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SC Court of Appeals

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

Kristi Lea Harrington, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSHUA JAMES PARKER,

APPELLANT

APPELLANT CASE NO. 2015-001287

RECORD ON APPEAL

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1 (State's Exhibit No. 1, 911 call, was marked for
2 identification.)

3 (State's Exhibit 2, Marriage license, was received
4 in evidence.)

5 (State's Exhibit 3, Photo of victim, was marked
6 for identification.)

7 (State's Exh. 4, Photo of victim's face, was
8 marked for identification.)

9 THE COURT: Solicitor, what's ready? Who's ready?

10 MS. SIGAL: Your Honor, State vs. Joshua Parker is
11 ready. We have on the trial docket.

12 THE COURT: Ready for a trial? Ready for plea?

13 MS. SIGAL: We are ready for a trial, Your Honor.

14 THE COURT: Anything before we bring in the jury,
15 qualification?

16 MR. GROEBER: My client would ask that I be removed
17 as his counselor, Your Honor. He's just notified me of
18 that.

19 THE COURT: All right. Are you Mr. Parker?

20 THE DEFENDANT Yes, ma'am.

21 THE COURT: Please stand. Mr. Parker, I'm going to
22 place you under oath.

23 JOSHUA JAMES PARKER,

24 having been duly sworn, testifies as follows:

25 THE COURT: Mr. Parker, you have an announcement

1 for the Court?

2 THE DEFENDANT: I don't think I'm being fully
3 represented by Mr. Groeber.

4 THE COURT: What led you to that conclusion?

5 THE DEFENDANT: Just how all of this has come about
6 and how I'm standing in front of you today, meaning I have
7 prior charges with the same victim and I'm here for alleged
8 second CDV third. And I'm still on bond for prior CDV third
9 with the victim.

10 THE COURT: I'm failing to understand your logic,
11 Mr. Parker. Tell me what it is that you think should happen
12 here today.

13 THE DEFENDANT: I would like to seek other
14 counsel.

15 THE COURT: And on what grounds?

16 THE DEFENDANT: I don't think I'm being represented
17 to my fullest by Mr. Groeber.

18 THE COURT: When did you come to that realization,
19 Mr. Parker?

20 THE DEFENDANT: I've been felt this way, but today
21 is just -- I haven't met with Mr. Groeber maybe three times
22 in the last three years, and he's my public defender on both
23 these cases.

24 THE COURT: This happened in 2013?

25 THE DEFENDANT: No, ma'am. The one I'm on trial

1 for supposedly happened December of 2014.

2 THE COURT: I have two, one December 2014, are you
3 going forward on both of them?

4 MS. SIGAL: We are going forward on the December
5 26th, 2014, charge, Your Honor.

6 THE COURT: So have you talked to another attorney?

7 THE DEFENDANT: No, ma'am, I have not.

8 THE COURT: And so what did you think was going to
9 happen here today?

10 THE DEFENDANT: I thought we was going to go to
11 trial. And I didn't know it was a jury trial, to begin
12 with. And I was going to ask for a jury trial, but now that
13 we have a jury trial, I'm not so sure Mr. Groeber will
14 represent me to his fullest.

15 THE COURT: You've gotten what you've wanted.
16 You've got a jury trial. And you will be the first up. And
17 I haven't heard anything that causes me concerns.

18 Mr. Groeber, are you prepared?

19 MR. GROEBER: Yes, Your Honor.

20 THE COURT: All right. So we will be going
21 forward, Mr. Parker, on the 2015-GS-08-329. Anything
22 further?

23 THE DEFENDANT: I mean, I didn't think that was
24 possible, but I could be mistaken. I mean, I don't think
25 he's going to fully represent me, but we are still going on

1 with the trial?

2 THE COURT: Correct.

3 THE DEFENDANT: And that's legal?

4 THE COURT: It is the decision that I have made.

5 Mr. Groeber is a zealous advocate, very competent attorney.

6 He's indicated he is ready to represent you.

7 THE DEFENDANT: Okay. Yes, ma'am.

8 THE COURT: All right.

9 (Whereupon, a recess is taken.)

10 THE COURT: Ms. Sigal, has there been any offer
11 made?

12 MS. SIGAL: Your Honor, the State made an offer to
13 dismiss the 2013 CDV third in lieu of a plea to the 2014 CDV
14 third. And it's my understanding that offer has been
15 rejected.

16 THE COURT: Did you convey that offer, Mr. Groeber?

17 MR. GROEBER: I did, Your Honor.

18 THE COURT: And CDV carries?

19 MS. SIGAL: One to five years, Your Honor.

20 THE COURT: Mr. Parker, was that offer conveyed to
21 you?

22 THE DEFENDANT: Not to my recollection, Your Honor,
23 no, it was not.

24 THE COURT: And if that offer were conveyed to you
25 today, would you accept that offer?

1 THE DEFENDANT: I'm not sure. I can't -- all of
2 this is coming to me and I'm dealing with all of this right
3 now, and it's a lot for me. So I'm not sure if I would take
4 that or not.

5 THE COURT: All right. Mr. Groeber, while I take
6 the plea, why don't you step out with Mr. Parker. Mr.
7 Schwacke, you are sitting second chair?

8 MR. SCHWACKE: Yes, ma'am.

9 THE COURT: You were just there. I didn't know if
10 you were --

11 MR. SCHWACKE: I'm assisting Mr. Groeber.

12 THE COURT: Why don't you step out, see if that
13 offer were conveyed to you -- to Mr. Parker and he would
14 take that offer. And at this point, Ms. Sigal, I'm not
15 saying that you have to, but if he's saying it wasn't
16 conveyed to him, I would think it's best practice to keep
17 that offer open. Just let me know. Thank you.

18 MS. SIGAL: Thank you, Your Honor.

19 (Whereupon, a recess takes place.)

20 MR. GROEBER: We have discussed the offer, or prior
21 offer. I believe he still wishes to reject that.

22 THE COURT: All right. Mr. Parker, do you wish to
23 accept that offer or reject that offer?

24 THE DEFENDANT: I do not accept it.

25 THE COURT: All right. So you understand that the

1 State will be trying both cases, not today, but that they
2 will at some point try both of these indictments.

3 THE DEFENDANT: I'm getting notice of it now, Your
4 Honor. But as I said before, me and Groeber, we haven't had
5 that much time to sit down and talk and go over things. So
6 I'm not exactly sure what is going on. And that's why I
7 feel I'm being misrepresented.

8 THE COURT: And when was the last time you called
9 Mr. Groeber?

10 MR. GROEBER: I met with him for the first time
11 about this case and actually sat down and talked with him
12 last Tuesday.

13 THE COURT: I'm sorry?

14 THE DEFENDANT: Last Tuesday.

15 THE COURT: Was that the only time he asked you to
16 come in?

17 THE DEFENDANT: Yes, and discuss the case, yes,
18 ma'am.

19 THE COURT: Do you know where his office is?

20 THE DEFENDANT Yes, ma'am, right here in Moncks
21 Corner. I've been to his office --

22 THE COURT: Is there any reason that you didn't
23 stop in and meet with him yourself?

24 THE DEFENDANT: He was never there or he's always
25 busy doing something else.

1 THE COURT: How do you know that?

2 THE DEFENDANT: I mean, I don't know that for a
3 fact, Your Honor.

4 THE COURT: You are making assumptions?

5 THE DEFENDANT: No, ma'am, I'm not making
6 assumptions. I mean, if he's my lawyer, I figured -- no,
7 ma'am, I'm not making assumptions.

8 THE COURT: You just told me he was busy or not
9 there. So if you don't know that to be true, then the only
10 other thing is that you are either lying to me or you are
11 assuming.

12 THE DEFENDANT: I guess I would be assuming, Your
13 Honor.

14 THE COURT: And so then by that same analogy, I'm
15 assuming that I assume that you are making assumptions that
16 you don't really know whether or not Mr. Groeber has been
17 working on this case, you just think that he has not.

18 THE DEFENDANT: I feel that he hasn't enough.

19 THE COURT: What do you base that on, Mr. Parker?

20 THE DEFENDANT: Just like, for instance, I have
21 nothing in front of me. I don't know exactly what, like,
22 all my evidence against me and all that, I don't have
23 nothing. I don't know how this works. I don't know how
24 it's going to work. And, I mean, I've been offered a plea
25 just now for y'all -- or, I'm sorry, not y'all, but for the

1 prosecutor to overlook one CDV third for me to plead to this
2 one. And I mean, I'm not -- I just need some time to sit
3 here and let all of this sink in.

4 THE COURT: How much time do you think you need?

5 THE DEFENDANT: Tomorrow, I will be here tomorrow.
6 And I'm sure I can sleep on it and I will feel better about
7 the situation. Maybe me and Mr. Groeber can sit down and go
8 over all of this where it's fresh in my mind.

9 THE COURT: Mr. Groeber, have you gone over this
10 matter with your client?

11 MR. GROEBER: We've discussed possible witnesses
12 and investigation over the phone before last Tuesday. We
13 also discussed that on Tuesday. And that was the last time
14 I've spoken.

15 THE COURT: Have you had Mr. Parker scheduled to
16 come in and he hasn't come in?

17 MR. GROEBER: I would have to look that up, Your
18 Honor. I know we met in my office at least three times over
19 the last two years almost since the very first charge. I
20 know we've spoken on the phone numerous times since his most
21 recent arrest. And, actually, he was in court two or three
22 times on a bond matter before Your Honor once. So we met
23 and talked about the case those times as well.

24 I think -- we were supposed to meet Friday, but he
25 had a lot of -- I understand he had a lot of car trouble,

1 phone trouble, trouble on Friday. So he wasn't able to come
2 in on Friday where we would have talked a little bit more
3 about specifically this trial, but I would --

4 THE COURT: Mr. Parker, you've had some issues that
5 have prevented you from meeting Mr. Groeber; is that
6 correct?

7 THE DEFENDANT: Just this past Friday, yes, ma'am,
8 I was working and my car did break down, yes, ma'am.

9 THE COURT: Mr. Groeber, are you ready to pick a
10 trial today?

11 MR. GROEBER: I'm prepared to go forward today.

12 (Whereupon, a recess is taken.)

13 THE COURT: Your client waives formal arraignment?

14 MR. GROEBER: Yes, Your Honor.

15 THE COURT: Ladies and gentlemen, the case that we
16 are about to begin is the case of the State vs. Joshua James
17 Parker.

18 I need you to remain seated, remain seated. You
19 are staying with us. Thank you. Mr. Durban, I need you at
20 the table.

21 MR. DURBAN: I'm coming back, Your Honor.

22 THE COURT: The State vs. Joshua James Parker,
23 Indictment 2015-GS-08-392. The State alleges and has
24 indicted Mr. Parker for the offense of criminal domestic
25 violence. The State alleges that in Berkeley County, on or

1 about December 26th, 2014, the defendant, Joshua James
2 Parker, did cause physical harm or offer or attempt to cause
3 physical harm to Jennifer Parker, a family or household
4 member, with the apparent present ability under the
5 circumstances reasonably creating fear of imminent peril in
6 violation of Section 16-25-20 of the South Carolina Code of
7 Laws, 1976 as amended. Mr. Parker has pled not guilty to
8 this indictment.

9 Mr. Groeber, if you would please stand, introduce
10 Mr. Parker, as well as a little bit about yourself and any
11 persons who may be assisting you throughout this trial, and
12 understanding the table is a little full.

13 MR. GROEBER: Yes, Your Honor. Thank you very
14 much. My name is Cody Groeber. I have the pleasure of
15 representing Joshua Parker, who is standing before you
16 today. Also assisting me in the case will be another
17 attorney from the Public Defender's Office, David Schwacke
18 here. Thank you very much for your time here today.

19 THE COURT: Is there any member of the jury panel
20 related by blood, marriage, close personal friend, ever have
21 any business, personal or professional dealings or related
22 to Mr. Parker in any way? If so, please stand.

23 (No response from the jury.)

24 THE COURT: Thank you. There are none. Any member
25 of the jury panel related by blood, marriage, close personal

1 friend, ever have any business, personal or professional
2 dealings or any matters handled by Public Defender's Office
3 for Charleston or Berkeley? If so, please stand.

4 Yes, juror number and name?

5 PROSPECTIVE JUROR: 211, Brandon Baker. And
6 Mr. Schwacke is my attorney right now on pending charges.

7 THE COURT: And currently pending charges, sir?

8 All right. And your juror number?

9 PROSPECTIVE JUROR: 211.

10 THE COURT: I'm going to protect you from the trial
11 of this case. Please do not answer any more questions
12 regarding this matter and you will receive further
13 instructions later. Thank you.

14 Is there anyone else?

15 (No response from the jury.)

16 THE COURT: Thank you. There are none.

17 Ms. Sigal, if you would please stand and introduce
18 yourself and any persons who may be assisting you throughout
19 this trial.

20 MS. SIGAL: Good morning. My name is Price Sigal
21 and I work for the Ninth Judicial Circuit Solicitor's Office
22 for the elected solicitor Scarlet Wilson. Assisting me this
23 week is Wilton McNeely also with the Solicitor's Office.
24 Thank you.

25 THE COURT: Is there any member of the jury panel

1 related by blood, marriage, close personal friend, ever have
2 any business, personal or professional dealings, or you know
3 Ms. Sigal or Mr. McNeely in any way? If so, please stand.

4 (No response from the jury.)

5 THE COURT: Thank you. There are none. Any member
6 of the jury panel related by blood, marriage, close personal
7 friend, to anybody currently working in the Solicitor's
8 Office, either Charleston or Berkeley County? If so, please
9 stand.

10 (No response from the jury.)

11 THE COURT: Thank you. There are none. Any member
12 of the jury panel have any business whatsoever with the
13 Solicitor's Office or the Public Defender's Office in either
14 county? If so, please stand.

15 Yes, your juror number and name?

16 PROSPECTIVE JUROR: Juror No. 177, I'm currently a
17 victim of attempted murder.

18 THE COURT: Here in Berkeley County?

19 PROSPECTIVE JUROR: In Berkeley County.

20 THE COURT: And who is handling your case?

21 PROSPECTIVE JUROR: I don't remember the
22 solicitor.

23 THE COURT: One of the solicitors here in Berkeley
24 County?

25 PROSPECTIVE JUROR: uh-huh.

1 THE COURT: Tell me your juror number.

2 PROSPECTIVE JUROR: 177.

3 THE COURT: I'm going to protect you from the trial
4 of this case. Please do not answer any further questions.
5 All right. Thank you.

6 Is there anyone else?

7 PROSPECTIVE JUROR: I'm Juror No. 163. I have had
8 dealings with the Solicitor's Office, but my practice is not
9 focused on criminal law, so it's far and few between.

10 THE COURT: Anything about your current legal
11 practice that would affect your ability to be fair and
12 impartial in this case.

13 PROSPECTIVE JUROR: No, Your Honor.

14 THE COURT: All right. Thank you, Mr. Rossington.
15 Anyone else?

16 (No response from the jury.)

17 THE COURT: Thank you. There are none. The list
18 of potential witnesses who may be called to testify in this
19 case are Jennifer Lynn Parker, Kim Schwartz, Melissa Jacumin
20 with the Berkeley County dispatch, Michelle Ward, Berkeley
21 County Sheriff's Office, Zachary Wright, Berkeley County
22 Sheriff's Office, Amanda Jones, Berkeley County Sheriff's
23 Office, Jerome Clark, Department of Social Services, Dr.
24 Alyssa Rheingold, M.U.S.C. National Crime Victims Research
25 Center, Stephanie Stupalski with the Ninth Circuit

1 Solicitor's Office. Anyone related by blood, marriage,
2 close personal friend with any of those individuals? If so,
3 please stand.

4 Yes, ma'am, your juror number and name?

5 PROSPECTIVE JUROR: 209, Scarlett Yusko, I'm
6 friends with Kim Schwartz.

7 THE COURT: With Kim Schwartz?

8 PROSPECTIVE JUROR: That's what you said?

9 THE COURT: Yes, ma'am. Anything about that that
10 would affect your ability to be fair and impartial in this
11 case?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you know anything about this case?

14 PROSPECTIVE JUROR: No. As a matter of fact, I
15 didn't, and I did not even know.

16 THE COURT: Tell me your juror number and name.

17 PROSPECTIVE JUROR: 209, Scarlett Yusko.

18 THE COURT: Thank you.

19 Is there anyone else?

20 (No response from the jury.)

21 THE COURT: Thank you. There are none.

22 Any member of the jury panel related by blood,
23 marriage, or you yourself have ever worked for the Berkeley
24 County dispatch, Berkeley County Sheriff's Office,
25 Department of Social Services, or the M.U.S.C. National

1 Crime Victims Research Center? If so, please stand.

2 (No response from the jury.)

3 THE COURT: Thank you. There are none.

4 Any member of the jury panel currently or formerly
5 a law enforcement officer? If so, please stand.

6 (No response from the jury.)

7 THE COURT: Thank you. There are none.

8 Is there any member of the jury panel that has
9 previously been a witness in either a civil or a criminal
10 case? If so, please stand.

11 (No response from the jury.)

12 THE COURT: Thank you. There are none.

13 Is there any member of the jury panel or a member
14 of your immediate family that's a member of a victim's right
15 or law enforcement organization such as Citizens Against
16 Violent Crime, People Against Rape, Mothers Against Drunk
17 Driving, anything of that nature? If so, please stand.

18 Yes, your juror number and name?

19 PROSPECTIVE JUROR: 18, Cortney Bowers, my aunt is
20 in Mothers against Drunk Driving.

21 THE COURT: Anything about that that would affect
22 your ability to be fair and impartial in this case?

23 PROSPECTIVE JUROR: No, ma'am.

24 THE COURT: And your juror number before you sit
25 down?

1 PROSPECTIVE JUROR: 18.

2 THE COURT: Thank you.

3 Ladies and gentlemen, I have just a few questions
4 to determine that I think that you need to come forward and
5 speak with me in private. Is there any member of the jury
6 panel that has ever been the victim of a violent crime or
7 you have been accused of a violent crime? If you need to
8 answer either of those questions, please come forward to
9 this center.

10 And then my final question to you: Is there
11 anything about this case that I have read to you, and you
12 only know the indictment, which is just the notice document
13 that contains the allegations -- just wait one second so you
14 can listen to all my questions and not be distractible to
15 the other members of the panel. But if there's some reason
16 that you feel, based upon what was read to you in the
17 indictment, that you would be unable to listen to the facts
18 from the witness stand, apply the law as I give it to you,
19 and render a verdict based only upon those things free from
20 any personal, political, moral or religious beliefs that you
21 may have. What the State and the defense deserves is a
22 juror who is able to listen to the facts from the witness
23 stand, apply the law as I give it, and render a verdict
24 based only upon those things. If you feel that you can't be
25 that fair and impartial juror, or if you need to speak with

1 me about any other questions, please move forward to the
2 center aisle.

3 THE CLERK: 149, Timothy Pruitt.

4 PROSPECTIVE JUROR: I was a victim of CDV.

5 THE COURT: Here in Berkeley County or somewhere
6 else?

7 PROSPECTIVE JUROR: Berkeley County, yes, ma'am.

8 THE COURT: Was that case prosecuted?

9 PROSPECTIVE JUROR: I dismissed it. I dropped the
10 charges.

11 THE COURT: Is there anything about that that would
12 affect your ability to be fair and impartial in this case?

13 PROSPECTIVE JUROR: Negative. No, ma'am.

14 THE COURT: All right. I'm going to have you stay
15 with us, Mr. Pruitt. Thank you.

16 169 will remain.

17 THE CLERK: 124, Monica McKean.

18 PROSPECTIVE JUROR: I don't think I could be
19 impartial.

20 THE COURT: Tell me why.

21 PROSPECTIVE JUROR: It's a criminal domestic
22 violence. It's between he said/she said, I'm just not going
23 to be impartial. I'm not going to be put to the point where
24 I have to believe one or the other based on whatever. I'm
25 not going to do it. I just can't do it.

1 THE COURT: Will you be able to listen to the facts
2 from the witness --

3 PROSPECTIVE JUROR: No.

4 THE COURT: Let me finish my questions. All right?
5 Will you be able to listen to the facts from the witness
6 stand, apply the law as I give it to you, and render a
7 verdict based only upon those things?

8 PROSPECTIVE JUROR: No.

9 THE COURT: Juror 124 is excused from the trial of
10 this case.

11 I need you to stay with us. And you will receive
12 further instructions. Thank you.

13 THE CLERK: 46, Amanda Cowan.

14 PROSPECTIVE JUROR: I've been arrested for assault
15 and battery, so -- but it was dismissed.

16 THE COURT: All right. Here in Berkeley County or
17 somewhere else?

18 PROSPECTIVE JUROR: It was in Richland County in
19 Columbia. And I've also recently just got an out of an
20 abusive relationship.

21 THE COURT: Anything about that that would affect
22 your ability to be fair and impartial in this case?

23 PROSPECTIVE JUROR: It might. I'm not sure.

24 THE COURT: I'm going to protect you from the trial
25 of this case, but stay with us.

1 46 is protected.

2 THE CLERK: 125, Richard McQuoid.

3 PROSPECTIVE JUROR: In 2006, my wife came home
4 drunk and attacked me and was taken away by police. She
5 went to rehab for a month, then hit me over the head with a
6 pocketbook again. So I think I would be pretty prejudice in
7 this case. That's my ex-wife, by the way.

8 THE COURT: 125 is protected from this case. Stay
9 with us, but you don't have to answer any more questions.

10 THE CLERK: 133, Cristain Miramontes.

11 PROSPECTIVE JUROR: 12 years military law
12 enforcement and I have no tolerance for people hitting on
13 their wife.

14 THE COURT: Will you be able to listen to the facts
15 from the witness stand, apply the law as I give it to you
16 and render a verdict based upon those things?

17 PROSPECTIVE JUROR: Sure.

18 THE COURT: All right.. I will have you stay with
19 us.

20 33 will remain.

21 MS. SIGAL: I didn't hear what he said.

22 THE COURT: He said he doesn't have a tolerance
23 because he was in the military, he doesn't have a tolerance
24 for people that hit their wives.

25 PROSPECTIVE JUROR: I was a victim of domestic

1 violence in college, so I don't feel like I could give a --
2 I'm 114.

3 THE COURT: I'm going to protect you from the trial
4 of this case. You don't have to answer any more questions
5 about that.

6 114 is protected from the trial of this case.
7 Thank you.

8 THE CLERK: Juror 67, Gary Free.

9 PROSPECTIVE JUROR: My best friend and my sister
10 were both victims of domestic violence, and I won't be able
11 to give an impartial judgment.

12 THE COURT: I'm going to protect you from the trial
13 of this case. But please stay with us. Don't answer any
14 more questions.

15 67 is protected.

16 THE CLERK: 178, Noah Shuler.

17 PROSPECTIVE JUROR: I'm against capital
18 punishment.

19 THE COURT: This isn't a capital punishment crime.
20 Capital punishment is death and this does not qualify. So
21 I'm going to have you stay with us.

22 178 will remain.

23 Is there anyone else?

24 Any additional questions, Mr. Groeber?

25 MR. GROEBER: No, Your Honor. Thank you.

1 THE COURT: Ms. Sigal?

2 MS. SIGAL: No, Your Honor.

3 THE COURT: Strikes are 5 and 5. Pick two
4 alternates.

5 The State ready?

6 MS. SIGAL: Yes, Your Honor.

7 THE COURT: Defense ready?

8 MR. GROEBER: Yes, Your Honor.

9 THE COURT: All right.

10 THE CLERK: As before, when I call your name,
11 please come forth and bring your personal belongings with
12 you. If I say seat the juror, please have a seat in the
13 jury box. If I say excuse the juror, please return to your
14 seats and please follow the instructions of the bailiff.

15 Juror number 2, Patricia Allen.

16 MR. GROEBER: Your Honor, may I approach?

17 THE COURT: Does your sister-in-law work at the
18 Solicitor's Office?

19 PROSPECTIVE JUROR: I couldn't remember where she
20 worked. It wouldn't -- I was thinking I need to call my
21 husband. It's his sister.

22 THE COURT: I'm going to go ahead and excuse you
23 from the trial of this case. Have a seat until you get
24 further instructions. Thank you.

25 THE CLERK: Juror 192, Jonathan Turner. What says

1 the State?

2 [REDACTED]AL: Please present this juror.

3 THE CLERK: What says the defendant?

4 MR. GROEBER: Please seat the juror.

5 THE CLERK: Seat the juror.

6 Juro[REDACTED]odante Carlos.

7 What says the State?

8 MS. SIGAL: Please seat the juror.

9 THE CLERK: What says the defendant?

10 MR. GROEBER: Please seat this juror.

11 THE CLERK: Seat the juror.

12 Juror 116, [REDACTED]er Lichauco.

13 What says the State?

14 MS. SIGAL: Please excuse the juror.

15 THE CLERK: Excuse the juror.

16 Juror 193, Kevin Updike.

17 What says the State?

18 MS. SIGAL: Please present this juror.

19 THE CLERK: What says the defendant?

20 MR. GROEBER: Please seat the juror.

21 THE CLERK: [REDACTED]he juror.

22 Juror 194, Charles Vallas. [REDACTED]

23 [REDACTED] What says the State?

24 MS. SIGAL: Please present this juror.

25 THE CLERK: What says the defendant?

1 MR. GROEBER: Please seat the juror.
2 [REDACTED]RK: Seat the juror.
3 Juror 93, Samuel Holmes.
4 What says the State?
5 MS. SIGAL: Please excuse the juror.
6 THE [REDACTED] Excuse the juror.
7 Juror 50, Patrick Daly.
8 What says the State?
9 MS. SIGAL: Please present this juror.
10 THE CLERK: What says the defendant?
11 MR. GROEBER: Please excuse the juror.
12 THE CLERK: [REDACTED]e the juror.
13 Juror 42, Paul Connell.
14 What says the State?
15 MS. SIGAL: Please present this juror.
16 THE CLERK: What says the defendant?
17 MR. GROEBER: Please excuse the juror.
18 THE CLERK: Excuse the juror.
19 Juror 26, Anthony Brown.
20 What says the State?
21 MS. SIGAL: [REDACTED] present this juror.
22 THE CLERK: What says the defendant? [REDACTED]
23 [REDACTED] MR. GROEBER: Please seat the juror.
24 THE CLERK: Seat the juror.
25 Juror 159, Tashauna Ritenour.

1 What says the State?

2 [REDACTED]AL: Please present this juror.

