. So even the excuse if 'I just want to  
13 see my children' is no longer valid at this  
14 point.

15 THE COURT: Anything else you want to say?

16 MS. WHITE: And Your Honor, ---

17 THE COURT: Well, I was turning to her.

18 MS. BOLEN: Your Honor, I think in terms  
19 of the continuity I don't think there is going to  
20 be evidence saying you know, there is evidence of  
21 the incidences that happen after the Order. I  
22 think quite frankly, it's going to confuse the  
23 jury because they are going to think, "well, he  
24 violated the Order." That is not anything they  
25 are being told about in the law. And I simply

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1 think it is not relevant. It's not relevant.

2 THE COURT: I appreciate the position but I  
3 overrule your objection. I am going to allow it  
4 into evidence.

5 MS. BOLEN: Your Honor, are we going to be  
6 able to redact, or have the stipulation ---

7 THE COURT: What do you want to redact?

8 MS. BOLEN: I would like to have the  
9 stipulation that is a mutual restraining Order  
10 that may protect January 9<sup>th</sup>, 2013. I would like  
11 to redact everything about, I would like for, I  
12 would like for it to come in in its entirety.  
13 If the Court is inclined to redact it, I ---

14 THE COURT: I don't see any reason to redact  
15 anything basically.

16 MS. BOLEN: And for the record I would like  
17 to say that we'd like to redact it especially the  
18 part about him needing a psychiatric evaluation  
19 as being overly prejudicial, that being covered  
20 with anything.

21 THE COURT: All right, I appreciate your  
22 that, I overrule that objection. I am going to  
23 allow it in. So, but you've got to offer it and  
24 do it in front of the jury again. Bring the jury  
25 back in.

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(JURY IN AT 3:45 P.M.)

THE COURT: All right, you may continue to  
examine the witness.

MS. WHITE: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUED

BY MS. WHITE:

Q. Ms. Brandenburg, I think the last question  
I asked you, you were saying that you received a  
text message on December the 14<sup>th</sup>?

A. Yes, Ma'am.

Q. And what was that?

A. It was a text from him that said  
"congratulations" and I assumed that it must have  
been from the Court date that we had had on the  
3<sup>rd</sup>; so I called my lawyer and that was when the  
results of the December 3<sup>rd</sup> trial date had come  
back that said ---

Q. And what were the results?

A. The results were I had sole custody.

THE COURT: Well, actually, let me say,  
actually what you found out from your lawyer was  
that the Judge had sent her a letter saying  
'prepare a proposed Order along these lines.'  
Isn't that correct?

MS. BRANDENBURG: Yes, sir. That is

1 correct.

2 THE COURT: Okay. So there wasn't any  
3 Order until much later, the Order was actually  
4 signed on December the 28<sup>th</sup>.

5 Q. And the next contact you had?

6 A. There was a knock on the door and it was  
7 him.

8 Q. Okay. And this is at your house?

9 A. At my house, yes.

10 Q. And that's here in Abbeville County?

11 A. Here, yes.

12 Q. What happened when he was at the front?

13 A. I went to the door. I had the storm door  
14 locked. I opened the door and I told him he  
15 needed to leave, that he shouldn't be there, that  
16 he had see the results of that and that he needed  
17 to go. I told him I was going to call the police  
18 and I shut the door. I think he lingered for  
19 about ten or fifteen seconds. I called my  
20 mother and told her he was there.

21 He ended up leaving and as he left, I took the  
22 kids to the car because I was going to take them  
23 to school. They were having their Christmas  
24 parties that day and they were excited to go to  
25 school. As I was leaving, he was coming into

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1 Burns Avenue on (Highway) 72 as I was going onto  
2 72.

3 And during the time between me taking them to  
4 school, I had asked my mother to call the police  
5 and while I was at the school, and while I was at  
6 the school it was my understanding that he had  
7 been arrested.

8 Q. Okay. I am going to hand you what  
9 has been marked as State's Exhibit 1.

10 MS. WHITE: May I approach the witness,  
11 Your Honor?

12 THE COURT: Yes.

13 DIRECT EXAMINATION CONTINUED

14 BY MS. WHITE:

15 Q. Do you recognize that document?

16 A. I do.

17 Q. Okay. What is that?

18 A. It's the temporary Order from the  
19 Family Court in Berkeley.

20 Q. Okay. Is that, has that been signed by the  
21 Clerk of Court or stamped?

22 A. Yes. It's got a Clerk of Court stamp.

23 Q. Okay. And was it signed by a Judge?

24 A. It was.

25 Q. Okay.

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1 MS. WHITE: Your Honor, State offers  
2 Exhibit 1.

3 THE COURT: All right, and over your  
4 objection I am going to allow it into evidence.

5 MS. BOLEN: Yes, sir.

6 (SO ENTERED AS STATE'S EXHIBIT 1)

7 DIRECT EXAMINATION CONTINUED

8 BY MS. WHITE:

9 Q. All right. And if I could get you, and  
10 this is the, is this the results your of  
11 temporary Hearing?

12 A. Yes it is.

13 Q. Okay. If you could just read bullet point  
14 number one, for me?

15 A. (Reading): *"Plaintiff shall have sole  
16 custody of the parties minor children.*

17 Q. And bullet point number two?

18 A. (Reading): *"Defendant shall have no  
19 visitation with the parties minor children until  
20 he undergoes a mental health evaluation by a  
21 licensed psychiatrist as required below  
22 recommending under what conditions visitation may  
23 be safely exercised.*

24 Q. Okay. And going to number seven, and you  
25 can just read seven and a, b, and c are the

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1 relevant portions.

2 A. (Reading): *"The parties are mutually*  
3 *restrained from the following: Harming,*  
4 *harassing, threatening, following, or interfering*  
5 *with the other in any manner what so ever.*  
6 *Entering or attempting to enter the other's place*  
7 *of residence, employment, or education,*  
8 *communicating or attempting to communicate with*  
9 *the other except through counsel of record."*

10 Q. And so this was signed on December the 28<sup>th</sup>  
11 and clocked on January 9<sup>th</sup>?

12 A. Yes.

13 Q. Did you have any contact with Mr.  
14 Brandenburg after January 9<sup>th</sup>, and now we are in  
15 2013, correct?

16 A. Yes we are in 2013. I did receive a  
17 letter sometime around ---

18 MS. BOLEN: Your Honor, I've got an  
19 objection. We can maybe handle it at a side  
20 bar?

21 (SIDEBAR)

22 DIRECT EXAMINATION CONTINUED

23 BY MS. WHITE:

24 Q. And skipping past, did you have any contact  
25 with him in February?

1 A. On the 8<sup>th</sup>, I noticed he was -- on the way  
2 to take the children to school, he was outside at  
3 the Abbeville Motel which is right below the  
4 school. And then later that day, he was on the  
5 Square for much of the afternoon. I saw him a  
6 couple of times as I was riding through the  
7 Square.

8 Q. And let me stop you there. Did he ever  
9 move to Abbeville County?

10 A. Not to my knowledge. No.

11 Q. He was still living in Berkeley County this  
12 entire time?

13 A. Yes.

14 Q. Does he have family in Abbeville besides you  
15 and the children?

16 A. No.

17 Q. Does he work in Abbeville County?

18 A. No.

19 Q. Does he have any reason to be here other  
20 than you and ---

21 MS. BOLEN: Your Honor, I object.

22 THE COURT: I sustain the objection to that  
23 question.

24 DIRECT EXAMINATION CONTINUED

25 BY MS. WHITE:

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1 Q. All right, did you have any contact with him  
2 after February the 8<sup>th</sup>?

3 A. Yes, I got a call from him on February the  
4 24<sup>th</sup>.

5 Q. And what did he say then?

6 A. He said he was going to be in Abbeville in  
7 a couple of days, that he had a meeting with the  
8 lawyer and that he wanted to see me.

9 Q. Did you see him on the 24<sup>th</sup>.

10 A. I did not. I didn't call him back.

11 Q. And did you see him after that?

12 A. On the 26<sup>th</sup>, right before I was going to  
13 pick the children up from school, he rode by my  
14 house. And then I picked the children up from  
15 school and happened to look out the window and  
16 noticed he was coming by again. It took him  
17 awhile to go turn the corner where we live.  
18 Then I walked out into the back yard and noticed  
19 that a bag of toys had been placed in the back  
20 yard and my son. Our son was outside playing, I  
21 called him to come in and about the time he was  
22 driving back by a third time. He attempted to  
23 get Tripp's attention but Tripp came on in, into  
24 the backyard and went in the house.

25 Q. Did you call law enforcement about that?

1           A.     After I got both of the kids in the house,  
2           I called law enforcement to come by and make an  
3           incident report because I wanted to make sure  
4           that everything was documented, and he had scared  
5           me in that he had actually put something over the  
6           fence.

7           Q.     What was, were you scared while this was  
8           going on?

9           A.     I was.

10          Q.     And what were you scared of?

11          A.     I wasn't sure what he was going to do.    I  
12          was scared that he might take the children.    I  
13          wasn't sure if he was going to have an angry  
14          outburst and you know, harm me or be mad because  
15          of us leaving.    I still wondered if he was going  
16          to take try to take the kids because he had  
17          threatened that.    You know, he, in the past, had  
18          said he was going them to take them away.    So I  
19          was just worried that he would take the kids and  
20          leave.

21                   MS. BOLEN:   Your Honor, I have an  
22                   objection to that.

23                   THE COURT:   Well, I appreciate the position  
24                   I overrule your objection.    I'll allow it.    Go  
25                   ahead.

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1 MS. WHITE: Please answer any questions  
2 Ms. Bolen has.

3 (CROSS EXAMINATION)

4 BY MS. BOLEN:

5 Q. Mrs. Brandenburg, I've got some questions  
6 for you about what you testified about, okay?  
7 You moved here in June of last year, right?

8 A. Yes.

9 Q. Okay. You lived with your parents first?

10 A. Yes.

11 Q. Okay. You were living at your parent's  
12 house September 18<sup>th</sup>?

13 A. Yes, I was.

14 Q. And you said he, Charles showed up there,  
15 right?

16 A. Yes.

17 Q. And when you told him to leave, he left,  
18 right?

19 A. Yes.

20 Q. Okay. He didn't make any threats to you,  
21 correct?

22 A. No.

23 Q. He didn't make any threats to the children,  
24 correct?

25 A. No.

1 Q. Okay. He didn't have any weapons with  
2 him, right?

3 A. Not that I am aware of.

4 Q. And you basically just didn't want him  
5 there, correct?

6 A. I didn't, you're right, I didn't want him  
7 there.

8 Q. You didn't want him there, you told him to  
9 leave and he left, right?

10 A. Yes.

11 Q. And you didn't call the police, correct?

12 A. No.

13 Q. Okay. Then you said, September 19<sup>th</sup>, your  
14 kids were at Long Cane Elementary, right?

15 A. Correct.

16 Q. And he was parked out beside the school?

17 A. Yes.

18 Q. And you spoke with him after dropping your  
19 kids off, right?

20 A. I did.

21 Q. You saw him in the parking lot, and spoke  
22 with him.

23 A. Yes.

24 Q. And at that point, you agreed to let him  
25 see the children, right?

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1 A. After school, yes.

2 Q. Okay. And you told him to go back to  
3 Charleston, right?

4 A. Later that evening, yes, I was like you  
5 need to go back to school, sorry, to Charleston.

6 Q. And at some point, then in September,  
7 September 19<sup>th</sup>, that he asked you to follow him to  
8 a motel so he could visit with the children?

9 A. Yes.

10 Q. And so he asked you to do that, right?  
11 That was a question he asked you?

12 A. Yes. He said 'why don't you and the kids  
13 come and spend the night with me at the hotel.'

14 Q. He didn't order you to, correct?

15 A. No.

16 Q. He didn't make any kind of threat about 'if  
17 you don't, this will happen'; right?

18 A. No.

19 Q. He just asked you to and you didn't do it,  
20 right?

21 A. Right.

22 Q. And nothing happened when you didn't follow  
23 him, right?

24 A. No.

25 Q. He didn't , he didn't get mad, he didn't

1 call you he didn't do anything to you, right?

2 A. No.

3 Q. Okay. Move on to the October 5<sup>th</sup>. You  
4 said he left a note on your car or your truck?

5 A. Yes.

6 Q. And the note again asked you to meet him at  
7 a hotel?

8 A. Yes.

9 Q. He didn't demand that you did, right?

10 A. No.

11 Q. Didn't threaten any kind of harm to you or  
12 your children, if you didn't, correct?

13 A. No.

14 Q. Just asked "would you meet me at a hotel."

15 A. Yes.

16 Q. And you did not meet him at the hotel,  
17 correct?

18 A. I was working.

19 Q. Okay. And you didn't keep that note,  
20 right?

21 A. No.

22 Q. Okay. And nothing happened when you  
23 didn't meet him, right? He didn't come to your  
24 work?

25 A. He came to my work the follow morning.

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1 Q. Outside though, right?

2 A. Yes.

3 Q. He did not come into the hospital?

4 A. Not that I am aware of.

5 Q. He did not call you or make any sort of  
6 threats over the phone, correct?

7 A. He called me at about 5:00 that morning and  
8 then texted me after midnight but ---

9 Q. Just telling you a motel room he was in,  
10 right?

11 A. Yes.

12 Q. He made no threat then?

13 A. No, not over the phone.

14 Q. And didn't mention anything about the kids,  
15 right?

16 A. Uh-huh.

17 Q. Okay. Say yes or no, please.

18 A. To which one?

19 Q. The last one.

20 A. What was your last question?

21 Q. He didn't say anything about the kids,  
22 correct?

23 A. No.

24 Q. Okay. And I believe you said, one of the  
25 texts was "would you go to breakfast and talk",

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1 correct?

2 A. Yes.

3 Q. SO he asked you in a very polite way would  
4 you like to meet me for a meal and talk?

5 A. Yes.

6 Q. There was no threat in that, right?

7 A. No.

8 Q. That did not cause you to be scared that he  
9 was going to do something to you, correct?

10 A. Correct.

11 Q. Okay. And I think you said that he was in  
12 the parking lot or near the parking lot of Self  
13 one morning?

14 A. He was in the parking lot.

15 Q. And you stopped to talk to him, right?

16 A. Yes.

17 Q. Okay. You voluntarily stopped to talk  
18 with him?

19 A. Or he was in between my path to my car.

20 Q. Okay. And he told you he didn't want a  
21 divorce, right?

22 A. Correct.

23 Q. And at that point he asked again, asked you  
24 if he could see the kids sometime, right?

25 A. Well, he demanded to see the kids that day.

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1 Q. And you told him no, right?

2 A. Correct. Because we had not made a plan  
3 for it, I was working that night and that  
4 Saturday night as well.

5 Q. Okay.

6 A. So, I honestly had no time to even try to  
7 do it, even if I was going to let him.

8 Q. And this would be the morning of October  
9 6<sup>th</sup>, right?

10 A. Correct.

11 Q. Okay. So when you found the note on your  
12 car, you didn't call the police, right?

13 A. No.

14 Q. And when you talked to him in the parking  
15 lot on October sixth, you did not call the  
16 police, correct?

17 A. Actually I did, because that was when he  
18 followed me to my parent's house He was  
19 threatening in the parking lot and as I left, he  
20 left pretty much in pursuit of me, following me  
21 to my parent's house.

22 Q. You didn't call the police yourself, one of  
23 your parents did?

24 A. Yes. My parents did, excuse me.

25 Q. But you didn't call them on your cell,

1 correct.

2 A. No, I did not because I was more concerned  
3 about getting to my parent's house before he did.

4 Q. Okay. And so you go to arrive at your  
5 parent's house, right?

6 A. Yes.

7 Q. Were the kids there?

8 A. Yes.

9 Q. Okay, so that is the time you said that the  
10 Sheriff's Office came out and said he was not  
11 trespassing, right?

12 A. Right. That due to the fact that there  
13 was no Family Court Order, that it was not  
14 considered trespassing since we had equal rights  
15 to the kids.

16 Q. And I believe they told you he had equal  
17 rights; right? I don't know if those were the  
18 words used.

19 A. That's the words I use, that is not what  
20 they said. That's my words, I think the officer  
21 that came out likened it to if your car is in s  
22 someone else's property, you can come pick up  
23 your car. He put it more in that context.

24 Q. Okay. And these were his kids, right?

25 A. Right.

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1 Q. His kids?

2 A. Yes.

3 Q. But I think you said on direct that the  
4 Sheriff told you that he had a vested interest in  
5 his children, right?

6 A. Yes.

7 Q. And his kids were there, right?

8 A. Yes.

9 Q. And you did not let him see them?

10 A. No.

11 Q. Even though a Sheriff's Deputy was there.

12 A. No.

13 Q. Okay. And then you said that October in  
14 King Fish you think you saw him on the road but  
15 you're not sure it was him?

16 A. I was ninety percent sure that it was him.

17 Q. And did he try to cut you off, in any way?

18 A. What do you mean, in the road?

19 Q. I'm sorry, yes.

20 A. No.

21 Q. Did he try to run you off the road?

22 A. No.

23 Q. Okay. He didn't come to your house, right?

24 A. I made circles around Abbeville until I  
25 felt confident I had lost him.

1 Q. Okay. And you didn't call the police,  
2 right.

3 A. No, I did not.

4 Q. Around early November is when you moved out  
5 of your parent's house, right?

6 A. Correct.

7 Q. Okay. I think at one point during the  
8 testimony on direct, you were talking about, you  
9 know, him asking to see the kids, he was always  
10 asking, correct, he'd say "can I see the kids, I  
11 want to see the kids".

12 A. It wasn't always asking, there's a few texts  
13 where he demanded to see the kids.

14 Q. Okay. Well, I think you have showed me  
15 text messages that you have. Let's just go  
16 through those:  
17 September 18<sup>th</sup>, he asked you what school the kids  
18 went to, right?

19 A. Yes.

20 Q. September 18<sup>th</sup>, he also texted you "please  
21 meet, I am not here to argue", correct?

22 A. Yes. But he said he wasn't here to argue  
23 because I had told him that we had already made  
24 plans to meet that weekend and he was determined  
25 he was going to meet us that day.

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1 Q. Okay. But he said "please meet", right?

2 A. Yes.

3 Q. Okay. September 21, he sent you a text  
4 about asking to see the kids, correct?

5 A. Yes.

6 Q. September 22<sup>nd</sup>, he said " I want to talk to  
7 the kids tomorrow, please let me see the kids."  
8 Correct?

9 A. Yes.

10 Q. September 23<sup>rd</sup>, his text to you was "any  
11 chance I can speak to them." Correct?

12 A. Yes.

13 Q. September 28<sup>th</sup>, he sent you a text "be  
14 safe..." -- correct?

15 A. Yes.

16 Q. October 5<sup>th</sup>, "Can you call me?" Correct?

17 A. Yes.

18 Q. October 6th, "I want to pick up the kids  
19 next weekend. Thank you." Right? That is what  
20 he texted?

21 A. Yes, and I actually made arrangements and  
22 rearranged my work schedule so that he could see  
23 them that weekend and I didn't get another  
24 message or call from him stating that he was  
25 planning to come to Abbeville or wanting to try

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1 and meet anywhere.

2 Q. Okay. October 7<sup>th</sup>, he texted you "you want  
3 me out of your life, you are free to leave.  
4 I'll take all the blame." Correct?

5 A. Yes.

6 Q. October 11<sup>th</sup>, "You said you would let me  
7 speak to the kids yesterday."

8 You said, "You said you were interviewing  
9 for a job in Charleston."

10 He said, "Missed it."

11 Correct?

12 A. Yes.

13 Q. October 16<sup>th</sup>, he sent one: "I love you,  
14 and called to speak with the kids." Correct?

15 A. Yes.

16 Q. October 16<sup>th</sup>, he also requested or asked you  
17 for some pictures of the kids. Correct?

18 A. Correct, of which I, -- did you want me to  
19 follow up on that one?

20 MS. WHITE: Objection Your Honor.

21 THE COURT: Ask another question.

22 CROSS EXAMINATION CONTINUED

23 BY MS. BOLEN:

24 Q. So all those text messages are him asking to  
25 see the children, correct?

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1 A. Or speak to them, yes.

2 Q. Speaking to them. And he is also asking  
3 in a way that gives you some notice that 'I would  
4 like to speak with them tomorrow.' Correct?

5 A. It's not always -- yes, but it was not  
6 always tomorrow.

7 Q. Okay.

8 A. With that much advance notice when he asked  
9 to speak to them, I offer the children the --  
10 several of those times he did speak with them.  
11 And several times I asked the children if they  
12 wanted to speak to him or not and used that as a  
13 gauge. If they said they said they didn't really  
14 want to speak to him, I didn't call and put them  
15 on phone.  
16 And when he asked for pictures of the kids, I  
17 didn't send him pictures, because he had started  
18 a Facebook account with no privacy settings.

19 Q. Okay.

20 A. And I thought that was endangering them to  
21 have their birthdates and pictures on Facebook  
22 with no privacy.

23 Q. And at one point in your direct testimony,  
24 you said something about that he asked to see the  
25 kids and you said "it wasn't convenient at the

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1 time." Is that right?

2 A. More -- well, I don't know if "convenient"  
3 is the right word because considering I was  
4 working third shift and had to work that Friday  
5 night and that Saturday night.

6 Q. Okay. So you told him it wasn't  
7 convenient at that point for him to see the kids,  
8 right. That is what you testified to.

9 A. Yes.

10 Q. Okay. So it is up to you determine when  
11 it is convenient for him to see his kids. I  
12 mean, at that point ---

13 A. No, not necessarily. It wasn't convenient  
14 for me to let him see them the weekend following  
15 the 6<sup>th</sup>, but I rearranged my work schedule so that  
16 he could, and he didn't bother trying to call  
17 back or plan anything then. So with advance  
18 notice, I tried to work around.