3 THE CLERK: What says the defendant?

4 MR. GROEBER: Please seat the juror.

5 THE CLERK: Seat the juror.

6 Juro[REDACTED]ared Dingus.

7 What says the State?

8 MS. SIGAL: Please excuse the juror.

9 THE CLERK: Excuse the juror.

10 Juror 68, Robert Fuller.

11 What says the State?

12 MS. SIGAL: [REDACTED]e excuse the juror.

13 THE CLERK: Excuse the juror.

14 The State has four strikes.

15 Juror 28, Kayla Browning.

16 What says the State?

17 MS. SIGAL: Please present this juror.

18 THE CLERK: What says the defendant?

19 MR. GROEBER: Please excuse the juror.

20 THE CLERK: Excuse the juror.

21 Juror 95, D[REDACTED]udson.

22 What says the State? [REDACTED]

23 [REDACTED] MS. SIGAL: Please present this juror.

24 THE CLERK: What says the defendant?

25 MR. GROEBER: Please seat the juror.

1 THE CLERK: Seat the juror.
2 [REDACTED] 6, Richard Dunn.
3 What says the State?
4 MS. SIGAL: Please present this juror.
5 THE CLERK: What says the defendant?
6 MR. [REDACTED]: Please seat the juror.
7 THE CLERK: Seat the juror.
8 Juror 136, Sedrick Mosley.
9 What says the State?
10 MS. SIGAL: Please present this juror.
11 THE CLERK: What says the defendant?
12 MR. GROEBE [REDACTED] ase seat the juror.
13 THE CLERK: Seat the juror.
14 Juror 108, Sharon Kirkland.
15 What says the State?
16 MS. SIGAL: Please present this juror.
17 THE CLERK: What says the defendant?
18 MR. GROEBER: Please excuse the juror.
19 THE CLERK: Excuse the juror.
20 Juror 63, Patricia Floyd.
21 What says t [REDACTED] e?
22 MS. SIGAL: Please present this juror. [REDACTED]
23 [REDACTED] THE CLERK: What says the defendant?
24 MR. GROEBER: Please seat the juror.
25 THE CLERK: Seat the juror.

1 Juror 163, Julio Rossington.
2 [REDACTED]ys the State?
3 MS. SIGAL: Please present this juror.
4 THE COURT: What says the defendant?
5 MR. GROEBER: Please seat the juror.
6 THE [REDACTED] Seat the juror.
7 Juror 140, Kenneth Owens, Jr.
8 What says the State?
9 MS. SIGAL: Please present this juror.
10 THE CLERK: What says the defendant?
11 MR. GROEBER: Please seat the juror.
12 THE CLERK: [REDACTED]the juror.
13 First alternate, Juror 78, Helen Greene.
14 What says the State?
15 MS. SIGAL: Please present this juror.
16 THE CLERK: What says the defendant?
17 MR. GROEBER: Please excuse the juror.
18 THE CLERK: Excuse the juror.
19 Juror 133, Cristian Miramontes.
20 What says the State?
21 MS. SIGAL: [REDACTED] present this juror.
22 THE CLERK: What says the defendant? [REDACTED]
23 [REDACTED] MR. GROEBER: Please seat the juror.
24 THE CLERK: Seat the juror.
25 Alternate two, Juror 178, Noah Shuler.

1 What says the State?

2 MS. SIGAL: Please excuse the juror.

3 THE CLERK: Excuse the juror.

4 Juror 198, Nicholas Watkins.

5 Any challenge for cause from the state?

6 MS. SIGAL: No, Your Honor.

7 THE CLERK: What says the defendant?

8 MR. GROEBER: Please seat the juror.

9 THE CLERK: Seat the juror.

10 THE COURT: Any motions or matters pertaining to
11 the jury as selected; from the State?

12 MS. SIGAL: Your Honor, may I approach?

13 THE COURT: You may.

14 (Whereupon, a bench conference takes place off the
15 record.)

16 THE COURT: Mr. Rossington.

17 (Whereupon, a bench conference takes place off the
18 record.)

19 THE COURT: All right. Ladies and gentlemen, you
20 have been selected as the jury to try this case. We will
21 begin your trial Wednesday morning. Please be escorted into
22 the jury room and give them your information. And when you
23 have done that, if the bailiffs will alert me, we will bring
24 you back in. Okay? Thank you.

25 (Whereupon, the jury leaves open court at 12:30

1 p.m.)

2 THE COURT: Thank you. Any motions or matters
3 outside the presence of the jury; Ms. Sigal?

4 MS. SIGAL: Your Honor, I just wanted to restate my
5 concern for the record about the juror who potentially has
6 an ex-wife who is a victim in our office. I have concerns
7 over his hesitation.

8 THE COURT: What are you requesting?

9 MR. GROEBER: To strike that juror.

10 THE COURT: Mr. Groeber?

11 MR. GROEBER: Your Honor, it's my understanding --
12 for the record, I'm not sure if our conversation at the bar
13 was on the record.

14 THE COURT: It was not.

15 MR. GROEBER: He was -- the solicitor was informed
16 by the victim's advocate that he is the ex-husband of a
17 victim in their office. Certainly that's information they
18 had, could have had available to them. When they had their
19 strikes, they only used four. I think that his answers at
20 the bar were that he could still be fair and impartial and
21 that also that he did not have -- it sounded like he didn't
22 even know about it. So I think for those reasons, they
23 should not be allowed to strike at this time.

24 MS. SIGAL: The State's main concern is his
25 hesitation when asked if he could be fair and impartial, he

1 wavered several times before he answered yes. And the
2 State's feeling from that was that he was struggling with
3 whether or not he could be fair and impartial.

4 THE COURT: That was not the interpretation that I
5 took from that. And it was kind of what brought him up to
6 the side bar, an unusual procedure merely because he is an
7 officer of the court and I know Mr. Rossington, so I asked
8 him a question and he indicated that he could be fair and
9 impartial. So I'm going to leave him on. I note your
10 exception to my ruling.

11 All right. Ladies and gentlemen, you were not
12 selected as the juror for either one of these cases. Let me
13 just take this opportunity to just remind you, we do
14 everything we can to keep this as light-hearted for you, but
15 I do want to remind you that this courtroom is a place of
16 honor. It is dedicated to the protection and preservation
17 of citizens' rights through what many have called the
18 greatest justice system ever created. Our last holiday,
19 Memorial Day, was observance for people who have given their
20 lives, their ultimate sacrifice, for what you and I are
21 allowed to do and most of us take for granted. The
22 Constitution gives us many, many rights, the right to
23 assemble peacefully, the freedom of speech to say pretty
24 much what we want to say and to address our grievances, the
25 right to carry firearms with certain exceptions. And it

1 asks very few things of us. And one of those things is jury
2 service. So I just want to remind you that while we were
3 trying to keep this as pleasant for you as possible, I do
4 want you to take away from here that we are doing very
5 important work. And we are impacting lives of citizens in
6 Berkeley County every day.

7 So thank you for your contribution to our justice
8 system here today. Without you and without your serious
9 attitudes coming in today and being mindful of the work that
10 we are doing, we could not do our jobs. Thank you again.

11 You will call back after 6:00 p.m. to receive
12 further instructions for the week. Your service is for the
13 week.

14 Ladies and gentlemen, thank you. It's a pleasure
15 meeting. And I understand. I saw some of you roll your
16 eyes and shake your bodies in disdain. But please remember
17 this is very important work that you are doing.

18 Please have a wonderful afternoon. Please call
19 back after 6:00 p.m..

20 PROSPECTIVE JUROR: Excuse me. Are you saying that
21 we have to be back here again tomorrow?

22 THE COURT: I said to please call back after 6:00
23 p.m. and you will receive instructions concerning your
24 service for the week. Okay? All right. The message may
25 say you are done for the week. It may say to report back.

1 It may say to call back. I do not know at this time what it
2 will say. All right. Thank you. Have a wonderful
3 afternoon.

4 (Whereupon, the remaining venire leave.)

5 THE COURT: What time Wednesday.

6 MS. SIGAL: Any time, Your Honor. We will be ready
7 at nine o'clock.

8 THE COURT: Are there any pretrial matters?

9 MS. SIGAL: There are. There are several. And we
10 can do those this afternoon if Your Honor wishes to.

11 THE COURT: How long do you think they will take?

12 MS. SIGAL: The State has one pretrial matter. I
13 believe the defense has several. I think it would take
14 possibly an hour.

15 THE COURT: Okay.

16 MR. GROEBER: I don't think we need any actual
17 hearings. I think it's more argument, correct?

18 MS. SIGAL: We don't have any witnesses to call for
19 our pretrial hearings.

20 THE COURT: We will start those at 9:00. And I
21 will have the jury come back at 10:00 on Wednesday. All
22 right. I'm going to have the jury come back in, just give
23 them the instructions, and then we will be done.

24 MR. GROEBER: He's still on bond free to go? I
25 have a letter from his bondsman. I showed this to the

1 State. I also -- they said he would stay on his bond. That
2 letter reflects that, so I would say ask that he remain on
3 bond.

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

5 MS. SIGAL: That he remain on bond, Your Honor.

6 THE COURT: All right. We will have to get you the
7 form.

8 MR. GROEBER: I think we have them in the office.

9 THE COURT: If you have the form, he's in custody
10 until I get that form. Thank you.

11 (Whereupon, the jury returns to open court at 12:50
12 p.m.)

13 THE COURT: Mr. Rossington, you've been selected as
14 the foreperson.

15 Thank you. Ladies and gentlemen, you have been
16 selected as the jury to try this case. And Mr. Rossington
17 has been selected as the foreperson for this case. And all
18 that simply means is he has extra work to do. He is the
19 jury spokesperson in court. So if at any time you have any
20 questions or concerns, please let your foreperson know. He
21 will alert the bailiff, and we will attempt to address the
22 matter as we can.

23 Additionally, Mr. Rossington, you are responsible
24 for writing the verdict. But I will give you further
25 instructions regarding that when I instruct you on the law

1 applicable to this case.

2 Ladies and gentlemen, we will not begin this trial
3 until 10:00 a.m., 10:00 a.m. on Wednesday, on Wednesday. As
4 you were aware, I just picked another trial, and so what we
5 do is try to, as best that we can, is have the jury come to
6 minimize your back and forth, back and forth. So that way
7 you will know that you do not have to appear in court
8 tomorrow, but we will need you on Wednesday morning.

9 We do have your number, so if anything changes as
10 far as scheduling, we will alert you as soon as we can.

11 Ladies and gentlemen, you may have heard me tell
12 the other jury just my simple admonitions, instructions, but
13 I'm going to go over them with you so you understand as
14 well.

15 Please do not perform any investigation, research
16 or experiment of any kind, either as a group or individually
17 about this case. Do not consult any dictionaries for the
18 meaning of words or any encyclopedias or anything concerning
19 the subjects of this trial. You may not look up anything on
20 the internet concerning any news accounts, should there be
21 any, or any people involved. And that includes the
22 attorneys involved as well as witnesses and the defendant
23 and the judge.

24 Do not go to the scene where any of the events that
25 are the subjects of this trial are alleged to have taken

1 place and do not use any internet maps or Google Earth or
2 anything of that nature to search for any of these
3 locations. You must not have any discussions about this
4 case. And that used to just be pretty simple. I could say,
5 do not discuss this case and people would go on about their
6 business. But now that we live in such a technologically
7 advanced world, people can talk about this case in a lot of
8 different forms. So that means you may not make any entry
9 on My Space or Facebook, anything of that nature, Snap Chat,
10 something like that. You can't do that. You can't blog
11 about this case. You can't text about this case. And that
12 includes your fellow jurors, your friends, your family
13 members or anyone else.

14 So you may go home tonight and your significant
15 person may say to you, hey, what did you do today? And you
16 cannot talk about this case with that person either. Please
17 understand that I give these directions as part of my
18 responsibility to ensure justice is done. Your actions
19 could jeopardize the result of this case if you fail to
20 follow my instructions. If you become aware of another
21 juror's violations, please report that to me immediately.

22 Please be back Wednesday at 10:00 a.m., Wednesday
23 at 10:00 a.m.. If anything changes, someone from my staff
24 will contact you if you need to come in later or on a
25 different day. But as of now, we are scheduled to go

1 Wednesday at 10:00 a.m. Please be mindful we cannot begin
2 until all 14 of you are present.

3 So please have a wonderful afternoon. Enjoy
4 tomorrow off. And I will see you back Wednesday at 10:00
5 a.m. Thank you. Have a great day.

6 (Whereupon, the jury leaves open court at 12:54
7 p.m.).

8 THE COURT: Thank you. We will take Mr. Parker
9 into custody until I get that signed form.

10 MR. GROEBER: Yes, Your Honor. I believe we're on
11 the way with it now.

12 THE COURT: Thank you. And, sir, once you are
13 released, you understand we have selected a jury, if you
14 choose not to show up, we will continue the trial in your
15 absence. Do you understand?

16 THE DEFENDANT Yes, ma'am.

17 THE COURT: And a warrant will issue for your
18 arrest. Thank you.

19 (Whereupon, proceedings are adjourned for the day.)
20
21
22
23
24
25

1 (State's Exhibit No. 1, 911 call, was marked for
2 identification.)

3 (State's Exhibit 2, Marriage license, was received
4 in evidence.)

5 (State's Exhibit 3, Photo of victim, was marked
6 for identification.)

7 (State's Exh. 4, Photo of victim's face, was
8 marked for identification.)

9 THE COURT: Ms. Sigal, what do we have?

10 MS. SIGAL: Your Honor, the State's pretrial
11 motions which were submitted to Your Honor last Friday
12 regard the character of the victim. Specifically, the State
13 moves that any and all evidence of the victim's prior
14 alleged drug use and/or her child custody circumstances
15 would not be admissible under Rules 401, 404, 608 and 403 of
16 the South Carolina --

17 THE COURT: Where is your client?

18 MR. GROEBER: I called him, Your Honor. I'm
19 assuming he's on his way, but I have not talked to him this
20 morning.

21 THE COURT: Did you tell him to be here at 9:00?

22 MR. GROEBER: Yes. And, yes, Your Honor, did
23 also.

24 THE COURT: I would like a warrant. Go ahead and
25 get the warrant prepared.

1 MS. SIGAL: Your Honor, specifically --

2 THE COURT: We can't go forward without his
3 client.

4 MR. GROEBER: Sorry, Your Honor.

5 Do you need me to draw up a bench warrant, Your
6 Honor?

7 And I will call the bonds person.

8 THE COURT: Let's call the bonds person. Find out
9 where he lives, send the sheriff. Get this done. I
10 understand it's raining, but we are all here.

11 MR. GROEBER: If you will excuse me, I will make a
12 call, Your Honor.

13 THE COURT: Thank you, Mr. Groeber.

14 (Whereupon, a recess takes place.)

15 THE COURT: Any luck, Mr. Groeber?

16 MR. GROEBER: Your Honor, went straight to
17 voicemail. And we are having -- my paralegal's calling the
18 house right now.

19 THE COURT: Okay. Thank you.

20 (Whereupon, the defendant is present.)

21 MR. GROEBER: Your Honor --

22 THE DEFENDANT: I would like to apologize for being
23 late.

24 THE COURT: Thank you. Let's get started.

25 MS. SIGAL: Your Honor, the State's motion in

1 limine is to preclude the defense from eliciting testimony
2 during cross-examination of the State's witnesses or during
3 the direct examination of its own witnesses on its case in
4 chief regarding the victim's alleged prior drug use and her
5 child custody circumstances. Specifically, under Rule 401,
6 her prior alleged drug use and child custody circumstances
7 are not relevant to whether or not her husband punched her
8 on December 26th, 2014. The victim has zero arrest charges
9 or convictions regarding drug use at all. And there is no
10 evidence that the State's aware of that the victim was using
11 drugs on or around the incident date. Therefore, it would
12 not be relevant as to whether or not she was assaulted on
13 that date.

14 Under State v. King, there's no logical relevance
15 between her drug use --

16 THE COURT: What's the relevance, Mr. Groeber?

17 MR. GROEBER: Your Honor, the entire case,
18 specifically on the drugs, talking about that now, hinges on
19 the alleged victim's credibility. And I do believe drug use
20 is relevant to that, especially someone who has a chronic
21 methamphetamine problem. And that is what the accuser has
22 let the solicitor know and has been communicated to me.
23 There is a positive drug test from late November, which is
24 about a month before this incident. And so I do think that
25 drug use goes to her credibility both at the time of the

1 incident, and if she were to testify, I'm assuming she is,
2 in the trial today.

3 THE COURT: How does drug use in and of itself go
4 to her credibility?

5 MR. GROEBER: Well, as Your Honor knows, drug use
6 affects people's ability to make good decisions. And
7 sometimes it affects their ability to be forthcoming. And I
8 do believe that there would be testimony to that effect in
9 this case.

10 THE COURT: So do you intend to use it for her
11 credibility or for her -- to show that she was unable to
12 remember and recollect and testify to the facts as they
13 were?

14 MR. GROEBER: I think it's fair on both points,
15 Your Honor, to ask questions about drug use at that time.
16 She may deny them. I don't know what her answers would be,
17 but I know that she does have a history of drug use. And
18 that is -- I do believe it's relevant for questioning both
19 to recollection of the time, but also credibility.

20 THE COURT: Ms. Sigal.

21 MS. SIGAL: Your Honor, the State would just
22 contend this is an improper character attack. Again,
23 there's no evidence that at the time of the crime she was
24 under the influence. What she did a month ago is not
25 relevant to what she did at the time of the crime. And I

1 think it would be a theory the defense would spin that's not
2 supported by evidence. And under Rule 403, I think it would
3 also confuse the jury as to which person is on trial if we
4 get into all of the victim's past wrongs.

5 I'm quoting State vs. Cheeseboro, the evidence is
6 unfairly prejudicial if it has an undue tendency to suggest
7 a decision on an improper basis, such as an emotional one.
8 And I think we run the risk, if we go down this road, of the
9 jury judging the victim on past drug use that was not on the
10 date of the incident, and then making that decision based on
11 them not liking the victim on something that has nothing to
12 do with the charge.

13 Your Honor, we do have a witness to testify,
14 Officer Michelle Ward, that in her training as an officer,
15 she observes behavior of victims when she responds to
16 crimes. And should she notice any sign of someone being
17 under the influence she notes it in her report. She would
18 testify that it's actually the opposite, that Jennifer
19 Parker gave her no reason to believe she was under the
20 influence when she responded just hours after the incident.
21 If Your Honor does believe that this evidence is relevant --

22 THE COURT: How long did it take to respond?

23 MS. SIGAL: I believe that Ms. Ward responded
24 within an hour of the 911 call. And the 911 call was placed
25 within 30 minutes of the incident occurring.

1 THE COURT: All right.

2 MS. SIGAL: And Your Honor, as a side note, if you
3 do find that this evidence is relevant, it would be the
4 State's contention that that opens the door to the State
5 getting into the defendant's prior drug use. Because what
6 prompted this victim's drug test was a DSS investigation
7 into both the defendant and the victim. So I think that
8 opens the door to the defendant's prior drug use as well.

9 THE COURT: Are you attempting to elicit
10 information regarding the DSS matter, Mr. Groeber?

11 MR. GROEBER: No, Your Honor. What I would tell
12 the Court in candor is that I do intend to ask about their
13 child being -- spending a lot of time with the mother, the
14 mother of the accuser, because I think that goes to motive
15 and bias.

16 THE COURT: With the grandmother, maternal
17 grandmother?

18 MR. GROEBER: Yes. No, excuse me. Yes, maternal
19 grandmother. And I will not say anything about DSS or DSS
20 being involved, but I do intend to ask about --

21 THE COURT: How is that relevant that she's
22 spending time with the grandmother?

23 MR. GROEBER: Because if my client is convicted, it
24 would increase the likelihood of success in any kind of
25 future custody battle with the child. So I do believe

1 that's relevant as to both motive to lie and bias.

2 THE COURT: Is there a family court matter?

3 MR. GROEBER: Not at this time, Your Honor.

4 THE COURT: Are they currently in -- well, there's
5 been recent case law in family court that that is -- would
6 not necessarily be a factor that a family court judge could
7 consider as awarding custody, as to whether or not he has a
8 conviction.

9 MR. GROEBER: Well, it goes to the motive and the
10 bias of the witnesses in the case about what their motive
11 would be to lie about this incident. So I do think it's,
12 relevant.

13 THE COURT: Have they been counseled? I think
14 that's getting afar. So what I will allow you to question
15 as to the specifics, since the officer was not there
16 immediately upon the incident, that you may inquire as to
17 whether or not the victim was under the influence of any
18 drugs or alcohol when the incident occurred. But as of --
19 that that will be the extent. Case law in South Carolina is
20 clear that narcotics offenses are generally not considered
21 probative of truthfulness. So inquiring as to any -- and
22 she does not have any convictions that would allow for that
23 as impeachment purposes anyway.

24 The DSS matter I do find is not relevant to this
25 particular case. And that extended period of time that

1 she's spending, the maternal grandmother is keeping the
2 child, I do not at this time see the relevance and how it is
3 relevant to this particular proceeding.

4 Did that answer -- did that address all of the
5 issues?

6 MS. SIGAL: Yes, Your Honor. Thank you.

7 THE COURT: All right. And, Mr. Groeber?

8 MR. GROEBER: Just for clarity, I would like to ask
9 if the grandmother is involved in helping care for the
10 child, which most grandmothers are. So I think that's
11 certainly at least a very fair question and normal question
12 without getting into any -- I won't say the word custody,
13 but I do believe it's relevant to ask that she has -- spends
14 a lot of time with the granddaughter as often grandmothers
15 do.

16 THE COURT: Was grandmother there? I mean, again,
17 I don't know all of the facts of the case. I, again, am
18 failing to see how grandmother's involvement unrelated to
19 this incident is related and relevant.

20 MR. GROEBER: It's relevant because it goes to why
21 they would lie about and accuse my client. They don't want
22 him to have custody of the child, Your Honor.

23 THE COURT: Correct.

24 MR. GROEBER: And that is motive for them to tell
25 falsehoods. And I'm specifically talking about the accuser.

1 THE COURT: How does the child staying with the
2 grandmother affect his custody issues?

3 MR. GROEBER: Spending a lot of time with the
4 grandmother because she doesn't want him to be around the
5 child. And this is a good way, if he were to be convicted,
6 to make sure that he doesn't.

7 THE COURT: Maybe she doesn't want him around the
8 child because he's had previous criminal domestic violence
9 issues or that the child, that she has more fun home or mom
10 and dad are working. There's a variety of reasons why --
11 that are not nefarious that children spend time with their
12 grandparents or other people.

13 MR. GROEBER: Right. And I think I'm allowed to
14 argue from the -- from the fact that they do spend -- she
15 does spend significant time with the child.

16 THE COURT: And --

17 MR. GROEBER: That that may be a motive --

18 THE COURT: What do you mean by a specific time?

19 MR. GROEBER: Excuse me? I'm sorry?

20 THE COURT: What do you consider substantial time?

21 MR. GROEBER: Well, she does have custody of the
22 child right now, currently. So I would ask if she, just
23 like all grandmothers, spends time with her granddaughter
24 often.

25 THE COURT: If she has custody, of course she's

1 going to spend time with her.

2 MR. GROEBER: Right. And that's why I think
3 there's nothing wrong with the question, Your Honor.

4 THE COURT: But I think it's self-serving, because
5 if the grandmother has custody through a DSS and we are not
6 going to try the DSS matter, I don't know that -- I think
7 that that even is less relevant. She has to spend time with
8 the child. So as of this time, I'm going to deny that.

9 MR. GROEBER: Okay.

10 THE COURT: If the facts unfold differently --

11 MR. GROEBER: And I will proffer it at the
12 appropriate time, Your Honor.

13 THE COURT: Thank you. I interrupted you --

14 MR. MCNEELY: Might save us some time because they
15 do live together. The victim and the mother and the child
16 all live together. I intend on bringing that up. So if
17 that's the issue, then I don't think there's a problem.

18 THE COURT: All right. Then, Mr. Groeber --

19 MR. MCNEELY: But if it's going any further to
20 conclude that, because they live together, they now have a
21 motive to lie for custody battle, then that is an issue.
22 But the fact that they live together is not proffered.

23 MR. GROEBER: That sounds fine.

24 THE COURT: That's really all you wanted?

25 MR. GROEBER: Yes.

1 THE COURT: Again, I did not know that they all
2 lived together.

3 MR. GROEBER: I didn't know if they all lived
4 together either at this current time, Your Honor.

5 THE COURT: We all learned something new today.

6 MR. GROEBER: I have a feeling we will learn a lot
7 more things.

8 THE COURT: Are there any other pretrial matters?

9 MS. SIGAL: Your Honor, in my trial brief, I
10 included a third-party guilt motion. I've been informed
11 that I don't think that's going to be an issue, but I wanted
12 to renew that since it's in my trial brief, that should the
13 defense try to present any testimony about, you know,
14 another person being involved, it would need to be someone
15 with testimony that's actually inconsistent with the
16 defendant's guilt in accordance with my motion.

17 THE COURT: All right. So we won't need to address
18 that. If it becomes an issue, we will address it at that
19 time.

20 MS. SIGAL: Thank you, Your Honor.

21 THE COURT: Thank you. Anything else?

22 MR. GROEBER: I have several issues, Your Honor.
23 Do you have anything else, Ms. Sigal?

24 MS. SIGAL: That concludes my pretrial motion.

25 THE COURT: Thank you.

1 MR. GROEBER: The first, Your Honor, is general
2 also would be issues -- and I believe we are in agreement,
3 but I would just like to place on the record that there be
4 no testimony offered on these things -- my client's prior
5 convictions for criminal domestic violence, any allegations
6 that he has hit her in the past or abused her in any way,
7 and also the pending -- there's two pendings, we are trying
8 the later one, no mention of the pending first one. I
9 believe we are in agreement on that.

10 MS. SIGAL: Yes, Your Honor, we are in agreement.

11 THE COURT: Thank you.

12 MR. GROEBER: I also filed a Jackson v. Denno
13 motion. I don't believe there's any need for that, for a
14 hearing on that.