19 Q. Okay. And then you said and testified  
20 that on November 26<sup>th</sup>, he texted you that he  
21 couldn't believe you got the kids out of school  
22 early, correct?

23 A. Correct.

24 Q. So that's him showing concern that the kids  
25 were not in school, right?

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1 A. I think it was more in the context that he  
2 was angry that they weren't there when he came.

3 Q. Okay. And then I guess you said that, at  
4 one point I think you said around November 25<sup>th</sup>,  
5 or 26<sup>th</sup>, he was sitting in a Public Works parking  
6 lot? Is that a Highway Department parking lot?

7 A. Yes. On November 2<sup>nd</sup>, -- and, since I've  
8 pulled it out, this is just a time line of where  
9 I have written down the dates that he was around  
10 to that I make sure not to give you an incorrect  
11 date.

12 Q. And when did you write that down?

13 A. I pulled it together the other day.

14 Q. So just within the last week or so?

15 A. Yes.

16 Q. Okay.

17 A. Back to the question about being outside  
18 the Highway Department, that was on the night, of  
19 the night of the 26<sup>th</sup>.

20 Q. November twenty sixth?

21 A. November 26<sup>th</sup>.

22 Q. Okay. And the Highway Department is a  
23 public place; correct?

24 A. It is.

25 Q. Okay. He didn't follow you or anything,

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1 right?

2 A. I wasn't in my vehicle. He didn't realize  
3 that I was coming in to work. I had borrowed my  
4 uncle's vehicle that night because, from my  
5 understanding, he was coming into town angry and  
6 I really didn't want to have to encounter him, so  
7 I used one of my relative's vehicles.

8 Q. But you were, how far away from him were  
9 you? You were in the street, right? You were  
10 driving?

11 A. I was driving, he was outside of his  
12 vehicle.

13 Q. Okay. And you didn't see him the rest of  
14 that day, right?

15 A. I don't think that he came by the hospital.  
16 I told every, I told security at the hospital as  
17 well as all my co-workers that if anyone came  
18 asking for me that I was not there.

19 Q. Okay. And you didn't call the police,  
20 right?

21 A. No, I didn't.

22 Q. Okay. And then on November 27th, that's  
23 the day that you kept the kids out of school or  
24 took the kids out early, right?

25 A. I kept them out of school that day.

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1 Q. And the only contact he made was saying,  
2 "I can't believe you took them out of school  
3 early?" Right?

4 A. That was the previous day. He'd made that  
5 comment, he called me multiple times that day and  
6 I ignored him.

7 Q. Okay. And he didn't make any threats to  
8 you, right?

9 A. His tone was very angry and harsh.

10 Q. He did not threaten any bodily harm?

11 A. No. Not in specific words.

12 Q. Okay. And on the 27th, this is when you  
13 went to the Sheriff's Office and believe they  
14 told you, didn't make a report, it was a Family  
15 issue and they couldn't get involved, correct?

16 A. Yes.

17 Q. Okay. December 12<sup>th</sup>, as you say you were in  
18 Greenwood, I think you were at Kohl's?

19 A. Yes.

20 Q. All right. And you say, now you were in  
21 your car, right?

22 A. Right.

23 Q. You are out in the parking lot?

24 A. Yes.

25 Q. Okay. And he was also in the parking lot?

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1 A. Yes.

2 Q. So you are in your car driving, correct?

3 A. Correct.

4 Q. And you say he, quote, "pulled you over";  
5 correct?

6 A. Yes.

7 Q. You could have kept driving, right?

8 A. I could have but I also knew that nothing  
9 had been done as far as Family Court. I also had  
10 a fear that he was going to go to the school and  
11 attempt to get the children out of school, so if  
12 I was talking to him and placating him, then I  
13 wouldn't have to -- I knew my kids were safe if I  
14 was placating him.

15 Q. And the kids were not with you, right?

16 A. They were in school.

17 Q. Okay. And he had not, you never testified  
18 that he said anything about going to get the kids  
19 when you saw him in the Kohl's parking lot,  
20 right?

21 A. No.

22 Q. That is not part of your testimony?

23 A. He did not say that.

24 Q. He did not say that?

25 A. No.

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1 Q. And in fact, when he, you voluntarily went  
2 to talk to him, he just said he wanted to work it  
3 out, right?

4 A. Yes.

5 Q. Okay. And in the afternoon of the 12th,  
6 that's when you say that you saw him at the  
7 school, and you thought, you weren't sure if he  
8 was maybe trying to get the kids attention?

9 A. That what I assumed he was trying to do.

10 Q. Okay. So that was your assumption that he  
11 was trying to get the kids attention, right?

12 A. Yes.

13 Q. Okay. And you told the police basically,  
14 'tell him I'll meet him at McDonald's with the  
15 kids.' Right?

16 A. Yes.

17 Q. So you felt fine going to McDonald's to  
18 meet with him, right?

19 A. I felt like it would be a public place and  
20 that nothing would happen there.

21 Q. Okay. And you said that there happened to  
22 be an Abbeville Police Department car in the Bi-  
23 Lo, but they weren't there for you, right?

24 A. I don't know if they were there for me or  
25 not. One of the officers before I left, told me

1 just to call 911 if I needed anything, I wouldn't  
2 have to worry about that they would know it was  
3 me. I wouldn't have to worry about giving them  
4 any other information. I assumed that that car  
5 had been there because of the incident in the  
6 school.

7 Q. Okay. And you said that a Sheriff's  
8 Deputy was by coincidence at McDonald's. He was  
9 eating lunch there?

10 A. I think, yes, with his family.

11 Q. And that's helpful but you didn't call the  
12 police about talking in the Kohl's parking lot,  
13 right?

14 A. I did not.

15 Q. And you actually didn't call the police on  
16 the afternoon of December 12<sup>th</sup>, right?

17 A. Another parent, from my understanding --  
18 no, I did not call.

19 Q. At McDonald's you did not call the police  
20 at all, correct?

21 A. No.

22 Q. Okay, let's move on to December 13th.  
23 You said that you were basically driving home by  
24 the school, right?

25 A. Yes.

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1 Q. You were in your cars Highway 72?

2 A. Yes.

3 Q. Okay, so you are in your cars driving,  
4 right?

5 A. Yes.

6 Q. And you said you drove by and passed  
7 together, right.

8 A. Yes.

9 Q. And again, you didn't have to stop.  
10 Right?

11 A. Correct. But I didn't have of type of  
12 Order from The Family Court, he had just as much  
13 right to go in the school as I did.

14 Q. Okay.

15 A. So I stopped basically to placate him and  
16 make sure he didn't stay angry and go to the  
17 school and get the kids.

18 Q. Okay. And you voluntarily stopped and  
19 talked with him, right?

20 A. Yes.

21 Q. And you talked to him for thirty minutes?

22 A. Approximately.

23 Q. Okay. And December 13<sup>th</sup>, that is when you  
24 said you went to the Sheriff's Office, right?

25 A. Yes.

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- 1 Q. And you told them -- or at least your  
2 testimony on direct was you told them, "I'm tired  
3 of looking over my shoulder", right?
- 4 A. Yes.
- 5 Q. Okay.
- 6 A. And seeing him every time I turn around.
- 7 Q. So you are tired of seeing him, basically?
- 8 A. Yes.
- 9 Q. Okay. Going back to the 13<sup>th</sup>, you actually  
10 were the one to suggest the meeting at  
11 McDonald's, right?
- 12 A. Yes. But just as a public place to get  
13 him away from the school.
- 14 Q. Okay. And he didn't make any threats to  
15 you there, right?
- 16 A. No.
- 17 Q. And no threats to the kids, right?
- 18 A. No threats to the kids but he tried to,  
19 'let's go to the toy store', or 'I have a toy  
20 for you', 'don't you want to come ride in Dad's  
21 car?'
- 22 Q. So a father wanted to give his children  
23 some toys, is that your testimony?
- 24 A. That he was offering them toys.
- 25 Q. Okay. And on the 13<sup>th</sup> when he flagged you

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1 down, he didn't make any threats to you then,  
2 right?

3 A. No.

4 Q. And no threats to the kids, right?

5 A. He didn't mention the kids when he flagged  
6 me down.

7 Q. Okay. December 19<sup>th</sup>, you said he knocked  
8 on your door in the morning, right?

9 A. Yes.

10 Q. And he asked to see the kids, correct?

11 A. Yes.

12 Q. Okay. And he did not come in the house at  
13 all, correct?

14 A. I had the storm door locked, he tried to,  
15 he attempted to grab the handle but since it was  
16 locked, he could not come in.

17 Q. Okay. And you told him to leave, right?

18 A. Yes.

19 Q. And he left, correct?

20 A. Only after he saw the phone to my ear and I  
21 threatened to call the police.

22 Q. Okay. So you went back to call the  
23 police, correct?

24 A. Yes.

25 Q. And he left?

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1 A. Yes.

2 Q. And I think you said in your direct, that  
3 you actually didn't call the police. You called  
4 your mother and asked her to, right?

5 A. Yes.

6 Q. Let's talk about February 18<sup>th</sup> (sic). This  
7 is when you said that you were driving, I guess  
8 you were driving, I guess you were going to and  
9 from work, or to and from the school?

10 A. February 8<sup>th</sup>, I was driving to and from the  
11 school and then the other errands around town.

12 Q. Okay. And you drove by the Abbeville  
13 Hotel?

14 A. Yes.

15 Q. And that happens to be a hotel on 72?

16 A. Yes.

17 Q. I have that right?

18 A. Yes.

19 Q. Okay. And you noticed that he was there?

20 A. Yes.

21 Q. Okay. Just there, did you see his car?

22 A. Yes. He was sitting, standing right,  
23 sitting near his car, leaning up against his car.

24 Q. Okay. And the Abbeville Square is a  
25 public place, correct?

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1 A. It is.

2 Q. Okay. And then you said you saw him later  
3 that day on Abbeville Square right?

4 A. Yes.

5 Q. Okay. And you actually said you drove  
6 through the Square several times and saw him  
7 several times, right?

8 A. Yes.

9 Q. Okay, so he was sitting on the Square which  
10 is a public place, right?

11 A. Yes.

12 Q. And you rode through, how many times? You  
13 said 'several'. How many do you think?

14 A. I think I rode through twice.

15 Q. Okay. And you just noticed him sitting  
16 there?

17 A. Yes. And the first time I rode by, he got  
18 up and got into his car. I don't know if he  
19 followed me or not but I know as soon as he saw  
20 me, he got up and went to his car.

21 Q. And then the second time, he was sitting on  
22 the Square, right?

23 A. Yes.

24 Q. Okay. Now on the 24<sup>th</sup>, you said you talked  
25 to him and he wanted to see the kids?

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1 A. On February 24th?

2 Q. Yes.

3 A. I did not talk to him. He called my phone  
4 and said that he was going to be in Abbeville and  
5 would I meet him.

6 Q. Okay. So again, he asked you to meet him,  
7 correct?

8 A. Correct, but at this time he wasn't even  
9 supposed to be attempting to contact me because  
10 this was after the Family Court Order had gone  
11 into effect.

12 Q. But there again, he didn't make any threats  
13 in this message, right?

14 A. No.

15 Q. He didn't make any threats to you or to the  
16 kids, correct?

17 A. No.

18 Q. He didn't say anything about taking the  
19 kids, correct?

20 A. No.

21 Q. Okay. And February 26th, you state he  
22 drove by the house, your house?

23 A. Yes.

24 Q. And you live on a public road, right?

25 A. Yes.

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1 Q. Okay. And that you say you noticed that  
2 some toys were in the back yard?

3 A. Yes.

4 Q. Okay. And just toys, right?

5 A. Yes.

6 Q. Okay. Now through all of this, you have  
7 not given any testimony that he made any threats  
8 of bodily harm, against you or your kids. Right?

9 A. Right.

10 Q. No threats that he would take your kids,  
11 right?

12 A. No.

13 Q. No. So he has never threatened to take  
14 your children, correct, during the timeframe?

15 A. During the timeframe that you are talking  
16 about, no.

17 Q. Okay.

18 A. Now, his mannerisms were very threatening  
19 and his tone and timber of his voice was very  
20 threatening and intimidating.

21 Q. And we're, the time span we talking about  
22 is September, early September, 2012 to late  
23 February of 2013, right? Which is September,  
24 October, November, December, January, a six-month  
25 period, right?

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1 A. Yes.

2 Q. And during that time, he never once came  
3 and tried to take the children from you, correct?

4 A. He came. I don't know I don't know if, I  
5 mean, yes.

6 Q. Okay. So he never tried to take your kids  
7 and never tried to hurt you, right?

8 A. No.

9 Q. During that time frame?

10 A. Well, on the 26<sup>th</sup> when he came by the house,  
11 he was calling Tripp's attention as Tripp was  
12 coming into the house, coming towards the house.  
13 I don't know what his intent was at that point.

14 Q. Okay. You don't know what his intent was?  
15 Okay. But he never, and you during all of this,  
16 you never changed your phone number, right?

17 A. No, I did not.

18 Q. You didn't change your address?

19 A. I moved from Charleston up here. And then  
20 I attempted to not publicize, I am using a post  
21 office box. And I attempted not to publicize my  
22 new address.

23 Q. Okay. You didn't move your kids to a  
24 different school, right?

25 A. No. There are only so many schools in

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1 Abbeville County.

2 Q. You didn't ask to be in Witness Protection,  
3 right?

4 A. No.

5 Q. Okay.

6 MS. BOLEN: I believe that is all I have.

7 THE COURT: Anything on redirect?

8 MS. WHITE: Very briefly, Your Honor.

9 May we break, I think we have an issue.

10 THE COURT: I don't think a sidebar is very  
11 good. If you've got something you want to say.

12 MS. WHITE: Your Honor, I believe that Ms.  
13 Bolen opened the door.

14 THE COURT: Members of the jury panel needs  
15 to go to the jury room for a moment, please.

16 (JURY OUT AT 3:45 P.M.)

17 THE COURT: All right, what is it you want  
18 to ask?

19 MS. WHITE: Your Honor, previously ruled  
20 that the testimony regarding the threat made  
21 about the kids, that he would sacrifice the kids  
22 if he had to, was not admissible; also the  
23 behavior prior the Ms. Brandenburg leaving.  
24 Ms. Bolen repeatedly used the words, 'never made  
25 threats, he never frightened you, never

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1 threatened to take the kids, never threatened to  
2 harm to the kids.'

3 I think at this point, she has opened the  
4 door to that threat, to that reason that Ms.  
5 Brandenburg was so scared that he would get his  
6 hands on the kids alone and unsupervised.

7 And I think she has opened the door to that,  
8 Your Honor, and I would ask that I be allowed to  
9 go into that testimony now.

10 MS. BOLEN: Your Honor, I clarified that  
11 that was during the timeframe in the Indictment.  
12 It was during the time frame that we are talking  
13 about. Because that is what he is on trial for.

14 MS. WHITE: Depending -- Your Honor, Ms.  
15 Bolen's words are not testimony so her question,  
16 what she clarified, it doesn't matter, this jury  
17 has heard that he has never made threats, and  
18 this simply not true.

19 THE COURT: Well, I appreciate the position  
20 and it is a close question and all but I am  
21 going to maintain the ruling that I made  
22 earlier and all. I don't think it is  
23 relevant.

24 MS. WHITE: Thank you, Your Honor.

25 THE COURT: All right, I appreciate the

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1 position but I will sustain the objection  
2 still. Anything else on redirect?

3 MS. WHITE: I do have additional questions.

4 THE COURT: Bring the jury back in.

5 (JURY IN AT 3:47 P.M.)

6 THE COURT: All right, anything on re-  
7 direct?

8 MS. WHITE: Very briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. WHITE:

11 Q. Ms. Bolen asked a lot of questions about  
12 did he ever make any overt threat, how would you  
13 describe Mr. Brandenburg's demeanor the times  
14 that you talked to him?

15 A. During the timeframe we are talking about?

16 Q. Yes.

17 A. Very threatening.

18 Q. When you say threatening, how would you ---

19 A. He would get angry and would, you know, "why  
20 can't you see it my way? Why, you know, you are  
21 not giving me a chance," anything I said he kind  
22 of talked over or it was as though, I didn't say  
23 it. It was, you know, this is the way,  
24 everything was his way. And he kind of shut  
25 down if I wasn't giving him the responses and all

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1 the conversations just seemed to be circular,  
2 because he wasn't hearing the answers that he  
3 wanted to hear.

4 Q. And did his actions and demeanor frighten  
5 you during this timeframe?

6 A. It made me -- yes, made me very nervous and  
7 concerned.

8 THE COURT: What were you concerned about?

9 MS. BRANDENBURG: I was concerned that he  
10 was going to come to wherever the children were  
11 and try and get the children, or that he was  
12 going to basically, have some form of outburst.  
13 And all the times that he pulled me over, I never  
14 allowed him into my vehicle, I never got out of  
15 my vehicle. A couple of the times, I never  
16 even turned the car off, so yeah, I voluntarily  
17 spoke to him but it is not like I, you know, I  
18 think there was only one time, where on the 18<sup>th</sup>,  
19 where I had actually gotten into a vehicle with  
20 him, but all the other times, he was on outside  
21 my vehicle.

22 REDIRECT EXAMINATION CONTINUED

23 BY MS. WHITE:

24 Q. Now, during some of this timeframe, were  
25 you, you were still letting him try to see the

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1 kids, correct?

2 A. Up until probably mid-October I was trying  
3 to work with him. Once I realized that it was  
4 going to be his way or no way, then I started the  
5 process of going through Family Court since  
6 everything I had been told was that was the only  
7 outlet and avenue I had. Then, I quit trying  
8 to work with him.

9 MS. WHITE: No further questions, Your  
10 Honor.

11 THE COURT: All right. Thank you very  
12 much, you can return to your place in the  
13 courtroom.

14 (WITNESS STEPS DOWN)

15 THE COURT: We are going to take a short  
16 break and let you go to the jury room for about a  
17 five- to ten-minute break, move around a little  
18 bit and everything so we will take short break.  
19 We will get you some water. I will put the  
20 bailiff in charge of that, he is going to get you  
21 some water.

22 (JURY OUT AT 4:00 P.M.)

23 (BRIEF RECESS)

24 (DEFENDANT PRESENT)

25 THE COURT: Okay, let's see if they

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1 have had enough water.

2 (JURY BACK AT 4:08 P.M.)

3 THE COURT: All right, we have the all the  
4 jury back with us and the parties are present  
5 along with their attorneys. All right, call  
6 your next witness.

7 MS. WHITE: State calls Charles Costner.

8 (WITNESS TAKES THE STAND)

9 CHARLES ALEXANDER COSTNER, having been duly  
10 sworn to tell the truth, the whole truth and  
11 nothing but the truth, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. WHITE:

14 Q. Okay. And how are you employed?

15 A. I am an employee of the Abbeville County  
16 School District, I am the principal at Long Cane  
17 Primary.

18 Q. Okay. And are Tripp and Bailey  
19 Brandenburg students at Long Cane Primary?

20 A. Yes, they are.

21 Q. Okay. And who is their mother?

22 A. Their mother is Mrs. Brandenburg.

23 Q. Have you ever had the occasion to meet the  
24 defendant, Charles Brandenburg?

25 A. Yes, I have on two separate occasions.

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1 Q. Okay, taking you back to the first,  
2 November the 26<sup>th</sup>, of 2012, was that one of the  
3 dates that you met Mr. Brandenburg?

4 A. That was the first time that I had ever met  
5 him.

6 Q. Okay. And could you tell the jury a  
7 little bit about what happened on that day?

8 A. Yes, ma'am. Mr. Brandenburg arrived at  
9 Long Cane Primary, it was at the end of the day  
10 and he had requested the opportunity to come and  
11 see his children. I informed Mr. Brandenburg  
12 that I didn't know him nor did we have any  
13 documentation that he was the father. He said  
14 that he just wanted to spend some time with his  
15 kids. He mentioned giving them some gifts and I  
16 asked him if he could fill out an emergency card  
17 and I would be glad to look into it to see if he  
18 was really the guardian as he said he was.  
19 And -- but before I could prove he was the legal  
20 guardian we were not going to allow him to see  
21 the children.

22 Q. Okay. And what is an emergency card?

23 A. Oh, I'm sorry. An emergency card  
24 basically is an information sheet we require all  
25 parents to fill it out at the beginning of the

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1 school year. We use that to determine who can  
2 see a child, who can pick up the child, and who  
3 we can contact in case the child gets sick or  
4 hurt in school.

5 Q. Okay. Now on November 26th, when he  
6 showed up, was that, was school still in session  
7 when he came.

8 A. Yes. It was approximately around 2:00 so  
9 it was getting close to dismissal when he  
10 arrived.

11 Q. Did he, on that date, did he say anything  
12 about taking the children?

13 A. No. Not, not that I can recall. I mean,  
14 on that day he just, he described the situation,  
15 there was something going on between the marital  
16 status. I wasn't aware. And he described that  
17 situation and then he said the he just wanted to  
18 see his children.

19 Q. Did you ever see Mr. Brandenburg again?

20 A. He arrived the following day.

21 Q. Okay. About what time did he arrive that  
22 day?

23 A. That, I believe it was earlier in the day,  
24 it was while school was in session. He was  
25 demanding to see his children; that was the

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1 second time I had seen him.

2 Q. Okay. Did you notice a difference in his  
3 appearance from day one to day two?

4 A. Yes, Ma'am. He really had, when he  
5 arrived it concerned one of my employees working  
6 in the front office. The clothing didn't look  
7 the same as the day before. He was very red and  
8 color flushed. Even that, there was an aroma of  
9 alcohol. I don't know if had been drinking but  
10 there was some aroma of alcohol.

11 Q. Was he disheveled at all?

12 A. He looked unkempt. It's kind of, you know,  
13 the clothing, there was a stain on the pants he  
14 was wearing. He just really looked like he had  
15 had a, I don't know how to say it, a rough --  
16 looked roughed from the night or whatever, or  
17 whatever from the night when he arrived at the  
18 school.

19 Q. And you said he showed up demanding to see  
20 the children.

21 A. Yes, Ma'am. He had, when he had arrived,  
22 he was very upset and agitated. He wanted to  
23 see his children. He said he was their father.  
24 He said there were no other Brandenburgs around.  
25 You know, tried to talk him into calming down to

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1 let him know I understood that if he was the  
2 father, that he did have those legal rights.  
3 That we didn't have the proof, we didn't have  
4 enough time to find out that information. He  
5 became more agitated, so we escorted him to my  
6 office where we could talk and try to make that  
7 determination. He still was very vocal that he  
8 wanted to take his children. He wanted to take  
9 the children, I believe, back to Charleston.  
10 That it became a point of such concern that we  
11 felt it was necessary that law enforcement be  
12 contacted. Because we did not know it was going  
13 to go. We didn't know what was going to happen  
14 and my concern was keeping him in my office away  
15 from the students, away from the staff until we  
16 could get someone to come in and kind of help me  
17 resolve the situation and get it taken care of.  
18 Q. And you say you did call law enforcement on  
19 that day?  
20 A. Yes, Ma'am. Actually three officers did  
21 arrive.  
22 Q. Okay. And what happened after they got  
23 there?  
24 A. He was still pretty agitated, he was using  
25 very inappropriate terms.

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1 Q. And forgive me, but what kind of  
2 inappropriate terms?

3 A. All right. He was cursing, demanding that  
4 he had a right to see his children. He was  
5 demanding that, you know, he didn't care. He  
6 just, he wanted to take his kids with him and it  
7 was his right. We had no right to keep the kids  
8 from him and he continued to be combative with  
9 law enforcement.  
10 When law enforcement arrived and started asking  
11 questions, I stepped back. We remained in my  
12 office. But still we couldn't resolve that he  
13 wanted to see his children, we weren't going to  
14 allow him to see the children, because we didn't  
15 have proof. The end result was that law  
16 enforcement did have to escort him off campus and  
17 inform him that, you know, he needed to take care  
18 of business and not on school grounds.

19 Q. Were the kids actually in school on that  
20 day?

21 A. No, the children were not in school that  
22 day.

23 Q. Was there another time that he showed up at  
24 the school?

25 A. There was one incident that wasn't on

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1 school grounds, it was across the street. It  
2 was in reading, it was brought to my attention,  
3 it was during dismissal and the way that our  
4 school is set up, when we dismiss school, cars  
5 come around and park and wait by the side of the  
6 school, we load children in and parents were  
7 calling the school parents, my understanding,  
8 one parent had contacted law enforcement.

9 MS. BOLEN: I have an objection. That is  
10 hearsay.

11 THE COURT: Just tell what you saw or heard  
12 yourself. Not what somebody maybe have reported  
13 to you. Did you see or anything, you said there  
14 was another, time, do you know a date or what?

15 MR. COSTNER: On the December date, yes  
16 sir.

17 THE COURT: December, sometime in December.

18 MR. COSTNER: December the 12<sup>th</sup>.

19 THE COURT: Twelfth. Okay. Just tell her  
20 what you saw or heard.

21 WITNESS: I saw Mr. Brandenburg across the  
22 highway pacing back and forth and across the  
23 highway. There is just a guard rail, there is no  
24 sidewalk, normally we never see pedestrians over  
25 there. He was observed walking back and forth

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1 and law enforcement was contacted.

2 Q. How would you describe his demeanor on that  
3 day from what you observed?

4 A. From my observation, he was pacing and it  
5 didn't look like he had, person didn't have a  
6 place to go, he wasn't going to one place, he was  
7 going back and forth. Heightened awareness, it  
8 really concerned me as the building of the  
9 principal to make sure the children were safe and  
10 not exposed to -- to a hostile environment. We  
11 thought it best that we contact law enforcement.

12 Q. Do you know the end result of that?

13 A. I do not.

14 Q. Is it common to have children in your school  
15 who are the subject of custody disputes?

16 A. We do have parents who are going through,  
17 been through divorces or separation, yes, we do  
18 have those. This is the first situation where we  
19 have had law enforcement that has had to be  
20 contacted for such a situation.

21 Q. Have you ever had a parent show up  
22 demanding to remove their child from school?

23 MS. BOLEN: I have an objection as to  
24 relevance?

25 WITNESS: No.

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1 THE COURT: Well, ask another question.

2 MS. WHITE: Please answer any questions Ms.  
3 Bolen has for you.

4 MS. BOLEN: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MS. BOLEN:

7 Q. Dr. Costner, I have just got a couple of  
8 questions for you. You said on the 26th,  
9 November the 26th that he talked to you about,  
10 you said he requested an opportunity to see his  
11 kids, right?

12 A. Yes, Ma'am.

13 Q. And then he told you he just wanted spend  
14 time with them and give them some gifts, right?

15 A. Yes, Ma'am. From my recollection, yes.

16 Q. And he didn't say anything taking the kids,  
17 right?

18 A. Not on that day, no.

19 Q. Okay. He just wanted to see them and when  
20 you explained, he left, right?

21 A. Yes, he filled out the paperwork and left.

22 Q. Okay. Then on the 27th, I think you  
23 testified you didn't know what was going to  
24 happen, right?

25 A. No. Ma'am. I did not know what was

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1 going to happen, that is correct.

2 Q. And you said you called law enforcement,  
3 but there was an officer already at the school,  
4 right?

5 A. No, ma'am.

6 Q. There was not an officer there?

7 A. No, we do not have an officer at our  
8 school.

9 Q. And again, he was saying he wanted to see  
10 the kids and he had the right to see his kids,  
11 right?

12 A. He did say that, yes, Ma'am.

13 Q. Okay. And then on the 12<sup>th</sup>, how far away  
14 were you, so if I can just kind of get a visual,  
15 where were you on school ground when you saw him?

16 A. During dismissal time, I was probably  
17 standing near the flag pole and I would say he  
18 was across the highway.

19 So I would say the officer in the back (of  
20 courtroom) would be close, he might be a little  
21 further back.

22 Q. Okay. And he was on, but he was not on  
23 school grounds at that point, right?

24 A. No, it was not school grounds.

25 Q. And so basically you saw this father,

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1 standing across the street from the school.

2 A. I saw, I did not know, I saw this gentle-  
3 man across the street -- so, yes, ma'am, we had  
4 him removed by law enforcement.

5 MS. BOLEN: I don't have anything else,  
6 thank you.

7 THE COURT: Thank you very much, anything  
8 else?

9 MS. WHITE: Just one, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. WHITE:

12 Q. Have you ever seen another parent pacing  
13 back and forth, in that area?

14 A. No, Ma'am.

15 MS. BOLEN: Objection as to relevance.

16 THE COURT: Well I'm going to allow it.  
17 All right, thank you very much. You can return  
18 to your place of you want to excuse him?

19 MS. WHITE: Yes, sir.

20 (WITNESS STEPS DOWN)

21 THE COURT: Thanks for coming, you are free  
22 to go. Call your next witness.

23 MS. WHITE: State calls Robert Faggert.

24 THE COURT: Robert Packer, is it, or  
25 Packard or something?

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1 MS. WHITE: Faggart, Your Honor.

2 THE COURT: Like the automobile?

3 MS. WHITE: F A G G A R T.

4 THE COURT: Oh, okay, I misunderstood you.

5 (WITNESS TAKES THE STAND)

6 ROBERT FAGGERT, being duly sworn to tell the  
7 truth, the whole truth, and nothing but the  
8 truth, testified on his oath as follows.

9 DIRECT EXAMINATION

10 BY SOLICITOR WHITE:

11 Q. And if you could tell us your name for the  
12 record?

13 A. Robert Faggart.

14 Q. Okay. Are you related to Angela  
15 Brandenburg?

16 A. She is my daughter.

17 Q. Okay. And where do you live?

18 A. [REDACTED], Abbeville.

19 Q. Okay. So here in Abbeville. Turning to  
20 the case we are here for today. Have you ever  
21 had a conversation with the defendant, Mr.  
22 Brandenburg about staying away from your  
23 property?

24 A. I have.

25 Q. Do you know when that was?

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1 A. I've got it down right here, I documented  
2 each time. September the 18<sup>th</sup> he came out to  
3 house and parked fairly closed to the road and  
4 walked on in. I live kind of out in the country  
5 with a long driveway. And he walked up and I  
6 met him on the front porch and when I confronted  
7 him I told him "you're not welcome on my  
8 property" ; that he needed to leave, and he  
9 didn't. Or if he came back I was going to call  
10 the Sheriff and trespass notice or something.  
11 We talked a few minutes, and then he left.

12 Q. How would you characterize his demeanor on  
13 that day?

14 A. He was stubborn, a little determined but  
15 wasn't, other than that, a problem. Argumenta-  
16 tive.

17 Q. Did he show up on your property again?

18 A. Yes. On October 6th, he followed Angie  
19 home. Angie was working seven to seven. About  
20 7:30 that morning Angie came in and he came in  
21 and he came in behind her. And I walked out  
22 and met him at his car and told him, my daughter  
23 had told my wife to call the Sheriff. I told  
24 him to leave, that he was given notice that he  
25 was not welcome on my property and that for him

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1 to leave, I would call the Sheriff. He said,  
2 "well, good we will wait on him". So Sheriff came  
3 in and I told the Sheriff what transpired the time  
4 before and when that happened, he went and talked to  
5 Chad and a few minutes, I didn't hear the  
6 conversation and then he talked to my daughter.

7 THE COURT: Who is Chad?

8 MR. FAGGART: Charles Brandenburg.

9 DIRECT EXAMINATION CONTINUED

10 BY MS. WHITE:

11 Q. I'm sorry, he goes by Chad?

12 A. Yes. That's what Charles Brandenburg, okay.

13 And he talked to Charles, then he talked to my  
14 daughter and then a little while later, he left.

15 I asked the Sheriff's Department then, I said  
16 "can I get a trespassing warrant against him"?

17 He said as long as those, some property or  
18 something in here that he, we couldn't get a  
19 trespassing order against him because he had left and  
20 think everything will be all right.

21 November 6<sup>th</sup>, he came back to town Angela and the  
22 children had left my home, had moved out and was  
23 living in a home of their own. When he pulled up  
24 in the yard, I met him and told him under no  
25 circumstances, there was nothing there that belonged

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1 to him and if he didn't leave, that I would call the  
2 Sheriff and post trespassing notices against him.  
3 He left then.

4 Q. Okay. Did he say anything on that day, before  
5 he left?

6 A. Something to the effect of, "I want to see my  
7 wife and children" was basically you know, that is  
8 what he wanted to do.

9 Q. Did you tell them where they were?

10 A. I did not.

11 Q. Okay. Did he ask?

12 A. I don't even think he asked.

13 MS. WHITE: Please answer any questions that  
14 Ms. Bolen has for you.

15 CROSS EXAMINATION

16 BY MS. BOLEN:

17 Q. Mr. Faggart. Just a couple of questions. On  
18 the 18<sup>th</sup>, when he came over, you told him to leave and  
19 he left, right?

20 A. That was the first visit?

21 Q. Yes, sir.

22 A. He did after a while after we jawed back and  
23 forth some, yes.

24 Q. And during that time period of September 18<sup>th</sup>  
25 until November twenty sixth Angie and their children

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1 were living with you, right?

2 A. That is correct.

3 Q. Okay. And those are his kids, right?

4 A. That is correct.

5 Q. Okay. And on October 6th, the Sheriff told  
6 you that you couldn't get a trespass ---

7 A. No, that was on the -- it wasn't on the sixth,  
8 it was on the October, the second time when he came  
9 by when I called the Sheriff.

10 Q. Okay. So the second time in October

11 A. Okay.

12 Q. The second time in October you did call the  
13 Sheriff, right?

14 A. I did. The Sheriff came out and visited with  
15 him and my daughter and then talked to me after it  
16 was all over.

17 Q. And he told you, you couldn't get a trespass  
18 order against him, right?

19 A. That is correct, at that time.

20 Q. Because Angie and the kids were visiting you,  
21 right?

22 A. That is correct.

23 Q. Okay. And then in November when, and then  
24 there is no trespass order in place, right?

25 A. That is correct.

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1 Q. In November? Okay. He came over in, at this  
2 point she had left, right?

3 A. That is correct.

4 Q. And he just asked to see his wife and kids,  
5 right?

6 A. That is correct.

7 Q. Okay. And you told him to leave and he left,  
8 right?

9 A. Pretty much.

10 Q. Nothing further. Thank you.

11 THE COURT: Thank you very much. You  
12 want to excuse him? We appreciate you coming you  
13 are free to go.

14 (WITNESS STEPS DOWN)

15 THE COURT: Do you have another witness?

16 MS. WHITE: State calls Angie Priest.

17 THE COURT: Who?

18 MS. WHITE: Angie Priest.

19 (WITNESS TAKES THE STAND)

20 ANGIE PRIEST, having been sworn to tell the  
21 truth, the whole truth and nothing but the truth,  
22 testified on her oath as follows:

23 DIRECT EXAMINATION

24 BY MS WHITE:

25 Q. Tell us your name for the record.

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1 A. Sergeant Angela Priest.

2 THE COURT: How do you spell your last  
3 name?

4 WITNESS: P R I E S T

5 THE COURT: All right.

6 DIRECT EXAMINATION CONTINUED

7 BY MS. WHITE:

8 Q. Who do you work for, Sergeant Priest.

9 A. I work with the Abbeville Police  
10 Department.

11 Q. And how long have you been at the police  
12 department?

13 A. A little over twenty years.

14 Q. What are your duties at the police  
15 department?

16 A. I'm a patrol officer, I'm a routine officer  
17 for Abbeville, supervisor on each shift, and we  
18 write traffic tickets, make arrests for the State  
19 of South Carolina and the city of Abbeville.

20 Q. Okay. And was your shift working the  
21 evening of December 19<sup>th</sup> 2012?

22 A. Yes.

23 Q. Did you an occasion to respond to a case  
24 involving Mr. Brandenburg?

25 A. Yes, I did.

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1 Q. Can you tell us how that call came in?

2 A. We were notified that Mr. Brandenburg was  
3 in the area, had come to his estranged wife's  
4 residence and she resides I believe, at [REDACTED]  
5 [REDACTED] within the city limits of Abbeville. We  
6 were notified that he was en route to that  
7 residence, then had left the residence and was  
8 somewhere in the vicinity.

9 We were also aware that Abbeville County  
10 Sheriff's Department had warrants on Mr.  
11 Brandenburg so we were actively trying to  
12 apprehend Mr. Brandenburg. We responded to that  
13 area to try to see if we could locate him.

14 Q. Okay. Were you able to locate him?

15 A. We did locate Mr. Brandenburg in his  
16 vehicle. He was parked, he was sitting inside  
17 his vehicle parked on Dundess Road which is  
18 within view of Burns Avenue, where his estranged  
19 wife lives.

20 Q. From where his vehicle was sitting on  
21 Dundess Road would he have been able to see Mrs.  
22 Brandenburg's comings and goings?

23 A. Yes, Ma'am. It was to the rear of the  
24 residence, of her residence.

25 Q. Okay. And were you involved in actually

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1           detaining Mr. Brandenburg?

2           A.     Yes, Ma'am.    We verified with Abbeville  
3           County Sheriff's Department that they had active  
4           warrants.

5           MS. BOLEN:   Your Honor, I have an objection  
6           to this.

7           THE COURT:   Members of the jury panel need  
8           to go to the jury room please.

9                               (JURY OUT AT 4:28 P.M.)

10          THE COURT:   All right.

11          MS. BOLEN:   Your Honor, this jury has  
12          already heard testimony.

13          THE COURT:   Well, I don't, what -- already  
14          heard what?

15          MS. BOLEN:   That he was arrested on the  
16          19th December.

17          THE COURT:   I didn't write that down if they  
18          did.

19          MS. BOLEN:   Your Honor, I think it is  
20          totally prejudicial, you had already ---

21          THE COURT:   I mean, I just wrote down  
22          "December 19<sup>th</sup> at my house".   I didn't write down  
23          anything about any arrest or anything on that  
24          occasion.

25          MS. BOLEN:   I think she said that it was her

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1 understanding that he was detained that day.

2 THE COURT: Well, I don't know about that.

3 But, I mean, what were the warrants for?

4 MS. BOLEN: It was the County stalking  
5 warrant.

6 THE COURT: What?

7 MS. BOLEN: It was the County's stalking  
8 warrant.

9 MS. WHITE: And, Your Honor, I'm not even,  
10 that was the last question I was going to ask of  
11 any of that incident.

12 And, Your Honor, this is confirming Ms.  
13 Brandenburg's testimony that he was arrested that  
14 date.

15 THE COURT: Well, if she did, I didn't  
16 write it down. Oh, I do see that. I do see  
17 that in my notes also. I do see where she  
18 testified that he was arrested on December the  
19 19<sup>th</sup> and all but -- but anyway, all right. Is  
20 there anything else you want to say?

21 MS. BOLEN: I was going to get into  
22 testimony about since she wasn't the one to  
23 secure the warrant any testimony about them, how  
24 they got the warrant, ---

25 THE COURT: Anyway, I appreciate that. I

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1 am going to allow the testimony. Bring the jury  
2 back in.

3 MS. BOLEN: Well, Your Honor, I guess I  
4 would like to eliminate the instruction ---

5 THE COURT: We will deal with that later  
6 on, you think about you want me to say. But I  
7 don't -- I mean, that's -- we'll talk about that  
8 later on.

9 (JURY BACK AT 4:33 P.M.)

10 THE COURT: All right. You may continue to  
11 examine the witness.

12 DIRECT EXAMINATION RESUMED

13 BY MS. WHITE:

14 Q. Did Mr. Brandenburg make any, did he make  
15 any statements to you about being at his estranged  
16 wife's house?

17 A. He did. He admitted to coming to her  
18 residence that morning to try and see his kids. He  
19 did mention that, yes.

20 Q. Now, during the time frame from roughly  
21 September 18<sup>th</sup> 2012 to February 26<sup>th</sup> 2013, are you  
22 aware of how many reports that were made to law  
23 enforcement regarding this case?

24 A. Approximately about four reports that I am  
25 aware of were made in reference to Mr. Brandenburg.

1 Q. Did your shift in particular, you in  
2 particular, take any additional steps knowing that  
3 this situation was on going?

4 A. Yes, ma'am. My entire shift did extra  
5 patrols around Ms. Brandenburg's residence, extra  
6 patrol at the school, in the mornings, in the  
7 evenings when the kids were dismissed we did extra  
8 patrols to make sure everything was safe.

9 Q. Sergeant Priest, are you aware of any sort  
10 of witness protection program that the City of  
11 Abbeville offers victims?

12 A. No, ma'am. My understanding that's a  
13 federal program. And we are city/state level, we  
14 don't have anything like that, that I am aware of.

15 Q. The City of Abbeville, would they have the  
16 resources to relocate a victim?

17 A. No they -- no, ma'am. I'm sorry for  
18 that.

19 MS. WHITE: Please answer any questions  
20 Ms. Bolen has.

21 CROSS EXAMINATION

22 BY MS. BOLEN:

23 Q. I just a handful of questions for you.

24 A. When you saw Mr. Brandenburg on December 19<sup>th</sup>, he  
25 was on, is it Dungess Road?

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1 A. Dungess Road, yes.

2 Q. So he was not on Burns Road, right?

3 A. No, ma'am.

4 Q. Okay. And those are road public roads, right?

5 A. He was actually pulled to the side of Dungess  
6 Road. It was -- he was pulled into a yard, yes,  
7 actually.

8 Q. So you said that there was, you knew the  
9 Sheriff's office had outstanding warrants. It was  
10 just one warrant, right?

11 A. I'm thinking that it was one warrant. I'm not  
12 sure, we just knew there was at least one warrant.

13 Q. And it was for this charge, right?

14 A. For this charge?

15 Q. Uh-huh.

16 A. I don't understand.

17 Q. He didn't have any other warrants out there for  
18 anything else, other than what he is on trial for,  
19 right?

20 A. Abbeville County. I just wasn't thinking  
21 active warrants.

22 Q. Okay. And he told you that he was just trying  
23 to see his kids, right?

24 A. He did say -- he admitted at that time that he  
25 been to the residence that morning and he was trying

1 to see his kids and he also stated that he was trying  
2 to make an effort to move to the area.

3 Q. And you said that that as an additional step  
4 you had extra patrols, run right at the school let-out  
5 time?

6 A. Yes, ma'am.

7 Q. And no further incident reports resulted in any  
8 extra patrols, correct?

9 A. There was an additional incident report taken  
10 after this report but I had not entered any more  
11 reports for my incident report.

12 Q. But based on your patrol, you didn't have any  
13 incidences that, based on simply your patrol, right?

14 A. No.

15 Q. That is all I have, thank you.

16 THE COURT: Thank you very much you can  
17 return to your place or whatever.

18 MS. WHITE: You Honor, I have one more.

19 THE COURT: Oh, you do.

20 REDIRECT EXAMINATION

21 BY MS. WHITE:

22 Q. Would you see Mr. Brandenburg around town on  
23 when you were on patrol?

24 A. Yes, ma'am.

25 Q. How often would you say you saw him?

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1 A. I probably would say at least three to four  
2 times, just in town.