15 THE COURT: Okay.

16 MR. GROEBER: And we addressed the indictment issue
17 with the criminal domestic violence mentioning third versus
18 within the text and also at the top. I've also filed a
19 motion -- I believe Your Honor has a copy -- if not, I can
20 provide you one -- with the term victim should be excluded
21 from the trial. If you've read the brief, I think it speaks
22 for itself. But, essentially, the references to the accuser
23 as a victim violates the presumption of innocence that's
24 required pursuant to the state and federal constitution,
25 specifically the 9th Amendment -- excuse me, 14th Amendment

1 of the U.S. Constitutional and South Carolina Constitution
2 Article 1, Section 3. Any references -- as well, any
3 references to the accuser as a victim expresses improper
4 belief, either by the Court or by witnesses or by the
5 prosecutor, that the accuser's telling the truth. And it
6 would suggest an inference of guilt. So we would move that
7 we don't believe that's proper usage.

8 Finally, Your Honor, by using the term victim, in
9 jury charges specifically, the Court would be invading the
10 province of the jury. And the cases are cited in the brief,
11 Your Honor. It has been filed. And we can --

12 THE COURT: It is. It is typically my procedure
13 and policy, victim is just -- victim and defendant are just
14 terms and terminology. So I am not going to exclude or hold
15 that the prosecutor and the defendant, including yourself,
16 has to use the proper name of the individual. It's just
17 classification on all of the paperwork. What I do in the
18 jury charge is indicate that those are mere legal labels.
19 And they are not to be used in any -- as any evidence of
20 such and that they are just terms that are used throughout
21 this trial. So to the extent that my charges and my policy
22 complies with your motion, I think in some ways, it is
23 granted and denied at the same time. All right. Thank
24 you.

25 MR. GROEBER: One second, Your Honor. My learned

1 counsel suggested that if you would include that language in
2 your opening comments as well, we'd appreciate it.

3 THE COURT: I would be more than happy to do that.
4 Thank you. I will do it when I talk about the indictment as
5 not evidence. That's typically when I do it in my jury
6 closing as well. So, happy to do that for you.

7 MR. GROEBER: Thank you, Your Honor. The next
8 motion is standard. And specifically it's just a renewal of
9 the Brady motions. This would be as the State prepares for
10 trial with its witnesses, that they would turn over any
11 additions, deletions or inconsistent statements of any of
12 the witnesses as previously made. So far I believe that Ms.
13 Sigal has done that, although some of the information that
14 were additions to her -- the accuser's previous statement
15 were about a person named Tanisha and that she was trying
16 to, at some point, jump out of the car. We think those
17 are -- any additions are inconsistent and, therefore, should
18 be turned over. So I would ask at this time for any
19 additional either changes in the statement, whether they are
20 additions, deletions, or the prosecutor deems inconsistent,
21 would be turned over at this time pursuant to Brady.

22 MS. SIGAL: Your Honor, the State has turned over
23 every piece of evidence that we believe is in accordance
24 with Brady. I would like to point out that I think any
25 additions that have come out are not necessarily

1 inconsistent with the victim's prior statement. It is
2 simply more information comes out every time we meet with
3 the victim, which is normal considering she gave a statement
4 to police just hours after a traumatic assault occurred to
5 her. But we have turned over everything that we believe is
6 in accordance with Brady.

7 THE COURT: All right. Thank you. And if there's
8 something that comes out that you haven't been provided,
9 again, we will address that as that becomes an issue.

10 MR. GROEBER: Thank you, Your Honor. And I forgot
11 to mention that Mr. Schwacke is helping his mom. She's had
12 medical issues recently over the next couple of days. That
13 is why Mr. Shelton is joining me today. I think she's all
14 right, but that's why he's not going to be there. I don't
15 know if you want to address that with the jury or I can do
16 it in opening. Doesn't matter to me. I would handle it if
17 you want.

18 THE COURT: Do you want me just to indicate that
19 Mr. Shelton is here instead of Mr. Schwacke?

20 MR. GROEBER: That's fine.

21 THE COURT: And we pick two. I had forgotten that
22 you weren't here, that you weren't the original attorney.
23 So the other -- they may not remember either. But I will be
24 more than happy to point that out. All right. Thank you.

25 MR. GROEBER: We would move to sequester the

1 witnesses, which the Court usually grants.

2 THE COURT: Any objection to sequestration?

3 MS. SIGAL: No objection, Your Honor. Just that
4 any defense witnesses also be sequestered, should he have a
5 witness list.

6 MR. GROEBER: Agreed, Your Honor.

7 I noticed today there was an article in the paper
8 about the criminal domestic violence bill that was -- that
9 is on the Governor's desk. So I would ask the Court to
10 inquire if anybody read that, because --

11 THE COURT: I will just ask my standard
12 instructions, would they have done that. But make sure that
13 all the newspapers are out of the courthouse. Thank you.

14 MR. GROEBER: Thank you, Your Honor. We would
15 object to the introduction of the 911 call in the case. The
16 911 call is a call that the mother of the accuser makes.
17 And as such, and she says in the 911 call what the accuser
18 said, we think that raises -- the 911 call itself is
19 hearsay, but also there's hearsay within it. And so for
20 those reasons, we would ask -- and also implicates Crawford,
21 of course, assuming that the people were not to testify.
22 And so I would ask that those be excluded for those reasons,
23 Your Honor.

24 MS. SIGAL: Your Honor, the State, as we all know,
25 the purpose of the hearsay rule is keep out unreliable

1 evidence. The first part of hearsay within hearsay would be
2 the victim's statements to her mother immediately following
3 the assault. That statement was made in the car with her
4 mother. She was making statements that related to the
5 startling event, the assault. She made those statements
6 while she was under the stress, the excitement. And the
7 stress of that excitement was caused by the startling event,
8 which was the assault. And under State v. Hendricks, the
9 State's contention is that comes in squarely under the
10 excited utterance Rule 803(2), I believe, of the rules of
11 evidence.

12 The second part of the hearsay within hearsay would
13 be the mother's statement to the 911 operator within that
14 call. Your Honor, I believe that this comes in under the
15 business records exception to the hearsay rule first, 803(6)
16 of the South Carolina rules of evidence. The State is
17 prepared to call Melissa Jacumin of Berkeley County dispatch
18 to testify that the 911 call is a record made at the time of
19 the transmittal of the information, the call; that it was
20 kept in the course of regularly conducted business; and that
21 it was the regular practice of that business, of dispatch,
22 to make the record of such calls, which would make this call
23 reliable, which is in accordance with the purpose of the
24 hearsay rule.

25 In the alternative, the State rests its argument

1 and excited utterance rule for second part of the hearsay as
2 well. And the mother saw her daughter get out of the
3 defendant's car with injuries to her face that she did not
4 have just hours before. That -- the victim's condition
5 would be the startling event. The mother makes statements
6 to the 911 operator in relation to her daughter's condition.
7 She was under the stress of the excitement when she made
8 that call because she had just gotten in her mother's car
9 and she made the call. And the stress of that excitement
10 was caused by her daughter's condition.

11 So the State would argue that there's no break in
12 the chain. The victim simply got out of the defendant's car
13 with injuries, got in her mother's car, and her mother drove
14 her away from the danger and called 911. Because there's no
15 lapse in that, I believe the stress of the excitement was
16 still there with the mother. So this 911 call comes in
17 under both the business records exception to the hearsay
18 rule and in addition to the excited utterance exception of
19 the hearsay rule.

20 I was just citing State v. Ladner that the
21 intrinsic reliability of the excited utterance rules derives
22 statement's spontaneity which is determined by the totality
23 of the circumstances surrounding the statement when it was
24 uttered. And I believe that all of these circumstances
25 make it where this -- the mother was still under the

1 excitement when she called 911. Thank you.

2 THE COURT: Anything further?

3 MR. GROEBER: Just that I don't think the business
4 records exception is written in -- is included for the
5 purpose of police reports. And also, as far as spontaneity
6 goes, assuming they could lay the foundation for those
7 things, the mother says on the 911 call this happened about
8 an hour ago. So it appears that the call was not made
9 directly after she saw the person, because on the tape she
10 says this happened about an hour ago.

11 And I'd also say, even if they meet the hearsay
12 concerns, there's still the Crawford concerns. So that
13 Crawford at least would force, we believe, these two people
14 to testify.

15 MS. SIGAL: Your Honor, in response, we are -- the
16 mother of the victim, Kim Schwartz, is here and we are
17 planning to call her to testify, which I believe satisfies
18 the Crawford issue.

19 THE COURT: At this time I'm going to allow the 911
20 tape.

21 Anything further?

22 MS. SIGAL: Thank you, Your Honor.

23 MR. GROEBER: Not on that issue, Your Honor.

24 THE COURT: I'm running out of notes of things that
25 you filed, Mr. Groeber. Do you have anything else?

1 MR. GROEBER: Let me just look at my list. I think
2 there's one more.

3 All right. The last one, Your Honor, is we would
4 ask for a hearing to determine on whether or not the victim
5 is competent to testify. This is specifically related to
6 her -- the evidence of her consistent drug abuse over the
7 last several months, including failing a drug test in
8 November. And as Your Honor does often with our clients, we
9 know that that's important. We certainly ask for a hearing
10 to determine her competency to testify as a witness in the
11 case.

12 THE COURT: Is there any indication that she is not
13 competent? As you know, all witnesses are presumed to be
14 competent.

15 MR. GROEBER: The history, the long history of drug
16 abuse, I believe --- and I can be corrected by the solicitor,
17 that she has said she has struggled with this and is still
18 struggling with this addiction since this happened. And so
19 that would be the reason that we would offer and request a
20 hearing on that matter, Your Honor.

21 MS. SIGAL: Your Honor, as we know, addiction is
22 something that follows people around for the rest of their
23 life. And the victim has indicated to me that she is still
24 trying to beat this addiction and that she still struggles
25 with the fact that she was addicted to a drug that she now

1 does not abuse. I think there is a difference between that.
2 And people who struggle with addiction, from my
3 understanding, always are trying to beat it. And that that
4 is, from my understanding, what the victim has been going
5 through the past several months. We don't have any evidence
6 that she's been abusing drugs at all since the November
7 positive drug test.

8 THE COURT: Well, is there any evidence she's not
9 competent?

10 MS. SIGAL: There's no evidence that she's not
11 competent. And I believe we should be presumed competent.

12 THE COURT: Mr. Groeber?

13 MR. GROEBER: Your Honor, I just ask for a very
14 brief and simple hearing to determine that. I mean, the
15 problem is, we have a person who is has a chronic drug
16 problem. And we have no way of knowing whether or not she
17 is under the influence at this time. And so we would ask
18 for a hearing to determine those things. Because she
19 has this history and is admitted to -- at least --

20 THE COURT: Has there been any allegation today
21 that she's under the influence?

22 MR. GROEBER: No observation today, Your Honor.

23 THE COURT: If anything changes while she's on the
24 stand, I will be more than happy, we will take a break. But
25 as of now, I haven't heard anything that would indicate to

1 me that we need to have any sort of hearing. As everyone is
2 aware, witnesses are presumed to be competent. So unless I
3 have a reason to believe she is not, I am not going to have
4 a hearing. Anything else?

5 MR. GROEBER: I'm assuming you don't want me to
6 jump up every time the word victim is used and object, so
7 could I -- is it just -- am I preserved for the record on
8 that?

9 THE COURT: Yes, yes. And I'm assuming that you
10 are, Ms. Sigal, that you are not going to use it --
11 considering that there is an objection, that it's not going
12 to be overly used, used when appropriate?

13 MS. SIGAL: Yes, Your Honor, I only plan to use it
14 the way I would normally use it.

15 THE COURT: Thank you.

16 MR. GROEBER: That's all the pretrial matters from
17 my standpoint.

18 THE COURT: All right. Any other pretrial matters?

19 MS. SIGAL: Nothing further from the State.

20 THE COURT: All right. Mr. Parker, I understand
21 that you were late. And I know about the weather, but I'm
22 going to require that you are now placed in custody until
23 the ending of the trial. All right. Thank you.

24 Anything else before we bring in the jury?

25 MS. SIGAL: Nothing from the State.

1 MR. GROEBER: Nothing from the defense, Your Honor.

2 THE COURT: Okay. We are awaiting our jury.

3 Mr. Rossington will be our foreperson.

4 (A recess transpired.)

5 THE COURT: Anything before we bring in the jury?

6 MS. SIGAL: Nothing from the State?

7 MR. GROEBER: No, Your Honor.

8 (Whereupon, the jury returns to open court at 10:05
9 a.m.)

10 THE COURT: Ladies and gentlemen, you have been
11 given note pads which indicates to the Court you may take
12 notes. Please remember some of us are much better note
13 takers than others. One juror's notes is no more accurate
14 than another juror's notes. So feel free to take notes.
15 Feel free to not take notes.

16 If during your deliberations you need to hear some
17 testimony played back to you, we will simply bring you back
18 into the courtroom and play the audio back. So don't feel
19 like you have to take down word for word what a witness is
20 saying.

21 We will take those note pads up and lock them up
22 during lunch hours and over the evening hours, give those
23 back to you.

24 Ladies and gentlemen, you may have noticed when you
25 came in, everyone was standing for you. This is out of

1 respect for your new positions as judges of facts. Just as
2 you stood when I come into the courtroom, the attorneys and
3 the members of the audience will stand for you out of
4 respect for your new positions.

5 Ladies and gentlemen, I must now administer an oath
6 to you to try this case. Madam Clerk, members of the jury,
7 please stand.

8 (Whereupon, the jury is sworn.)

9 THE COURT: Is there any member of the jury panel
10 who could not take that oath? If so, please stand.

11 (No response from the jury.)

12 THE COURT: Thank you. All 14 jurors have complied
13 with the oath.

14 Ladies and gentlemen, I had instructed you on
15 Monday that you could not do any independent investigation,
16 read, watch, listen to any news accounts about this case or
17 research any issue about this case or talk about this case
18 in any way whatsoever. If you did not comply with my
19 instructions, please stand.

20 (No response from the jury.)

21 THE COURT: Thank you. All 14 jurors have complied
22 with the Court's instructions since Monday.

23 Ladies and gentlemen, as I indicated to you, it is
24 very important that you make your decision only upon what
25 you hear in this courtroom. So please be mindful if

1 there's -- if we break over the lunch hour and at the end of
2 the day, that you don't read, watch, listen to any news
3 accounts regarding this case or really any cases, so that
4 you are not influenced by anything that you may see or hear
5 outside of this courtroom.

6 Ladies and gentlemen, the case that we are about to
7 try is the case of the State vs. Joshua Parker, defendant.
8 Ladies and gentlemen, just as the indictment, as I indicated
9 and read to you on Monday, is not evidence, any terminology
10 or labels used to refer to the individuals involved in this
11 case cannot be considered as evidence by you. For example,
12 the use of the word defendant or the use of the word victim,
13 they are merely labels and are not to be considered by you
14 as evidence.

15 Before we begin this trial, I always like to take
16 this opportunity to go over a few things. Most of us, with
17 certain exceptions, don't have the opportunity to come to
18 court as you are doing here today. And so most of us get
19 our information about court from watching television or
20 movies or reading books. And as we know, those courtroom
21 dramas are usually very exciting and intense with riveting
22 circumstances. While some things may be true that you see,
23 in this trial here, please remember this trial is not for
24 your entertainment. It is a fundamental part of our
25 democracy. It is an effort to make sure that justice is

1 done between the parties before you here today. And
2 sometimes that is very slow, repetitive and deliberate. The
3 opposite of what you may have seen on television or movies
4 or read in books.

5 This courtroom is a place of honor. It is
6 dedicated to the protection and preservation of citizens'
7 rights through what many have called the greatest justice
8 system ever created. The attorneys that appear before you
9 are advocates for the parties that they represent. But
10 first and foremost, they are officers of this court. They
11 are sworn to uphold the law. And you should expect them to
12 be professional, competent and ethical in the representation
13 of their client's interest. Remember, you have just taken
14 an oath and you are also expected to be professional,
15 reasonable and ethical.

16 Thank you again for accepting this most important
17 responsibility of jury service and for your contribution to
18 our justice system. What I now say is intended to serve as
19 the introduction to the trial of this case. These remarks
20 are not a charge on the law. I will instruct you on the law
21 applicable to this case throughout the trial and before you
22 retire to consider your verdict. I simply wanted to take
23 the opportunity to explain to you what will be happening.

24 The defendant is charged with an indictment filed
25 in this court with the crime of criminal domestic violence.

1 I will explain the elements of that crime to you at a later
2 time. The indictment, as I've indicated to you, is simply
3 the charge in which this case is brought into court. It is
4 not in any sense evidence of the allegations it contains.

5 The defendant has pled not guilty to this
6 indictment. The State has the burden of proving the
7 defendant guilty by proving each of the elements of the
8 indictment beyond a reasonable doubt. It becomes your duty,
9 ladies and gentlemen, to decide whether the State has met
10 its burden. Your purpose as jurors is to find and determine
11 the facts. If at any time I make any comment regarding the
12 facts, you must disregard it. You are the sole judges of
13 the facts in this case.

14 You are to determine the facts from the testimony
15 you hear and the other evidence that will be introduced in
16 court. It is up to you to determine the inferences which
17 you feel may be properly drawn from that evidence. It is
18 important that you perform your duty of determining the
19 facts diligently and conscientiously because, ordinarily,
20 there is no way to correct an erroneous determination of the
21 facts by a jury.

22 On the other hand, and with equal emphasis, the
23 same law that makes you the judges of the facts makes me the
24 judge of the law. The law as given by this Court is the
25 only law that you may consider. You must accept it and

1 follow it even though you may disagree with it. I cannot
2 tell you what I think the facts are and you cannot disagree
3 with me about what the law is or what the law ought to be.
4 Your job is to take the law as I give it to you, apply the
5 facts as you find it from the testimony of the witnesses, as
6 well as any of the evidence that is introduced. And after
7 doing that, you will render your verdict, a true and just
8 verdict, under the solemn oath that you just took.

9 Once again, until I advise you to begin your
10 deliberations, you must not discuss this case with anyone.
11 And, again, that does include your friends, your fellow --
12 your family members, but most importantly, it does include
13 your fellow jurors when you are in the jury deliberation
14 room. Please do not read, watch, listen to any news
15 accounts regarding this case, should there be any, and do
16 not do any independent investigation. You must decide this
17 case solely based upon the evidence presented here in this
18 courtroom.

19 If you become aware of another juror's violations
20 of my instructions, you must report that to me immediately.
21 It is important that you keep an open mind and not decide
22 any issue in this case until the parties have made their
23 opening statements, you have heard the evidence in this
24 case, and the parties have then made their closing arguments
25 and I have instructed you on the law applicable to this

1 case.

2 It is your responsibility to determine the guilt or
3 innocence of the defendant. And your verdict must be based
4 solely on the evidence as it is presented to you in this
5 trial and on the law as I instruct you during and at the
6 close of this trial.

7 In just a moment, the solicitor will make what is
8 called an opening statement in which the solicitor will
9 explain to you the issues in this case, or at least what the
10 solicitor believes the issues are. The attorney for the
11 defendant may also make an opening statement, although the
12 defendant is not required to do so at this time. What the
13 attorneys tell you in their opening statements and in their
14 closing arguments is not evidence in this case. It is only
15 their contention as to what the evidence will show you. The
16 evidence in this case will be presented to you by the
17 testimony of sworn witnesses from the witness stand as well
18 as any other exhibits that may be introduced into evidence.

19 From time to time, you may hear one of the
20 attorneys state an objection, or I might find it necessary
21 to excuse you from the courtroom for a short while to
22 address an objection on the record. Please do not think we
23 are trying to hide anything from you. The reason that I do
24 this is because sometimes it is necessary for me to make a
25 comment regarding the facts in order to issue a ruling on

1 the law. And so I may excuse you so that in no way anything
2 that I say or do will influence you as to your finding of
3 the facts.

4 In determining what the true facts are in this
5 case, you must decide whether or not the testimony of the
6 witnesses is believable. It is my responsibility to rule as
7 a matter of law whether certain testimony is admissible.
8 But whether or not you believe it is solely for you to
9 determine.

10 Ladies and gentlemen, you have the right to
11 consider the interest of a witness, the bias of a witness,
12 the prejudice of the witness, the opportunity for that
13 witness to have seen and heard the things about which the
14 witness testifies, as well as the way the witness acts on
15 the witness stand. You have a right to consider anything in
16 the record that will help you evaluate that testimony. That
17 means that it's your duty to pay close attention. Please do
18 not let your thoughts wander, but pay strict attention, so
19 that after you have heard closing arguments on behalf of
20 counsel and I have instructed you on the law applicable to
21 this case, you will be in a position to determine what the
22 true facts are, apply the law to those facts and render a
23 true and just verdict.

24 Ladies and gentlemen, please give your strict
25 attention to Ms. Sigal.

1 MS. SIGAL: May it please the Court.

2 THE COURT: Yes, ma'am.

3 MS. SIGAL: Counsel.

4 Ladies and gentlemen, this case comes down to
5 control. The defendant, Joshua Parker, had to have control
6 over his wife, Jennifer Parker. She was his property,
7 whether she liked it or not. And when he lost control over
8 her, he lost control over his temper. And that's why we are
9 here today.

10 On December 26th, 2014, the defendant and the
11 victim were separated. They had been married before. They
12 were separated. You are going to hear evidence from the
13 witness stand about how the defendant was adamant to speak
14 with the victim on that date about their relationship. He
15 was adamant to work things out. He wanted to regain control
16 over his wife.

17 And you are going to hear evidence from Jennifer
18 Parker herself about how he came to her place of work. She
19 worked at the Sunoco off 176. He wanted to talk to her.
20 She asked him to come back because she was working. And you
21 are going to hear evidence that he did, in fact, come back
22 promptly, adamant to speak with her about the relationship.

23 You are going to hear from her as to why she got in
24 the car and how they rode around and she's going to tell you
25 what they talked about until eventually an argument ensued.

1 And that's when the defendant lost his temper. He balled up
2 his fist while still driving, and he started punching the
3 victim in the face repeatedly.

4 Ladies and gentlemen, the moment that this domestic
5 dispute, this seemingly normal marital argument turned
6 physical is the moment it turned into a crime. Now, usually
7 in society, it's not proper for us to go poking our noses in
8 other people's relationship and other people's marriages.
9 Usually that's none of our business. But usually what
10 happens behind closed doors should remain behind closed
11 doors. But, ladies and gentlemen, when what happens behind
12 those close doors becomes violent, that is when we have to
13 get involved, because that means that somebody's safety is
14 at risk.

15 Now, you are going to hear a lot this week about
16 rights. You are going to hear about the rights of the
17 defendant, how he has a right to counsel, he has a right to
18 a fair trial, he has the right to be considered innocent
19 until proven guilty by the State beyond a reasonable doubt.
20 And those are very important rights. And I do encourage you
21 to remember those throughout the course of this trial.
22 However, I also want to remind you to keep in mind the
23 rights of another person involved, the victim, Jennifer
24 Parker.

25 MR. GROEBER: Objection, Your Honor.

1 THE COURT: Overruled.

2 Ladies and gentlemen, please remember that opening
3 statements as well as closing arguments are merely the
4 attorney's contention as to what the evidence will show you.
5 Please remember also that I will instruct you on the law
6 applicable to this case.

7 Ms. Sigal.

8 MS. SIGAL: Thank you, Your Honor.

9 The victim, Jennifer Parker, has rights as a
10 citizen of the country, as a citizen of this state, as a
11 citizen of this county, not to have her face repeatedly
12 punched by anybody, much less her husband. We are here
13 today because Jennifer Parker was courageous enough to stand
14 up for her rights, as hard as it was on that day, on
15 December 26th, 2014. You are going to hear some evidence
16 about the victim this week. It's going to show you she's
17 not perfect. She's not squeaky clean. She will get up here
18 and tell you about the mistakes she's made with the law.
19 She will explain what's happening, the mistakes she's made.
20 The State is not putting her on the witness stand saying
21 she's an angel, because she's not.

22 But I want you to keep in mind because she made
23 some mistakes, and you will hear that evidence, remember
24 that she still has those rights. Remember that as you hear
25 the testimony.

1 Now, the judge is going to go through this later
2 with the law, but I want to briefly explain to you criminal
3 domestic violence in the State of South Carolina means that
4 somebody can be guilty of criminal domestic violence if they
5 cause physical harm or injury to somebody they are married
6 to, somebody they used to be married to, or somebody with
7 whom they have children.

8 And it's the State's contention that the evidence
9 is going to show that Joshua Parker caused physical harm and
10 injury to his wife, Jennifer Parker. Listen closely to the
11 testimony from that chair. Pay close attention to the
12 details. And when the judge gives you the law at the end of
13 this case, take the details from the witness stand and the
14 law and match it. Match the facts with the elements of the
15 law.

16 Ladies and gentlemen, if you do that, that process
17 will lead you to the truth. And the truth is that Joshua
18 Parker lost control over his temper and he hit his wife.
19 The truth is that Joshua Parker is guilty of criminal
20 domestic violence. Thank you.

21 THE COURT: Mr. Groeber.

22 MR. GROEBER: Thank you, Your Honor. May it please
23 the Court. Ms. Sigal. First I need to introduce, this Chad
24 Shelton. Mr. Schwacke had an illness in his family and had
25 to take care of it. So Mr. Shelton is going to be sitting

1 with me. He's from our office too.

2 Thank you all for being here.

3 They say that everything you need to know in life

4 you learn in kindergarten. One of those things is to tell

5 the truth and another is not to hit people. And we are here

6 today because one person is lying. And that one person is

7 Ms. Parker. There's this -- I have kids at home. And

8 there's this classic home Berenstain Bears stories, some of

9 it you may have read to your kids. Some of you might even

10 remember when you were a kid. It's called the Berenstain

11 Bears Tell the Truth. And in that story, brother bear and

12 sister bear are playing soccer inside, which is against the

13 rules. And the soccer ball gets kicked and knocks over mama

14 bear's favorite lamp. And what do little two bears do when

15 mom comes in and finds the broken lamp? They will lie.

16 They will lie because they don't want to deal with the

17 consequences.

18 And what they do is tell a story. And they tell a

19 story about this bird that flew in the window. And first

20 they say it's a red bird. And next they say it's a red bird

21 with a blue head. And next it has a red head and yellow

22 wings. And the story changes. And those of you who have

23 kids or if you remember being a kid, you know that stories

24 change. Sometimes they change because people can't remember

25 them. Sometimes they change to get better.

1 And we are here today because Ms. Parker is tangled
2 up. She was tangled up back then around Christmas of last
3 year. She was tangled up in bad relationships and she was
4 tangled up in lies. And that's why we are here today. The
5 solicitor eluded to it, but she also was regularly tangled
6 up in the law. And you will hear about that and we will
7 talk about that with her.