3 Q. And to your knowledge, does he live here?

4 A. No, ma'am.

5 Q. Thank you, no further questions. And this  
6 was three to four times in the whole six-month period  
7 we've talking about.

8 A. It was three to four, I would say after the  
9 incidents had started to be documented, yes.

10 THE COURT: All right. Thank you very  
11 much. You can return to your place or be  
12 excused. Do you excuse her?

13 MS. WHITE: Yes, sir.

14 (WITNESS STEPS DOWN)

15 THE COURT: Thank you for coming, you are  
16 free to go. Call your next witness.

17 MS. WHITE: Could I have just a moment,  
18 Your Honor?

19 THE COURT: Yes.

20 MS. WHITE: Your Honor, the State rests.

21 THE COURT: All right. Ready to go  
22 forward?

23 MS. BOLEN: Yes, Your Honor, the defense  
24 has a matter of law.

25 THE COURT: Members of the jury panel,

1           need you to go to the jury room for a few  
2 minutes please.     All right, Ms. Bolen?

3                     (JURY OUT AT 4:36 P.M.)

4           MS. BOLEN: Thank you, Your Honor.

5           Defense just was moving for -- based on our  
6 previous objections -- for a directed verdict on  
7 liability on the basis of there has not been any  
8 evidence presented that actually meets the  
9 elements of the stalking statute.

10           The stalking statute, Your Honor, requires  
11 that pattern of words or conduct that serve no  
12 legitimate purpose is intended to cause, and does  
13 actually cause, fear of death of a person, or  
14 member of the family, assault upon the person,  
15 or a member of the family, bodily injury to the  
16 person or a member of the family, criminal sexual  
17 conduct on the person or a member of the family.  
18 In that, for example, a member of the family or  
19 damage the property of the person or a member of  
20 his family.

21           Through the testimony that has been given,  
22 those have not been met.     There has certainly  
23 been no testimony about any fear of death,  
24 assault, bodily injury, criminal sexual conduct,  
25 when I ask the victim if he had ever made any,

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1 during this time period, made any threats to take  
2 the children, her answer was "no".

3 So I don't know how there is a reasonable  
4 fear that he would kidnap the children, just when  
5 there has been no testimony about any, anything  
6 about damage to property. And in addition,  
7 Your Honor, the testimony that has been given is  
8 largely in his trying to see his kids, which we  
9 believe is a legitimate purpose.

10 Up until January 9th, he had the right to  
11 see his kids. And that is a legitimate purpose  
12 to be able to go see his children.

13 There has been no testimony about, of any  
14 threats of any of these things. And we believe  
15 the statute, the elements of the statute simply  
16 are not met by the State's evidence.

17 THE COURT: What do you want to say in  
18 response to that?

19 MS. WHITE: Your Honor, I think viewing  
20 the evidence in the light most favorable to the  
21 State, there is certainly evidence there that the  
22 jury can conclude that he is guilty of stalking.  
23 And we have definitely shown the pattern of  
24 conduct, pattern of contact.

25 Mrs. Brandenburg testified that she was in

1           fear that he would harm her and that he would  
2           have some sort of angry outburst, that he would  
3           take the children, she did testify to that.  
4           That he scared her, we've shown, and as far as  
5           the serves no legitimate purpose, Mrs.  
6           Brandenburg testified that there were other ways  
7           that she was attempting to let him see the  
8           children, through his mother.

9           Then the principal, Your Honor, also  
10          testified that his conduct went far beyond what  
11          he has ever seen from a parent before. He has  
12          never seen a parent stalking up and down the  
13          highway. He has never had to call law enforce-  
14          ment to have someone removed.

15          And, Your Honor, looking at the statute, it  
16          is not, is kidnapping a member of the family or  
17          the victim herself is clearly the testimony  
18          showed that over and over again she was concerned  
19          about protecting her children, keeping her  
20          children away from him so that he could not take  
21          them and I think testimony was allowed over  
22          objection, that he had made a threat to take them

23          THE COURT: All right, well I think it is a  
24          close question, actually, but I am going to deny  
25          your Motion for Directed Verdict. All right,

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1 are you ready to call your first witness?

2 MS. BOLEN: Thank you, Your Honor. If I  
3 can have a moment, Your Honor. Your Honor, we  
4 are not intending to call any witnesses.

5 THE COURT: You are not going to call any  
6 witnesses?

7 MS. BOLEN: We renew all of our previous  
8 Motions and Objections.

9 THE COURT: All right. So, well, of  
10 course, you get to, you rest in front of the jury  
11 and everything and so we will recess for the  
12 evening and come back tomorrow morning with  
13 summations and arguments.

14 MS. BOLEN: Yes, sir.

15 THE COURT: All right, bring the jury in.

16 (JURY IN AT 4:41P.M.)

17 THE COURT: All right, we have the jury  
18 back with us. All right, that finishes all the  
19 testimony from the State, correct?

20 MS. WHITE: Yes, sir, Your Honor.

21 THE COURT: All right, Ms. Bolen would  
22 you like to call any witnesses on behalf of your  
23 client?

24 MS. BOLEN: Your Honor, the defense  
25 rests.

1           THE COURT:       All right.  That finishes all  
2           the testimony then that you will have in this  
3           case.

4           We will have summations and arguments from  
5           the attorneys and looking at the time, it is  
6           almost five o'clock now and so I think it would  
7           be best for us to recess for this evening.  And  
8           come back tomorrow morning and hear the  
9           summations and arguments from the lawyers and my  
10          instructions to you on the law and then you will  
11          deliberate and you will give us your decision.

12          So again, I will remind you not to discuss  
13          the case with family, friends, or anyone else.  
14          They are not the twelve people, you are.  If  
15          they want to know what you are doing, you tell  
16          them that you are involved in the trial of a  
17          case, you are actually on the jury.  The trial is  
18          going on.  The trial is not over yet and that  
19          you cannot discuss the case with them.  You  
20          cannot talk to them about it in any way, shape,  
21          form, or fashion.  Blame it on me.  Tell them  
22          that I told you that you cannot discuss it with  
23          them at this point.  You can tell them all about  
24          it once it is over, but until it is over it would  
25          be a violation of the oath that you took at the

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1 start of this case to discuss it with  
2 anyone. So, keep that in mind.

3 Be back here tomorrow morning at 9:30, we  
4 will get started just as soon as we can after  
5 that. Leave your note pads in your chair  
6 there, the bailiff will take them up, we will  
7 lock them up over the evening, give them back to  
8 you tomorrow morning. So have a nice evening,  
9 be back tomorrow morning at 9:30.

10 (JURY OUT AT 4:43 PM)

11 THE COURT: All right, the jury is out  
12 and gone and the door is closed and everything.  
13 Is there any request to charge or anything that  
14 you specifically think I should charge other than  
15 the Statute?

16 MS. WHITE: Your Honor, the State is  
17 also asking for the lesser included of first  
18 degree harassment; which is also ---

19 THE COURT: Well, let me look, you gave  
20 me a copy, I don't have the modern up-to-date  
21 version, you've got it.

22 MS. WHITE: I think it should be in your  
23 copy, Your Honor.

24 THE COURT: No, I, actually the copy,  
25 your assistant made such a bad copy, it's not.

1 MS. WHITE: I'm sorry, I will hand up the  
2 book.

3 THE COURT: We'll have to go, we're going  
4 to make a better copy over the evening.

5 MS. WHITE: 1700(a).

6 THE COURT: Let me look at this. So  
7 what are you talking about, you want me to charge  
8 harassment in the second degree because at the  
9 time of the harassment and the injunction/  
10 restraining Order was in effect prohibiting the  
11 harassment?

12 MS. WHITE: No sir, Your Honor. I was  
13 asking for a lesser-included charge of first  
14 degree harassment.

15 THE COURT: First degree harassment?  
16 Let me see what that says then. What do you all  
17 want to say in regard to that?

18 MS. BOLEN: Your Honor, we are objecting  
19 to harassment as lesser included. This is a  
20 situation where the State actually has one  
21 warrant for stalking and had a warrant for  
22 harassment. They specifically chose to do this  
23 new indictment to encompass both.

24 This case is over a year old. They re-  
25 indicted it specifically this past week. They

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1 made the choice when they did that. They chose  
2 stalking. I think they need to go with that  
3 choice. If they wanted to try him on harassment  
4 they could have tried him on the original warrant  
5 for harassment.

6 THE COURT: Anything you want to say in  
7 response to that?

8 MS. WHITE: Your Honor, I think the duty  
9 of South Carolina law is that when the State has  
10 elements of an offense -- such as murder down to  
11 an attempted murder, you get to -- you go for the  
12 highest charge and if there is an element  
13 missing, then you go down to the next lesser  
14 included.

15 In this case, if the jury failed to find  
16 that she feared death or kidnapping but it did  
17 cause mental distress, then harassment in the-  
18 first degree is pertinent. It is a lesser  
19 included and I don't think the law requires that  
20 I choose between lesser included.

21 I think that it is a given, it is actually  
22 charged if the testimony in front of the jury  
23 could be used to support that charge and I think  
24 in this case, it would.

25 THE COURT: My inclination is no in

1 regard to that. I am going to think about it  
2 over the evening and look at this and study about  
3 it a little bit. Study about it some and all,  
4 but my inclination is no in regard to that where  
5 you've got these two separate offenses that are  
6 defined by statute and you've only indicted him  
7 for one, and all, I don't think that is a lesser  
8 included offense to where you can go to an  
9 offense that is entirely separately defined.

10 I don't think it is a separate, I don't  
11 think it is a lesser included offense. You may,  
12 you may have produced evidence that would have  
13 supported, you know, this charge but I don't  
14 think that you can just put that in through this  
15 indictment. I could be wrong but I'm not an  
16 expert in regard to it.

17 This is new territory for all of us, I think  
18 and all. At least it is for me, anyway. It  
19 might not be for you all but it is for me.

20 MS. WHITE: I can do some research on it

21 ---

22 THE COURT: All right. You can, I'll  
23 be glad, like I say, my inclination is to not  
24 allow it, to not charge it and everything, but  
25 I'm not going to make a final ruling now, and

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1 all. I'll study it and think about it over the  
2 evening recess and I want a better copy of these  
3 three pages here and all, that I can take with  
4 me.

5 SOLICITOR: Judge that comes out of the  
6 same funds as that witness protection ---

7 THE COURT: What?

8 SOLICITOR: I think copies come out of  
9 the same funds as that witness protection fund.

10 THE COURT: Okay. All right, but any  
11 way. Come take this and make me good copies.  
12 Somebody. I want this page, this page and this  
13 page.

14 (COURT IN RECESS @ 4:52 P.M.)

15 (TRANSCRIPT CONTINUED NEXT PAGE)

16

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1           DECEMBER 5, 2013

9:30 A.M.

2

3

(DEFENDANT PRESENT)

4

THE COURT: All right. We have the

5

attorneys present, the defendant and the

6

prosecuting, main prosecuting witness.

7

So in addition to whatever discussions we

8

had yesterday on the record as far as the posture

9

of this case at this point in time, we've also

10

had extensive in chambers discussions and -- of

11

course, those are not on the record. But I ant

12

to I want to give anybody a full and fair

13

opportunity, both sides, a full and fair

14

opportunity to discuss the posture of the case

15

and what you want me to do and what you don't

16

want me to do as far as charging the jury is

17

concerned.

18

And my intention at this point is to charge

19

the jury as follows:

20

You know, I am going to submit the, and

21

I have already shown you the form of verdict that

22

I am going to submit to them and I am going give

23

them. I'm going to tell them that they can

24

consider whether under the evidence and under the

25

law -- that first of all what they should

1 consider, whether or not the State had proven, of  
2 course, beyond a reasonable that he's guilty of  
3 stalking.

4 That is defined by the statute and I am  
5 going to give, I am going to give the cause of  
6 the, definition of stalking and the way it is  
7 defined in the statute and elements and all that  
8 sort of stuff. I have a hard time, you know,  
9 remembering it and understanding it and every-  
10 thing. And I would feel the jury would have an  
11 even harder job and all, so with you all's  
12 permission, I am going to give them a copy of the  
13 statute as far as stalking is defined.

14 And, of course, that, tell them that should  
15 consider whether or not the State has met its  
16 burden of proof in regard to proving stalking or  
17 not. If not, they find him "not guilty".

18 And then if they, of course, consider  
19 whether the State's met its burden of proof and  
20 if they have, find him "guilty" of stalking. If  
21 the find him guilty of stalking, that's the end  
22 of it. They don't have to go any further, that's  
23 the end of it.

24 If they find him "not guilty" insofar as  
25 stalking is concerned, then they should consider,

1 moving to consider whether or not the State has  
2 proven him guilty of harassment in the first  
3 degree. I am going to charge that as a lesser  
4 included offense under this statutory scheme as  
5 enacted by the legislature. So they would move  
6 and consider whether or not the State has proven  
7 him guilty beyond a reasonable doubt of  
8 harassment in the first degree.

9 They can find him guilty or not guilty of  
10 that. Of course, if they find him guilty of that  
11 and all, they don't go any further.

12 If they find him not guilty of that, then  
13 they move and consider whether the State has  
14 proven him guilty of harassment in the second  
15 degree. Again, they'd have to find him guilty  
16 or not guilty on that lesser-included offense.

17 So that is what I intend to do as far as the  
18 charges, the crimes that I am going to submit to  
19 the jury for them to consider.

20 Anything else that anybody wants to say  
21 about it? We will start with the State.

22 MS. WHITE: Your Honor, I just wanted to  
23 briefly summarize what we'd said in Chambers.  
24 Obviously, the State ---

25 THE COURT: Well, you just say whatever

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1 you want to say. Now is your chance.

2 MS. WHITE: That it is part of the  
3 statutory schemes these are all delineated in 63-  
4 1700. Also, Your Honor, the test for whether it  
5 is lesser included, being whether the elements  
6 and the same, minus one, also whether we would be  
7 able to come back later if jeopardy attached on  
8 stalking and re-indict for harassment. The  
9 State's position that we would not have been able  
10 to do that because it is a lesser included  
11 offense. I just want it on the record, the  
12 different things that were discussed in Chambers.

13 THE COURT: All right. But anyway, I  
14 ruled in your favor so you don't really have to  
15 say anything, but anyway, that's all right.

16 All right, can't resist. I understand that.

17 Anyway, what you all (indicating defense)  
18 want to say over here, you all don't agree with  
19 any of that. You may put your objections on the  
20 record.

21 MS. BOLEN: Thank you, Your Honor. Yeah,  
22 we are objecting to the harassment being charged  
23 as lesser-included. Just renewing my first case  
24 from yesterday was that the State had an  
25 harassment warrant and had a stalking warrant and

1 chose, actually had stalking indictment and chose  
2 specifically to re-indict on stalking only.  
3 Though they could have indicted on harassment and  
4 chose not to so, we are asking that only the  
5 stalking charge -- sadly we don't believe it is a  
6 lesser-included under *State v Gosnell*, that  
7 contains, there's many things that doesn't meet  
8 the test for lesser-included at this point.

9 State agrees succinctly and that cite is at  
10 341-SC-26-27. It's a 2000 case and the test for  
11 whether something is a lesser-included is whether  
12 the greater offense contains all the elements of  
13 the lesser. There is an element in the lesser  
14 that is not greater, then it is not lesser  
15 included.

16 And our position is that the wording of the  
17 harassment statute contains elements that are not  
18 in the stalking statute. Specifically there's  
19 language about the "reasonable intrusion" in the  
20 body of a person in the harassment Statute that  
21 is not in the stalking statute.

22 There is also language requirements that  
23 that element that harassment would cause the  
24 person to suffer an emotional distress. There's  
25 no mention in the stalking of mental and

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1 emotional distress and that's certainly not  
2 something that came up in evidence or that we  
3 were proffered on being given the warrant.

4 The rest of the case, although we are not  
5 conceding that they are including in stalking,  
6 they are delineated in a way that they give rise  
7 from the wording of the stalking statute.  
8 Stalking requires fear of several very serious  
9 crimes. In that of Assault, Bodily Injury,  
10 Criminal Sexual Conduct, Kidnapping, Damage to  
11 Property, whereas the examples for Harassment are  
12 things like, calling, surveillance, and may  
13 include property damage. And so in regards to  
14 just, that because of the, the elements and  
15 grounds that for intrusion, as well as the  
16 suffering of emotional and mental distress, there  
17 is not in the stalking statute, so that it is not  
18 a lesser included.

19 THE COURT: You sound like you are  
20 singing my song. What was my song earlier as far  
21 as all that's concerned and everything but, you  
22 know, considering everything, I think this is the  
23 best way to handle it, and all.

24 So, I appreciate your position but I am  
25 going to submit it the way I said I am going to

1 submit it to the jury, and all. So, your, I  
2 appreciate very much your position in regard to  
3 this matter but I think this is the best way  
4 considering everything to deal with this  
5 statutory scheme.

6 MS. BOLEN: Thank you, Your Honor.

7 THE COURT: All right. Anything else  
8 before we bring the jury out?

9 MS. WHITE: Your Honor, we discussed this  
10 in chambers, I just want to be sure that Your  
11 Honor was planning to charge the kidnapping  
12 statute.

13 THE COURT: I was hoping you weren't  
14 going to bring that up. You know, I'll be glad  
15 to hear from both sides in regard to what I  
16 should or say, what I should do as far as that's  
17 concerned.

18 MS. WHITE: Your Honor, we're asking that  
19 you charge that statute, to define it. Some of  
20 the other things here are very easy to  
21 understand, such as there is no real question  
22 about what is meant by assault, bodily injury,  
23 criminal sexual conduct. The kidnapping, as we  
24 discussed in Chambers, people may have a sort of  
25 everyday, common sense understanding of what that

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1 might be and that is very different from the  
2 statute actually says.

3 But, I think, instead of to substitute what  
4 they may think, or what they may have seen on TV  
5 or what their friends may have told them, that  
6 there is a way of telling them what kidnaping is  
7 and that our State laws say that a parent cannot  
8 kidnap their minor child.

9 MS. WHITE: Your Honor, and this action  
10 just occurred to me in looking at the stalking  
11 statute. There are a number of other legal  
12 concepts. If we are defining kidnaping, then we  
13 should define assault, should we define ---

14 THE COURT: Well, you may be right. And  
15 if you want me to do all that to further confuse  
16 the jury.

17 MS. WHITE: And that is my point, Your  
18 Honor. That by defining, by breaking it out and  
19 defining all these different legal terms we are  
20 taking the chance on confusing them.

21 THE COURT: Well, no, well this is good  
22 to iron it out now. Kidnaping a member of one's  
23 family and only -- that would be the child,  
24 that's the only thing that would be possible  
25 under the evidence in my opinion.

1 MS. WHITE: Your Honor, I would ask for  
2 the entire stalking statute because she did  
3 testify that she was scared, that she was scared  
4 of his angry outbursts, she didn't know ---

5 THE COURT: Well, I said I am going to,  
6 I guess I'll leave in and say "kidnapping of the  
7 person" and that would be her, you know. And if  
8 you, you know, if they should find, you know,  
9 kidnapping of her. But as far as the children  
10 are concerned I think that the statute that  
11 defines kidnaping rules that out.

12 So I am going to tell them that stalking  
13 cannot be, they cannot base a conviction on  
14 stalking on any supposed plan or fear of  
15 kidnaping of the child, because under the law he  
16 couldn't kidnap the child.

17 MS. WHITE: And Your Honor, again, just  
18 for the record, I understand your ruling but  
19 putting this on the record, it is the State's  
20 position there is a statute, and I don't have the  
21 number, that deals with parent-child  
22 relationships, that no parent shall take a child  
23 from a custodial parent. There is also, Your  
24 Honor, there was this, Mrs. Brandenburg at the  
25 time was this occurred did have sole custody of

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1 the children with no visitation and I think that  
2 that does change the terms of the kidnaping  
3 statute. I am just putting that on the record.

4 THE COURT: All right. Well, I  
5 appreciate the position, you know, but I am going  
6 to do what I just said I was going to do as far  
7 as that's concerned.

8 You know, and I might say all this kind of  
9 thing is in one respect, makes this job  
10 interesting and challenging and makes me want to  
11 continue it for whatever reasons in some ways and  
12 all. There is always something new coming up and  
13 something new you have to think about and deal  
14 with. And it certainly has been the case in this  
15 case and I think it is for you all and for me  
16 both but we do the best jobs that we can in  
17 dealing with what we've got to deal with. So  
18 that's the way I am going to do it.

19 I understand your position and I appreciate  
20 both sides, you can't both be right. So I am  
21 doing the best I can do. Bring the jury in.

22 (JURY IN AT 10:42 A.M.)

23 THE COURT: All right we have the jury  
24 back with us and the parties are present along  
25 with their attorneys and all.

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1           Again, I appreciate your being here earlier  
2           and on time and I appreciate your patience while  
3           we kept you back there in the jury room while the  
4           lawyers and I were working on this case to get it  
5           to you in a posture that is appropriate under the  
6           law.

7           This has been a relatively simple case in  
8           terms of the length of time involved as far as  
9           how long this trial has been going on. What has  
10          kept the lawyers and me involved to a great  
11          extent yesterday and today is discussion and  
12          decisions in regard to the law that is applicable  
13          in a case like this.