8 What you also may have caught upon the solicitor
9 talking about is the evidence. And the evidence in this
10 case will come from this witness chair. There's no evidence
11 that can come in unless it comes through somebody's mouth on
12 this chair. And all of the evidence that the State will
13 present about what happened between two o'clock and eight
14 o'clock on that day, December 26th, will come from Ms.
15 Parker's mouth. There will be no supporting evidence of her
16 story.

17 And so you have a hard job. You have to determine
18 if she's telling the truth. And it's not just, is she
19 telling the truth, uh, I'm pretty sure she's telling the
20 truth. It's, do I have a reason to doubt her? Do I have a
21 reasonable doubt that she's telling the truth about what
22 happened on that day. And you will use your common sense in
23 evaluating her testimony.

24 And you will think -- and as you do so, I want you
25 to think about a couple of things, about how we go about

1 telling the truth. And how papa bear and mama bear went
2 about determining their children were lying. They did it by
3 looking at corroboration. How do I know that they are
4 telling the truth? But they also did it by examining the
5 story that they told, whether or not it was consistent,
6 whether or not it changed.

7 And so after you hear all of the evidence, I'm
8 confident that, using your common sense, you will apply the
9 standard of law enjoined upon you. And that is, can you
10 believe Jennifer Parker beyond a reasonable doubt, or is she
11 tangled up in her lies? And we believe that after you hear
12 all of the evidence, you will find Mr. Parker, my client,
13 not guilty. Thank you.

14 THE COURT: Call your first witness.

15 MR. MCNEELY: Thank you, Your Honor. The State
16 calls Melissa Jacumin.

17 MELISSA JACUMIN,
18 having been duly sworn, testifies as follows:

19 THE CLERK: State your full name and spell your
20 last name for the record.

21 THE WITNESS: Melissa Jacumin, J-a-c-u-m-i-n.

22 DIRECT EXAMINATION

23 BY MR. MCNEELY:

24 Q. Good morning, Ms. Jacumin. Where are you employed?

25 A. Berkeley County 911.

1 Q. That's located here in Berkeley County, South
2 Carolina?

3 A. Yes, sir.

4 Q. What is your position at that place of employment?

5 A. I'm currently the interim operation advisor in
6 training supervisor.

7 Q. How long have you been working in that capacity?

8 A. 12 years, 11 months.

9 Q. What are the duties of that position?

10 A. Currently I'm over the training division in
11 communications, as well as I complete all FOIA requests, the
12 Freedom of Information Act.

13 Q. So you complete requests that deal with requesting
14 records from your office?

15 A. Yes, sir.

16 Q. And one of your duties is to collect those records
17 and send them out to the people requesting them?

18 A. Correct.

19 Q. Does that include 911 calls?

20 A. Yes, sir.

21 Q. And are records kept of all 911 calls received here
22 in Berkeley County?

23 A. Yes, sir, for 60 days.

24 Q. Okay. Are those records kept as a regular
25 practice, course of business, of your office?

1 A. Yes.

2 Q. And do the records include an actual recording of
3 those 911 calls?

4 A. Yes, sir.

5 Q. I want to talk to you about a case that happened on
6 December 26th, 2014. Did your office receive a request to
7 pull the recording for a call made on that date for this
8 case?

9 A. Yes, sir.

10 Q. And was the recording located and pulled by your
11 office?

12 A. Yes, sir.

13 Q. How many recordings were there; do you recall?

14 A. I don't recall.

15 Q. If I told you there was one, would that sound
16 accurate?

17 A. Yes.

18 Q. Did you make a copy of that recording for the
19 Solicitor's Office?

20 A. Yes.

21 Q. I want to show you an exhibit that's been marked as
22 State's Exhibit 1.

23 MR. McNEELY: Permission to approach?

24 THE COURT: You may.

25 BY MR. McNEELY:

1 Q. Please take a look at that, Ms. Jacumin. Do you
2 recognize this disk which is marked State's Exhibit 1?

3 A. Yes, sir.

4 Q. Did you review the contents of this disk at the
5 request of our office?

6 A. Yes, sir.

7 Q. Did you make any marks on the disk to show that you
8 reviewed it?

9 A. Yes, sir, I initialed and dated it.

10 Q. You initialed it and dated it, is that what you
11 said?

12 A. Yes, sir.

13 Q. What is contained on that disk?

14 A. The 911 call for this case.

15 Q. And you listened to the disk in its entirety?

16 A. Yes, sir.

17 Q. And did you determine to the best of your knowledge
18 that it is a complete and accurate copy of the recording,
19 the original 911 recording for the call on this case?

20 A. Yes, sir.

21 Q. And to your knowledge, has the recording been
22 changed or altered in any way?

23 A. No, sir.

24 MR. McNEELY: I have no further questions at this
25 time, Your Honor.

Kimberly Schwartz - Direct by Mr. McNeely

1 THE COURT: Mr. Groeber.

2 CROSS-EXAMINATION

3 BY MR. GROEBER:

4 Q. You didn't actually receive the call, correct?

5 A. I didn't take the call myself.

6 Q. You are the custodian of the records?

7 A. Yes, sir.

8 MR. GROEBER: No further questions.

9 MR. MCNEELY: Nothing further.

10 THE COURT: You may step down. Thank you.

11 MR. MCNEELY: The State calls Kim Schwartz.

12

13 KIM SCHWARTZ,

14 having been duly sworn, testifies as follows:

15 THE CLERK: State your full name and spell your
16 last name for the record.

17 THE WITNESS: Kimberly Schwartz, S-c-h-w-a-r-t-z.

18 DIRECT EXAMINATION

19 BY MR. MCNEELY:

20 Q. Where do you live?

21 A. [REDACTED] in Moncks Corner.

22 Q. That's here in Berkeley County, South Carolina?

23 A. Yes.

24 Q. Are you married?

25 A. Yes.

1 Q. Do you have any children?

2 A. [REDACTED]r.

3 Q. How many children do you have?

4 A. Two.

5 Q. What are their names?

6 A. Jenn [REDACTED]d Dwayne.

7 Q. I want to talk about your daughter. What's her
8 full name?

9 A. Jennifer Lynn Parker.

10 Q. How old is she?

11 A. 30.

12 Q. Does she live with you now?

13 A. Yes, sir.

14 Q. How long has she been living with you?

15 A. She's been living with me for about six years.

16 Q. Is she married?

17 A. Yes, sir.

18 Q. Do you know when she got married?

19 A. 2013, October maybe, November.

20 Q. Do you know who she married?

21 A. Yes, sir. [REDACTED]

22 Q. What is her husband's name? [REDACTED]

23 [REDACTED] Joshua Parker.

24 Q. Is Mr. Parker here in the courtroom today?

25 A. Yes, sir.

Kimberly Schwartz - Direct by Mr. McNeely

1 Q. Can you please identify him for the jury?

2 A. [REDACTED] right there.

3 Q. Will you describe his clothing?

4 A. Plaid shirt, crossed arms.

5 MR. MCNEELY: Please let the record reflect that
6 the witness i[REDACTED]ed the defendant.

7 THE COURT: We will.

8 BY MR. MCNEELY:

9 Q. Did she and her husband ever cohabit or live
10 together, to your knowledge?

11 A. He lived with us at one point.

12 Q. When you s[REDACTED]ived with us, you mean the
13 defendant, Mr. Parker?

14 A. Yes, he lived in my house.

15 Q. With your daughter as well?

16 A. Yes, sir.

17 Q. Have they ever been divorced to your knowledge?

18 A. No, sir.

19 Q. Do they have think children together?

20 A. Yes, sir.

21 Q. Please desc[REDACTED]e child.

22 A. She's 10 months old now. Her name is [REDACTED] J.P.

23 [REDACTED] J.P.

24 Q. So they have one 10-month-old daughter?

25 A. Yes, sir, very beautiful.

1 Q. Does the child live with you as well?

2 A. [REDACTED]r.

3 Q. I want to talk to you about December 26th, 2014,
4 the events of that day.

5 A. Uh-huh.

6 Q. Where [REDACTED] our daughter, Jennifer Parker, living at
7 the time?

8 A. With me.

9 Q. Did she have a job at that time?

10 A. Yes, sir.

11 Q. Where was her employment?

12 A. She worked [REDACTED] Sunoco on Carnes Crossing and
13 176.

14 Q. Is that here in Berkeley County?

15 A. Yes, sir.

16 Q. Did you take her to work that day?

17 A. Yes, sir.

18 Q. Do you recall what time you took her to work?

19 A. She had to be there at two o'clock, so I had her
20 there probably about :10 to 2:00.

21 Q. And you just [REDACTED]ed her off and left?

22 A. Yes, sir. [REDACTED]

23 [REDACTED] At the time that you dropped her off for work, did
24 she have any injuries that you were aware of?

25 A. No, sir.

1 Q. Did she have any visible marks or injuries on her
2 face at that time?

3 A. No, sir.

4 Q. Did you go home after you dropped her off?

5 A. Yes, sir.

6 Q. Did you go back later that day to pick her up from
7 work?

8 A. Yes, sir.

9 Q. Approximately what time was that?

10 A. I got there probably about quarter to eight..

11 Q. What did you do when you got to the Sunoco?

12 A. I had my granddaughter with me, my 12-year-old
13 granddaughter, and I told her to go in and get Jennifer.
14 And she came back out and she come out she said that
15 Jennifer had left with Josh earlier.

16 Q. What happened next?

17 A. I quickly told her to get in the car. And we was
18 just going to leave. And as I was leaving the parking lot,
19 Josh and Jennifer was pulling into the parking lot. So I
20 just backed up into a space and they pulled in beside me.

21 Q. Did you see anyone else in the vehicle with them at
22 the time?

23 A. No, sir.

24 Q. What happened next?

25 A. Jennifer got out of his truck. She got into my car

1 and she said, let's leave. And a few minutes later, Josh
2 got out of the truck. And he come over to the car. And I
3 seen that she had been hit. And I told him, I said, you hit
4 her? And he said, no, no. And I said, let's -- Jennifer
5 said, let's go, mom. And me, I just got -- we left.

6 Q. I want to talk about what you've just said that you
7 saw she had been hit. Will you describe what you noticed
8 about her when she got in your vehicle?

9 A. As soon as she got in the car, I noticed that she
10 had three lumps on her forehead right here above her eye.
11 And it just was real puffed out. And right underneath here
12 was already turned -- it was real red.

13 Q. I want to show you a couple of photos that have
14 been marked as State's Exhibit 3 and 4.

15 MR. MCNEELY: Permission to approach, Your Honor?

16 THE COURT: You may.

17 BY MR. MCNEELY:

18 Q. Please take a look at these. Will you please
19 describe who was depicted in the photos?

20 A. This is Jennifer Schwartz.

21 Q. And that's your daughter?

22 A. That's my daughter.

23 Q. Does she have any marks on her face in those
24 photos?

25 A. Yes, sir.

1 Q. Are those marks the ones you've just described to
2 the jury?

3 A. Yes, sir.

4 Q. Is that a true and accurate representation of how
5 your daughter appeared on December 26th, 2014, when she got
6 out of the defendant's truck?

7 A. Yes, sir.

8 MR. MCNEELY: At this time, Your Honor, I request
9 those photos be admitted into evidence.

10 MR. GROEBER: No objection, Your Honor.

11 THE COURT: And the numbers?

12 MR. MCNEELY: 3 and 4.

13 THE COURT: State's 3 and 4 into evidence without
14 objection.

15 MR. MCNEELY: Permission to publish to the jury,
16 Your Honor?

17 THE COURT: You may.

18 (State's Exhibit 3 is received in evidence.)

19 (State's Exhibit 4 was received in evidence.)

20 BY MR. MCNEELY:

21 Q. I'm going to hand you a little laser pointer. Turn
22 around and look at the photo. Will you please direct the
23 laser pointer to the injuries, you were describing, to your
24 daughter's face on that day.

25 A. Right here. Three lumps right here were on her

1 head.

2 Q. Anything else?

3 A. And then right here, the eye, red, and then it was
4 all red right there.

5 Q. Was there anything else?

6 A. That bruise right there.

7 Q. And just so I'm clear, none of those were present
8 on her face when you dropped her off for work that day?

9 A. No, sir.

10 Q. Put Exhibit 4 up. And, again, Ms. Parker, just
11 direct the laser pointer to the injuries you described.

12 A. Right here there was a lump, especially three bumps
13 above her eye brow. And then right here is black and then
14 she has a little --

15 Q. What was that last one you described?

16 A. Right here.

17 Q. Is that a bruise?

18 A. Bruised area, yes, sir.

19 Q. All right. Thank you. After she got into your
20 vehicle at the Sunoco, what did you do?

21 A. I left the Sunoco. And I talked to her for a few
22 minutes. And as we was leaving, I called 911.

23 Q. I want to show you a disk that's been marked as
24 State's Exhibit 1. That's actually in front of you. Have
25 you seen that disk before?

1 A. Yes, sir.

2 Q. Have you listened to the contents of that disk?

3 A. Yes, sir.

4 Q. Is that your voice making the call on the
5 recording?

6 A. Yes, sir.

7 Q. Does it contain a complete recording of the 911
8 call you made to authorities on December 26th?

9 A. Yes, sir.

10 Q. Has it been changed or altered in anyway, to your
11 knowledge?

12 A. No, sir.

13 MR. MCNEELY: Your Honor, at this time I would move
14 to admit State's Exhibit 1 into evidence.

15 MR. GROEBER: Objection, grounds previously made.

16 THE COURT: State's 1 into evidence noting your
17 objection. You may publish.

18 MR. MCNEELY: Thank you, Your Honor.

19 (State's Exhibit 1 was moved in evidence.)

20 (State's Exhibit 1, 911 call, playing.)

21 BY MR. MCNEELY:

22 Q. Just for the jury again, that is a complete
23 recording of your 911 call on December 26th; is that
24 correct?

25 A. Yes, sir.

1 Q. When your daughter got into your vehicle at the
2 Sunoco station, what did she tell you, just so the jury is
3 clear?

4 MR. GROEBER: Objection, hearsay.

5 THE COURT: Is there an exception?

6 MR. GROEBER: Crawford.

7 MR. MCNEELY: It's an excited utterance, Your
8 Honor.

9 THE COURT: Rephrase your question.

10 BY MR. MCNEELY:

11 Q. When your daughter got into your vehicle at the
12 Sunoco station, did she tell you how she got the marks on
13 her face?

14 A. Yes, I asked her too.

15 MR. GROEBER: Objection, Your Honor, calls for
16 hearsay and Crawford.

17 THE COURT: Rephrase your question. Lay the
18 foundation.

19 MR. MCNEELY: I will just move on, Your Honor.

20 THE COURT: Thank you.

21 BY MR. MCNEELY:

22 Q. What happened after you got off the telephone with
23 911?

24 A. We got home and we just sat down and waited for the
25 police to get there.

1 Q. Did an officer come to your home?

2 A. Yes, sir.

3 Q. What did the officer do?

4 A. The officer came in, took statements from my
5 daughter, took pictures, and talked for a little bit. I
6 mean, she did normal, I guess.

7 Q. The officer took a report?

8 A. Yes, sir.

9 Q. And then did the officer leave your home?

10 A. Yes, sir.

11 MR. MCNEELY: Your Honor, I think that's all.

12 Couple more questions.

13 BY MR. MCNEELY:

14 Q. How was Jennifer's demeanor when she got into your
15 vehicle at the Sunoco station?

16 A. She was very -- she was upset. She wanted to get
17 away from him, from where she was at. She was just ready to
18 come home.

19 Q. Did she appear nervous and scared to you?

20 MR. GROEBER: Objection, leading.

21 THE COURT: Overruled.

22 BY MR. MCNEELY:

23 Q. You may answer the question.

24 A. Yes, she was scared.

25 Q. Did the marks on her face appear to be fresh to

1 you?

2 A. Yes, sir.

3 MR. GROEBER: Objection, foundation. Calls for an
4 expert opinion.

5 THE COURT: Overruled. You can answer.

6 THE WITNESS: Yes, sir.

7 MR. MCNEELY: Thank you, Ms. Schwartz?

8 THE WITNESS: You're welcome.

9 THE COURT: Mr. Groeber.

10 CROSS-EXAMINATION

11 BY MR. GROEBER:

12 Q. Let's talk about demeanor first. Ms. Schwartz, you
13 testified just now that she was very upset and her demeanor
14 was upset, right?

15 A. Yes.

16 Q. You also testified earlier that y'all, after they
17 arrived, y'all stayed there for a few minutes, right?

18 A. Stayed where?

19 Q. At the Sunoco, your testimony earlier was that he
20 came and parked right next to you?

21 A. Uh-huh. He got out --

22 Q. She got out? She got out, right?

23 A. She got out of his car.

24 Q. And that y'all were there for a few minutes before
25 he left?

1 A. Yes, sir.

2 Q. [REDACTED]ou. Now, you dropped Jennifer off at the
3 Sunoco at two o'clock, right?

4 A. Yes, sir.

5 Q. That was at her work?

6 A. Yes, [REDACTED]

7 Q. And then you went to pick her up?

8 A. Right.

9 Q. And I believe your testimony was you got there
10 about 7:45?

11 A. Exactly.

12 Q. Which is a [REDACTED] minutes before her shift was
13 supposed to end?

14 A. Right.

15 Q. She wasn't there?

16 A. No, sir.

17 Q. Which was odd, right?

18 A. Right.

19 Q. Because she was supposed to be there and working
20 until 8:00?

21 A. Right. [REDACTED]

22 Q. Now, when she arrived, she showed up w [REDACTED]h?

23 [REDACTED] Yes, sir.

24 Q. And it was after eight o'clock when they got there?

25 A. It was about eight o'clock when they got there.

1 Q. You did not see her between two o'clock and eight
2 o'clock?

3 A. No, sir.

4 Q. You don't know where she was between two o'clock
5 and eight o'clock?

6 A. I assumed she was at work.

7 Q. But that's an assumption that you are making,
8 correct?

9 A. Yeah, uh-huh.

10 Q. And you had to rely on what she told you?

11 A. Yes, sir.

12 Q. Now, you testified too that you actually asked
13 Joshua; you accused him of hitting her, right?

14 A. Right.

15 Q. And he denied it?

16 A. Sarcastically.

17 Q. And he denied it?

18 A. Yes, sir.

19 Q. And he actually told you, in addition, he said
20 something else? That wasn't the full -- his full statement
21 to you, was it?

22 A. I don't remember. I just know he said no. I was
23 upset also.

24 Q. Okay. Understandably. He denied it, right?

25 A. Yes.

1 Q. And he said to ask someone else about what
2 happened?

3 A. Like I said, I don't remember that.

4 Q. Okay. When you talked with the Solicitor's Office
5 in preparing for your trial, did you tell them that he had
6 said, ask someone else?

7 A. I might have. I don't remember.

8 Q. Okay. Now, let's talk a little bit about what
9 Jennifer did tell you. She told you that she got off at six
10 o'clock?

11 A. Yes, sir.

12 Q. Jennifer never went back to work at Sunoco, did
13 she?

14 A. After that day, no, sir.

15 Q. Now, you -- you were worried or you were confused
16 as to why Jennifer wasn't there at her work, right?

17 A. Yes.

18 Q. So you actually texted Josh asking where Jennifer
19 was?

20 A. Yes.

21 Q. And he said, she's with me?

22 A. No, he never texted me back. I don't -- he never
23 texted me back.

24 Q. So you deny that he said, she's with me?

25 A. He -- she -- I text him. I said -- I can remember

1 I text him. And he never text me back. And then when I was
2 leaving, [REDACTED] lled up.

3 Q. Okay. So it's your testimony that he did not text
4 you back?

5 A. I don't -- no, not at that time.

6 Q. And [REDACTED] t that text when you arrived at work and
7 she wasn't there?

8 A. It was probably between -- yeah, about that time.

9 Q. And after that, he showed up with her, right?

10 A. Right.

11 Q. Now, you said that Joshua and Jennifer have a
12 daughter together, [REDACTED] J.P., right?

13 A. Yes, sir.

14 Q. And since y'all live together, you get to spend
15 time with her, right?

16 A. All the time.

17 Q. All the time. And you love having her around,
18 don't you?

19 A. Yes, sir.

20 Q. And you would hate to see less of her, wouldn't
21 you? [REDACTED]

22 A. Yes. [REDACTED]

23 [REDACTED] Now, you know that Jennifer has been in trouble
24 with the law before, right?

25 A. Yes, sir.

1 Q. And it's fair to say that she has lied to you in
2 the past? [REDACTED]

3 MR. MCNEELY: Objection, Your Honor, relevance.

4 THE COURT: Counsel approach.

5 (Whereupon, a bench conference takes place off the
6 record.) [REDACTED]

7 THE COURT: You may continue.

8 BY MR. GROEBER:

9 Q. It's fair to say that Jennifer has lied to you in
10 the past?

11 A. Yes, sir.

12 Q. In the past [REDACTED] told you that she was one place
13 when she was actually in another place?

14 A. Uh-huh.

15 THE COURT: Is that a yes?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Thank you.

18 BY MR. GROEBER:

19 Q. She's told you that she was with one person when
20 she was actually with another person?

21 A. Not really, [REDACTED]r.

22 Q. Okay. And you know about her conviction [REDACTED]ght?

23 [REDACTED] Yes, sir.

24 Q. The five convictions for dishonesty?

25 A. I don't know if it was five, but, yes, sir.

1 Q. Okay. So it's fair to say that she has a problem
2 telling the truth?

3 A. She -- yeah.

4 MR. GROEBER: May I have one moment, Your Honor?

5 THE COURT: You may.

6 MR. GROEBER: Your Honor, may we approach briefly?

7 THE COURT: You may.

8 (Whereupon, a bench conference takes place off the
9 record.)

10 MR. GROEBER: No further questions at this time,
11 Your Honor.

12 THE COURT: Mr. McNeely.

13 MR. MCNEELY: Thank you, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. MCNEELY:

16 Q. Couple more questions for you. The defense made a
17 big deal about the defendant denying that he hit your
18 daughter in the Sunoco parking lot when he talked with you.

19 A. Yes, sir.

20 Q. Will you describe exactly what happened at that
21 time?

22 A. At what time?

23 Q. When the defendant allegedly denied hitting
24 Jennifer.

25 A. All I said was, did you hit her? And he said, nah,

1 not me.

2 Q. What was his demeanor like when he denied it?

3 A. He was just cocky, I'm sorry to say.

4 Q. How did you perceive his denial?

5 A. I just told Jennifer, let's go. I didn't say
6 nothing else to him. I just said, let's go.

7 Q. And the defense asked you about whether your
8 daughter had ever told you a lie. Are you aware of any
9 child that has ever not told a lie to their parents at one
10 point or another?

11 A. I'm not.

12 Q. Has she ever lied to you about anything important,
13 to your knowledge?

14 A. Not -- I mean, lies are lies. Every lie is
15 important, I think.

16 Q. Okay. Has she ever lied to you about anything
17 regarding her safety?

18 A. No. Yeah. No, not really.

19 Q. Okay. Thank you.

20 A. All right. Sorry.

21 MR. MCNEELY: No further questions.

22 THE COURT: Mr. Groeber.

23 MR. GROEBER: No further questions, Your Honor.

24 THE COURT: You may step down. Feel free to stay
25 with us.

1 Call your next witness.

2 MS. SIGAL: The State calls Jennifer Parker.

3 THE COURT: Mr. Rossington, I'm going to leave it
4 to you if you need additional breaks. Just let me know if
5 anybody needs a break.

6 THE FOREPERSON: Yes, Your Honor.

7 MR. MCNEELY: Your Honor, may I approach real
8 quick?

9 THE FOREPERSON: We are fine, Your Honor.

10 THE COURT: Go ahead and swear her in.

11 JENNIFER PARKER,

12 having been duly sworn, testifies as follows:

13 THE CLERK: State your full name and spell your
14 last Name.

15 THE WITNESS: Jennifer Parker, P-a-r-k-e-r.

16 DIRECT EXAMINATION

17 BY MS. SIGAL:

18 Q. Good morning, Jennifer.

19 A. Good morning.

20 Q. How are you doing?

21 A. Fine.

22 Q. Jennifer, where do you live?

23 A. [REDACTED].

24 Q. [REDACTED]?

25 A. Moncks Corner.

1 Q. In Moncks Corner? Is that in Berkeley County?
2 A. [REDACTED] am.
3 Q. How long have you lived in Berkeley County?
4 A. My whole life.
5 Q. Your whole life?
6 A. Uh-h [REDACTED]
7 Q. What kind of work do you do?
8 A. Customer service work.
9 Q. Customer service work?
10 A. Uh-huh.
11 Q. If you can speak into the microphone.
12 A. I'm sorry. [REDACTED] mer service work.
13 Q. And what kind of jobs have you had before you
14 started doing customer service work?
15 A. I worked at DMV. I worked at restaurants
16 waitressing, that kind of stuff.
17 Q. Did you ever work at a gas station?
18 A. Yes.
19 Q. And do you have family in Berkeley County?
20 A. My whole family, yes.
21 Q. And who does [REDACTED] include?
22 A. Like, my mom, my dad and my uncles, co [REDACTED]
23 [REDACTED] other, granddad.
24 Q. So your whole family lives here, long time in
25 Berkeley County?

- 1 A. Yes.
- 2 Q. And are you married?
- 3 A. Yes, ma'am.
- 4 Q. Who are you married to?
- 5 A. Joshua.
- 6 Q. Joshua Parker?
- 7 A. Joshua Parker. Sorry.
- 8 Q. Is he in the courtroom today?
- 9 A. Yes, ma'am.
- 10 Q. And when did you all get married?
- 11 A. In 2013, October.
- 12 MS. SIGAL: Permission to approach the witness,
- 13 Your Honor.
- 14 THE COURT: You may.
- 15 BY MS. SIGAL:
- 16 Q. Jennifer, I'm showing you what's been marked as
- 17 State's Exhibit 2. Do you know what this document is?
- 18 A. Marriage license.
- 19 Q. Marriage license?
- 20 A. Uh-huh.
- 21 Q. Who is it a marriage license of?
- 22 A. Myself and Joshua Parker.
- 23 Q. For when y'all got married in 2013?
- 24 A. Yes, ma'am.
- 25 Q. Is that a fair and accurate depiction of the

1 document that you have as your marriage license?

2 A. Yes, ma'am.

3 MS. SIGAL: At this time, the State moves to
4 introduce State's Exhibit 2 into evidence, Your Honor.

5 MR. GROEBER: No objection.

6 THE COURT: State's 2 into evidence without
7 objection.

8 (State's Exhibit 2 is received in evidence.)

9 BY MS. SIGAL:

10 Q. Are you all still married?

11 A. Yes, ma'am.

12 Q. Are you all living together?

13 A. No, ma'am.

14 Q. Are you separated?

15 A. Yes.

16 Q. Okay. How long have you been separated?

17 A. Since probably September, October last year, I
18 mean, '13, sorry, last year, sorry.

19 Q. Okay. What about kids, do you have any kids?

20 A. I have three.

21 Q. Three kids? What are their ages?

22 A. 12, 7 and 1 -- 10 months.

23 Q. Are they boys or girls?

24 A. All three girls.

25 Q. Three girls. And are any of those children the

1 defendant's children?

2 A. One, my 10-month-old.

3 Q. Your 10-month-old is -- that's her father?

4 A. Uh-huh.

5 Q. And how long have you known the defendant?

6 A. Since 2012.

7 Q. Jennifer, I'm going to ask you some questions that
8 might be uncomfortable, but bear with me. Have you ever
9 been in trouble with the law?

10 A. Yes.

11 Q. When?

12 A. In 2012.

13 Q. Around 2012?

14 A. Between '10 and '12.

15 Q. Between 2010 and 2012?

16 A. Yes, ma'am.

17 Q. Have you ever been convicted of a crime?

18 A. Yes, ma'am.

19 Q. All right.

20 A. I've gone to jail for it.

21 Q. You've gone to jail? Can you tell us a little bit
22 about what those crimes were; do you remember?

23 A. I had a credit card before, where I used someone's
24 credit card.

25 Q. You used somebody else's credit card?

- 1 A. Yes, ma'am.
- 2 Q. Who is credit card was it?
- 3 A. My brother's.
- 4 Q. It was your brother's credit card?
- 5 A. Right.
- 6 Q. Okay. And you got in trouble for taking and using
- 7 that card?
- 8 A. Yes, ma'am.
- 9 Q. And what was your punishment for that?
- 10 A. I spent 26 days in jail.
- 11 Q. Okay. What else? Have you done anything else
- 12 involving getting in trouble with the law?
- 13 A. I've taken something to the pawnshop that wasn't
- 14 mine, got in trouble for that. And I got in trouble at my
- 15 job, DMV.
- 16 Q. Start with the pawnshop. You took something to the
- 17 pawnshop that wasn't yours and you pawned it and got money
- 18 for it?
- 19 A. Right.
- 20 Q. And you had criminal charges against you for that?
- 21 A. Yes.
- 22 Q. And did you plead guilty to that charge too?
- 23 A. Yes.
- 24 Q. All right. And you said you got in trouble at your
- 25 job at the DMV?

1 A. Yes.

2 Q. What did you do there that was wrong?

3 A. It was called misconduct in office. I gave out
4 customer information regarding a truck. No one is supposed
5 to do that.

6 Q. You took your brother's credit card and used it
7 once?

8 A. Yes, ma'am.

9 Q. And you took something to the pawnshop that was
10 stolen, you pawned and got money for it?

11 A. Yes, ma'am.

12 Q. And then when you worked at the DMV, you gave
13 somebody information you shouldn't have?

14 A. Right.

15 Q. And all of those charges you've accepted
16 responsibility for?

17 A. Yes, ma'am. I was on probation for two years. I
18 was off in February.

19 Q. You got off probation?

20 A. Yes, ma'am.

21 Q. So you successfully completed probation?

22 A. Two years.

23 Q. Okay. And do you regret those mistakes?

24 A. Now I do, looking back.

25 Q. And you're trying to live the straight and narrow

1 now?

2 A. Trying to, yes, ma'am.

3 Q. And you said this occurred within 2010/2012. What
4 was going on in your life during that time?

5 A. Well, my son died 2012, that's why I didn't go to
6 court. And that's why I got put in one time. and I didn't
7 really care at that point in time.

8 Q. You mentioned your son died. How old was your son
9 when he died?

10 A. Two months.

11 Q. And how did it happen?

12 A. In his sleep.

13 Q. So was that a hard time for you?

14 A. That was.

15 Q. I'm going to shift your attention back to December
16 2014. Where were you living in December 2014?

17 A. [REDACTED].

18 Q. Who was living there with you?

19 A. Myself, my mother, my father and my three kids.

20 Q. Had you ever lived with the defendant, who is your
21 husband?

22 A. No. I mean, I stayed with him off and on, but he
23 stayed at my house for about a year. But I stayed like
24 weekends and couple days throughout the week sometimes.

25 Q. Is that address your parents' address?

1 A. Yes, ma'am.

2 Q. When y'all were married, he stayed there for a
3 period of time?

4 A. Yes, ma'am.

5 Q. Where were you working in December 2014?

6 A. At the Sunoco gas station.

7 Q. Where is that?

8 A. On Carnes Crossing.

9 Q. Is that in Berkeley County?

10 A. Yes, ma'am.

11 Q. And how would you usually get to work?

12 A. I either drive myself or someone dropped me off,
13 like my mom or dad.

14 Q. On December 26th, 2014, how did you get to work?

15 A. My mother.

16 Q. And what was your shift that day?

17 A. 2:00 to 8:00.

18 Q. 2:00 to 8:00?

19 A. Yes, ma'am.

20 Q. And was anybody else working in the store that day?

21 A. Yeah, I had a couple of people with me. They had
22 like a cashier. I worked on the food side. There were a
23 couple of cashiers. And I had a person with me.

24 Q. And you said you worked on the food side?

25 A. Yes. They sell food, so they have cashiers and

1 they have a food side.

2 Q. And did anybody come into the store that day that
3 you knew?

4 A. Joshua did a couple of times.

5 Q. And when he came in the first time, what did he
6 want?

7 A. He had came and got cigarettes.. He didn't come for
8 me. He came and got cigarettes.

9 Q. And did you see him again that day?

10 A. Yes, ma'am.

11 Q. And what was his intention on coming into the store
12 again that day?

13 MR. GROEBER: Objection. Speculation.

14 THE COURT: If she knows, she may answer.

15 THE WITNESS: His intention was to come pick me up
16 or he was -- we was texting throughout the day. We had
17 plans to get together.

18

19 BY MS. SIGAL:

20 Q. And y'all were separated at this point, right?

21 A. Yes, ma'am.

22 Q. And do you know why he wanted to get together?

23 A. Well, we were trying to -- we were kind of working
24 it out and not working it out. We were in-between at the
25 time..

1 Q. So was it a confusing period for y'all's
2 relationship?

3 A. Yes, ma'am.

4 Q. And were you interested in working it out?

5 A. Yes.

6 Q. Why did you want to give it another chance?

7 A. Just because to have a family. I mean, I wanted us
8 to have a family together.

9 Q. All right. And so when he first came in and asked
10 you to leave with him, did you leave with him?

11 A. No, ma'am. I was working. And then I had text him
12 later on, told him I was going to get off at 6:00.

13 Q. And how were you able to get off at 6:00 --

14 A. The girl I was working with, she said she would
15 cover for me.

16 Q. So you had somebody cover for your shift?

17 A. Yes, ma'am.

18 Q. Did he come back and pick you up?

19 A. Yes, ma'am.

20 Q. And what time? Do you remember what time that was
21 or around what time?

22 A. Between 6:00 and 6:30.

23 Q. 6:00 and 6:30. And you wanted to get in his car to
24 talk about a relationship, right?

25 A. Yes, ma'am.

1 Q. Once you got in the car, were you all discussing
2 your relationship as planned?

3 A. No. We were kind of arguing back and forth a
4 little bit, because we had been fighting a couple of days
5 before that.

6 Q. And what were you arguing about?

7 A. Well, we were together that week before that, me
8 and him. And then couple days we weren't together. And he
9 was mad that I wasn't with him on Christmas. And he thought
10 I was with somebody else, and just that kind of thing.

11 Q. He was upset, you might have been with somebody
12 else?

13 A. Uh-huh.

14 Q. All right.

15 A. Because we were separated, but he was living with a
16 female and I was also talking to other people I wanted to,
17 you know.

18 Q. And so was he driving the whole time?

19 A. Yes, ma'am.

20 Q. All right. And what happened? How did the
21 argument end?

22 A. Well, I mean, we were arguing back and forth about
23 me being with someone and not talking to him or lying,
24 ignoring him, lying to him. And finally I was like, okay,
25 yeah, I was, just to make it end, you know, conversation to

1 stop. And whenever I said that, he got mad at me, and he
2 punched m[REDACTED] face right here.

3 Q. And was he still driving when he punched you?

4 A. Yes, ma'am.

5 Q. Tell me about the punch. What did he use to punch
6 you? What pa[REDACTED]is body?

7 A. His fist.

8 Q. His fist?

9 A. Yes, ma'am.

10 Q. Was it balled up?

11 A. Yes, this side. He was driving like that.

12 Q. So he punc[REDACTED]. He was driving with his left
13 hand and punched you with his right hand?

14 A. Yes, ma'am.

15 Q. Which side of your face did he hit?

16 A. My left side.

17 Q. Your left side?

18 A. Uh-huh.

19 Q. And do you remember how many times he hit you?

20 A. A couple of times, I mean, like two or three.

21 Q. And what di[REDACTED]feel like?

22 A. I mean, it was like someone had hit me[REDACTED]I ran
23 [REDACTED]omething, you know.

24 Q. Did it hurt?

25 A. Yeah, but it went numb after that?

1 Q. It went numb? Did you feel your part of your face
2 reacting to the hit?

3 A. Yeah, I can feel it like -- like feels like a tooth
4 pulled, you know. I felt like it going numb.

5 Q. What about emotionally, how did you feel when that
6 happened?

7 A. I mean, I was crying too. And we was arguing. And
8 I was trying to pull away from him. I mean, even like he
9 pulled my hair. And I tried to get out of car. I opened
10 the truck to get out. And that's when we stopped and pulled
11 on the side of the road and did like a U-turn.

12 Q. I want to go back to where you stated you were
13 crying asking him to stop.

14 A. Yes.

15 Q. Did you have your phone with you?

16 A. He had it.

17 Q. He had your phone?

18 A. Yeah, because right when I got in the car, he took
19 my phone because he wanted to see who I was talking to.

20 Q. So you weren't able to call for help from your
21 phone?

22 A. No, ma'am.

23 Q. Did he have your phone the entire time you were in
24 the car?

25 A. Yes, ma'am.

1 Q. Then you stated that then you tried to get out of
2 the car while it was moving?

3 A. Yes, ma'am.

4 Q. That's pretty drastic. What made you want to get
5 out of the car at that point?

6 A. Because I felt like he wasn't going to stop. So I
7 figured that would make it stop.

8 Q. Did you have any control over the situation at that
9 point?

10 A. No.

11 Q. You didn't have any control over where he was
12 driving or how he was driving?

13 A. No, ma'am.

14 Q. You had no way to call for help?

15 A. No, ma'am.

16 Q. All right. After you tried to jump out of the car,
17 did you say anything to him?

18 A. I told him I wanted to get out, let me out.

19 Q. So what did he do?

20 A. He wouldn't let me out. He wasn't going to let me
21 out.

22 Q. Did you finally get to safety?

23 A. Yeah. After everything was all said and done, he
24 said, I'm going to take you back to where you want to be.
25 So took me back to my job.

1 Q. When you got back to the gas station at the Sunoco,
2 was anybody there that you knew?

3 A. I saw my mom's -- my dad's truck. My mom was
4 driving my dad's truck in the parking lot.

5 Q. And when you saw her, what did you do?

6 A. I was relieved. And I hurried and got out real
7 fast.

8 Q. Did you go get in her car?

9 A. Yes.

10 Q. And what did your mom do when she saw you?

11 A. Well, as soon as I got out, I got in her car and I
12 was like, let's go. And she said, did he hit you? Because
13 I guess she saw my face. And Josh walked up to my mom's
14 car.

15 Q. So he walked up to the car?

16 A. Yes.

17 Q. And did they have a conversation?

18 A. He was saying that he got her text message. And
19 she asked him if he hit me, and he said no.

20 Q. He denied hitting you?

21 A. That's right.

22 Q. And did he try to blame it on somebody else?

23 A. He said, why don't you ask the person she was with.

24 Q. And at that point, did you all leave the gas
25 station?

1 A. Yes.

2 Q. And did you tell your mom what happened?

3 A. Yes.

4 Q. And what did your mom do?

5 A. She called 911.

6 Q. Called 911?

7 A. Yes.

8 Q. Where were you all headed when you were in the car?

9 A. We were going down 17 towards my house.

10 Q. Did officers ever arrive at your house?

11 A. Yes, ma'am.

12 Q. Did you meet with an officer on that day?

13 A. Yes, ma'am.

14 Q. And did you tell the officers the same thing
15 generally that you told us today?

16 A. Yes, ma'am.

17 Q. Were you still sort of shaken up after this?

18 A. Yeah. I mean, I was upset.

19 Q. And when you spoke with officers, did you just give
20 the officer the general idea of what had occurred?

21 A. Yes, ma'am. I told her about the events that
22 happened, basically what I did right here.

23 Q. Are you sure you gave her every single possible
24 detail that happened?

25 A. I mean, yeah, I would say so, I guess. I mean, I'm

1 not -- that's basically all that happened. There was no
2 major thing that didn't happen I didn't say.

3 Q. You told her the major things that happened?

4 A. Yeah.

5 Q. When y'all were driving and he assaulted you, were
6 you all still in Berkeley County?

7 A. Yes.

8 Q. Where were you y'all when this occurred?

9 A. 176, State Road.

10 Q. In Berkeley County? All right. Is the man, who
11 punched you in the face on December 26th, in the courtroom
12 today?

13 A. Yes.

14 Q. Please point him out for the jury.

15 A. Joshua.

16 Q. Sitting at the defense table?

17 A. Yes, ma'am.

18 Q. Jennifer, I'm showing you what's been admitted as
19 State's Exhibit 3. It's going to come up on the big screen
20 over there. Who is that a picture of?

21 A. Myself.

22 Q. And when was this picture taken?

23 A. The day I got home from -- the 26th.

24 Q. The same day as when your husband assaulted you?

25 A. Yes, ma'am. It was like probably 30 minutes after

1 I got home. .

2 Q. Who took these pictures.

3 A. The officer.

4 Q. The officer who responded that night?

5 A. Yeah.

6 Q. And is this a true and accurate depiction of the
7 way you looked on that night --

8 A. It is.

9 Q. -- after the assault?

10 A. Yes, ma'am.

11 Q. I'm going to use this laser pointer. That mark
12 right there --

13 A. Yes.

14 Q. -- what is that?

15 A. It was looks like a bruise mark.

16 Q. And how did you get that bruise?

17 A. Joshua hit me.

18 Q. What about the mark underneath your eye, right
19 there, that bruise right there, how did you get that?

20 A. Joshua.

21 Q. Joshua?

22 A. Uh-huh.

23 Q. And then there's a little darker mark right above
24 your eye brow.

25 A. Right, Joshua did that to me.

- 1 Q. Joshua did that to you?
- 2 A. Uh-huh. It looks a little swollen. You can't
- 3 tell, but it was very swollen.
- 4 Q. Thank you. Can you go to State's Exhibit 4 please.
- 5 Who is this a picture of?
- 6 A. Myself.
- 7 Q. Same day?
- 8 A. Yes, ma'am.
- 9 Q. Is this a fair and accurate depiction of how you
- 10 looked on that day?
- 11 A. Yes, ma'am.
- 12 Q. All right. What about this bruise, this is a
- 13 close-up, is that the same bruise you said Joshua Parker
- 14 caused?
- 15 A. Yes, ma'am.
- 16 Q. What about this cut down here? You can see a
- 17 little bit better in the picture on the screen. Who gave
- 18 you that cut?
- 19 A. Joshua.
- 20 Q. Was that from when he hit you?
- 21 A. Yes, ma'am.
- 22 Q. All right. And what about this bruise? This is a
- 23 close-up on the bruise. Is that the same bruise you stated?
- 24 A. Yes, ma'am.
- 25 Q. And then this bruise right here?

1 A. That's him.

2 Q. Who caused that bruise?

3 A. Josh.

4 MS. SIGAL: Beg the Court's indulgence.

5 THE COURT: Take your time.

6 BY MS. SIGAL:

7 Q. Thank you, Jennifer. I don't have any other
8 questions for you at this time. Please answer any questions
9 Mr. Groeber may have.

10 THE COURT: We are going to go ahead and take a
11 mid-morning break. Do not begin your deliberations. Do not
12 discuss this case amongst yourself. You can take your note
13 pads with you or leave them right in your chair. Please
14 rise for the jury's exit.

15 (Whereupon, the jury leaves open court at 11:13
16 a.m.)

17 THE COURT: We are going to take our break. You
18 may not discuss your testimony with anyone. Do you
19 understand what that means? You may step down. We will
20 take about ten minutes, fifteen minutes.

21 (A recess transpired.)

22 THE COURT: Anything before we bring in the jury?

23 MS. SIGAL: Nothing from the State, Your Honor.

24 MR. GROEBER: Nothing from the defense, Your
25 Honor.

1 THE COURT: Let's bring in the jury.

2 (Whereupon, the jury returns to open court at 11:37
3 a.m.)

4 THE COURT: Thank you.

5 Mr. Groeber, your witness.

6 MR. GROEBER: Thank you, Your Honor. May it please
7 the Court.

8 CROSS-EXAMINATION

9 BY MR. GROEBER:

10 Q. Now, I know the solicitor sped through your
11 mistakes on your criminal convictions. But I would like to
12 ask you a little few more questions about those.

13 A. Okay.

14 Q. The first conviction you had was for receipt of
15 stolen goods?

16 A. Right.

17 Q. And that was an arrest on January 31st of 2011?

18 A. Okay.

19 Q. Is that true?

20 A. I'm pretty sure, yeah.

21 Q. And that was in North Charleston?

22 A. Yes, sir.

23 Q. I'm sorry. You just have to speak up so she can
24 take it down.

25 A. Yes, sir. Yes, sir.

1 Q. Thank you. And that meant that you had, in your
2 possession, goods that you knew or should have known were
3 stolen?

4 A. Correct.

5 Q. And you pled guilty to that?

6 A. Yes, sir.

7 Q. And you pled on April 13th of 2011?

8 A. I mean, I guess. I'm not sure. I know it was
9 between 2010 and 2012. I'm not sure of the exact date.

10 Q. Okay. If I showed you a copy of the public index,
11 would that help refresh your recollection?

12 A. I mean, you can, yeah. I mean, I know what my
13 charges were. I just don't know the exact dates.

14 Q. Fair to say it was April 13th of 2011?

15 A. Yes, sir.

16 Q. Okay. And it wasn't just one charge that you were
17 arrested for, though, possession of stolen goods or
18 obtaining goods; you also were arrested on the same day for
19 obtaining goods under false pretenses?

20 A. Yeah, they were together, the charges together.

21 Q. Right, but they are two separate crimes?

22 A. Correct.

23 Q. And that meant that you lied to get some
24 property?

25 A. Correct.

- 1 Q. And you pled guilty to that?
- 2 A. Correct.
- 3 Q. And, again, on April 13th of 2011?
- 4 A. Yes, sir.
- 5 Q. Now, your third arrest was on April 24th of 2012,
- 6 does that sound about right?
- 7 A. What?
- 8 Q. This would have been for misconduct in office?
- 9 A. Yes, sir.
- 10 Q. And you pled guilty to that on February 14th of
- 11 2013?
- 12 A. Yes, sir.
- 13 Q. And that was in this courtroom?
- 14 A. Yes, sir.
- 15 Q. And, in fact, you probably stood right here, didn't
- 16 you?
- 17 A. Yes, sir.
- 18 Q. In front of a judge?
- 19 A. Correct.
- 20 Q. And I think you testified that you said that you
- 21 had given people information they weren't supposed to
- 22 have?
- 23 A. Correct.
- 24 Q. You gave people fake licenses, didn't you?
- 25 A. It was about titles and some of that, yes.

1 Q. But they were fake?

2 A. [REDACTED] weren't fake. I mean, it was a real
3 person.

4 Q. Okay. But you gave them a fake document?

5 A. Correct.

6 Q. So t[REDACTED] a lie?

7 A. I mean, yeah.

8 Q. And I think it was around April of 2012 that your
9 son was born, right?

10 A. Yes, sir.

11 Q. And then he passed away in late June?

12 A. Yes, sir. [REDACTED]

13 Q. So, on June 11th, you were arrested again for
14 financial transaction card theft?

15 A. Correct.

16 Q. So that was before he passed away?

17 A. Correct.

18 Q. And that's for stealing a credit card?

19 A. I mean, but I didn't really steal it, but, yeah,
20 that would be the charge.

21 Q. It's called [REDACTED] al transaction card theft,
22 correct? [REDACTED]

23 [REDACTED] Right.

24 Q. And that means stealing the credit card?

25 A. Yes.

1 Q. And you pled guilty to that, correct?

2 A. Correct.

3 Q. And that was also on February 14th of 2013?

4 A. Right.

5 Q. In this courtroom?

6 A. Yes.

7 Q. At the same time as that charge, you were charged
8 with financial transaction card fraud, right?

9 A. Correct.

10 Q. And that just means you used the credit card that
11 you had stolen?

12 A. Correct.

13 Q. Without permission?

14 A. Correct.

15 Q. And so you said it was your brother's credit
16 card?

17 A. Right.

18 Q. So you stole from your brother?

19 A. Well, I didn't steal from my brother. He -- me and
20 my brother -- he knew I had it, but his wife wanted him to
21 press charges against me. So his wife made him do it so
22 she, he had --

23 Q. But you came in this courtroom, right?

24 A. Right.

25 Q. And you stood right here, and you swore to tell the

1 truth?

2 A. Right.

3 Q. And you said that you had used that credit card?

4 A. I mean, yeah, I did.

5 Q. Without permission?

6 A. I mean, yeah.

7 Q. So you stole your brother's money?

8 A. I mean, yes, yeah.

9 Q. Now, the last three convictions, the financial
10 transaction card fraud and theft and then also the
11 misconduct in office, all were part of a package deal?

12 A. Correct.

13 Q. And you actually had -- you were charged with
14 another charge in Charleston County.

15 A. I'm --

16 MS. SIGAL: Objection, Your Honor. May I approach?

17 THE COURT: You may.

18 (Whereupon, a bench conference takes place off the
19 record.)

20 BY MR. GROEBER:

21 Q. Now, you testified today that you got probation for
22 those charges, right?

23 A. Yes, sir.

24 Q. And I believe you testified that you finished, in
25 February of this year, your probation?

1 A. Yes, sir.

2 Q. And you also said that you successfully completed
3 it?

4 A. Yes, sir.

5 Q. In fact, you were found in violation of your
6 probation in March of this year -- excuse me, February 19th
7 of this year?

8 A. This year?

9 Q. Yes.

10 A. For what?

11 Q. Well, for violating the terms of your probation,
12 not following the instructions of your agent?

13 A. Because I didn't --

14 Q. Didn't pay your fines?

15 A. I didn't pay up in time, yeah.

16 Q. So you were found in violation?

17 A. Yes, she put me on like, an administrative where I
18 had to report to her.

19 Q. Okay. So in truth, you are actually still on
20 probation?

21 A. I mean, I signed the paperwork to be done with
22 probation, so -- I still owe her money, yes.

23 Q. Okay. So you didn't successfully complete
24 probation? You are still on probation?

25 A. In terminology, but I don't have to report to her

1 or anything. So, I mean --

2 Q. But you came to court on February 19th of this
3 year; you came into this courtroom, right?

4 A. No.

5 Q. You didn't come into this courtroom?

6 A. No. She -- my parole officer came.

7 Q. Into the courtroom?

8 A. Because I wasn't paid off by the time I was
9 supposed to pay off. And she got me an extension for being
10 paid off. That was it. I didn't come. I signed the
11 paperwork.

12 Q. You signed the paperwork and that paperwork
13 indicated that you agreed to stay on probation?

14 A. I'm not sure. I know I don't have to report to her
15 any more. I just have payments.

16 Q. So you have to pay probation?

17 A. Yes.

18 Q. So you are still on probation?

19 A. I guess, I mean, yeah.

20 Q. Let's talk about when you talked with Deputy Ward.

21 When Deputy Ward arrived, she asked you what happened,
22 right?

23 A. Correct.

24 Q. And you told her?

25 A. Right.

1 Q. And you knew at that time it was important to tell
2 the truth [REDACTED]

3 A. Correct.

4 Q. And the whole truth?

5 A. Correct.

6 Q. And [REDACTED] but truth?

7 A. Right..

8 Q. You knew to tell her all the details of what
9 happened?

10 A. That's right.

11 Q. And she told you details could be important?

12 A. Right. [REDACTED]

13 Q. And she gave you plenty of time to talk to her and
14 to write your statement?

15 A. Right.

16 Q. She didn't rush you in any way?

17 A. No.

18 Q. And she actually gave you a card with an OCA
19 number, a case number?

20 A. Correct.

21 Q. And had her [REDACTED] number on it?

22 A. Yes. [REDACTED]

23 [REDACTED] And so you knew that, if you remembered something
24 else, you could call her and tell her?

25 A. Correct.

1 Q. And you never called her back?

2 A. I didn't need to.

3 Q. Okay. So not only did you speak with her, you
4 actually gave her a written statement?

5 A. Correct.

6 Q. And you wrote it out in your own handwriting?

7 A. Right.

8 Q. And then you signed it?

9 A. Yes.

10 Q. And there was a little place for the date, right,
11 and you put the date in there?

12 A. Right.

13 Q. And there was a little place where Deputy Ward
14 signed it as a witness?

15 A. Right.

16 Q. And she signed that?

17 A. Correct.

18 Q. And your signature indicated that this was what
19 happened that day?

20 A. Correct.

21 Q. Now, I think today you testified that when -- that
22 Josh just -- that you had been texting with him throughout
23 the day?

24 A. Yes.

25 Q. And then you also testified that he just kind of

1 showed up to buy cigarettes?