14          Mr. Brandenburg, as I told you earlier, is  
15          charged with having violated a particular  
16          provision of the Code of Laws of this state, can  
17          be found in Section 16-3-1730, that is just a  
18          number in one of those books that is over there  
19          in that cabinet there, that is assigned to this  
20          particular provision of law commonly called  
21          stalking. And I have copies of that particular  
22          provision because it's defined in a very  
23          technical way in the Code of Laws. And so I am  
24          going to give you an actual copy of the  
25          definition with the lawyers' permission. I am

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1 going to give you an actual copy of that  
2 particular provision of law which contains all  
3 the elements that the State must prove beyond a  
4 reasonable doubt in order to be entitled to a  
5 verdict of "Guilty" in regard to that charge of  
6 Stalking.

7 If the State fails to prove any of the  
8 elements of this particular crime with which he  
9 is charged, beyond a reasonable doubt then, of  
10 course, you must find him "Not Guilty".

11 Now in addition to that, you've got two  
12 other definitions and two other charges that you  
13 may consider. Stalking is the most serious.  
14 That's the most serious offense that will be  
15 submitted to you for your consideration. We have  
16 a, as part of the law of this state, the law is  
17 that when you charge someone with a crime like  
18 this, it also includes what we refer to as lesser  
19 included crimes. And under the statutory scheme  
20 that was adopted by the legislature in regard to  
21 Stalking, there are two lesser-included crimes  
22 which you may consider. If you find that the  
23 State has not proven him guilty beyond a  
24 reasonable doubt of Stalking, then you may  
25 consider whether the State has proven him guilty

1 beyond a reasonable doubt of what is called  
2 Harassment in the First Degree. You hadn't heard  
3 anything about that before. But I am telling you  
4 about that now, and all. And there is a  
5 definition, actually it comes first in this paper  
6 that I am going to give you in just a few minutes  
7 of Harassment in the First Degree.

8 So if you find him not guilty of Stalking,  
9 you move on to consideration of whether the State  
10 has proved him guilty beyond a reasonable doubt  
11 of Harassment in the First Degree. And you'll  
12 see that definition here in what I am going to  
13 give you in just a few minutes.

14 If you find him not guilty, -- of course if  
15 you find him guilty of Harassment in the First  
16 Degree, that's the end of it. You don't have to  
17 go any further and all. But if you find him not  
18 guilty, then you move to the last one, the last  
19 lesser-included offense that he could be  
20 considered, for you to consider, would be  
21 Harassment in the Second Degree. And again,  
22 you'll find that definition in what I am going to  
23 give you in just a few minutes.

24 So, three charges really that you can  
25 consider in this case:

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1 First, stalking. If you find him  
2 guilty of that, that's the end of it.

3 If you find him not guilty, you go to  
4 the next one, Harassment in the First Degree. If  
5 you find him guilty of that, that's the end of  
6 it.

7 If you find him not guilty you go to  
8 the last one, which is Harassment in the Second  
9 Degree. And again, you have the same two choices  
10 in regard to that, of not guilty or guilty.

11 So, all three of those are going to be  
12 submitted to you for your consideration. And I  
13 wanted to go ahead and mention all that to you at  
14 this point before you hear from the attorneys  
15 because they, I'm sure they are going to talk  
16 about those things in their discussions and in  
17 their arguments to you.

18 But I am going to go ahead and ask the  
19 bailiff, if you would, to come up and get this,  
20 one of you, come up and get this and give these  
21 out to the jury and all. And I am going to let  
22 you take a few minutes to read over those before  
23 you hear from the lawyers and all. And you will  
24 see what you, what we're going be dealing with.  
25 I don't expect you to memorize it right now, I

1 just want you to familiarize yourself with it so  
2 that you'll see what we are talking there and as  
3 I said, the lawyers may refer to, I'm sure they  
4 will refer to some of those terms and other  
5 things during the course of their discussions  
6 with the case to you.

7 So I am giving those out to you now and ask  
8 you to take a few minutes to look over it, read  
9 it, (bailiff distributing copies). When you  
10 finish having that opportunity -- don't rush,  
11 take your time, don't try to memorize it, though.  
12 You are going to have that with you in the jury  
13 room when you consider your verdict. But I just  
14 want you to see what you are going to be dealing  
15 with and I think you will have a better  
16 appreciation of why I am doing that at this  
17 point, to help you in your future deliberations.

18 BAILIFF: Your Honor, I am one short.

19 THE COURT: One short. I will give you  
20 mine. And we will get another one. Or I may  
21 take it back from you. I may have an extra copy  
22 here. I do, I've got it. Go ahead and look at  
23 it now.

24 (JURORS REVIEWING)

25 THE COURT: Okay. Thank you. We will

1 proceed now then with summations and arguments  
2 from the attorneys. These will be true arguments  
3 in which they try to persuade you as to what  
4 version or view you should take in the facts of  
5 this case and how those facts may fit in with the  
6 law.

7 The way we go about hearing from the  
8 attorneys is first of all, Ms. White, the  
9 Solicitor who has been prosecuting this case will  
10 argue to you about the law involved in this case  
11 and then we will switch and the attorney for the  
12 defendant, Ms. Bolen, will argue fully to you on  
13 the law and on the facts and then we do allow the  
14 Solicitor to make the last argument to you in  
15 which she will discuss the facts and how those  
16 facts may fit into the law.

17 All right so some difference in the process  
18 now as far as, ---

19 MS. WHITE: Your Honor.

20 THE COURT: Oh, y'all get the last one,  
21 because you. Okay. I'm sorry, this is a little  
22 different and all. The law does, you're right,  
23 you're right, you're right the State has to open  
24 fully on the facts and the law and then you all  
25 get to close after that fully on the facts and

1 the law. I apologize. This is a little different  
2 procedure as far as this case is concerned and  
3 all. And this is a procedure that we follow in a  
4 case like this. So the State will open fully.  
5 The defense will close fully. So that's the way  
6 we go about hearing from the attorneys and ask  
7 you give your attention now to the, to them as  
8 the summarize and argue to you. Go right ahead.

9 MS WHITE: Thank you, Your Honor, may it  
10 please the Court. I told you all yesterday that  
11 this case was going to be like a puzzle. And if  
12 you think about a puzzle, each individual piece  
13 doesn't make any sense or each individual piece  
14 doesn't look like the big picture. It's only  
15 when you start adding it all up, when you look at  
16 everything, that you realize what the picture is  
17 about. And in this case, like I told you  
18 yesterday, what that picture is about is  
19 stalking.

20 Now, I don't want to labor the point, I  
21 don't want to speak too long but I did want to go  
22 back through what Mrs. Brandenburg said yesterday  
23 about what happened and when it happened, because  
24 I think it's important that day after day, after  
25 day, after day, she was in contact that she

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1           didn't want. She was being followed, she was  
2           getting calls, she was being intercepted going to  
3           the school, she was being intercepted in the  
4           parking lot, day after day, after day.

5           So, we are going to start June 28<sup>th</sup> 2012.  
6           That is when she leaves. And you will remember  
7           her testimony through the first couple of months  
8           there's no attempt by Mr. Brandenburg to see her  
9           or the children in any way. He calls her,  
10          sometimes asks to speak to the kids, sometimes he  
11          doesn't. Sometimes they talk to him, sometimes  
12          they don't. But he is calling her.

13          And then this goes on for all through July,  
14          all through August, into September. And she said  
15          that she stopped answering his calls. She  
16          started ignoring them, round about getting into  
17          September. And I think that that's probably the  
18          point that it occurred to him that she is  
19          serious.

20          Well, September 18<sup>th</sup>, he shows up out of the  
21          blue at her parent's house and her father says  
22          "leave, don't come back, you are not welcome  
23          here." And then he did, he left. And that's at  
24          the point that she realizes she needs to go on  
25          and go to Family Court, get a plan in place, and

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1 start moving on with her life. That he just  
2 shows up out of the blue.

3 Well, the next day she said he "intercepted  
4 us" as we were going into the school. She was  
5 taking the children to school. And she had said  
6 he could see the kids that afternoon and they  
7 were going to try to work out some sort of  
8 visitation schedule. She wanted, his mother  
9 lives in Columbia, he lives right outside of  
10 Charleston, she lives in Abbeville, Columbia is  
11 a reasonable place to meet. It is the reasonable  
12 thing to do. And to have his mother act as a go  
13 between, all perfectly reasonable suggestions.  
14 They were going to meet up the next weekend. She  
15 was going to do that.

16 Well the next weekend, she starts  
17 getting text messages from him and he said  
18 something like, "I'm going to follow those pretty  
19 blue eyes". That strikes me as a little  
20 different. It struck me a little different. Then  
21 he texted her that he is in Greenwood. Well she  
22 thought they were going to meet up in Columbia.  
23 She was in Columbia. She had already told the  
24 kids "we are going to Columbia, we are going to  
25 have a good time, we are going to go to the zoo".

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1           She's in Columbia and he is texting her from  
2           a hotel room in Greenwood that he wants her to  
3           come to. He's trying to get her alone. Through  
4           all this, he's trying to get her to go with him  
5           places where they can be.

6           So then, on October the 5<sup>th</sup>, there is a note  
7           on her truck in the parking lot that he wants to  
8           move, by her himself. And she doesn't follow him  
9           or respond and so he ends up calling her. He  
10          calls her and he texts her, "are you going to  
11          work all night?"

12          And then, he is not getting his way so he  
13          begins to become unreasonable. He's waiting by  
14          her car the next morning when she gets off work.  
15          And who knows how long he was waiting there? I  
16          mean, she said he was texting her and calling her  
17          at midnight. She works all night, seven to seven.  
18          So how long was he sitting in that parking lot  
19          just waiting on her to get off work? So he is  
20          sitting in the parking lot and this is when he is  
21          angry. She says he was demanding, that the  
22          argument got started with "why can't we work this  
23          out? I want -- you know I don't want a divorce."  
24          This is the start of the argument, she talked to  
25          him for thirty minutes. And he is angry that he

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1 didn't get his way. She didn't go back to his  
2 hotel room.

3 And finally she gets in her car and she is  
4 coming home to Abbeville. He follows her,  
5 follows her to Abbeville and comes to her  
6 parent's house and her Dad again says, "I told  
7 you, you are not welcome here".

8 And this is enough that her Dad calls law  
9 enforcement. And law enforcement comes out, the  
10 Sheriff's Office. And they told him, "You know,  
11 this isn't the way to handle this. You need to  
12 come up with a plan. You need to come up with a  
13 plan and have a reasonable way of dealing with  
14 these issues, that this isn't the way to handle  
15 this."

16 So, on November the 18<sup>th</sup>, and at that point,  
17 Mrs. Brandenburg files in Family Court. Now Mr.  
18 Brandenburg never filed the first paper in Family  
19 Court. He never tried to go about legal, legally  
20 obtaining any sort of right from this  
21 organization. Never filed the first paper, this  
22 is how you follow Mrs. Brandenburg around and be  
23 angry and demanding and scared the living  
24 daylights out of her. Never decided to go to  
25 file. But she files in Family Court, she knows

1 what she is supposed to do.

2 Well, on November the 18<sup>th</sup>, he follows her  
3 home from the hospital and she didn't know it was  
4 him at first. And again, she was being  
5 reasonable, she still hadn't called law  
6 enforcement to report that he has been harassing  
7 her. She still hadn't called them. The only phone  
8 call has been to get him off their property. And  
9 she doesn't call them that day either. She's not  
10 a hundred percent certain it is him, she is, you  
11 know, her nerves are up a little bit. She needs  
12 to make sure.

13 Well, he admitted to her a few weeks later.  
14 "I have a right to know where my wife and kids  
15 are." He might have the right to know where his  
16 kids are but he doesn't have a right to know  
17 where she is. He was trying to find her. Goes  
18 to her parent's house again and been told twice,  
19 now, "don't come here." He was there again.

20 On November 26<sup>th</sup>, this is the first time he  
21 goes to the school and remember what Dr. Costner  
22 said. The first time, he showed up he was calm,  
23 dressed nicely, you know, "I want to see the  
24 kids, I got some gifts for them". The kids  
25 weren't there. This was during the day she had

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1 already gotten them out of school but the kids  
2 weren't there and Dr. Costner said, you know, "I  
3 need to make sure I know who you are anyway". He  
4 goes out with the contact information that is,  
5 he's calm.

6 Well, when he leaves, and finds out the kids  
7 aren't there he gives her an angry message, "why  
8 aren't the kids at school today?" Well, do you  
9 think that, this is a man who is trying to pull  
10 them out of class to see them and give them  
11 presents so I don't think he is concerned about  
12 instruction time. I think he is angry because he  
13 wasn't able to get them.

14 So anyway, he sends her this angry message  
15 and that's the night that he's parked in the  
16 Highway Department parking lot on West Alexander  
17 up in Greenwood. At 6:30 at night, the Highway  
18 Department is closed, he has no reason in the  
19 world to be there, just sitting, watching to see  
20 when she comes by. She said she had gotten a  
21 different car. He didn't know what car she was  
22 in so he didn't see her car there. And that is  
23 another point, kind of digressing, if this is a  
24 man who just wants to see his kids, why he is  
25 watching her, at the Highway Department on West

1 Alexander in Greenwood while she is going to and  
2 from work? She is not taking her kids to and  
3 from work. Why is he so concerned about where  
4 she is at 6:30 at night?

5 So he sits at the Highway Department, we  
6 have no idea how long he sits there but we know  
7 he shows up at the school the next morning. And  
8 he shows up there earlier and, remember what Dr.  
9 Costner says, he is angry, he is red, he is  
10 demanding, he is unkempt, his clothes are  
11 stained. He's furious. He smells like alcohol,  
12 he is saying he is going to take his children to  
13 Charleston. Dr. Costner takes him in his office  
14 and what did he say? That he was concerned about  
15 the safety of the staff and kids. He didn't know  
16 what he was going to do. He was inappropriate,  
17 he said. And then I asked him, and he kind of  
18 hedged on saying exactly what was said and that  
19 he was using inappropriate language.

20 So, he is at the school ranting and raving  
21 and that's when law enforcement was called to the  
22 school for the second, the first time, excuse me.  
23 It takes three officers to escort him out.

24 That day she saw his car at the Shell  
25 station. His car was facing an alleyway. Again,

1 just sitting there. That's the first time she  
2 goes to the Sheriff's Office and wanted something  
3 done, to get him to stop following her. And the  
4 victim advocate told her there wasn't anything  
5 that they could do about this.

6 Now, remember at this point we're still  
7 fairly early. There's not, there's some stuff  
8 that has happened, not the entire sequence of  
9 events just yet. The victim's advocate tells her  
10 you've got this hearing date in December in  
11 Family Court. Mrs. Brandenburg said that she  
12 felt like the reason she went was she felt like  
13 she needed to protect herself and the kids. That  
14 is why she went.

15 Well, December 3<sup>rd</sup>'s the hearing.

16 December the 12<sup>th</sup>, is the day that she is  
17 Christmas shopping and she's in the Kohl's  
18 parking lot and he flags her down and again. "Why  
19 can't we get back together? Why can't we work  
20 this out?"

21 He goes to the school on that day, and this  
22 is the really hurting day, this is the day that  
23 he just pacing back and forth across from the  
24 school. There is not a sidewalk there, there is  
25 nothing. There is a guard rail and woods across

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1 from Long Cane Elementary. He is pacing back and  
2 forth, yelling and screaming at her, her and the  
3 kids. And Dr. Costner said like a man had no  
4 regret. So law enforcement is called again.

5 And to try to defuse the situation, she  
6 agreed to meet him at McDonald's.

7 She is trying to be reasonable. She is.  
8 She's tried to meet him in Columbia, she had  
9 rearranged her schedule in early October, for him  
10 to come up and see the kids. He never showed.

11 She's tried to be reasonable with boundaries  
12 to protect herself and to protect her children.

13 And Dr. Costner said, getting back to  
14 December 12<sup>th</sup>, he's never had a parent act like  
15 this. I mean how many kids go to Long Cane  
16 school? How many kids have gone through there?  
17 How many kids at Long Cane have parents who are  
18 getting a divorce? How many parents have had to  
19 be escorted out by law enforcement? How many  
20 parents have shown up at that guard rail, pacing  
21 back and forth acting crazy? None.

22 And on the 13<sup>th</sup>, again he flagged her down  
23 leaving the school; which he shouldn't have done  
24 because he knew that they were under the  
25 agreement.

1           On the 14<sup>th</sup>, was when she found out about the  
2           judge's directions from Family Court and he  
3           issued a mutual restraining order, he tells her  
4           attorney to prepare the Order. The Order hasn't  
5           gone into effect yet, it doesn't go into effect  
6           until January 9<sup>th</sup> and it clocked. But he knows at  
7           this point, on December 14<sup>th</sup>, he knows what the  
8           judge's Order is.

9           On December 19<sup>th</sup>, after he knows the judge is  
10          saying, "she's got sole custody, you don't have  
11          visitation, and stay away from each other."  
12          Plain and simple, in black and white, you all  
13          will have it back there. He knows that's what  
14          the judge is going to say in his Order. He goes  
15          to her house and remember what she said, "He  
16          tried to grab the handle" of the storm door,  
17          which was locked. And she is calling the police.  
18          He thinks she is on the phone with the police,  
19          she was actually on the phone with her Mom and  
20          then Ms. Bolen asked her about that, her kids had  
21          their parties at school that day, they didn't  
22          want miss them. If she had called law enforcement  
23          at that point, to have to deal with the police it  
24          would have taken who knows how long. They didn't  
25          want to miss their parties.

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1           So she does get law enforcement out there.  
2           She gets them out there, her Mom calls. And  
3           Angie Priest said they found him parked on  
4           Dundess facing where he can see her coming and  
5           going.

6           Now, he knows that she is taking the kids to  
7           school. He knows the hours of school. While he  
8           is sitting there watching her comings and goings,  
9           at this point, not going to see his kids there  
10          during that day. And that's when he was taken  
11          into custody on the stalking.

12          Now, after that the Restraining Order  
13          actually goes into effect. All the conditions of  
14          that Order are in effect. And he still, he is in  
15          Abbeville. Why is he in Abbeville? He had no  
16          reason to be here, no reason whatsoever. He  
17          doesn't live here, he doesn't work here, he  
18          doesn't family he has here, he is under a Court  
19          Order not to see them. Why is he in Abbeville?  
20          What is he doing here?

21          And at this point, I think it's fair to say,  
22          you know, law enforcement is doing something at  
23          this point. They are concerned, they have already  
24          sought their warrant, they've gotten a warrant  
25          and you heard Angie Priest say, "We were running

1           patrols. We were running extra patrols by her  
2           house, and by the school". So law enforcement's  
3           working at this point.

4                     February 14<sup>th</sup>, he sends her a text.

5                     February 24<sup>th</sup>, "Can I talk to you? Can I see  
6           the kids?"     'No. You can't. There is a  
7           Restraining Order in place. The judge has said,  
8           "no, you cannot". He's still trying to contact  
9           her. And that in and of itself, is not evidence  
10          of stalking but what that is evidence of is that  
11          this man does not care who says "no". He doesn't  
12          care that she said "no", he doesn't care that her  
13          father said "no", he doesn't care if law  
14          enforcement said "no", he doesn't care that a  
15          judge has said "no". He is going to do what he  
16          wants to do.

17                    February the 26<sup>th</sup>, he comes to her house,  
18          rides by three times looking to catch somebody  
19          outside. Now he sees Tripp, their son, outside.  
20          Tries to lure them to the car with toys. If he  
21          had toys to drop off to the kids, he could have  
22          given them to his parents. He could have given  
23          them to her parents. He could have left it in the  
24          yard when nobody was around. He drives by three  
25          times and waits until he sees someone, "come

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1 here, come here." What was he going to do with  
2 them when he got them over there? This is a man  
3 who proven that he can be completely irrational.  
4 What was he going to do?

5 Now, Angie Brandenburg testified that she  
6 was scared. She didn't know what he was going to  
7 do. She was scared of his outbursts, she was  
8 scared that he would hurt her, she was scared  
9 that he would take the children, hurt the  
10 children, she was scared.

11 And ladies and gentlemen, what you are  
12 going to have to consider is whether a reasonable  
13 person would be scared under these circumstances.  
14 And I think that they would.

15 And Ms. Bolen made a big point of, he didn't  
16 make any overt threats. He never said "I'm going  
17 to hurt you." He got loud, he got angry, he was  
18 certainly scaring then at the school. He was  
19 certainly scaring her.

20 And you don't have to have threatening by  
21 words. If I park in front of your house on day  
22 one, at seven o'clock at night, just sitting  
23 there watching, maybe it's not scary. Day two,  
24 maybe it's not scary. Day three, you start to get  
25 a little bit worried. Day four, day five, day

1 six, at this point you are ready to call the  
2 police and say, "What is this girl doing in front  
3 of my house? She is going to hurt somebody.  
4 This isn't normal and I have never said a word."

5 You can threaten somebody without saying a  
6 word, just by being there. By being there every  
7 time she turns around. By being places he had no  
8 business being. And those are all public places.  
9 I'm in a public place when I'm parked in front of  
10 your house.

11 The law doesn't require that you be on  
12 private property for stalking. That's why it's a  
13 pattern. His conduct, if we add it all together,  
14 when you look at the big picture, this is  
15 something that would cause somebody to be scared.

16 Now, what was Mrs. Brandenburg supposed to  
17 do? She got her kids, she got out of the house on  
18 June 28<sup>th</sup>. She got out, she found herself a job,  
19 she got herself a house, she started legal  
20 proceedings in Family Court. She was trying to  
21 be reasonable. She was trying to let him see the  
22 children. She just didn't want him around her.  
23 And she wanted somebody watching.

24 Now, she knows this man better than anybody.  
25 She lived with him for seven years. Her father,

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1 first time he shows up, "you're not welcome  
2 here". He knows this man. This is his son-in-  
3 law. She was taking the steps she thought she  
4 had to take to protect herself and her children.