2 A. Right.

3 Q. That's your testimony today, right?

4 A. Yes.

5 Q. Now, when you talked with Deputy Ward you actually
6 said something different; you said he called you?

7 A. We were texting.

8 Q. Okay.

9 A. We may have talked on the phone during a break or
10 something, smoke break or something, may have.

11 Q. But you told Deputy Ward that he called you?

12 A. Okay.

13 Q. I'm asking you. Did you tell her that?

14 A. I mean, I don't remember.

15 Q. Okay.

16 A. I know I was talking to him, texting him, but could
17 have been he called me, I called him. I'm not sure.

18 Q. Okay. I think you also testified today that he
19 came back and picked you up around six o'clock?

20 A. Between 6:00 and 6:30, yes.

21 Q. And today you also testified that, at some point,
22 you tried to get out of the truck?

23 A. Correct.

24 Q. And that you actually opened it while the truck was
25 still moving?

1 A. Correct.

2 Q. And but you didn't tell Deputy Ward that, did you?

3 A. I'm not sure.

4 Q. Well, you also testified that you felt he wasn't --
5 he was holding you hostage, more or less, right?

6 A. He wasn't letting me out of the truck, so ...

7 Q. Okay. So he kept you from moving the way you
8 wanted to move, right?

9 A. Correct.

10 Q. Kidnapping you?

11 A. Not kidnapping me, but wasn't letting me out of the
12 truck.

13 Q. But you didn't write that down in your written
14 statement, did you?

15 A. I'm not sure.

16 Q. Would you like to take a look at your written
17 statement so that you could refresh your recollection?

18 A. That's fine.

19 MR. GROEBER: One moment, Your Honor, please.

20 THE COURT: Take your time.

21 MR. GROEBER: May I approach, Your Honor?

22 THE COURT: You may.

23 (Defendant's Exh. 1, Police Report, was marked for
24 identification.)

25

1 BY MR. GROEBER:

2 Q. [REDACTED]ng to hand you what's been marked defense
3 Exhibit 1. Please review that and look up when you are
4 finished.

5 A. (Witness complies.)

6 Q. Have [REDACTED]nished reviewing that?

7 A. Yes.

8 Q. Did you review the whole thing?

9 A. Yes.

10 Q. And there's nothing in your statement about trying
11 to get out of truck while it was moving?

12 A. No. [REDACTED]

13 Q. And that is the statement you gave that evening to
14 Deputy Ward?

15 A. Correct.

16 Q. Now, today you claim that you asked someone to
17 cover your shift?

18 A. Correct.

19 Q. And a couple weeks ago, you told the solicitor that
20 person's name, right?

21 A. Correct. [REDACTED]

22 Q. And her name was Tanisha? [REDACTED]

23 [REDACTED] Yes, sir.

24 Q. Now, you didn't tell your mom that Tanisha was
25 going to cover your shift, did you?

1 A. No.

2 Q. You didn't tell Deputy Ward that Tanisha covered
3 your shift?

4 A. No.

5 Q. You didn't write it in your statement?

6 A. Discussed someone covered my shift doesn't mean --
7 I didn't see the point in telling them that.

8 Q. You didn't tell it to Deputy Ward?

9 A. Right.

10 Q. And you didn't write it in your statement?

11 A. Right. She told me to write down what happened
12 from the time Josh picked me pickup until I got home. That
13 didn't happen when Josh picked me up..

14 Q. But you told the Solicitor's Office, only two weeks
15 ago, about Tanisha?

16 A. Yeah.

17 Q. And are you aware they tried to find Tanisha?

18 A. I am.

19 Q. And they were not able to find her?

20 A. I went up there as well trying to get in touch with
21 her.

22 Q. They were not able to find her either?

23 A. Correct.

24 Q. Now, when you talked with Deputy Ward, you told her
25 that Josh took your cell phone, right?

1 A. Correct.

2 Q. And you actually told her that it was your father's
3 phone?

4 A. Yes.

5 Q. But that was a lie, wasn't it?

6 A. No.

7 Q. It actually wasn't your phone; it was Josh's phone?

8 A. It was not Josh's phone, no.

9 Q. He paid for it?

10 A. He did not pay for it.

11 Q. And y'all got into an argument about that phone?

12 A. You mean about him taking it from me? Yeah, he
13 didn't pay for it.

14 Q. It was the phone he paid for?

15 A. He didn't pay for it.

16 Q. Now, also when Deputy Ward arrived, I'm sure she
17 asked you if you needed medical attention, right?

18 A. Correct.

19 Q. And you told her no?

20 A. Correct.

21 Q. You also told her, though, that your face was
22 numb?

23 A. Correct.

24 Q. But you still didn't want medical attention?

25 A. No.

1 Q. So that means that no doctor looked at it?

2 A. Correct.

3 Q. No nurse looked at it?

4 A. I have three kids, I wasn't going to go to the
5 doctor.

6 Q. So a nurse did not look at your face?

7 A. No.

8 Q. And a medical responder didn't look at your face?

9 A. No.

10 Q. Now let's talk a little bit about the car. When
11 you and Josh were in the car, you got into an argument;
12 right?

13 A. Correct.

14 Q. And you told the police that it was over some
15 Facebook stuff?

16 A. Yes.

17 Q. And you also told them that it was over you seeing
18 other men?

19 A. Correct.

20 Q. And that was a half truth, because you were seeing
21 other men?

22 A. I mean, yeah.

23 Q. And but it was also because Josh was seeing other
24 women?

25 A. Correct.

- 1 Q. And you were upset about that?
- 2 A. [REDACTED] yeah.
- 3 Q. The father of your child seeing other women?
- 4 A. Right.
- 5 Q. Now, Josh was actually dating somebody at that
- 6 time? [REDACTED]
- 7 A. Correct.
- 8 Q. And you knew that?
- 9 A. I did.
- 10 Q. And you didn't like it?
- 11 A. I mean, I was upset by it, yes.
- 12 Q. You claim [REDACTED] sh hit you on December 26th?
- 13 A. Correct.
- 14 Q. The day after Christmas?
- 15 A. Correct.
- 16 Q. And Christmas day, Josh didn't spend with you?
- 17 A. No.
- 18 Q. He spent with the other woman?
- 19 A. I don't know.
- 20 Q. So he spent -- he tried to actually spend that day
- 21 with you and to see [REDACTED] J.P., didn't he?
- 22 A. He did. [REDACTED]
- 23 [REDACTED] He texted you trying to spend it with you?
- 24 A. Correct.
- 25 Q. And you told him no, because you were busy?

1 A. Yes.

2 Q. You were busy hanging out with somebody else?

3 A. Yeah, I did.

4 Q. Some other guy?

5 A. Correct.

6 Q. Now, let's talk a little bit about the timing of
7 this. Your testimony is that Josh picked you up at 6:00,
8 6:00, 6:30?

9 A. Right.

10 Q. And that y'all drove -- I believe you said in your
11 statement that you drove to Windwood?

12 A. Through Windwood, yes.

13 Q. Because that's where Josh had a trailer?

14 A. No, he did not.

15 Q. He lived -- he sometimes stayed in Windwood?

16 A. I'm not sure, maybe.

17 Q. Now, let's talk about how far it is from the Sunoco
18 to Windwood.

19 A. Right.

20 Q. It's about a mile and a half?

21 A. Uh-huh, yeah.

22 Q. So it's pretty close?

23 A. Right.

24 Q. And it's your testimony that for an hour and a
25 half, y'all drove around in the car from the Sunoco to

1 Windwood?

2 A. We were together for an hour.

3 Q. So an hour to drive a mile and a half?

4 A. We drove more. We drove into Windwood. We, you
5 just said, mile and a half, we went into Windwood as well.

6 Q. And so Windwood is a mile and a half, but you could
7 drive around Windwood in probably ten minutes, couldn't you?

8 A. Yeah. But, I mean, we stopped. Because at first
9 when we were together, we weren't arguing. Didn't start
10 arguing until about 20 minutes when we were together.

11 Q. Okay. So you were driving -- now your testimony is
12 that you actually stopped somewhere in Windwood?

13 A. I think I wrote that. I'm not sure.

14 Q. Well, take a look at your statement again.

15 A. Yeah, right, we stopped, yeah.

16 Q. But now your testimony is you actually did stop?

17 A. We stayed in Windwood the whole time.

18 Q. And that's only a mile and a half away?

19 A. Right, but Windwood is very big. You could drive
20 around Windwood for 30 minutes if you wanted to.

21 Q. Now, you testified --

22 MR. GROEBER: Could I have one moment, Your Honor?

23 THE COURT: You may.

24 BY MR. GROEBER:

25 Q. You and Josh have a child together?

1 A. Correct.

2 Q. [REDACTED] J.P.?

3 A. Right.

4 Q. She's 10 months old, right?

5 A. Correct.

6 Q. And [REDACTED] J.P. is staying with you and your mom and
7 your dad?

8 A. Correct.

9 Q. And they help you with her, like good grandparents
10 do?

11 A. That's right.

12 Q. And they love [REDACTED]?

13 A. Right.

14 Q. And you love her?

15 A. Yes.

16 Q. And you love having her around?

17 A. That's right.

18 Q. And they love having her around?

19 A. Yeah, who wouldn't?

20 MR. GROEBER: No other questions of this witness,
21 Your Honor. [REDACTED]

22 THE COURT: Ms. Sigal. [REDACTED]

23 [REDACTED] MS. SIGAL: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. SIGAL:

1 Q. Ms. Parker, you had an issue with your probation
2 back in February; is that right?

3 A. I won't say issue, but ...

4 Q. It was about money? You just testified it was
5 about money; is that right?

6 A. I wasn't paid off whenever, in time as my ending.

7 Q. Is that -- were you doing -- having a little bit of
8 a financial hardship at that time?

9 A. I didn't have a job for awhile.

10 Q. So you just had trouble paying for the probation?

11 A. Right.

12 Q. But you were complying with every aspect of
13 probation?

14 A. Yes.

15 Q. And it was your understanding you were done with
16 probation other than the financial aspect?

17 A. Correct. Like, I haven't seen my probation officer
18 since February. And she -- she's called me and told me I
19 needed to, like, come pay this, and I went and paid it, but
20 I have not seen her, no.

21 Q. All right. And so we just talked about your prior
22 convictions. It's all out in the open. Those are all your
23 prior convictions with dishonesty; is that right?

24 A. Yes.

25 Q. And are you being honest here today?

1 A. Yes.

2 Q. About what happened with Josh?

3 A. Yes, ma'am.

4 Q. And is this easy for you to talk about? Is this --
5 let me rephrase this. Is this situation here today
6 something you want to be doing?

7 A. No, ma'am. I want to just forget about it.

8 Q. When you filled out your statement for Officer Ward
9 that night, you had just been assaulted like an hour and a
10 half before that; is that right?

11 A. Yes, ma'am.

12 Q. And were you told by Officer Ward to include every
13 single detail of the entire day?

14 A. I mean, I thought she meant from whenever I was
15 with Josh, so ...

16 Q. Was it your understanding that you just needed to,
17 I think as you previously stated, just hit the major
18 points?

19 A. Correct.

20 Q. And so, admittedly, there are some details
21 throughout the day that you left out?

22 A. Yes.

23 Q. But the part about when Josh hit you in the face,
24 does that remain the same consistently throughout?

25 A. Yes, ma'am.

1 Q. And is that because Josh Parker is the person who
2 hit you in the face on December 26th?

3 A. Yes, ma'am.

4 Q. Who does your phone belong to?

5 A. My father.

6 Q. To your father?

7 A. Yes.

8 MS. SIGAL: Thank you. I have no further
9 questions.

10 MR. GROEBER: Judge, may I approach?

11 THE COURT: You can.

12 (Whereupon, a bench conference takes place off the
13 record.)

14 MS. SIGAL: Your Honor, I have no further questions
15 for this witness at this time.

16 THE COURT: May I approach, Your Honor?

17 THE COURT: Mr. Groeber.

18 MR. GROEBER: No other questions for this witness.

19 THE COURT: You may step down.

20 MS. SIGAL: The State calls Officer Michelle Ward.

21 MICHELLE WARD,

22 having been duly sworn, testifies as follows:

23 THE CLERK: State your full name and spell your last
24 name for the record.

25 THE WITNESS: Michelle ward, W-A-R-D.

1 DIRECT EXAMINATION

2 BY MS. SIGAL:

3 Q. Good morning, Officer Ward. Where do you work?

4 A. Berkeley County Sheriff's Office.

5 Q. And what is your rank with the Berkeley County
6 Sheriff's Office?

7 A. I am a private first-class.

8 Q. And how long have you worked for the Sheriff's
9 Office?

10 A. I worked for the Sheriff's Office for almost two
11 years.

12 Q. What kind of training did you have to undergo to
13 become an officer for the Sheriff's Office?

14 A. I went to the South Carolina Criminal Justice
15 Academy for 12 weeks.

16 Q. For 12 weeks?

17 A. Yes.

18 Q. And what kind of cases do you get as a deputy?

19 A. All kinds, it ranges anywhere from simple assaults
20 to simple information, people wanting to know what to do for
21 eviction, thefts, pretty much just about anything you can
22 think of.

23 Q. So to you typically respond to 911 calls?

24 A. Yes, ma'am.

25 Q. Do you typically respond to situations where

1 something traumatic has just happened?

2 A. Yes, all the time.

3 Q. And what kind of things do you look for when you
4 respond to those kinds of calls?

5 A. That depends on the call that I'm going to. If
6 it's an assault call, looking at the alleged victim, seeing
7 what their reaction is, how -- what their demeanor is. I'm
8 looking at witnesses, what their demeanors are. Anybody who
9 is involved, the alleged suspect, I'm looking to see what
10 their demeanor is, how they are acting. And I talk to
11 everyone to see -- to try to gather up all the evidence and
12 all the facts to try to determine what was going on.

13 Q. Were you working as your capacity as an officer for
14 the Sheriff's Office on December 26th, 2014?

15 A. I was.

16 Q. And did you get a call to respond to an assault
17 that had occurred?

18 A. I did.

19 Q. And where did you respond?

20 A. I responded to [REDACTED] [REDACTED] [REDACTED].

21 Q. And where is that?

22 A. That's in Moncks Corner, which is in Berkeley
23 County.

24 Q. And did you learn where the assault actually
25 occurred?

1 A. I did.

2 Q. And where had the assault actually occurred?

3 A. The assault -- I learned that the assault actually
4 occurred somewhere in the area of Meyers Road and Wind Gate
5 Subdivision.

6 Q. Is that in Berkeley County?

7 A. Yes, it is.

8 Q. And when you arrived at that residence, who was
9 present at the house?

10 A. The -- Ms. Parker, her mother, her father and
11 another child.

12 Q. And did you meet with all of them?

13 A. I did.

14 Q. And as you stated earlier, you usually try to look
15 at the demeanor of the victim?

16 A. Yes.

17 Q. What was the demeanor of Jennifer Parker when you
18 met with her?

19 A. She appeared upset. Appeared that she had been
20 crying; had looked like she had been crying.

21 Q. What do you mean by looked like she had been
22 crying?

23 A. Her eyes were kind of red. You could tell that it
24 looked like she had been crying, between some tears still in
25 her eyes, her eyes were watery, her eyes were red and the

1 fact that she was still very shaken up about what was
2 happening.

3 Q. Okay. And did -- without going into what she said,
4 did she tell you why she had called for help?

5 A. For an assault.

6 Q. For an assault? And did you know who assaulted her
7 that time?

8 A. At that time, I did not. As I spoke with her,
9 that's whenever I learned more details.

10 Q. And who did you learn was the person who assaulted
11 her?

12 A. Mr. Parker, her husband.

13 Q. The defendant?

14 A. Yes, ma'am.

15 Q. Okay. What about -- what else did you observe
16 about her? Did she have any injuries on her body that you
17 could see?

18 A. Yes, she did.

19 Q. What kind of injuries were those?

20 A. I noticed some bruising above her eye, underneath
21 her eye. There was a small laceration underneath her left
22 eye, and some bruising on her cheek.

23 Q. And did those injuries appear to have occurred
24 recently?

25 MR. GROEBER: Objection.

1 THE COURT: Basis?

2 [REDACTED] EBER: Foundation. Calls for --

3 THE COURT: Rephrase that question.

4 BY MS. SIGAL:

5 Q. In your experience with law enforcement, did you
6 observe her i [REDACTED] to have occurred recently?

7 MR. GROEBER: Same objection, Your Honor.

8 BY MS. SIGAL:

9 Q. Did they appear to be freshly committed?

10 MR. GROEBER: Same objection, Your Honor.

11 THE COURT: She can answer that one.

12 THE WITNES [REDACTED] y did.

13 BY MS. SIGAL:

14 Q. Freshly committed?

15 A. Yes.

16 Q. And did you take any pictures of Ms. Parker when
17 you were at the house?

18 A. I did.

19 Q. You actually --

20 MS. SIGAL: Permission to approach the witness,
21 Your Honor? [REDACTED]

22 THE COURT: You may. [REDACTED]

23 [REDACTED] SIGAL:

24 Q. State's Exhibits 3 and 4, first look at number 3,
25 do you recognize that photo?

1 A. I do.

2 Q. And what is that a photo of?

3 A. That's a photo of Ms. Parker.

4 Q. And is that the photo that you took?

5 A. Yes, ma'am.

6 Q. Is it a fair and accurate depiction of the photo
7 you took?

8 A. Yes.

9 Q. Is that a fair and accurate depiction how she
10 looked on the night of the incident?

11 A. It is.

12 Q. I'm handing you a little clicker. The top button
13 is the one you punch. Please indicate with the pointer
14 where the injuries were that you observed on Ms. Parker that
15 evening.

16 A. You can see the bruising above her eye brow there.
17 And you can see the swelling. There's actually some
18 bruising in that area as well, the little laceration I was
19 talking about. And you can see the bruising on her cheek
20 there.

21 Q. Now we are going to look at State's Exhibit No. 4.
22 Do you recognize this picture?

23 A. Yes, ma'am.

24 Q. And who is this a photo of?

25 A. This is Ms. Parker. This is a closer shot of her

1 face.

2 Q. And did you also take this picture?

3 A. I did.

4 Q. And is this picture a fair and accurate depiction
5 of the victim on the night of the incident?

6 A. Yes, ma'am.

7 Q. And, again, using the clicker, if you can just
8 point out the injuries, this is sort of a closer shot of the
9 injuries you observed.

10 A. It's a little bit closer, but this is the bruising
11 above her eye brow. And with this closer shot, you can
12 actually see the bruising underneath the eye. It's a little
13 bit harder to see the swelling because of it being a little
14 bit closer, but you can better see the laceration underneath
15 her eye. And right down here you can see the bruising a
16 little bit better on her cheek right there.

17 Q. And what side of her face are we looking at?

18 A. This is the left side of her face.

19 Q. Left side. Thank you.

20 A. Yes, ma'am.

21 Q. And did you learn the nature of the relationship
22 between the defendant and the victim?

23 A. Yes, ma'am.

24 Q. And what was that?

25 A. That they are currently married.

1 Q. After meeting with the victim and the witnesses --
2 did you meet with the victim's mother as well?

3 A. I did.

4 Q. After meeting with them, what did you do next in
5 your investigation?

6 A. Well, I had Mrs. Parker write out a written
7 statement for me, as well as I took the photographs and did
8 some other further paperwork that needed to be done for
9 her.

10 Q. Once you got all of that information, did you
11 obtain a warrant?

12 A. I did.

13 Q. And who did you obtain a warrant for?

14 A. For Mr. Parker.

15 Q. For what charge?

16 A. Criminal domestic violence.

17 Q. And why did you do that?

18 A. Because of the assault that took place, the
19 evidence that I had, the statement that I received from
20 Mrs. Parker, the fact that they were married and have a
21 child together. That's the reason why I decided to go with
22 a criminal domestic violence.

23 Q. And did you also take into consideration her
24 demeanor?

25 A. Yes, I did.

1 MS. SIGAL: Beg the Court's indulgence.

2 THE COURT: Take your time.

3 MS. SIGAL: Thank you, Officer Ward. I have no
4 further questions for you at this time.

5 MR. GROEBER: One moment, Your Honor.

6 THE COURT: Take your time.

7 CROSS-EXAMINATION

8 BY MR. GROEBER:

9 Q. Let's talk first about what you need to get a
10 warrant.

11 A. I'm sorry?

12 Q. What is the standard of evidence you need to get a
13 warrant? Probable cause, right?

14 A. Yes, sir.

15 Q. And that is in the Constitution?

16 A. Yes, sir.

17 Q. And that's what's required to get an arrest
18 warrant?

19 A. Yes, sir.

20 Q. Let's talk a little bit about what it means to be a
21 police officer, some of the characteristics a police officer
22 needs to have. One is that you are fair, right?

23 A. Yes, sir.

24 Q. And you, like most police officers, became one to
25 help people?

- 1 A. Yes.
- 2 Q. And to pursue justice?
- 3 A. Yes.
- 4 Q. And that means you have to be a fair person?
- 5 A. Yes.
- 6 Q. Fair to the victims?
- 7 A. Yes.
- 8 Q. Fair to witnesses?
- 9 A. Correct.
- 10 Q. Even fair to people who are accused of crimes?
- 11 A. Correct.
- 12 Q. Because sometimes people accused of crimes are
- 13 innocent?
- 14 A. Yes.
- 15 Q. You also, as a police officer, have to be accurate?
- 16 A. Yes.
- 17 Q. Accurate in what you write down in your reports?
- 18 A. Correct.
- 19 Q. Accurate in what you write down in witness
- 20 statements?
- 21 A. Correct.
- 22 Q. Accurate in the forms that you fill out?
- 23 A. Correct.
- 24 Q. And accurate in what you tell dispatch when you
- 25 communicate on the radio?

1 A. Yes.

2 Q. [REDACTED] e in what you tell the prosecutor when you
3 meet with them preparing for trial, right?

4 A. Yes.

5 Q. And most especially, of course, accurate when you
6 are in court [REDACTED] ath?

7 A. Yes.

8 Q. And you want to be accurate because other people
9 are going to rely on what you say?

10 A. Correct.

11 Q. Other people are going to rely on your radio
12 communications? [REDACTED]

13 A. Correct.

14 Q. They are going to rely upon your report?

15 A. Yes.

16 Q. They are going to rely upon the witness statements
17 that you either write or that you've signed?

18 A. Correct.

19 Q. Some of the people that rely on those are your
20 superior officers, right?

21 A. Correct. [REDACTED]

22 Q. And they form a case file and it gets [REDACTED] the
23 [REDACTED] tor's Office, so they rely upon it?

24 A. Correct.

25 Q. And you know as an officer that they have to turn

1 over everything to the defense attorney?

2 A. Correct.

3 Q. So we rely on it. And, in fact, you rely on it too
4 to refresh your recollection about what happened?

5 A. Correct.

6 Q. And so it's really important that it's accurate?

7 A. Yes.

8 Q. It's also important that it's -- important that
9 it's complete?

10 A. Yes.

11 Q. Because part of being accurate is documenting the
12 whole story?

13 A. Correct.

14 Q. And I think everybody would agree an incomplete
15 report or incomplete statement or a form could be an
16 inaccurate one?

17 A. Correct.

18 Q. Finally, it's important to tell the truth, right?

19 A. Of course.

20 Q. Everything you write down should be the truth?

21 A. Yes.

22 Q. Now, one of the most important parts about being a
23 police officer is actually writing the report, isn't it?

24 A. Yes.

25 Q. And it's probably one of the most boring too, isn't

1 it?

2 A. [REDACTED]ime consuming.

3 Q. But you agree it's important?

4 A. Very much.

5 Q. And as we talked about, one of the reasons it's
6 important is [REDACTED] so many people rely on it?

7 A. Yes.

8 Q. And so when you write a report, you know how
9 important it is?

10 A. Yes.

11 Q. And how serious it is?

12 A. Yes. [REDACTED]

13 Q. In fact, they actually give you classes at the
14 academy on report writing?

15 A. They do. It's minimal, but they do.

16 Q. They give you training on it?

17 A. Yes.

18 Q. And they teach you how important it is?

19 A. Yes.

20 Q. And you did that in this case?

21 A. Yes. [REDACTED]

22 Q. You were fair in what you wrote down? [REDACTED]

23 [REDACTED] Yes.

24 Q. And you were accurate?

25 A. Yes.

1 Q. And you wrote a complete report?

2 A. Correct.

3 Q. And if it's all those things, it must be true?

4 A. I did the best that I could with the information
5 that I had.

6 Q. Of course. And, of course, you are relying on what
7 people tell you to write your reports?

8 A. Correct.

9 Q. Because you weren't there?

10 A. Correct.

11 Q. So you have to rely on what people say?

12 A. That's correct.

13 Q. They also have these things called supplementals.
14 Do you know what a supplemental is?

15 A. Yes, sir.

16 Q. If you get new information on a case later on, you
17 would make a report of that?

18 A. Correct.

19 Q. And it would supplement the original report?

20 A. That's correct.

21 Q. And/or if you thought about something that you
22 forgot to write down, you would go and do a supplemental?

23 A. Correct.

24 Q. And you didn't do any supplemental reports in this
25 case?

1 A. I did.

2 Q. You did?

3 A. For the warrant that I obtained.

4 Q. So the warrant you would consider would be the
5 supplemental report?

6 A. Yes, I did a supplemental report.

7 Q. Just saying that you got a warrant?

8 A. Yes.

9 Q. But no supplementals in regards to what the
10 witness -- what the accuser told you or in her witness
11 statement?

12 A. Correct. I did not do a supplemental to any
13 additional information I received.

14 Q. Okay. So another important part about being a
15 police officer is collecting evidence?

16 A. Correct.

17 Q. And you actually take classes on that too?

18 A. Yes.

19 Q. And it's important to collect and document as much
20 evidence as possible?

21 A. Correct.

22 Q. Because, well, gives a fuller picture, correct?

23 A. Correct.

24 Q. And sometimes evidence is not just that one scene,
25 but at multiple scenes?

1 A. Correct.

2 Q. They also probably taught in the academy about
3 corroboration. You know what corroboration means, right?

4 A. Yes.

5 Q. Basically, if a witness tells you about people who
6 can corroborate their story, you would want to go and talk
7 to that witness?

8 A. Correct.

9 Q. And, for example, in this case, if Ms. Parker had
10 told you about a store clerk who could verify that she
11 worked that day, you would have gone to talk to that store
12 clerk?