5 And she's not calling the police every time  
6 it happened. Because, again, she is not trying to  
7 be unreasonable. She is not trying to be that  
8 person.

9 Ms. Bolen said in opening this is about a  
10 vengeful woman, controlling woman, who had to  
11 have her way. You all saw her on the stand.  
12 Does she look vengeful and controlling? She  
13 looks tired. She looks tired and she looks like  
14 she is just sick of dealing with this. And her  
15 voice quivered. You all get to judge the  
16 demeanor of the witnesses. That's one of the  
17 things you get to look at. And that woman, her  
18 voice quivers when she started talking about how  
19 scared she is.

20 Now, stalking is -- you've got the law in  
21 front of you, and I have never seen a judge do  
22 that before but I think that was a great idea.  
23 Because it is important to here that we get the  
24 definitions right and you know exactly what it  
25 says.

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1           Stalking is a pattern of behavior, and it's  
2           two or more incidents, that show a continuity of  
3           purpose; which means that he is intending on to  
4           do this. And it serves no legitimate purpose.  
5           This doesn't serve a legitimate purpose. What is  
6           he doing? If he wants to see his children, go  
7           to Family Court or go with Mom, where she is  
8           taking the kids. Meet her at the zoo, which is  
9           what their plan was. If you want to see the  
10          kids, there are ways to do it. This doesn't  
11          serve any purpose, this is scaring her. And it  
12          causes them to fear death, assault, bodily  
13          injury, criminal sexual conduct.

14           Well, she didn't know what he was going to  
15          do. And, again, a man who wants his children  
16          that badly, that's what they are saying. And  
17          that's what he kept saying. What would he have  
18          done to her if he had found them alone? To take  
19          them?

20           I told you all in opening that -- I talked  
21          about kidnapping. That is one of the things that  
22          I had either forgotten or I never knew, that you  
23          can't actually kidnap your own child. But she  
24          could be scared that he was going to take them  
25          and he was going to hurt her to get them. Or that

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1 he would take her to get them as well. She could  
2 be scared of that. She can be scared that she'd  
3 never see them again. And she can be scared that  
4 he is going to hurt her or somebody else to do  
5 that. Ladies and gentlemen, I think she was. I  
6 think she was terrified.

7 I think, you can look at her today and see,  
8 she is tired, she is tired of being scared.

9 The defense -- again, I talked about, you  
10 don't have to threaten someone. It's the conduct,  
11 it's being there.

12 If y'all do not find that he stalked her,  
13 if y'all think that he is not guilty of that,  
14 then you consider Harassment in the First Degree  
15 and again, y'all have got that definition. It is  
16 a pattern of intentionable, intentional,  
17 substantial and unreasonable intrusion into her  
18 private life that causes her to suffer emotional  
19 distress. Goodness gracious. It's there. He is  
20 everywhere she turns around. She is scared. She  
21 is worried. That meets the elements.

22 And then you'd go to Harassment Second  
23 Degree after that.

24 This is the last time I get to talk to you  
25 all. Ms. Bolen will get to talk to you all after

1 I do. And she is a good lawyer. I mean, Ms.  
2 Bolen and I have been friends for a long time and  
3 we have sat at the same table. We have sat  
4 across from one another like we are today. She  
5 is a great lawyer and she is going to say some  
6 stuff that I am sure I'll wish I could get up and  
7 respond to. But at the end of the day, it's --  
8 think about this, every time that he was told  
9 "no", when he tried to get the children, he got  
10 completely irrational.

11 Showing up at the school, demanding to take  
12 them out of school, drunk, he wants to take them  
13 drunk to Charleston? They could get hurt right  
14 there. There is your injury to a family member.

15 Everybody's concerned. Dr. Costner was  
16 concerned. Law enforcement was concerned.  
17 Angela Brandenburg was terrified.

18 I think when you all look at everything,  
19 when you take, when you look at the big picture  
20 and put all the pieces in place, you all can see  
21 that between September the 18<sup>th</sup> and February 26<sup>th</sup>,  
22 excuse me 28<sup>th</sup>, this man stalked his wife and  
23 terrified her during that time period. Thank  
24 you.

25 THE COURT: All right, Ms. Bolen.

1 MS. BOLEN: Thank you, Your Honor. It's  
2 going to take me a minute to get all my  
3 informational sheets together here.

4 I told you yesterday that the big picture  
5 here is that Angela Brandenburg wanted things her  
6 way. And I think after hearing the testimony it  
7 is clear that the big picture is, she wanted him  
8 out of her life and out of her business. That's  
9 what she wanted, she wanted just no contact with  
10 him, no contact with him, no contact.

11 And remember they're married, right now,  
12 today. They are actually still married. Okay?  
13 This is a married couple.

14 She just decided "I'm done with this", I'm  
15 not going to let him see the kids. That's really  
16 the big picture.

17 I've written out, the statute for stalking  
18 because I thought it was really important that  
19 you all know what it is. Like Ms. White, I'm  
20 actually pleased the judge gave you a copy of all  
21 the law.

22 But what he has been charged is Stalking.  
23 Okay? And I know that there is some common,  
24 everyday thoughts of what stalking might be and  
25 we use it as a very common expression. You know,

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1 there is a lot of talk about someone Facebook  
2 stalking or Twitter stalking.

3 But stalking, under the law is a very  
4 serious offense. You can see from how it is  
5 written in your statute that it is very serious.  
6 It requires a lot. Okay? Requires a pattern of  
7 words or conduct that serves no legitimate  
8 purpose. All right. Underline that.

9 Is intended to cause or does cause the  
10 targeted person fear and then there are these  
11 things:

12 Death

13 Assault

14 Bodily injury

15 Criminal sexual conduct, which is the  
16 statutory term for rape.

17 Kidnaping.

18 We're going to come back to that. But  
19 I just wanted to make sure at the outset that we  
20 know what we are talking about here, what  
21 Stalking really is under the law and not what  
22 certain comments or thoughts it might be.

23 Let's talk about this six-month period that  
24 he is indicted for stalking her and what  
25 actually happened over the six months. Okay?

1 The indictment is September 1<sup>st</sup> through February  
2 26<sup>th</sup> that is right at six months.

3 During that six-month time period, how many  
4 times did Angela Brandenburg call the police?  
5 Once, one time, on the 26<sup>th</sup> of February.

6 She asked her mother to call another time  
7 and her Dad to call another time. How many times  
8 did she do it in reference to stalking? Once.

9 How many times did she go to the police?  
10 She said she went to the Sheriff's Office twice.  
11 First time, and I think this was in mid to late  
12 November, she goes to the Sheriff's Office and  
13 they tell her this is a family issue. There is  
14 nothing they can do, he has a right to see his  
15 kids, he has custody just as much as she does.  
16 And they tell her they can't do anything. Now  
17 that is important.

18 And the second time, I want you to pay  
19 attention to what she tells them. The first time  
20 what they tell her is important. The second time  
21 is what she tells them is important. She  
22 testifies about this on direct and she testified  
23 about it again on cross. She tells them that,  
24 quote, "I was tired of looking over my shoulder  
25 and seeing him." Tired of looking over and

1           seeing him. She didn't say "I was tired of  
2           living in fear. I was tired of thinking he might  
3           take my kids. I was tired of thinking he might  
4           do something to me." No, it was "I was tired of  
5           seeing him. I didn't want to see him around.  
6           Tired of seeing him."

7           I asked her about that on cross and she  
8           still kept to, "I was tired of seeing him."  
9           Nothing about fear for herself or her kids. All  
10          she is tired of is his existence, him being  
11          around.

12          So what was the actual contact, between  
13          September 1<sup>st</sup> and February 26<sup>th</sup>? In the beginning  
14          it was texts and phone calls. And I went, I went  
15          through a lot of these with her yesterday when  
16          she was testifying and I am not going to go  
17          through all of them again but there were a good  
18          number of them.

19          She agreed that what she said in these text  
20          messages were things like:

21                        *'Please meet me.*

22                        *I'm not here to argue, please let me*  
23                        *see the kids.*

24                        *I'd like to see kids next weekend.*

25                        *Is there any chance I could speak to them?*

1           *Please don't fight two weekends a month."*

2           He is saying:

3           *'He is with you always.*

4           *I want to pick up the kids next weekend.*

5           *Thank you."*

6           That's the sort of thing he's texting her.

7           All this is very polite, all of it is requests,

8           there's no demands. It's:

9           *Please let me to my children.*

10          *I would like to see the children.*

11          *Please let me talk to them.*

12          That's what he is texting her over these few

13          months when she is saying he is demanding.

14          None of that is demanding, none of it.

15          She also testified that at one point he told

16          her, "I want to see the kids and give them some

17          presents." So, a father wanted to give his

18          children some presents. Is that against the law?

19          Should that make someone scared?

20          He's the father, why can't he give his kids

21          some presents? I think we can all understand why

22          a father would want to do this. Okay. So that's

23          all the contact in September/October.

24          So September 18<sup>th</sup>, he goes to her parents'

25          house. He is not on trespass notice there. And

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1 when they ask him to leave, he leaves. End of  
2 story.

3 Both she and her Dad said he was there to  
4 ask to try and see the kids. They told him to  
5 leave and he left. No threats were made. There  
6 was nothing about any sort of angry demeanor. No  
7 sort of outbursts, no violence, nothing. Just  
8 "I'm here to see the kids." 'You need to leave',  
9 he left. That's it.

10 September 19<sup>th</sup>, they spoke together in the  
11 parking lot. She walked the kids in, she walked  
12 out, and she stopped to talk to him. She talked  
13 to him when he wanted to talk to her. And,  
14 remember, she said he asked her -- again, that  
15 would word, "asked" is important. He asked her,  
16 'Will you meet me at the hotel so I can see the  
17 kids?'

18 "Will you meet me", not "you are going to  
19 meet me or I am going to do 'this', or you better  
20 meet me or this is going to happen."

21 No. Will you meet me?

22 She says no, and that's it. There is no  
23 repercussions. Nothing else happens. He doesn't  
24 threaten her, he doesn't do anything. He asked  
25 the question and she said 'no.'

1           Again, the purpose of his question was to  
2 see his kids.

3           Move on to early October. This is when she  
4 is at her job at Self and he leaves a note on her  
5 car. She doesn't have the note but she says she  
6 remembered it said something about meeting me at  
7 the hotel. Again, a request, not a demand,  
8 "Would you please meet me at the hotel?" There's  
9 no threats, she doesn't meet him. And again,  
10 nothing else happens. He doesn't go after her or  
11 doesn't try to do anything, he just says "will  
12 you meet me at a hotel so we can talk?" She  
13 doesn't respond. That's not a threat.

14           That shouldn't cause anyone to be scared.  
15 Remember they are still married. It's not  
16 unreasonable, it's not unreasonable for him to  
17 want to talk to his wife.

18           And then the next morning, she said she got  
19 a text from him that said "would you like to meet  
20 for breakfast and talk, would you like to meet  
21 for breakfast and talk?" How much more non-  
22 threatening can language get, 'would you like to  
23 meet for breakfast?' There is just nothing in  
24 there that would reasonably cause fear of him.  
25 Again, she doesn't do it. She doesn't meet him.

1           Later that day, he goes to the house to try  
2           and see the kids. And again, the testimony from  
3           her and her Dad was he was there to see his kids.  
4           These are his children. He will has rights  
5           today. He had rights back then. These are his  
6           children. He went there to try and see the kids  
7           again, and again her father told him to leave.  
8           At this point, they call the police, the dad  
9           called the police or it might have been the  
10          mother, one of the parents called the police. The  
11          Sheriff arrives and, remember what they tell the  
12          parents. "We are not going to get him in any  
13          trouble for this, he has a right to be here. He  
14          has a vested interest in what's in the house  
15          because his children are here." That's what the  
16          law told them. He has a vested interest, he has  
17          a right to be here.

18                 Remember at one point in her testimony she  
19                 said that she tried to be reasonable with him in  
20                 terms of visitation. She, you know, said that,  
21                 before she filed she was trying to be reasonable.

22                 Let me ask you this, on that day in early  
23                 October, she's at her parent's house. Her  
24                 parents -- both of them are at her parent's  
25                 house. Charles is at her parent's house, at

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1 least one Sheriff's deputy is at her parent's  
2 house and their children, his children are at her  
3 parent's house. So there are five, four or at  
4 least four adults to supervise and watch him with  
5 the children. Does she let him see the kids that  
6 day? No. How reasonable was that? How  
7 reasonable is it to say, 'well even the parents  
8 are here and there is a Sheriff's deputy here and  
9 I am here, and I'm not going to let you see  
10 them?'

11 November 18<sup>th</sup>, she said she thinks someone is  
12 following her, but she doesn't know if was him.

13 Then we jump to the 26<sup>th</sup>, so there is a good  
14 month to month and a half without, okay,  
15 absolutely nothing. Okay?

16 Early on November 26<sup>th</sup>, what happens on the  
17 26<sup>th</sup>? He texted her "Why did you let the kids  
18 leave school early, why did you let the kids  
19 leave school early?" That's it. No threat. She  
20 said the tone was angry. I'm not sure how you get  
21 an angry tone from a text message, but I think  
22 any of us with kids might be angry about them not  
23 being in school.

24 Later on the 26<sup>th</sup>, he goes to the school and  
25 tells Dr. Costner he wants to see his kids.

1           There is no incident, there is no problem. He  
2           doesn't act out in any way. Starts to fill out  
3           some paperwork.

4           The next morning he comes back and asks to  
5           see his kids again. And remember, these are his  
6           kids. He has rights to them. He has a right to  
7           see his children. And Dr. Costner said though  
8           he, you know, was disheveled and he started  
9           getting a little angry, there was no testimony  
10          that he was drunk. There was none. Dr. Costner  
11          said, "I couldn't tell if he had been drinking or  
12          not."

13          Then you could understand why he might be a  
14          little angry. He's been trying to see his kids  
15          and just not able to.

16          All right. December 12<sup>th</sup>, this is the time  
17          that he is at the Kohl's parking lot and she  
18          drives by him and stops her car to talk with him.  
19          She stops her car. She is in her car. She could  
20          have just kept driving. There is no reason to  
21          stop if she didn't want to talk to him. She  
22          stopped her car and talked to him. She even  
23          testified at one point that she got in his car.

24          Then she says that she sees him at the  
25          school later in the day and that she thinks he is

1           trying to get the kids attention. And again,  
2           these are his children. He has as much right to  
3           them as she does. And she says that she offered  
4           to meet him at McDonald's with them. So again,  
5           how scared is she?

6                   How scared is she if she stops her car and  
7           talks to him when she has no reason to and could  
8           have just kept going. How scared is she if she  
9           says, "let's go and have a meal together". Just  
10          doesn't make any sense.

11                   And again, it's not unreasonable, not  
12          unreasonable for him to want to see his own  
13          children.

14                   December 13<sup>th</sup>. Again, he's driving down the  
15          road, she is driving down the road. She stops  
16          her car and talks to him on the side of the road  
17          for thirty minutes. He apparently displays some  
18          kind of emotion but, again, she is in her car,  
19          folks, she could just start driving. She stopped  
20          to talk to him. That's something she did  
21          voluntarily.

22                   So, December 13<sup>th</sup>, this is when she went to  
23          the Sheriff's Office and tells them, she's tired  
24          of seeing him, she's tired of looking over her  
25          shoulder and seeing him. Again, no mention of

1 being tired, being scared of him, tired of living  
2 in fear, tired of thinking the kids are going to  
3 be taken, nothing, just "I'm tired of seeing  
4 him."

5 So let's count out between September 1<sup>st</sup> and  
6 December 13<sup>th</sup>, how many times has she actually  
7 seen him:

8 There's the one time she maybe thinks  
9 she sees him but she is not sure.

10 There are two times at her parent's  
11 house.

12 She sees him at the school and stops to  
13 talk to him.

14 She stopped to talk to him at the  
15 Kohl's parking lot.

16 Saw his car up the road and stops to  
17 talk to him.

18 So that is six, maybe seven times; four  
19 of which she voluntarily agrees to be stopping  
20 where he was.

21 That's over a three month period.

22 December 19<sup>th</sup>, this is when she hears a  
23 knock, she opens the door and she said he is  
24 there to see the kids. She asks him to leave and  
25 he leaves. There is no threat. There is no angry

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1           outburst. We don't hear about him acting out.

2           It is just, knock on the door

3                     *'I want to see my kids.*

4                     *No, you can't, you better leave.'*

5           Yes, she sounded a little bit frustrated

6           but there is nothing wrong in that. He could be

7           anywhere in Abbeville that any of us can be. Or

8           anywhere in the State that any of us can be.

9           And then we get to the restraining Order. A

10          Judge said and Ms. White said, that Restraining

11          Order doesn't go into effect until January 9<sup>th</sup>,

12          January 9<sup>th</sup>, 2013. Okay.

13          It is a mutual Restraining Order, neither of

14          them can talk to the other. And it doesn't say

15          no visitation with the kids, doesn't say no

16          contact.

17          So after that, what happens after January

18          9<sup>th</sup>? What does she say happened after January

19          9<sup>th</sup>?

20          She testifies that in February 8<sup>th</sup>, she is

21          driving on 72 and sees him at the Abbeville

22          Hotel. As I said, he have every right to be

23          anywhere anyone else does. There is the nothing

24          wrong with him being at the Abbeville Hotel. And

25          she said says later that day, she sees him on the

1 Square as she drives by several times he keeps  
2 sitting there. He has the right to be on the  
3 Square. There's nothing wrong with that. He's  
4 not doing anything to her. She's the one that  
5 keeps driving by there, apparently.

6 February 24<sup>th</sup>. She says he leaves her a  
7 voicemail asking to see the kids. One voice  
8 mail, that's all.

9 February 26<sup>th</sup>, is when she says he drives by  
10 the house and she finds toys in the backyard.  
11 That as she was coming out, she thinks that she  
12 saw him attempting to get their son's attention.  
13 He didn't try to lure the son away. There is no  
14 testimony about anything about him trying to lure  
15 this little boy away. The testimony was he  
16 drove by the house, left toys in the yard and as  
17 they came out they thought they saw him try to  
18 get Tripp's attention. That's it, that's it.

19 So the picture is, what is the big picture?  
20 The big picture is he wants to see his kids and  
21 she won't let him.

22 There is no testimony about physical harm,  
23 to her, to the kids. There is no threat of  
24 physical harm. There is no threat to take the  
25 kids. Never once did we hear any testimony about

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1           *"I'm going to take the kids away from you."* She  
2 didn't testify to anything like that.

3           And, more importantly, there is no attempt  
4 by him to take the kids.

5           She is not scared of him. She testified she  
6 didn't change her number, she didn't change her  
7 address, she didn't move the kids to a different  
8 school.

9           I told you in opening that this is a woman  
10 who wants everything her way. When she decided  
11 it was over, it was over. And I think, from her  
12 testimony, that's true. She wanted him out of  
13 her life and out of the lives of their children.  
14 Remember, this is a married couple and he's got a  
15 right to those kids.

16           And in terms of him being a threat, we  
17 didn't hear anything about any angry outbursts.  
18 Dr. Costner said he got a little heated. She  
19 didn't anything about him getting angry. Getting  
20 angry is not a crime. If it was, I think  
21 probably all of us would have criminal records.  
22 I think at times all of us get angry.

23           But we didn't have any testimony from her  
24 about that. But she may say "oh, she was scared,  
25 he might get angry, but is that a reasonable

1 fear? Does that really cause reasonable fear, no  
2 actual outbursts of anger?

3 Over the six months, did you hear anything  
4 about him trying to take his kids? He goes to  
5 the school twice, one of those is the third time  
6 where he was across from the school property.  
7 But there is no testimony that he was there in an  
8 attempt to take the children.

9 All he wants to is see his children.

10 When the police were conducting their extra  
11 patrols, the patrol they did for that time  
12 period, the time period which I think she said  
13 could have been as broad as the six months, she  
14 said there were no further incidents; no further  
15 incidents, nothing else came out of that.

16 Sergeant Priest said the while they were  
17 doing their patrol, they saw him, saw him maybe  
18 three or four times. Again, he is allowed to be  
19 in Abbeville. Anyone is allowed to be in  
20 Abbeville.

21 That brings me to the next think I want to  
22 talk about. There is a good bit of testimony  
23 about him being in Abbeville. Mrs. Brandenburg  
24 as well as Sergeant Priest testifies about that.  
25 Folks, it is just not a crime, is it just not a

1 crime to be in this town, not a crime to be in  
2 any town in South Carolina, or any town in this  
3 country, as a matter of fact. He is allowed to  
4 be here, anyone can move here, anyone can live  
5 here, anyone can visit here at any time. So him  
6 being her, it's not a crime and it's not evidence  
7 of anything.

8 Let's talk a little bit about the restrain-  
9 ing Order -- and this is something the judge is  
10 going to tell you, he is going to mention it to  
11 you, that violating a restraining Order is not  
12 evidence of stalking. It is not evidence of  
13 harassment. Okay?

14 You can see that from the statutes in front  
15 of you -- they don't mention a Restraining Order  
16 in any way. There is nothing in the Stalking and  
17 Harassment statutes that say anything about a  
18 restraining Order. So whether you think he  
19 violated it or not, it is irrelevant to what he  
20 is here for today. Okay?

21 And really if you look at when the Order  
22 went into effect, on January 9<sup>th</sup>, clearly it's --  
23 the one voice mail, one voice mail and then him  
24 riding by the house is not Stalking, again, not  
25 making, not making any contact with her. But we

1 are not here to determine if he violated the  
2 Restraining Order, that is a separate remedy, you  
3 will have that back there with you, the actual  
4 Order. You'll see on the bottom that if some-  
5 one's alleged to have violated the Restraining  
6 Order, that is a separate remedy, that would be  
7 in a separated Court. So we are not here to  
8 decide if he violated the Restraining Order.  
9 Okay? It is not an element of any or the crimes  
10 that are before you today.

11 What this all boils down to is that this is  
12 a dad who is trying to see his kids. And what is  
13 wrong, what is wrong with a Dad trying to see his  
14 kids? I'd say nothing. It is not unreasonable  
15 for a father to want to see his children. And  
16 that's what it's all about, he hasn't lost  
17 custody. He wants to see his kids. Every witness  
18 that that State put up, every witness said he  
19 wanted to see his kids.

20 Mrs. Brandenburg testified to that.

21 Dr. Costner said yes, he was there to see  
22 his kids.

23 Sergeant Priest testified to that.

24 Her father testified to that.

25 I know we didn't -- we didn't end up putting

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1 up any witnesses. Everything Charles had to say  
2 came in with all the text messages and voice  
3 mails that came in. You know everything he had  
4 to say. Okay. But every single witness said all  
5 he wanted was to see his children.

6 Until January 9<sup>th</sup>, he had just as much  
7 custody as she did. After January 9<sup>th</sup>, he never  
8 tried again. And it is easy to understand why he  
9 got frustrated at the school when Dr. Costner was  
10 talking about that. He was a father that was  
11 being kept away from his kids. Mrs. Brandenburg  
12 testified that she was worried about him having  
13 an outburst but again, we didn't hear any  
14 testimony about any actual outburst that he had  
15 around her, ever. And again, I think it is easy  
16 to understand why he might get angry when he is  
17 trying over and over to be a good father, to see  
18 his kids, to give them presents, to be involved  
19 in their life and he is not able to see them,  
20 even when there is a Sheriff's deputy there to  
21 supervise, he is not able to see them.

22 Listen to the statute -- and I've got a  
23 copy of it here. What he has been charged with  
24 is stalking. Stalking is this pattern of  
25 behavior that causes someone to reasonable fear

1 and that would cause a reasonable person.

2 What that means is if you think her fear was  
3 unreasonable, if you think no one would really,  
4 you know, because we all interpret things  
5 differently. If you don't think it is  
6 reasonable for her to fear any of these things,  
7 then you can substitute that judgment to those of  
8 any reasonable person.

9 So causing a fear of death, there no  
10 testimony about that. Just actually you must  
11 cross that out.

12 Assault. Again, there is no testimony about  
13 that. I asked if her, 'no, he never did that.'

14 Bodily injury. Again, no testimony about  
15 that either.

16 Criminal Sexual Conduct. Again, this is a  
17 fancy legal term for rape, absolutely no  
18 testimony about that.

19 Now, kidnapping. First of all, the evidence  
20 just doesn't support it. There is no one to say  
21 he ever tried to get his kids, or more  
22 importantly, that the South Carolina statute and  
23 the judge will tell you this, but I will go over  
24 it as well, does not allow for a parent to kidnap  
25 their child. It is just not possible. A parent

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1 cannot kidnap their own child, that's just a part  
2 of our law.

3 I've got the law written right here and you  
4 can see it. There was no evidence of that.

5 Assault. There was no testimony about that.

6 I asked her if he ever assaulted her and she  
7 said no, that he did not.

8 Bodily injury. Again, no testimony about  
9 that.

10 Criminal Sexual Conduct. Again, this is a  
11 fancy legal term for rape, and there was  
12 absolutely no testimony about that.

13 Now, kidnapping. First of all, the evidence  
14 just doesn't support it. There is no one to say  
15 he ever tried to get his kids, or more  
16 importantly, that the South Carolina statute and  
17 the judge will tell you this, but I will go over  
18 it as well, does not allow for a parent to kidnap  
19 their child. It is just not possible. A parent  
20 cannot kidnap their own child. It is part of our  
21 State Law. I've got the law written right here  
22 so you can see it. And again, this is the  
23 kidnapping statute and it contains some very  
24 legalistic terms that you don't really ever use  
25 in real life, but what it says is that whoever

1 shall seize, control, inveigle, I don't know if  
2 anyone really knows what that means, decoy,  
3 kidnap, abduct, carry away any other person,  
4 whatsoever, without authority of law except when  
5 a minor is seized or taken by his parent. So  
6 there is this big exception in the law, and what  
7 that means is, custody or no custody, he could  
8 not kidnap his own child. He cannot do it under  
9 the law. You absolutely can't do it. Okay? He  
10 just can't do it.

11 And then damage to property. Again, there  
12 has been no testimony about that, damage to  
13 property or any threat to damage to property. So  
14 that's out.

15 So he is just not guilty of Stalking. Clear  
16 and very simple, the elements are not there.

17 Now, I know that as of this morning, you are  
18 now considering harassment, whether you think he  
19 is guilty of harassment. I am going to go over  
20 that a little bit. I don't have it written on  
21 the board but we've all got it in front of us.

22 Harassment in the First Degree, that's the  
23 first section that you have. It is a pattern of  
24 intentional, substantial and unreasonable  
25 intrusion. Substantial and unreasonable. By my

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1 account, he saw her maybe eight times, nine times  
2 over a six-month period. Sound right?

3 Unreasonable? This is, every single time he  
4 tried to contact her to just see the kids, is  
5 that unreasonable for a father, the husband?

6 None of his, none of his actions amounted to  
7 anything substantial or unreasonable. Going on  
8 with the statute, it says no legitimate purpose  
9 and again we are back to the kids. He had a  
10 legitimate in contacting her. His legitimate  
11 purpose was to see his own children. That was  
12 his reason for contacting her.

13 And then there has to be something to cause  
14 the person to suffer emotional or mental  
15 distress. We didn't hear any testimony about  
16 that. She didn't say this, you know, 'it  
17 completely stressed me out, I had to go see a  
18 psychiatrist.'

19 You didn't hear a psychiatrist say she  
20 suffered from post traumatic stress syndrome.  
21 There is nothing about her suffering any  
22 emotional or mental distress.

23 So now, and you look down and Harassment in  
24 the Second Degree, very similar language,  
25 substantial, unreasonable intrusion, no

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1 legitimate purpose, something that would cause  
2 someone to suffer emotional and mental distress.

3 I submit to you that the evidence as  
4 presented doesn't come close to the these  
5 actions. It just doesn't.

6 We've got a concerned father, a concerned  
7 husband trying to see his kids, all the evidence  
8 was he wanted to see his children.

9 She met with him voluntarily with him. At  
10 time when she saw him, she would stop and talk to  
11 him. Now she is trying to say that was scary?

12 It just doesn't meet the statute. It is not  
13 substantial intrusion and it certainly is not  
14 unreasonable intrusion. It is very reasonable  
15 that he would want to see his kids. A legitimate  
16 purpose is he wants to see his kids. And she  
17 didn't say anything about suffering any emotional  
18 distress from it.

19 I know this is a lot of information to go  
20 over. And I know you all have been very patient  
21 sitting while we deal with issues of law. I know  
22 you all are really tired and real annoyed about  
23 my having to jump up so many times. That is just  
24 part of my job in defending my client. I ask you  
25 not to hold that against my client. I am just

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1           trying to do my job.

2           I know you have heard a lot, you have heard  
3           a lot from witnesses, you have heard a lot from  
4           attorneys. This is an important case. You've  
5           heard a lot and I am asking you to look at the  
6           law and look at the statutes in front of you.  
7           Look at the evidence that was presented and see  
8           if they match up. He is just not guilty of a  
9           crime. They've got to show more than contact.  
10          They've got to show more than just Mrs.  
11          Brandenburg didn't want any contact. That is  
12          just not enough under the statute.

13          What does the statute say? The statute says  
14          stalking is unwanted contact, that harassment is  
15          unwanted contact? That's not what it says. It  
16          requires more than that, it really does. And it  
17          requires that he has no purpose behind this, and  
18          he does have a purpose. Every single thing was  
19          about him seeing his children.

20          So I am asking you to consider the evidence,  
21          consider the statutes and find that they just  
22          don't match. He is not guilty of any crime and  
23          I ask that you return a verdict of Not Guilty.  
24          Thank you.

25                 THE COURT:           All right. I would ask to get

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1           this aid. All right and before we go any  
2 further, I think, looking at the time, that I'll  
3 have to have -- I'll have my part that I have to  
4 go over with you now and then we have the lunch  
5 break coming at some point. I think the best  
6 thing to do is for the County to treat you to  
7 lunch today, and all. And I've asked the Clerk  
8 about that and she says that the easiest way to  
9 do that is to order pizza to be brought in and I  
10 wanted to ask you about that to see if -- I see  
11 some frowns and I see some smiles on the juror's  
12 face. We can have a couple of different kinds of  
13 pizza brought in so that -- is there anybody on  
14 the jury who cannot eat pizza? If so, raise your  
15 hand. (No response). Okay. So we've got  
16 unanimous vote that you can eat pizza and all.

17           And so Emily, you want to, and anybody  
18 discuss that, I guess you know, you got a meat  
19 pizza of some sort and you got a pizza without  
20 meat with just cheese of some sort and it's from  
21 Pizza Hut, is that where it's coming from?  
22 Where is it coming from? Across the street  
23 somewhere wherever that is. Anyway, and all, and  
24 all, so you want to order and I am looking to see  
25 some indication, want to order a cheese pizza and

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1 a meat pizza? I think two or three, we got  
2 thirteen people. I guess you better order three  
3 all together -- are you all listening to me? I  
4 guess you better order three at least. All right  
5 so the Clerk's going to take care of that now.

6 I want to go ahead and say to you that when  
7 we get it here, if you've already started your  
8 deliberations, before we get the pizza here, and  
9 all, we will bring it in to you and I always tell  
10 the juries to stop when you get the food in the  
11 jury room and eat your lunch, don't try to  
12 deliberate while you are eating lunch. Stop. Eat  
13 your lunch. Then start your deliberations back  
14 and all. So don't try to deliberate and talk  
15 about the case while you are enjoying that good  
16 pizza. Eat it, think about that, then go back to  
17 thinking about the case.

18 And if you need us to get the trash out,  
19 after you've eaten, we will be glad to come in  
20 there and get that from you and everything.

21 All right. So I want to thank both of  
22 the attorneys for their summations and arguments  
23 to the jury and for the way they have handled  
24 this case throughout the trial.

25 As I said, you now know that it is a little

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1 bit more about what is involved in this than  
2 perhaps you may have thought it was before we got  
3 to this point in the trial. But there are  
4 certain things that do apply that I want to  
5 mention to you and go over with you at this point  
6 in the trial. You must accept the law as I  
7 explain it to be the correct law. This means you  
8 should not be concerned with what you may think  
9 the law should be but only with what the law is.

10 As I told you earlier, the State has made  
11 certain charges against Mr. Charles Moody  
12 Brandenburg, Junior, and to all these charges Mr.  
13 Brandenburg has said, "I'm not guilty".

14 And that places the burden of proving him  
15 guilty on the State. A person who is charged is  
16 never required to prove himself or herself  
17 innocent. The burden of proof is always on the  
18 State to convince you by the evidence presented  
19 here from this witness stand that he is guilty of  
20 a charge that the State has made against him  
21 beyond a reasonable doubt.

22 If the State doesn't do that, then he is  
23 entitled to a verdict of "Not Guilty".

24 So as I've said, the burden of proof is on  
25 the State to convince you by the evidence that he

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1 is guilty of a crime with which he has been  
2 charged, beyond a reasonable doubt.

3 What do we mean by those words? What does  
4 it mean when we say that the State must prove  
5 someone guilty beyond a reasonable doubt? It is  
6 not an imaginary or fanciful doubt or a weak  
7 doubt. The term "reasonable doubt" may be best  
8 understood by giving it its plain and ordinary  
9 meaning. A reasonable doubt is the kind of doubt  
10 that would cause a reasonable person to hesitate  
11 to act. If, after considering all the evidence,  
12 you hesitate to convict the defendant on that  
13 evidence then he is entitled to a verdict of "Not  
14 Guilty".

15 Reasonable doubt may arise from evidence  
16 which is in the case, or from the absence or lack  
17 of evidence in the case.

18 You alone must decide whether reasonable  
19 doubt exists as to the guilt of Mr. Brandenburg  
20 in regard to these charges that are being  
21 submitted to you. You are the judges of the  
22 credibility or the believability of the witnesses  
23 who have testified. You have to decide who and  
24 what to believe. How much weight to give to the  
25 various witnesses testimony that you have heard

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1 presented to you in this case.

2 As I told you, you are the judges of the  
3 facts of this case, I don't have anything to do  
4 with the facts. Your job is to judge the  
5 credibility, the believability, the weight of the  
6 testimony and the evidence that has been  
7 presented to you in this case in deciding this  
8 case. That's your job.

9 If I've said or done anything during the  
10 course of the trial that you have interpreted in  
11 any way as an opinion that I might have about the  
12 facts, or how this case should be decided, or  
13 whatever, please disregard it. For I have  
14 intended to be fair and impartial to both sides  
15 in this case.

16 In deciding the facts, it is necessary, as  
17 I said, for you to evaluate the witnesses. In  
18 doing that, I would suggest you go about that in  
19 much the same way you decide issues in your  
20 everyday life. You and I have to decide every  
21 day whether to believe what someone tells us. It  
22 is so much a part of everyday life that we often  
23 times don't think about any mental process that  
24 we may go through in deciding whether to believe  
25 someone. But you do it every day, whether it is

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1 on your job, on the street, at home, wherever.  
2 When someone comes up to you and makes a factual  
3 statement to you, when someone says something  
4 like "such and such just happened, or such and  
5 such is about to happen, or you should do this  
6 because, or you should do that because". When a  
7 person makes that kind of statement to you, you  
8 have to decide, 'do I believe what that person  
9 tells me, how much trust, how much faith do I put  
10 in what that person tells me".

11 As I said, I would suggest you go about  
12 deciding who and what to believe in regard to the  
13 testimony and the evidence in this case, in much  
14 the same way you decide that issue in your  
15 everyday life.

16 But some of the things that you may want to  
17 consider, and this is by no means, an exhaustive  
18 list, but some of the things are such things as  
19 are:

20 The demeanor or manner of the witness  
21 who testified.

22 Whether the witness had reason to be  
23 biased or prejudiced.

24 Whether the witness' testimony was  
25 contradicted on the one hand or supported and

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1 corroborated on the other hand.

2 You certainly do not determine truth or  
3 credibility or believability, merely by counting  
4 the number of witnesses who may have testified  
5 concerning some particular point or fact that may  
6 be involved in the trial of this case.

7 Throughout this entire process, you have but  
8 one goal really, and that is to seek the truth  
9 regardless of its source.

10 Now, consistent with the fact and the law,  
11 the burden of proof is always on the State to  
12 convince you by the evidence as I've repeatedly  
13 said, beyond a reasonable doubt that he's guilty  
14 of a charge. If they do not, then, as I've said,  
15 you must return a verdict of Not Guilty.

16 The fact that the defendant did not testify  
17 and did not offer any evidence for you to  
18 consider in this case, in no way can be  
19 considered as a fact against him. Under the  
20 Constitution and laws, that cannot be held  
21 against him in any way. The fact that he did  
22 not testify, the fact that he did not explain  
23 anything as far as anything is concerned, or  
24 offer any testimony is not something that can be  
25 held against him. He's guaranteed that under the

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1 Constitution of the United States and under the  
2 Constitution of the State of South Carolina.

3 And as you can see, that is perfectly  
4 consistent with what I told you earlier, the  
5 burden of proof is always on the State. He  
6 doesn't have to prove anything. The burden of  
7 proof remains with the State at all times, until  
8 you the jury have in the privacy of the jury  
9 room, reached a conclusion that the State has  
10 proven him guilty beyond a reasonable doubt.

11 So there is no burden on him. The fact that  
12 he did not testify can in no way enter into your  
13 deliberations. You cannot even consider that and  
14 if anyone speaks up and says something like,  
15 'well he didn't say anything, he didn't deny it',  
16 he is denied it by the fact that he has said 'I  
17 am not guilty of this.' And that is all that,  
18 under the law, he has to do in placing the burden  
19 of proof on the State.

20 Now we get to that part of the trial where  
21 we are going to discuss the particular charges  
22 that I have given to you and I'm going to read  
23 them so that -- you've got them there in front of  
24 you and, so, I am going to go over these with  
25 you. There may be some particular, at some point

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1           that I want to comment about something as I go  
2           through this. I know there is a couple of little  
3           things that I am going to add to or, as far as I  
4           go, as I go through this with you.

5           But we will start with the most serious  
6           charge although that is not the way they are  
7           listed on here, so you go to the bottom of that  
8           first page, at Paragraph C there where it says  
9           "Stalking". And this is what it says and I would  
10          invite you to read along with you, with me,  
11          (reading):

12                        *"Stalking means a pattern of words,*  
13                        *whether verbal, written, or electronic, or a*  
14                        *pattern of conduct that serves no legitimate*  
15                        *purpose and is intended to cause and does cause a*  
16                        *targeted person..."* -- in this case, they are  
17           talking about Mrs. Brandenburg, she is the person  
18           that they are talking about there when they use  
19           the word "targeted person", they are talking  
20           about her in terms of this statute. (Continues  
21           reading): *"...does cause a targeted person and*  
22           *would cause a reasonable person..."*, -- so it is  
23           not only that she individually feared in regard  
24           to these things that we are going to mention here  
25           after that, but it has to be a reasonable fear.



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1 family.

2 And in connection with that, there has  
3 already been some discussion about this and I'm,  
4 this is where I am going to tell you some more in  
5 so far as the law is concerned and it has already  
6 been mentioned of by both of the lawyers. But,  
7 to summarize it, let me read you the law in  
8 regard to how the legislature has defined  
9 kidnaping. It's a rather convoluted way to  
10 define kidnaping but this is what the law says,  
11 this is what we have to apply, (reading):

12 *"Whoever shall unlawfully seize, confine,*  
13 *inveigle, decoy, kidnap, abduct, or carry away*  
14 *any other person by any means whatsoever, without*  
15 *authority of law."*

16 So Mrs. Brandenburg could possibly fit  
17 into the category of a person who could be  
18 kidnaped by Mr. Brandenburg.

19 But the next section, the next part of  
20 the law says he cannot be guilty of kidnaping  
21 his own child. That's what the law is. Except  
22 when a minor is seized or taken by his parent.  
23 So that means under the law if the fear was that  
24 he was going to kidnap his children, if that's  
25 what the reasonable fear was, that doesn't count

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1 under the law in regard to stalking. Because the  
2 law is, until it is changed, a parent cannot be  
3 guilty of kidnapping his own child.

4 If she had a reasonable fear that she  
5 was going to be kidnapped under all the facts and  
6 circumstances, that still could be considered in  
7 deciding whether or not the State has proven this  
8 element of this offense in so far as she is  
9 concerned. But in connection with the child, or  
10 children of theirs, under the law as it presently  
11 stands, he cannot be guilty of kidnaping of his  
12 children. That's what it says in this statute  
13 that defines Stalking, one of his or both of his  
14 children.

15 And then the next element there is the  
16 possibility of damage to the property of hers or  
17 a member of her family.

18 And it goes on to define pattern.  
19 There you see that a "pattern" means two or more  
20 acts occurring over a period of time, however  
21 short, evidencing a continuity or purpose.

22 Then "family" means a spouse, child,  
23 parent, sibling, or person who regularly resides  
24 in the same household as she does.

25 And then it has the definition of

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1 "electronic contact". In this case that's  
2 talking about text messages and that sort of  
3 thing, and, voice mail messages, those kinds of  
4 things which you are familiar with.

5 Then the last part says it does not  
6 apply to words of conduct protected by the  
7 Constitution of this State or the United States.

8 So, as I said, that is the first thing  
9 that you would consider in these, in regard to  
10 the charges that the State makes against him.  
11 And again, you are going to have this form of  
12 verdict and that's the way I've done it, I've  
13 written the name of the case here at the top and  
14 verdict and then the word "Stalking" and then the  
15 two possible verdicts in regard to that:

16 "We, the jury, by unanimous vote find  
17 him Not Guilty of Stalking" -- and all, and there  
18 is a place for the foreperson to sign.

19 Or, "We, the jury, find him Guilty of  
20 Stalking", and then there is a place for the  
21 foreperson to sign.

22 As I said, earlier, if you find him guilty  
23 of Stalking, that is the end of it, you don't  
24 have to go on and consider these harassment  
25 charges that the State also has made against him

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1 or lesser-includes under the law of this State  
2 in regard to this particular situation.

3 So if you find him "Guilty", then that's the  
4 end of it.

5 But if find that he is not guilty of  
6 stalking, if you should find the State has not  
7 met its burden of proof, then you consider the  
8 charge of Harassment in the First Degree.

9 And so you go back here and we will look at  
10 what Harassment in the First Degree is and that's  
11 at the top of that first page. Harassment in the  
12 First Degree means, (reading) "*A pattern of*  
13 *intentional, substantial, and unreasonable*  
14 *intrusion into the private life of a targeted*  
15 *person...*" -- that's Ms. Brandenburg -- "*...that*  
16 *serves no legitimate purpose and causes the*  
17 *person, and would cause a reasonable person...*",  
18 -- again, it's not just her individually, what  
19 she perceived and thought and concluded insofar  
20 as this is a concern, but it is what a reasonable  
21 person would consider and conclude in this  
22 position. "*... in her position to suffer mental or*  
23 *emotional distress.*"

24 Harassment in the First Degree may include,  
25 but it is not limited to, following the targeted

## JURY CHARGE

1 person, her, following Mrs. Brandenburg, as she  
2 moved from location to location, visual or  
3 physical contact that is initiated, maintained,  
4 or reputed after her person has been provided  
5 oral or written notice that the contact is  
6 unwanted or after the victim has filed an  
7 incident report with a law enforcement agency.  
8 Surveillance of or the maintenance of a presence  
9 near the targeted persons, residence, place of  
10 work, school, or another place regularly occupied  
11 or visited by her, Mrs. Brandenburg.