13 A. As far as her working, her going into work had
14 nothing to do with the assault.

15 Q. Well, if she told you -- she did tell you that she
16 talked to a store clerk to cover for her, right?

17 A. She told me that she was at work and that she left
18 work early to meet with her husband.

19 Q. And she told you where she worked?

20 A. Yes.

21 Q. And you did not go to the Sunoco to confirm that
22 she actually worked that day?

23 A. No, I did not.

24 Q. And you didn't ask any other officer to go do
25 that?

1 A. No, I did not.

2 Q. Sometimes evidence can be located on a cell phone
3 too, right?

4 A. Correct.

5 Q. Text messages are on cell phones?

6 A. Yes.

7 Q. Pictures?

8 A. Yes.

9 Q. And you actually can look at someone's phone if
10 they give you permission?

11 A. Correct.

12 Q. If they don't give you permission, you can try to
13 get a search warrant?

14 A. Correct.

15 Q. And there's actually somebody in the Berkeley
16 County Sheriff's Office who can download the entire phone?

17 A. Yes.

18 Q. And get all of the texts?

19 A. Yes.

20 Q. All of the pictures?

21 A. Yep.

22 Q. Can even get sometimes Facebook stuff that's on
23 there?

24 A. Correct.

25 Q. So there's a lot you can get from a cell phone?

1 A. Yes, there is.

2 Q. And you did not take a look at Ms. Parker's phone?

3 A. No, I did not. She did not have her phone.

4 Q. You didn't ask for it to be downloaded?

5 A. No, I did not.

6 Q. So you didn't look at the text that she may have
7 sent Joshua?

8 A. No.

9 Q. Or any texts that he sent her?

10 A. No.

11 Q. And you didn't look at Ms. Schwartz's phone either?

12 A. No.

13 Q. Her texts?

14 A. No, I did not.

15 Q. Or pictures?

16 A. No.

17 Q. Okay. Now, Ms. Parker said that Joshua had stolen
18 her phone, right?

19 A. She told me that he took her phone.

20 Q. Took her phone. Okay. And he was actually charged
21 with stealing the phone, wasn't he?

22 A. Yes.

23 Q. And that charge was dismissed?

24 A. It was.

25 Q. We talked about texts and pictures and cell phones.

1 How about videos? You would agree that a video could be
2 helpful in the case, right?

3 A. Very much so.

4 Q. And because videos can show the times that someone
5 is actually at a place?

6 A. Correct.

7 Q. And usually -- now, you didn't go to the Sunoco to
8 see if they had any video to corroborates Ms. Parker's
9 claims?

10 A. No.

11 Q. And you didn't go interview any other workers that
12 were there that day?

13 A. No.

14 Q. You didn't call her boss to confirm that she
15 actually worked that day?

16 A. No, I did not.

17 Q. So you are basically just going on her word that
18 she worked?

19 A. Yes.

20 Q. And that her mom dropped her off and picked her up
21 around 8:00?

22 A. Yes.

23 Q. Now, when you take statements, you -- and I'm
24 speaking specifically about written statements right now --
25 you actually will ask the witness to write it?

- 1 A. Yes.
- 2 Q. [REDACTED] you want them to do it in their own
3 writing, right?
- 4 A. Correct.
- 5 Q. And so that they can write in their own words what
6 happened? [REDACTED]
- 7 A. That's correct.
- 8 Q. You wouldn't filter what they said in any way?
- 9 A. Correct.
- 10 Q. And you tell them to take their time?
- 11 A. I do.
- 12 Q. And not to [REDACTED]
- 13 A. I do.
- 14 Q. To try their best to remember?
- 15 A. Yes.
- 16 Q. And you tell them to be complete?
- 17 A. Yes.
- 18 Q. About every detail that would be important?
- 19 A. Yes.
- 20 Q. Because, again, you rely on it, right?
- 21 A. Yes. [REDACTED]
- 22 Q. And the rest of us rely on it? [REDACTED]
- 23 [REDACTED] Correct.
- 24 Q. So you know it's important to tell them those
25 things, tell the witness?

1 A. Yes.

2 Q. [REDACTED] took Ms. Parker's statement, right, in this
3 case?

4 A. I did.

5 Q. And you let her take her time?

6 A. I did [REDACTED]

7 Q. You told her if she remembered anything else, to
8 let you know?

9 A. I did.

10 Q. And she did not call back?

11 A. No, I did not receive a call.

12 Q. Now, Jenni [REDACTED] ke to you before she gave the
13 written statement, right?

14 A. Yes.

15 Q. And she told you that Joshua had called at five
16 o'clock?

17 A. I cannot recall the exact time, but she did tell me
18 that he called her.

19 Q. Okay.

20 MR. GROEBER: Can I have one moment, Your Honor,
21 please? [REDACTED]

22 THE COURT: Take your time. [REDACTED]

23 [REDACTED] GROEBER:

24 Q. If you took a look at your report, would it refresh
25 your recollection about what she told you?

1 A. It would, yes.

2 MR. GROEBER: May I approach, Your Honor?

3 THE COURT: You may.

4 (Dft. Exh. 2, Incident Report, was marked for
5 identification.)

6 BY MR. GROEBER:

7 Q. I'm going to hand you Defense Exhibit 2. And I'm
8 going to ask you if you recognize that?

9 A. I do.

10 Q. And I'm going to ask you to focus on the first
11 page.

12 A. I see it right here.

13 Q. You see 17:00?

14 A. I do.

15 Q. And it says there that she told you he called
16 around 17:00, which would be five o'clock?

17 A. Correct.

18 Q. Now, in her statement to you when she was speaking
19 with you, she didn't say anything about trying to escape a
20 moving truck?

21 A. No, I do not recall.

22 Q. She didn't write that in her written statement
23 either?

24 A. No.

25 MR. GROEBER: Okay. Can I have one moment, Your

1 Honor, again?

2 THE COURT: Take your time.

3 BY MR. GROEBER:

4 Q. One other thing Ms. Parker told you is that they
5 were driving to Joshua's residence in Wind Gate?

6 A. I remember she told me that they were driving
7 around the Wind Gate area.

8 Q. Okay. Well, will you take again a look at that
9 first page of the report.

10 A. Yes, this statement I put in here that they were
11 headed towards his residence in the Wind Gate area, in the
12 Wind Gate subdivision.

13 MR. GROEBER: Thank you. No further questions at
14 this time.

15 REDIRECT EXAMINATION

16 BY MS. SIGAL:

17 Q. Officer Ward, in your line of work, do you always
18 know about every single detail about what happens in an
19 assault case immediately following the trauma?

20 A. No.

21 Q. Are people that you meet with, in these kinds of
22 cases, sometimes still under the shock and trauma of the
23 incident?

24 A. Typically whenever I meet with them, they are.

25 Q. And have victims or witnesses ever left out

1 extraneous details in their statements?

2 A. Yes, normally details that they don't find to be
3 relevant at the time.

4 Q. At the time?

5 A. Yeah.

6 Q. And can a statement still be accurate, to your
7 knowledge, when those details are left out?

8 A. It can be, yes.

9 Q. Are you looking for the details of the actual crime
10 that occurred to be in the statement?

11 A. Yes, that's what I'm generally looking for.

12 Q. And if Ms. Parker wrote that she tried to jump out
13 of the truck for fear of the defendant, would that have
14 changed the nature of your investigation?

15 A. No.

16 Q. You stated that you did not get a chance to look at
17 her phone to see if there had been any texts because he had
18 the phone?

19 A. Correct.

20 Q. You've been sitting through trial today, have you
21 heard Jennifer -- I know she stated some things that she
22 didn't state to you on the night of the incident, but have
23 you heard her state anything that is inconsistent?

24 MR. GROEBER: Objection.

25 THE COURT: Sustained.

1 MS. SIGAL: Beg the Court's indulgence.

2 Thank you. I have no further questions.

3 THE COURT: Mr. Groeber.

4 RECROSS-EXAMINATION

5 BY MR. GROEBER:

6 Q. Deputy Ward, you know how to get a search warrant,
7 right?

8 A. Correct.

9 Q. And you could have gotten a search warrant of the
10 phone in question?

11 A. I could have. I did not feel that it was relevant
12 to the assault.

13 Q. Okay. You didn't feel that way, correct?

14 A. Correct.

15 MR. GROEBER: No further questions, Your Honor.

16 THE COURT: You may step down. Thank you.

17 Call your next witness.

18 MS. SIGAL: Your Honor, the State rests.

19 THE COURT: Ladies and gentlemen, that indicates to
20 the Court there's a matter of law that I must take up
21 outside of your presence. Do not begin your deliberations.
22 Do not discuss this case amongst yourselves. You may leave
23 your note pads right where they are or take them with you.
24 Please rise for the jury.

25 (Whereupon, the jury leaves open court at 12:33

1 p.m.)

2 THE COURT: Thank you. Any motions or matters, Mr.
3 Groeber?

4 MR. GROEBER: I think before I would make any
5 motions, I need to proffer a couple of witnesses.

6 THE COURT: Let's do that.

7 MR. GROEBER: Thank you, Your Honor. We can start
8 with Ms. Parker and Ms. Schwartz.

9 THE COURT: You need Ms. Parker?

10 MR. GROEBER: Yes, Your Honor.

11 THE COURT: What's the nature?

12 MR. GROEBER: This is about the drug use, Your
13 Honor. I believe I need to proffer the evidence about her
14 prior drug use.

15 THE COURT: I don't know that we need to do that
16 before your motion for directed verdict.

17 MR. GROEBER: I don't know that I need to do it
18 then either. I will do it at Your Honor's discretion.

19 THE COURT: We will do it at a later time.

20 MR. GROEBER: That's fine. I just don't want to
21 forget.

22 MS. SIGAL: It's my understanding that information
23 about the drug use was ruled --

24 THE COURT: He just wanted to protect the record.

25 MS. SIGAL: I just wanted to make sure.

1 MR. GROEBER: And I would ask Ms. Schwartz similar
2 questions about that.

3 THE COURT: We will go over all of that.

4 And as far as the I-9, and we haven't marked it,
5 this will be Defendant's 1.

6 MR. GROEBER: 3, Defendant's 3.

7 THE COURT: 3. I think it is more confusing, so
8 I'm not going to allow that in. And so it will be marked
9 for the record.

10 MR. GROEBER: Thank you, Your Honor. And I would
11 just ask that -- I argue that you can take judicial notice
12 and be allowed to introduce that as evidence, just for the
13 record because I don't know that we were on the record at
14 side bar.

15 THE COURT: Anything else?

16 MR. GROEBER: I would move for a directed verdict
17 at this time, Your Honor. I don't believe the State
18 produced evidence sufficient to survive a directed verdict.
19 And for those reasons, I move to dismiss. In fact, if I
20 could have one second. That's it at this time. Thank
21 you.

22 THE COURT: Ms. Sigal?

23 MS. SIGAL: Your Honor, I do know that Your Honor
24 must consider the existence or nonexistence of the evidence
25 and not the weight. We had the victim with direct testimony

1 about the defendant assaulting her. We had photos to
2 corroborate her testimony she was, in fact, assaulted. The
3 marriage license between the two of them was admitted into
4 evidence showing they are household members.

5 Under the statute of criminal domestic violence, I
6 believe the State has overcome directed verdict at this time
7 due to Ms. Parker's testimony, Your Honor.

8 THE COURT: Anything further?

9 MR. GROEBER: No, Your Honor.

10 THE COURT: In ruling on the motion for directed
11 verdict pursuant to Rule 19 of South Carolina rules of
12 criminal procedure, I must view the evidence and all
13 reasonable inferences in the light most favorable to the
14 nonmoving party. Mr. Parker is charge with criminal
15 domestic violence. The State must prove that Mr. Parker
16 caused physical harm or injury to a member of his own
17 household or that he offered or attempted to cause physical
18 harm or injury. Based upon the testimony that has been
19 presented by the victim, Ms. Parker, the State has met its
20 burden. And the motion for directed verdict is denied.

21 MS. SIGAL: Thank you, Your Honor.

22 THE COURT: Anything further?

23 MS. SIGAL: Nothing from the State.

24 MR. GROEBER: Not at this time, Your Honor. Do you
25 want to advise --

1 THE COURT: Swear Mr. Parker.

2 (Whereupon, the defendant is sworn.)

3 THE COURT: Mr. Parker, at this time, I'm going to
4 explain to you certain of your rights. If you don't
5 understand anything I say, please let me know and I will
6 explain it in further detail. If you need me to explain
7 anything or repeat it, please let me know. Do you
8 understand?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: We have reached the stage of the trial
11 where you may present your defense. You have a right to
12 claim protections given to you by the Fifth Amendment to the
13 constitution of the United States. This amendment states in
14 part that no person shall be compelled in any criminal case
15 to be a witness against himself. This means that you cannot
16 be required to testify. You do have the right to testify on
17 your own behalf; however, no one can make you testify. This
18 is a personal right and no one can waive this right except
19 for you.

20 If you decide to testify, you will be subject to
21 the same rules that govern other witnesses. And you may be
22 examined and cross-examined on any relevant issue in this
23 case. In addition, if you have any convictions for
24 dishonesty or false statement or other crimes punishable by
25 imprisonment for more than one year and I determine that the

1 probative value of admitting this evidence outweighs it's
2 prejudicial effect to you, the solicitor will be able to use
3 that in order to attack your credibility.

4 Are there any issues, any convictions that may
5 apply, Ms. Sigal?

6 MR. GROEBER: I believe there's one grand larceny
7 that would come in.

8 THE COURT: If you decide to testify, this decision
9 on your part must be freely, voluntarily and intelligently
10 made with the knowledge of the protections given to you by
11 the Fifth Amendment and the consequences of your decision to
12 testify.

13 If you decide not to testify, I will instruct the
14 jurors that they cannot give the fact that you did not
15 testify any consideration whatsoever. And there is to be
16 absolutely no prejudice to you because you did not testify.
17 It is left entirely up to you whether or not you testify.
18 You may talk with anyone, your attorneys, your friends, your
19 family members or anyone else, but the final decision is
20 left entirely up to you.

21 Do you understand what I've explained to you?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: And have you had an opportunity to
24 discuss with your attorney whether or not you will testify?

25 THE DEFENDANT: I have and I wish --

1 THE COURT: Do you wish to testify?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Thank you. Please be seated.

4 Mr. Groeber, do you have any additional witnesses?

5 MR. GROEBER: No, Your Honor.

6 THE COURT: So the defense rests as well; is that
7 correct?

8 MR. GROEBER: That is correct, Your Honor.

9 THE COURT: All right. And so we have ordered
10 pizza. And so how long do you all need to get ready for
11 closing, 20 minutes?

12 MS. SIGAL: Your Honor, I would like at least 20
13 minutes. I just wanted to be able to get some things
14 together.

15 MR. GROEBER: I prefer to actually get something in
16 my stomach and prepare a little bit. Could we do an hour?

17 THE COURT: I will give you :30. All right. 30
18 minutes.

19 THE DEFENDANT: Your Honor, am I allowed to walk
20 outside or anything. No?

21 MR. GROEBER: I think he just wants to have a
22 cigarette.

23 THE COURT: I'm sorry, Mr. Parker, I'm going to go
24 ahead and place you -- you are still in custody. All right?
25 Thank you.

1 (Defendant's Exhibit 3, Order, was marked for
2 identification.)

3 THE COURT: I'm going to go ahead and bring them
4 in. You are going to rest on the record?

5 MR. GROEBER: Yes.

6 THE COURT: I'm going to give the charge. Then we
7 will break once the pizza is here. And then you will do
8 your closing arguments. You get the last close, right?

9 MS. SIGAL: The State is going to waive -- no, I do
10 believe he gets last close.

11 THE COURT: Didn't you introduce --

12 MR. GROEBER: No, for identification. I didn't
13 introduce it.

14 THE COURT: So my notation was incorrect. So you
15 get last close. And then I will go over the verdict form
16 with them. Okay?

17 MR. GROEBER: Sure. There will be a break between
18 the charge and argue and close?

19 THE COURT: Correct.

20 MR. GROEBER: Thank you, Your Honor.

21 THE COURT: Everybody ready?

22 MR. GROEBER: Yes, Your Honor.

23 (Whereupon, the jury returns to open court at 12:45
24 p.m.)

25 THE COURT: Thank you. Mr. Groeber.

1 MR. GROEBER: At this time the defense rests.

2 THE COURT: Ladies and gentlemen, I was trying to
3 coordinate -- lunch is on the way, so we are trying to make
4 the efficient use of our time. So I'm going to go ahead and
5 instruct you on the law applicable to this case. At that
6 time, our lunch should arrive. And then we will take a
7 break and you will then hear closing arguments on behalf of
8 counsel. And then you will retire to consider your verdict.

9 Please listen very carefully. I typically do not
10 send a copy of my charges back to you.

11 Mr. Rossington, as I've indicated to you, you are
12 responsible for writing the verdict, but I am going to give
13 you instructions regarding that in just a few moments.

14 Ladies and gentlemen, I remind you that during this
15 trial, you and I have had certain duties to perform. As the
16 trial judge, it is my responsibility to preside over the
17 trial of this case. And I have the duty to rule on the
18 admissibility of the evidence that has been offered during
19 this trial. You are to consider only the competent evidence
20 before you. If there is any testimony ordered stricken from
21 the record during this trial, you must disregard that
22 testimony. You are to consider only the testimony that has
23 been presented from the witness stand as well as the
24 exhibits that have been made part of the record of this
25 case.

1 I have the additional duty to charge you the law
2 applicable to this case. As the presiding judge, I am the
3 sole judge of the law in this case. It is your duty as
4 jurors to accept the law and apply the law exactly as I
5 state it to you now. If you have any idea as to what the
6 law is or what the law ought to be, and it does not agree
7 with what I'm about to tell you, you must abandon your own
8 ideas because you are sworn to accept the law and apply the
9 law exactly as I state it to you now.

10 In every case tried in this court before a jury,
11 the jury becomes the sole and exclusive judges of the facts.
12 A trial judge may not make any comment regarding the facts
13 in this case. You are not to infer from anything that I
14 have said or done throughout the progress of this trial that
15 I have any opinion about the facts in this case. The law
16 does not allow me to have an opinion about the facts in this
17 case. This is solely a matter for you to determine.

18 The indictment in this case charges Mr. Parker with
19 one count of criminal domestic violence. I remind you that
20 the fact that Mr. Parker was arrested, charged and indicted
21 in this case, is not evidence and cannot be considered by
22 you as evidence of guilt, nor does it create any presumption
23 or inference of guilt. An indictment is simply the formal
24 written instrument which contains the charge made against
25 the defendant. It is the formal document by which this case

1 is brought into court.

2 Just as the indictment in this case is not
3 evidence, any terminology or labels used to refer to the
4 individuals involved in this case cannot be considered as
5 evidence. For example, the use of the words defendant and
6 victim are merely labels and may not be considered by you as
7 evidence.

8 Mr. Parker has pled not guilty to this indictment.
9 A person charged with committing a criminal offense in South
10 Carolina is never required to prove himself innocent. I
11 charge you, it is a important rule of law that the defendant
12 in a criminal trial, no matter what the seriousness of the
13 charge may be, will always be presumed to be innocent of the
14 crime for which the defendant was indicted unless guilt has
15 been proven by evidence satisfying you of that guilt beyond
16 a reasonable doubt. This presumption does not end when you
17 begin your deliberations, but it accompanies the defendant
18 throughout the trial until you reach a verdict of guilt
19 based upon the evidence satisfying the standard of guilt
20 beyond a reasonable doubt.

21 The presumption of innocence is not just a legal
22 theory. It is not just a legal phrase. It is a substantial
23 right to which every defendant is entitled unless you the
24 jury are satisfied from the evidence of the defendant's
25 guilt beyond a reasonable doubt.

1 The State has the burden of proving the defendant
2 guilty beyond a reasonable doubt. Some of you may have
3 served as jurors before in civil cases where you were told
4 it was only necessary to prove that a fact is more likely
5 true than not true, such as by greater weight or
6 preponderance of the evidence.

7 Proof beyond a reasonable doubt is proof that
8 leaves you firmly convinced of the defendant's guilt. There
9 are very few things in this world that we do know with
10 absolute certainty. And in criminal cases, the law does not
11 require the burden of proof that overcomes every possible
12 doubt.

13 If, based upon your consideration of the evidence,
14 you are firmly convinced that Mr. Parker is guilty of the
15 crime charged, you must find him guilty.

16 If, on the other hand, you think there is a real
17 possibility that Mr. Parker is not guilty, you must give him
18 the benefit of the doubt and find him not guilty.

19 There are two types of evidence that are generally
20 presented in a trial, direct evidence and circumstantial
21 evidence. Direct evidence directly proves the existence of
22 a fact and does not require deduction.

23 Circumstantial evidence is proof of a chain of
24 facts and circumstances indicating the existence of a fact.
25 Crimes may be proven by circumstantial evidence.

1 The law makes no distinction between the weight or
2 value to be given either direct or circumstantial evidence..
3 However, to the extent the State relies on circumstantial
4 evidence, all of the circumstances must be consistent with
5 each other, and when taken together, point conclusively to
6 the guilt of the defendant beyond a reasonable doubt. If
7 these circumstances merely portray the defendant's behavior
8 as suspicious, the proof has failed.

9 The State has the burden of proving the defendant
10 guilty beyond a reasonable doubt. This burden rests with
11 the State regardless of whether the State relies on direct
12 evidence, circumstantial evidence, or a combination of both.
13 Necessarily, you must determine the credibility of witnesses
14 who have testified in this case. Credibility simply means
15 believability. It becomes your duty as jurors to analyze
16 the facts and determine which evidence convinces you of its
17 truth.

18 In determining the believability of the witnesses
19 who have testified in this case, you may believe one witness
20 over several witnesses or several witnesses over one
21 witness. You may believe part of the testimony of one
22 witness and reject the remaining part of the testimony of
23 that same witness. You may believe the testimony of a
24 witness in its entirety or reject the testimony of a witness
25 in its entirety. You may consider whether the witness has

1 exhibited to you any interest, bias, or other motive in this
2 case. And you may consider the manner and appearance of a
3 witness while the witness was testifying.

4 A person who has committed prior bad acts or past
5 criminal record is competent to testify during a trial.
6 Prior bad acts or having a past record does not affect the
7 ability of that witness to testify. The prior bad acts or
8 the past record may be only considered by you, if at all, in
9 determining the witness's believability. Remember, you are
10 the sole judges of the facts in this case and of the
11 believability of any and all of the witnesses.

12 In order to establish criminal liability, criminal
13 intent is required. For example, the mental state required
14 to be proven by the State for a particular crime must be
15 purpose, intent, knowledge, recklessness or criminal
16 negligence. Criminal intent must be proven by the State
17 beyond a reasonable doubt. It is always a matter that must
18 be determined by the jury from the circumstances surrounding
19 the situation. There is no way to prove intent to
20 mathematical certainty. The law says that criminal intent
21 may be inferred from the circumstances shown to have
22 existed. This is how you make a determination of whether or
23 not the element requiring intent was present.

24 It is not necessary to establish intent by direct
25 and positive evidence, but intent may be established by

1 inference in the same way as any other fact, by taking into
2 consideration the acts of the parties and all the facts and
3 circumstances of this case.

4 Criminal intent is a mental state. It is a
5 conscience wrongdoing. It is up to you to determine what
6 the defendant intended to do based upon the circumstances
7 shown to have existed.

8 I instruct you and emphasize, the fact that the
9 defendant did not testify is not a factor to be considered
10 by you in any way in your deliberation and in your
11 consideration on the question of the guilt or innocence of
12 the defendant. It must not be considered by you in any
13 manner whatsoever. A defendant has the constitutional right
14 to remain silent. The fact that he asserted this right must
15 not be considered by you at all in your deliberations.
16 Under your oath, you are to draw no conclusion whatsoever
17 from the fact that the defendant did not testify in this
18 case. The fact that Mr. Parker did not testify should not
19 even be considered in the jury room.

20 As I have stated, the burden of proof is on the
21 State. The defendant is not required to prove his
22 innocence. The burden of proof remains on the State to
23 prove guilt beyond a reasonable doubt.

24 Mr. Parker is charged with criminal domestic
25 violence. The State must prove beyond a reasonable doubt

1 that Mr. Parker caused physical harm or injury to a member
2 of his household or that Mr. Parker offered or attempted to
3 cause physical harm or injury to a member of his own
4 household with the apparent present ability to cause harm or
5 injury under circumstances reasonably creating a fear of
6 imminent peril.

7 A household member is a spouse, former spouse, a
8 parent, child, grandparent, brother or sister, a grandchild,
9 a person with whom the defendant has a child in common, and
10 a person of the opposite sex with whom the defendant is
11 living or has lived in the past.

12 Ladies and gentlemen, I'm going to go over the
13 verdict form with you. And, again, Mr. Rossington, you will
14 be responsible for completing this verdict form. It is a
15 unanimous verdict form, meaning all 12 of you must agree.

16 We, the jury, find the defendant, Joshua Parker,
17 not guilty of criminal domestic violence; or, we, the jury,
18 find the defendant, Joshua Parker, guilty of criminal
19 domestic violence. And after you have heard closing
20 arguments, I will go over this verdict form with you one
21 more time.

22 Ladies and gentlemen, we have reached the stage,
23 hopefully, I believe the pizza is there. And so we will
24 take our lunch break. Do not begin your deliberations. Do
25 not discuss this case amongst yourselves. After we have had

1 lunch, you will come back and hear closing arguments on
2 behalf of counsel. And then you will retire to consider
3 your verdict.

4 Please take all your belongings with you, but
5 please remember, and it is important, Mr. Foreman, do not
6 allow your members to begin their deliberations. Thank you.
7 Please rise.

8 (Whereupon, the jury leaves open court at 12:57
9 p.m.)

10 THE COURT: Any objections or corrections to the
11 charges read?

12 MR. GROEBER: No, Your Honor.

13 MS. SIGAL: No, Your Honor.

14 THE COURT: All right.

15 MR. GROEBER: I think I need to renew my directed
16 verdict motion, although I'm sure the Court would rule the
17 same way considering no additional evidence has been
18 presented.

19 THE COURT: I stand by my same ruling.

20 And 30 minutes, Counsel, 30 minutes. Thank you.

21 (Luncheon recess was taken.)

22 (Whereupon, the Court interviews each juror
23 individually in chambers):

24 THE COURT: Okay. I need Julio down by the school
25 yard, we will start with him.

1 (Whereupon, Juror 163, Julio Rossington, enters
2 judge's chambers.)

3 THE COURT: Have a seat. I don't think that it
4 applies to you because you are so far down, but there may
5 have been some material that jurors should not have seen on
6 the prosecutor's table. Did you see anything you should not
7 have seen?