12 I don't think there has been any  
13 mention of any vandalism of property in this case  
14 so that would not be something that this, that  
15 would be involved. All right.

16 So then you, if you have gotten down to  
17 considering Harassment in the First Degree, again  
18 there are two possible verdicts in regard to  
19 that. *"We, the jury, by unanimous vote find him*  
20 *Not Guilty."* If that be your vote, then that  
21 would be the end of it. You would not have to go  
22 to or consider the next lesser-included offense.

23 Or, *"We, the jury, by unanimous consent find*  
24 *the defendant guilty."*

25 But if you find him not guilty of

## JURY CHARGE

1 Harassment in the First Degree, then you consider  
2 the last charge of Harassment in the Second  
3 Degree.

4 And you find that definition there in  
5 about the middle, or below the middle of that  
6 first page there. Harassment in the Second  
7 Degree means "a pattern of intentional,  
8 substantial, and unreasonable intrusion into the  
9 private life of a targeted person..." -- again,  
10 Mrs. Brandenburg "...that serves no legitimate  
11 purpose and causes the person and would cause a  
12 reasonable person..." -- again, the reasonable  
13 person standard, in her position "...to suffer  
14 mental or emotional distress."

15 (Reading): Harassment in the Second Degree  
16 may include but is not limited to verbal,  
17 written, or electronic contact that is initiated,  
18 maintained, or repeated.

19 So, those are the charges that you may  
20 consider and the definitions of those and how you  
21 should apply the facts as you find them to be and  
22 apply those to that law and reach your verdict in  
23 regard to these charges.

24 Oh, one other thing I wanted to mention  
25 to you. There is in evidence a Court Order and

## JURY CHARGE

1           it does contain what has been referred to a  
2           Mutual Restraining Order and this, of course,  
3           took effect under the law on January 9<sup>th</sup>, 2013.  
4           So, after that, both parties, Mr. Brandenburg and  
5           Mrs. Brandenburg were, under this Order,  
6           (reading): *The parties are mutually restrained*  
7           *from the following: harming, harassing,*  
8           *threatening, following, or interfering with the*  
9           *other in any manner whatsoever; entering or*  
10          *attempting to enter the other's place of*  
11          *residence, employment, or education;*  
12          *communicating or attempting to communicate with*  
13          *the other except through counsel of record;*  
14          *selling, encumbering, hiding, wasting,*  
15          *destroying, or dispose of any assets." That's*  
16          certainly not involved in this case. Or,  
17          *"Incurring any debt, that is not involved in this*  
18          *case. Violating any restrictions on any attached*  
19          *exhibit or visitation schedule which is indicated*  
20          *as applicable to him or her."*

21                           And in connection with that as far as  
22          visitation is concerned, this Order, if you read  
23          it you will see that he does not have any  
24          visitation rights under the terms of this Order  
25          until certain conditions have been met as far as

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1 that's concerned.

2 So, but I want to tell you that, the  
3 fact that he may have violated this Order, and I  
4 am not telling you that he did, but the fact that  
5 he may have violated this Order in regard to what  
6 it says that he is not supposed to do, is not in  
7 and of itself proof of any fact that the State  
8 has to prove in regard to being able to convict  
9 him on one of these charges that you have heard  
10 about that the State makes against him. A  
11 violation of this Order is a separate thing.

12 But it is something that you may want  
13 to consider in deciding how it affected Mrs.  
14 Brandenburg. That is why I let it in for you to  
15 know about that in deciding how it may have  
16 affected her in terms of the various things that  
17 the State must prove in regard to proving him  
18 guilty of one of the charges that are made  
19 against him.

20 A violation of this Order is something  
21 that can be taken up in the Court where this was  
22 issued, the Family Court. That is a different  
23 Court from this Court. This is the Circuit  
24 Court. The Family Court judge that issued this  
25 Order may take up any possible violation and any

## JURY CHARGE

1 punishment for a violation of that Restraining  
2 Order in his Court. So I am telling you that,  
3 if you, that you shouldn't, that you cannot say  
4 he violated this Order, therefore he is auto-  
5 matically guilty of one of these crimes. That's  
6 not true. That's not the law.

7 You can consider it in relation to  
8 whatever impact it may have had on Mrs.  
9 Brandenburg as far as proving the elements of the  
10 crimes that he is charged with, but the fact that  
11 he may have violated this Order in any way is not  
12 in and of itself the proof of anything insofar as  
13 the crimes with which he has been charged are  
14 concerned.

15 Now you were selected in this case, you  
16 sat through the process and you saw that you were  
17 selected in this case by both sides. Both sides  
18 had an equal opportunity to decide who would sit  
19 as the jurors in this case. And they concluded  
20 that you would be fair and impartial jurors. You  
21 were sworn to try this case and determine this  
22 case based on the facts of the case as presented  
23 to you from the witness stand and my instructions  
24 to you on the Law. When you have complied with  
25 your oath to do so, no one will have a right to

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1 criticize your verdict regardless of what that  
2 verdict may be.

3 You have no friends to reward or  
4 enemies to punish. Your job is to do what you  
5 said you would do, decide this case based on your  
6 full and fair evaluation of all the testimony and  
7 all the evidence that has been presented and my  
8 instructions to you on the Law. And as I said,  
9 when you do that, no one will have a right to  
10 criticize you verdict regardless of what that  
11 verdict may be.

12 Your verdict must be unanimous, all  
13 twelve of you must agree on what the verdict is  
14 before you can come back into the Courtroom and  
15 tell us that you have reached a verdict in regard  
16 to these charges that are being submitted to you  
17 in this case. We don't have any majority  
18 verdicts in South Carolina, all twelve of you  
19 must agree.

20 Madam Forelady, you will have with you  
21 in the jury room this verdict form that I have  
22 been looking at and holding up and showing to  
23 you. I would ask that you use that, sign your  
24 name below the appropriate forms there as I have  
25 explained it to you and give it back to us, so



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1 I bring you back out to tell you what I  
2 have overlooked. So, if you would, follow the  
3 bailiff into the jury room, please.

4 (JURY OUT)

5 THE COURT: All right, any exception  
6 to the charge from the State?

7 MS. WHITE: No, sir, Your Honor.

8 THE COURT: From the defendant?

9 MS. BOLEN: No, sir, Your Honor.

10 THE COURT: Other than what you have  
11 already stated as far as the case is concerned.  
12 Let's make it like that. Okay. Nothing new from  
13 you? All right.

14 (COUNSEL APPROVAL OF EXHIBITS)

15 (JURY IN DELIBERATION @ 12:23 P.M.)

16 (NOTIFIED OF VERDICT)

17 (DEFENDANT PRESENT)

18 THE COURT: Bring the jury in. All right  
19 we have the jury -- well, no, here comes the last  
20 one. All right, we have the jury with us and the  
21 parties are present along with their attorneys.

22 All right, let me remind you before we  
23 do anything, remind you of one thing that I told  
24 you. I told you that if you found him guilty  
25 that -- oh, I'm sorry. I see what you did.

1 Okay, I see how you did it. Let me -- I was  
2 misreading what you had done. You have done it  
3 exactly right. Okay.

4 The jury has returned a verdict in  
5 regard to Stalking and all of Not Guilty, which  
6 has been signed by the foreman of the jury.

7 The jury has returned a verdict of  
8 Guilty of Harassment in the First Degree, signed  
9 by the foreperson of the jury and then they  
10 concluded -- they didn't go to the next one as I  
11 told them, properly so. So I appreciate that.

12 I didn't quite see it that way when I  
13 first looked at.

14 So, as I said, they found Mr. Branden-  
15 burg not guilty of the staling but Guilty of  
16 Harassment in the First Degree.

17 Anything prior to discharging the jury?

18 MS. WHITE: No, sir.

19 THE COURT: Nothing from the State.

20 Anything from the Defendant?

21 MS. BOLEN: Nothing from the  
22 defense, Your Honor.

23 THE COURT: Thank you very much,  
24 that finishes you up in regard to this case.

25 I want to thank you for your service.

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1 I'm never really all that interested in what a  
2 jury's verdict is, I am interested in the way  
3 that you go about arriving at your verdict. By  
4 hat, I mean that to my observation you paid  
5 attention during the testimony while the people  
6 were testifying and telling you what they knew  
7 about this case. You paid attention while the  
8 attorneys were summarizing and arguing to you and  
9 you paid attention while I was discussing the  
10 case with you. To my observation, you did all  
11 three of those things, so thank you very much for  
12 you service in regard to this case. If you have  
13 not already done so, I'd ask you to tear out any  
14 notes you may have made, take them with you or  
15 whatever.

16 Leave your notepads and pens in the  
17 jury room so we can collect them and use them on  
18 another trial.

19 I will be sentencing Mr. Brandenburg in  
20 just a few minutes on this conviction, so if you  
21 want to stay with us to see the conclusion as far  
22 as the things are concerned, you are certainly  
23 welcome to do so.

24 There again, if you hadn't done so, go ahead  
25 and tear out any notes you may have made, get

1 your personal belongings, you are free to go.

2 But if you want to stay, you are certainly

3 welcomed to do so.

4 And where is the Indictment? Where is  
5 the Indictment?

6 FOREPERSON: It was all there.

7 THE COURT: No, the Indictment is  
8 not here. I don't think, oh, wait a minute,  
9 here's this, here it is. Here it is. All right,  
10 and before you go, this is what I am going to do.  
11 I am going to ask you -- well I am going to ask  
12 you to, I am going to write it on the back of the  
13 Indictment. What I am doing is, I am writing on  
14 the back of the Indictment the verdict of  
15 "Guilty" of Harassment in the First Degree. And  
16 I am going to ask the Forelady to sign it.

17 (JURY EXCUSED)

18 THE COURT: All right, so Mr.  
19 Brandenburg, come on up, please. And I'll need a  
20 sentencing sheet from the Solicitor.

21 MS. WHITE: (Tenders).

22 THE COURT: All right, and so now  
23 Mr. Brandenburg has been convicted of Harassment,  
24 First Degree and the punishment for that is up to  
25 three years in the penitentiary. Solicitor,

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1 anything you want to say as far as this case is  
2 concerned?

3 MS. WHITE: Yes, sir, Your Honor. I  
4 wanted to share his prior history with the Court.  
5 He has from:

6 1989, an open container

7 1990, driving under suspension

8 1991, driving under suspension and  
9 possession of burglary tools.

10 1991, he received a YOA.

11 1991, a credit card fraud that looks  
12 like it was concurrent, violates his terms of  
13 probation.

14 1991, also a breaking into a motor  
15 vehicle and grand larceny.

16 1993, Simple Possession of Marijuana  
17 and Possession of Drug Paraphernalia and he  
18 received a fine.

19 1996, Public Disorderly Conduct. He  
20 received a fine of twenty days.

21 1998, Fraudulent Check. He received  
22 thirty days or pay restitution.

23 2001, Violation of the Order of  
24 Protection, or Protective Order, for which he  
25 received \$1000 fine or thirty days.

1                   2001, Possession of Marijuana.

2                   That is the extent of his criminal history.

3                   THE COURT:     Is Mrs. Brandenburg still  
4                   here?

5                   MS. WHITE: Yes, sir.

6                   THE COURT:     Is there anything else  
7                   you want to say, be glad to hear from you. You  
8                   don't have to but be I'll be glad to hear from  
9                   you, anything else you want say.

10                  MRS. BRANDENBURG:     No, sir.

11                  THE COURT:     All right. I do want to  
12                  say of course of course to you, that you do, or  
13                  certainly have the right to pursue any matter in  
14                  the Family Court, I don't know how that stands as  
15                  far as what the situation is in regard to the  
16                  divorce or anything like that is concerned. But  
17                  as far as any action on his part that you feel  
18                  violated that Order, you know, you can go back to  
19                  the Family Court and pursue that through the  
20                  proper channels with the Family Court, and all,  
21                  as far as that's concerned.

22                  So, you know, it is entirely up to you.  
23                  I know you would have to have a lawyer, you would  
24                  have to spend some more money on a lawyer and so  
25                  forth and everything but just want to make sure

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1 you understand that you do have ---

2 MRS. BRANDENBURG: I still have a  
3 lawyer, we are still are working through Family  
4 Court as well, Your Honor.

5 THE COURT: Okay. All right.  
6 Well, I just want to make sure, that you  
7 understood that is an entirely separate matter  
8 and you can pursue whatever you want to as far as  
9 that's concerned.

10 MS. WHITE: Your Honor, I did just  
11 want to share one further thing. I think the  
12 Court heard a little bit about this during some  
13 of the pretrial motions.

14 THE COURT: Pretrial, yes.

15 MS. WHITE: That Mr. Brandenburg,  
16 that there was a mental decline prior to their  
17 separation. He was evidencing some belief that  
18 he was a Deity, threatened to sacrifice the  
19 children and so the State is asking for mental  
20 evaluation and criminal health counseling.

21 THE COURT: And that was, of course,  
22 included in that Family Court Order. All right.  
23 All right, anything else?

24 MS. WHITE: No, Your Honor. Thank  
25 you.

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1 THE COURT: I mean that was, I was  
2 aware of that and that was included in that  
3 Family Court Order.

4 MS. WHITE: Yes, sir.

5 THE COURT: All right, now we switch  
6 to the other side, Ms. Bolen or Ms. Nelson either  
7 one or both?

8 MS. BOLEN: Thank you, Your Honor.  
9 May it please the Court. I think most of what  
10 I was going to say, you already are aware of  
11 through our pretrial motions and discussions.  
12 This is a situation where a marriage broke up and  
13 his motivations really were to just try and have  
14 a relationship with the kids. I would just like  
15 Your Honor to take into consideration that he has  
16 got about eight months of credit.

17 THE COURT: Yeah, I -- when was he  
18 arrested? Do you know?

19 MS. BOLEN: This charge in April.

20 THE COURT: Okay. Do you know the  
21 exact date? Look and see if you can figure out  
22 both of you, whenever it was. Because I would  
23 like to go ahead and write that on the sentence  
24 sheet too. Because he is entitled to credit for  
25 any preconviction jail time.

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1 MS. WHITE: April 18<sup>th</sup> of this year,  
2 Your Honor, and then a few days ---

3 MS. BOLEN: He had about a week on  
4 the other in jail.

5 THE COURT: Well, are you saying  
6 April 18<sup>th</sup> and then plus?

7 MS. BOLEN: Right, plus ---

8 THE COURT: So, have you counted up  
9 from April 18?

10 MS. BOLEN: I can do it, Your Honor.

11 THE COURT: Uh?

12 MS. BOLEN: I can do it.

13 THE COURT: All right. How about you  
14 doing that right quick? I like to go ahead and  
15 calculate that and write it on here so SCDC  
16 doesn't have to spend money writing up here and  
17 the County spend money writing back.

18 MS. BOLEN: It's two hundred thirty-  
19 two (232) days, Your Honor, since the April  
20 incarceration and then you would need to add ---

21 THE COURT: And I give him seven,  
22 I'll give him seven on that, you know so that I  
23 believe that is 239. All right, anything else,  
24 Ms. Bolen or Ms. Nelson?

25 MS. BOLEN: Nothing further.

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1 THE COURT: All right and Mr.  
2 Brandenburg, anything you would like to say?  
3 You don't have to but I am going to give you the  
4 opportunity.

5 MR. BRANDENBURG: My intentions have  
6 been honorable the whole time, sir.

7 THE COURT: I'm sorry?

8 MR. BRANDENBURG: My intentions have  
9 been honorable the whole time.

10 THE COURT: All right. Well, I am  
11 sure that you were, that you did have at least in  
12 your mind, good intentions but your judgment was  
13 not what it should have been.

14 All right, now Mrs. Brandenburg I ask  
15 you as part of his probation, I am going to, he  
16 is going to be sentenced and at the end of  
17 serving the sentence he is going to have a term  
18 of probation and I am asking you do you want me  
19 to include a No Contact Provision as a term of  
20 probation? I know there is already that  
21 Restraining Order as far as the Family Court and  
22 I presume that it will be some type of provision  
23 like that perhaps in any future Family Court  
24 Order, but I can also make that a term of any  
25 probation if you want me to.

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1 MRS. BRANDENBURG: Yes, sir, and I  
2 would appreciate it if you would.

3 THE COURT: All right.

4 MS. BOLEN: Your Honor, could we add  
5 just one thing?

6 THE COURT: Yes, ma'am.

7 MS. BOLEN: He is, in the event that  
8 he is given visitation rights in the future in  
9 Family Court, would there be an alternate person  
10 he could contact to see about visitation?

11 THE COURT: Well, let me read you  
12 the language and then we'll see what you want me  
13 to do as far as any modification is concerned.

14 MS. BOLEN: Thank you, Your Honor.

15 THE COURT: All right. Well the  
16 special terms are going to be a mental health  
17 evaluation per the Family Court Order now, and  
18 any further Orders of the Family Court.  
19 Visitation with the children only per Family  
20 Court Order, no contact with Angela Brandenburg  
21 except by Family Court Order.

22 So, I am basically turning over any  
23 future contact but it's also a term of probation  
24 so that if you violate that in any way, Mr.  
25 Brandenburg, you can be dealt with here in the

1 Circuit Court as well as anything that the Family  
2 Court may do. So you got double jeopardy so to  
3 speak in regard to this and all, in a way, -- not  
4 the constitutional double jeopardy but neverthe-  
5 less, you got two things involved as far as any  
6 future conduct is concerned. Whatever the Family  
7 Court orders and also what I just said as far as  
8 this is concerned because you are going to serve  
9 some time and then you are going to be out on  
10 probation and these conditions apply during that  
11 probation. If you violate, you go to prison. Do  
12 you understand that?

13 MR. BRANDENBURG: Yes, sir.

14 THE COURT: All right. All right.  
15 Well, as I said, you do get credit for jail time  
16 and that is right at eight months and all and by  
17 the time the Department of Corrections gives you  
18 good time credits and so forth that's probably  
19 going to equal about a year in terms of what a  
20 sentence would mean. I do think that you deserve  
21 a taste of what -- you have already served time  
22 in the Abbeville County Jail and although this is  
23 not amongst the most serious of these types of  
24 offenses, nevertheless, I think that as a  
25 deterrent you should, at least, experience some

1 further confinement with SCDC. So that is why I  
2 am going to do what I am going to do.

3 The sentence on this is three (3) years  
4 in the penitentiary, but that is suspended on the  
5 service of sixteen (16) months with SCDC with  
6 five (5) years of probation to follow that.

7 As I said, you get credit for two  
8 hundred thirty-nine (239) days jail time, credit  
9 toward that with special terms and conditions, or  
10 as I mentioned earlier, and I have written on  
11 this Order. Good luck to you.

12 MS. WHITE: Thank you, Your Honor.

13 MS. BOLEN: Thank you, Your Honor.

14 (COURT ADJOURNED)

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**WITNESSES**

Chris Wilkie  
Abbeville Police Department

**THE STATE OF SOUTH CAROLINA**

COUNTY OF ABBEVILLE

**COURT OF GENERAL SESSIONS**

December Term, 2013

Indictment # 13GS01-0418

**WARRANT NUMBER**

2013D0100100103

**THE STATE**

vs.

Charles Moody Brandenburg



Foreman of the Grand Jury

Date: DEC 02 2013

**TRUE BILL**

**INDICTMENT FOR**

**STALKING**  
16-03-1730

CDR: 2406

**VERDICT**

*Guilty of harassment  
FIRST DEGREE.  
Dawn Buncen*  
Foreman

**THE STATE OF SOUTH CAROLINA**

COUNTY OF ABBEVILLE

**INDICTMENT FOR****STALKING  
16-03-1730**

At a Court of General Sessions, convened on the 2<sup>nd</sup> day of December, 2013, the Grand Jurors of Abbeville County present upon their oath:

That Charles Moody Brandenburg, in Abbeville County, between the dates of September 1, 2012 and February 28, 2013, did willfully and unlawfully stalk Angela Brandenburg, by using a pattern of words or conduct that was intended to cause and did cause the targeted person and would have caused a reasonable person in the said targeted person's position to fear: death; assault; bodily injury; kidnapping; and/or damage to property, of the said targeted victim and/or a member of her family, in violation of the provisions of Section 16-3-1700 and Section 16-3-1730 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.



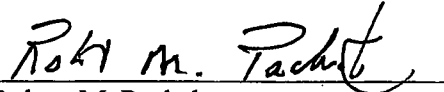
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Assistant Solicitor

## 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."

June 13, 2014



Robert M. Pachak  
Appellate Defender

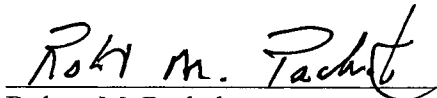
South Carolina Commission on Indigent Defense  
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ATTORNEY FOR APPELLANT

## 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."

June 13, 2014



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ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Abbeville County

Thomas L. Hughston, Jr., Circuit Court Judge

RECEIVED

JUN 13 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CHARLES MOODY BRANDENBURG,

APPELLANT

APPELLATE CASE NO. 2013-002655

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 13th day of June, 2014.

*Brandon Hall*

Brandon Hall  
Administrative Specialist

SUBSCRIBED AND SWORN TO before me  
this 13th day of June, 2014.

*Talal McKen* (L.S.)  
Notary Public for South Carolina  
My Commission Expires: July 24, 2022.