8 JUROR 163: Not that I know of.

9 THE COURT: I'm going to bring everybody in and ask
10 them. So, as the foreperson, when you go back in, just let
11 me them know that nobody is in trouble, that there perhaps
12 were documents that were left inadvertently and that I'm
13 just asking them on the record.

14 JUROR 163: It's okay for me to tell them that?

15 THE COURT: Yes.

16 JUROR 163: Sure. Sure.

17 THE COURT: Send in whoever is ready. So you just
18 have everybody ready. Say this is a normal; this is not
19 abnormal. Don't scare everybody. Thank you, Julio. Are
20 you learning a lot?

21 JUROR 163: It's not as fun being on this side, but
22 it's all right.

23 (Whereupon, Juror 163 is excused.)

24 (Whereupon, Juror 95, Denise Hudson, enters judge's
25 chambers.)

1 THE COURT: Ms. Hudson, have a seat. I have a
2 question for you. You are not in any trouble. Some
3 material was left out inadvertently on the prosecutor's
4 table. Did you happen to see anything on a notebook or
5 laptop or anything?

6 JUROR 95: No.

7 THE COURT: Because you've been sitting closer to
8 the door, right?

9 JUROR 95: To this end where the alternates are.

10 THE COURT: And you didn't see anything?

11 JUROR 95: No.

12 THE COURT: Anything about me bringing you in here
13 that's going to cause you any concern?

14 JUROR 95: No, as long as I'm not in trouble, we
15 are good.

16 THE COURT: No one is in trouble at all. All
17 right. Thank you, Ms. Hudson.

18 (Whereupon, Juror 95 is excused.)

19 (Whereupon, Juror 159, Tashauna Ritenour, enters
20 judge's chambers.)

21 THE COURT: Ms. Ritenour, how are you? Have a
22 seat. I just need to know, there was a possibility some
23 information was left out on the prosecutor's table on a
24 notebook that should not have been for your eyes. Did you
25 happen to see anything of any concern or anything the

1 prosecutor's table?

2 JUROR 159: No.

3 THE COURT: You were typically up on the second row

4 by the windows, right?

5 JUROR 159: Yes.

6 THE COURT: Are you able to see what's on the

7 prosecutor's table?

8 JUROR 159: I only saw what they were telling us to

9 look at, so I don't even -- I didn't even look that far or

10 that hard on their table.

11 THE COURT: All right. Thank you.

12 (Whereupon, Juror 159 is excused.)

13 (Whereupon, Juror 140, Kenneth Owens, enters

14 judge's chambers.)

15 THE COURT: How are you?

16 JUROR 140: Fine.

17 THE COURT: There may have been some documents left

18 in a notebook that were not for the juror's eyes. Did you

19 see anything on the prosecutor's table?

20 JUROR 140: No, I never got close enough to be able

21 to see anything, I don't think.

22 THE COURT: All right. Thank you.

23 JUROR 140: I've seen a bunch of papers but that is

24 all I can tell you.

25 THE COURT: Anything on the paper that caused you

1 any concern? Could you see them?

2 JUROR 140: No.

3 THE COURT: Do you need some doughnuts?

4 JUROR 140: I thought you were talking about
5 doughnuts on the table. It was documents.

6 THE COURT: All right.

7 (Whereupon, Juror 140 is excused.)

8 THE COURT: You want me to do all these,
9 Mr. Groeber.

10 MR. GROEBER: Out of abundance of caution.

11 (Whereupon, Juror 192, Jonathan Turner, enters
12 judge's chambers.)

13 THE COURT: Hello, Mr. Turner. Have a seat, or you
14 can stand if you wish. I feel like I sit all the time. All
15 right. So there were some papers perhaps that you should
16 not have seen left on the prosecutor's table.

17 JUROR 192: Okay.

18 THE COURT: Did you see any of them?

19 JUROR 192: No.

20 THE COURT: Thank you. We will be with you in just
21 a few moments, Mr. Turner.

22 (Whereupon, Juror 192 is excused.)

23 (Whereupon, Juror 193, Kevin Updike, enters judge's
24 chambers.)

25 THE COURT: Hi, Mr. Updike. How are you?

1 JUROR 193: Fine.

2 THE COURT: All right. Mr. Updike, there was
3 perhaps some information left on the prosecutor's table.
4 Did you see anything?

5 JUROR 193: No, ma'am.

6 THE COURT: Were you able to read any of the
7 documents or anything?

8 JUROR 193: No, ma'am.

9 THE COURT: All right. That's my only question to
10 you. We will be with you in just a few moments. Thank you,
11 Mr. Updike.

12 (Whereupon, Juror 193 is excused.)

13 (Whereupon, Juror 63, Patricia Floyd, enters
14 judge's chambers.)

15 THE COURT: Hi. How are you? So, the prosecutor
16 may have left some documents on their table. Were you able
17 to see anything that was on the prosecutor's table?

18 JUROR 63: No, ma'am.

19 THE COURT: All right. And you are usually pretty
20 close to the table?

21 JUROR 63: Yeah, I'm right there on the front
22 because I can't hear.

23 THE COURT: There wasn't anything maybe on the
24 laptop or any notebooks that you were able to see or --

25 JUROR 63: No, ma'am.

1 THE COURT: All right. Thank you. We will see
2 about that cheesecake.

3 (Whereupon, Juror 63 is excused.)

4 (Whereupon, Juror 36, Rodante Carlos, enters
5 judge's chambers.)

6 THE COURT: How are you doing? You are kind of in
7 the back row, typically; is that right?

8 JUROR 36: Yes, ma'am.

9 THE COURT: Are you able to see the prosecutor's
10 table?

11 JUROR 36: I didn't see anything that would --
12 no.

13 THE COURT: Able to read any pieces of paper or
14 anything like that?

15 JUROR 36: No, ma'am.

16 THE COURT: See anything on the laptop or on a
17 notebook that was concerning?

18 JUROR 36: No, ma'am.

19 THE COURT: All right. Thank you.

20 JUROR 36: You're welcome.

21 THE COURT: Am I asking the right question,
22 Mr. Groeber?

23 MR. GROEBER: I think so.

24 MS. SIGAL: I have no problems with the questions.

25 MR. GROEBER: This is the best we can do.

1 (Whereupon, Juror 36 is excused.)

2 (Whereupon, Juror 136, Cedrick Mosely, enters
3 judge's chambers.)

4 THE COURT: How are you doing? So, there may have
5 been some documents left on the prosecutor's table. Are you
6 able to see that table?

7 JUROR 136: No.

8 THE COURT: Any books or notebooks or anything?
9 Can you see their laptop when you are sitting there?

10 JUROR 136: No.

11 THE COURT: All right. We will be with you in just
12 a few moments.

13 (Whereupon, Juror 136 is excused.)

14 (Whereupon, Juror 56, Richard Dunn, enters judge's
15 chambers.)

16 THE COURT: So, there may have been -- can you see
17 the prosecutor's table from where you sit?

18 JUROR 56: Yeah, I can see it.

19 THE COURT: Did you happen to see any notebooks or
20 any pieces of paper, anything?

21 JUROR 56: Nothing that stands out.

22 THE COURT: I haven't observed that you are over
23 there -- some people are kind of -- they want to see. And
24 you didn't see anything on the laptop or notebook or
25 anything like that?

1 JUROR 56: Nothing, no.

2 THE COURT: We will get back to you soon, Mr. Dunn.

3 Thank you.

4 (Whereupon, Juror 56 is excused.)

5 (Whereupon, Juror 194, Charles Vallas, enters
6 judge's chambers.)

7 THE COURT: So, are you able to see -- because you
8 are closer down to the end with Mr. Rossington, right?

9 JUROR 194: Yes, ma'am.

10 THE COURT: Are you able to see the prosecutor's
11 table, anything on it?

12 JUROR 194: No, ma'am.

13 THE COURT: Were you able to see their laptop or
14 any of their notebooks or anything?

15 JUROR 194: No, ma'am.

16 THE COURT: All right. Well, go back and enjoy a
17 slice of pizza.

18 (Whereupon, Juror 194 is excused.)

19 (Whereupon, Juror 26, Anthony Brown, enters judge's
20 chambers.)

21 THE COURT: Hi, Mr. Brown. How are you? All
22 right. So you are pretty much behind Mr. Rossington. Can
23 you see what's on the prosecutor's table?

24 JUROR 26: No, ma'am.

25 THE COURT: Can you see what's on their laptop or

1 any of their notebooks or anything?

2 JUROR 26: No, ma'am.

3 THE COURT: Well, we will get right to you. Thank
4 you.

5 (Whereupon, Juror 26 is excused.)

6 (Whereupon, Juror 198, Nicholas Watkins, enters
7 judge's chambers.)

8 THE COURT: Hi. Mr. Watkins, how are you? So you
9 are sitting -- can you see from where you are seated? Can
10 you see the prosecutor's table, like their laptop and their
11 notebooks?

12 JUROR 198: Yeah.

13 THE COURT: And is there anything that you are able
14 to read?

15 JUROR 198: No, I can't see or read anything. No,
16 I can just see the computer and see them putting the stuff
17 on the projector, that's it.

18 THE COURT: There were a couple of binders that may
19 have been close in your view. Were you able -- do you
20 remember seeing anything that was --

21 JUROR 198: No.

22 THE COURT: How they index the binder or anything
23 like that or the title of the binder?

24 JUROR 198: No, not at all.

25 THE COURT: All right. Thank you, Mr. Watkins.

1 (Whereupon, Juror 198 is excused.)

2 (Whereupon, Juror 133, Cristian Miramontes, enters
3 judge's chambers.)

4 THE COURT: All right. So from where you sit, can
5 you see the prosecutor's table?

6 JUROR 133: No, ma'am.

7 THE COURT: Because you are up a little bit
8 further?

9 JUROR 133: I'm at the very end.

10 THE COURT: You are at the very end, so you can't
11 see what Ms. Sigal and Mr. McNeely have on their table?

12 JUROR 133: No, ma'am.

13 THE COURT: You can't see the laptop or any of
14 their notebooks?

15 JUROR 133: No, ma'am.

16 THE COURT: All right. Thank you.

17 (Whereupon, Juror 133 is excused.)

18 THE COURT: That's everybody. All right. Are you
19 satisfied, Mr. Groeber?

20 MR. GROEBER: Yes, Your Honor.

21 MS. SIGAL: Yes, Your Honor.

22 THE COURT: You don't care?

23 MS. SIGAL: Yes, I have no objection with how all
24 this happened.

25 THE COURT: Okay. All right.

1 MS. SIGAL: And I apologize to everybody for any
2 inadvertence.

3 THE COURT: Live and learn. We can go off the
4 record.

5 (Off-the-record conference.)

6 (Court's Exh. 1, Large font paper stating
7 "Pretrial CDV 3rd", was marked for identification.)

8 (Court's Exh. 2, Large font paper stating "CDV
9 3rd", was marked for identification.)

10 THE COURT: Mr. Groeber, please place on the record
11 what you brought to my attention and then they will go over
12 on the record what happened.

13 MR. GROEBER: Thank you, Your Honor. May it please
14 the Court.

15 During the lunch, a couple of our law clerks
16 noticed and brought to my attention that some of the jurors
17 were looking attentively at the State's table. And also,
18 they indicated to me that the State's -- two of the trial
19 notebooks have in very large font "CDV 3rd" on the front of
20 them, and that those may have been visible to some of the
21 jurors during the course of the trial this morning. So I
22 brought that to the Court's attention. I certainly don't
23 think that Ms. Sigal did that intentionally. But when I
24 stood in the jury box, I was at least able to see that it
25 said CDV 3rd. So I asked the Court to inquire of the

1 witnesses -- or the jurors whether or not they had seen
2 that. And assuming that all of them are telling the truth,
3 they said that they were unable or did not see that. And I
4 think that -- I would ask that those -- the two sheets be
5 made part of the record, Your Honor.

6 THE COURT: We have marked those as Court's
7 exhibits 1 and 2. And you are satisfied with the answers
8 given by all 14 of the jurors?

9 MR. GROEBER: Assuming that they told the truth, I
10 have no reason to doubt --

11 THE COURT: Was there any indication that they were
12 not telling you the truth?

13 MR. GROEBER: I have no way of knowing that, Your
14 Honor. And so I only say that in case we were able to
15 develop that later on that this was --

16 THE COURT: As of now, the information we have
17 before us, you are confident, based upon the responses, that
18 none of the 14 jurors saw or paid any attention or it
19 indicated to them that CDV 3rd is of something of
20 significance to your client?

21 MR. GROEBER: I don't believe any of them answered
22 that they saw that, Your Honor. So, thank you.

23 THE COURT: Thank you.

24 Ms. Sigal, anything further?

25 MS. SIGAL: No, Your Honor.

1 THE COURT: And so now, where we are is you have
2 waived -- let's see. You have last close, correct?

3 MR. GROEBER: Correct, Your Honor.

4 MS. SIGAL: And, Your Honor, I just would like to
5 grab the evidence from the court reporter before we get
6 started with the closing, have them on this table.

7 THE COURT: Anything before we bring in the jury?

8 MS. SIGAL: Nothing from the State.

9 MR. GROEBER: Nothing from the defense, Your
10 Honor.

11 THE COURT: Thank you.

12 (Whereupon, the jury returns to open court at 2:11
13 p.m.)

14 THE COURT: Thank you. Please be seated.

15 Ladies and gentlemen, I hope each of you had a
16 delightful lunch. I have now spoken to each one of you. I
17 now know your pizza preferences. And that was a delightful
18 time to get to know you a little bit better. So thank you
19 for your complete and truthful responses to my questions.

20 As I indicated to you, you will now hear closing
21 arguments on behalf of counsel. After that, I will go over
22 the verdict form one more time with you. And then you will
23 retire to consider your verdict. Please give your attention
24 to closing arguments.

25 Just as I've instructed you what was contained in

1 opening statements is not evidence, neither is what is
2 contained in closing arguments. It's merely the attorney's
3 contention as to what the evidence has shown you. Please
4 give your strict attention, Ms. Sigal.

5 MS. SIGAL: Thank you, Your Honor. May it please
6 the Court. Counsel.

7 Ladies and gentlemen, I told you all at the
8 beginning of this trial that this case comes down to
9 control, that the defendant had to have control over the
10 victim, Jennifer Parker, whether she liked it or not. And I
11 want to go back through some of the evidence that showed
12 that the defendant had to have control over Jennifer Parker.
13 For starters, on the date of the incident, the victim
14 testified that he came up to her place of employment twice.
15 He couldn't stay away, demanding to talk about their
16 relationship, that she got into his car and he was driving
17 them around. He was literally and figuratively in the
18 driver's seat during the incident.

19 You heard evidence that he took her phone the
20 minute she got in his car, wanted to look through who she
21 had been talking to. He got jealous. All of these things
22 go to the fact that he had to have control over the victim.
23 And while she's riding in the car, she has no control over
24 where they are driving. She has no way to call for help, no
25 way to escape.

1 And, ladies and gentlemen, in the ultimate act of
2 control, he assaulted her. He balled up his fist, and as
3 she testified, he hit her in the face several times causing
4 the bruising you got to see on the photos.

5 Now, I cannot stress this enough. The defense has
6 brought up a lot of things about the victim, bad stuff about
7 the victim. Ladies and gentlemen, the issue that you are
8 here today to decide is not about whether you like the
9 victim. It's not about whether she's made mistakes. It's
10 about whether or not her husband assaulted her. And I
11 encourage you to keep those two things apart, because at the
12 end of the day, the issue is whether or not he hit his wife.

13 It's all out there. We went through at length the
14 victim's criminal convictions. And she told you about them.
15 She's not hiding anything. At this point you know the bad
16 stuff about her. And, ladies and gentlemen, like I stated
17 at the beginning of this trial, she has made mistakes. We
18 are not painting her as an angel, but she still has rights
19 not to be assaulted. And that's why we are here today.
20 Keep that in mind as you deliberate. I implore you. Just
21 because she's made mistakes, does not mean that she should
22 be assaulted.

23 Why would she have sat there through the trial, put
24 herself through the humiliation of talking about her prior
25 convictions with strangers, if all of this wasn't true? Why

1 would she sit there and put herself through the humiliation
2 of the fact that her husband assaulted her if all of this
3 was not true? She deserves to stand up for herself. She
4 deserves to stand up for her rights despite her mistakes.

5 Now, I would like to warn you to not be confused by
6 some of the evidence that the defense has brought up to
7 muddy the waters. When I say muddy the waters, I always
8 like to use this analogy. We live sort of close to the
9 coast. We are lucky enough to live close to the coast. If
10 any of you have ever been to a beach where you step your
11 feet in the water, you look down, there's your feet and then
12 the water rushes up. And, momentarily, especially the
13 Atlantic coast water is brown, momentarily it covers your
14 feet, muddy the water. You can't see your feet. They are
15 still there but you can't see it. And then the water
16 recedes, and sure enough, your feet are still there just as
17 they were.

18 Ladies and gentlemen, this is like the truth. We
19 have the truth. We have the evidence that's pointed to the
20 truth that Joshua Parker assaulted his wife. And we have
21 all of this other stuff piled on top of it that's just
22 muddying the waters, the victim's prior record, the fact the
23 victim left out details in her statement. That stuff is
24 just muddying the waters. And when you pull it away, you
25 still have the truth. And that's that Joshua Parker

1 assaulted his wife.

2 Now, let's talk about what corroborates Jennifer
3 Parker's testimony. We will start -- we will go in order,
4 we will start with her mom. Kim Schwartz testified she
5 dropped her daughter at work two o'clock on a normal day,
6 and that she didn't have any injuries on her face. She
7 didn't have any markings at all. And when she pulls back up
8 around eight clock, she sees the victim with a swollen,
9 bruised-up face. And whose car is she getting out of? The
10 defendant's. This corroborates the victim's testimony. She
11 didn't have those injuries before.

12 And let's talk a little bit about the defendant's
13 demeanor when the mom pulled up. When Kim Schwartz pulled
14 up and she said that he was sarcastic about Jennifer's
15 injuries. Let's think about this for a minute. If another
16 man caused those injuries to his wife's face, would his
17 reaction be sarcasm? He was sarcastic about her injuries.
18 That's because he just caused them.

19 Kim Schwartz talked about Jennifer's demeanor, that
20 she got in the car, she wanted to go, that she was shaky and
21 she was scared. And Kim Schwartz was scared enough for her
22 daughter to call 911, which is the call you got to hear.

23 The victim's story -- I submit to you guys that her
24 story has not changed. When she gave her statement to law
25 enforcement that night, she gave, as she testified, the

1 major points. She gave the part that was the crime. The
2 crime is that he hit her. She didn't include every detail
3 that happened that entire day, because that would actually
4 be impossible. But she also knew that the parts she needed
5 to include was the part that was the crime which was him
6 assaulting her. She may have added on additions to that as
7 she was probed by the lawyers. But that shouldn't be held
8 against her, as on the night of the incident, just hours
9 after she was assaulted by the man she married, that she
10 wasn't able to include every single detail of today.

11 Her story is backed up by the photos. And you will
12 get to take these back into your jury room. And you will
13 get to analyze these at length. But her stories are backed
14 up by the photos. You can see the bruising on her
15 cheekbone, above her eye, her eye and the laceration on her
16 eye. And this photo is a lot closer, but you can see the
17 bruising. And I want to point out to you that the bruising
18 occurred on the left side of her face. She was a passenger
19 in the car. That corroborates the fact that she was hit
20 while she was in the car. Because that's the side of the
21 face she would have been hit as the passenger. As he was
22 driving and he was hitting her with his right hand, he hit
23 the left side of her face, and that is evident in these
24 photos. So keep that in mind as well, that that
25 corroborates her testimony.

1 And then we had Officer Ward testify as to the
2 victim's demeanor. And this is what she does for a living.
3 She's a law enforcement officer. She responds to things
4 like this and she analyzes people's state of mind. She
5 analyzes how they are acting. And she stated that this
6 victim appeared to have been crying. She was upset. She
7 was upset about what had just happened. And she had these
8 injuries that were swollen, that they were freshly
9 committed. That means they happened around that time. She
10 interviewed witnesses. And then she obtained a warrant for
11 the defendant.

12 Ladies and gentlemen, the judge is going to go over
13 the law with you. And I know I already mentioned it in my
14 opening, but I want to briefly go over the law with you. If
15 you are a visual person, like I am, it sometimes helps to
16 see it.

17 Defendant is charged with criminal domestic
18 violence. In South Carolina, our laws state that it's
19 unlawful to cause physical harm or injury to a member of
20 one's household. And to be a member of one's household, can
21 be your spouse, former spouse, somebody you used to live
22 with, somebody you live with, or someone you have children
23 in common. That's a household member. So this is the
24 statute he's been charged with. This is what the issue is
25 today. This is what you are deciding when you are deciding

1 his guilt or innocence.

2 Caused physical harm or injury. Well, we have the
3 photos I just went over with you that show that Jennifer
4 Parker had injuries to her face. And it's the State's --
5 it's clear with the evidence that he caused those injuries.
6 So he caused the physical harm and injury. We've met that
7 element. And we've met the injury element.

8 To a member of one's household, well, it was
9 testified numerous times, and we even had the marriage
10 certificate, they are household members because they are
11 married. They also have a child in common. And they also
12 live together. That's it. That's the statute of criminal
13 domestic violence.

14 Now, the State's burden of proof is to prove his
15 guilt beyond a reasonable doubt. That means that we need to
16 leave you firmly convinced of his guilt. That's what that
17 means, just firmly convinced that this defendant committed
18 this crime. It doesn't mean we have to overcome any doubt
19 that may cross your mind, because that would basically be
20 impossible. There are very few things in this life we know
21 with absolute certainty, but it's proof that leaves you
22 firmly convinced.

23 So, ladies and gentlemen, I encourage you when you
24 go to your jury room, take the evidence, take the evidence
25 that was from that witness chair, and match it with the law.

1 And it's clear that if you do that, it will lead you to the
2 truth. And the truth is that Joshua Parker hit his wife.
3 He punched her several times on December 26th, 2014. The
4 truth is that he's guilty of criminal domestic violence.
5 And I ask that you find him guilty today. Thank you.

6 THE COURT: Mr. Groeber.

7 MR. GROEBER: Thank you, Your Honor. May it please
8 the Court. If I could just have a moment.

9 Thank you for your patience, ladies and gentlemen.
10 Thank you for your patience today. There's this great poem
11 called Marmion by William Blake (sic), and there's a famous
12 line from it that says, "Oh, what tangled webs we weave when
13 at first we learn to deceive."

14 Now, I told you in opening that we are here because
15 Jennifer Parker was tangled up around Christmastime last
16 year. She was tangled up in bad relationships. She was
17 tangled up in bad decisions. And, most importantly, she was
18 tangled up in lies. Her lying was so regular to her that
19 she could not even get her initial stories straight, the
20 very moment that she talked to police.

21 And if you remember through the testimony of
22 Officer Ward, in the report of Officer Ward, it says that
23 Joshua had called her five o'clock. In her written
24 statement, she says that Joshua had shown up at five
25 o'clock. And now today she testified that before all of

1 that, they were texting all day long and that they talked on
2 the phone. None of what she said today about the texts were
3 told the very day that this happened.

4 Her lying was so regular that it caused her to
5 violate the law, caused her to violate the law over the
6 course of two years, and not once, not twice, but five
7 separate times, all crimes of dishonesty, all crimes of
8 theft. And now today she's lying again so that she can
9 steal something else, Joshua's freedom. And that's why we
10 are here today.

11 The solicitor wants you to think about what the
12 evidence shows. Well, the evidence that you have about what
13 Jennifer Parker did, who she was with and where she was from
14 two o'clock to eight o'clock is her word. It's only her
15 word. Because there is no corroboration to back up the rest
16 of that story.

17 When I think about corroboration or credibility,
18 excuse me, rather -- and that's your job, your job is to
19 determine credibility. And the judge already told you you
20 can believe part of what somebody says, all of what they
21 say, or you can believe nothing of what they say. You get
22 to make those determinations. And you make those
23 determinations with your common sense.

24 I like to think about credibility -- I call it the
25 babysitter test. When I take my wife out for dinner and I

1 leave my children at home with someone, I want that to be a
2 credible person. I want it to be someone who's dependable,
3 trustworthy and honest. It helps if she does the dishes
4 too.

5 How serious is credibility? And how do you know if
6 someone is credible? How do you do it in normal day life?
7 If you are getting a babysitter or I'm getting a babysitter,
8 I like a reference. I would like to know their reputation.
9 I might even call a couple different people to corroborate
10 that this is a good person I can trust.

11 What's Jennifer's reputation? Her reputation is
12 that she's a liar and a thief. And I don't say those words
13 lightly. But she came in, she told you she came into this
14 courtroom and she pled guilty to five different crimes of
15 dishonesty. And, in fact, her own mom said that she
16 couldn't be trusted. If her mom can't trust her, how can
17 you? Her mom also said -- and I think this really is one of
18 kind of the most important things said from that witness
19 stand -- every lie is important. And we know that from our
20 common sense. We know that every lie is important.

21 There's some old wisdom, you may have heard of it,
22 that says nobody should be convicted without two witnesses.
23 And in this case you have one from about what happened
24 between two o'clock and eight o'clock. You have other
25 witnesses that talk about at two o'clock, before two

1 o'clock. And you have other witnesses that talk about what
2 happened after eight o'clock. But you only have one that
3 talks about what happened between those times, and that's
4 Ms. Parker.

5 Now, the solicitor said her story hasn't changed,
6 it's just there's some additions. There's more details that
7 were added. Well, arguably, in the Berenstain Bears story,
8 the children's story didn't change because their story was a
9 bird flew in the window and knocked over the lamp. That's a
10 consistent story that they told the whole time. But how did
11 mama and papa bear know they were lying? They knew they
12 were lying because first the bird had purple wings, then it
13 had yellow wings, then it had tufts of hair. There were
14 additions and there were details that did not make sense.
15 That's how mama bear and papa bear knew they were lying.
16 And that is how you can tell that Jennifer is lying today.

17 Now, I want to talk next about corroboration. It's
18 kind of a big word. I don't always pronounce it right, but
19 basically means what backs this person's story up? Is there
20 anything to support the evidence that -- the story she
21 tells? Well, is there any evidence from Sunoco? No. Not
22 one single person from Sunoco came into this courtroom and
23 testified that Jennifer Schwartz -- Jennifer Parker actually
24 worked that day. There's nobody there that says she worked
25 there ever. Now her mom testified to that.

1 And you know who has the burden to show you that?
2 It's not Joshua. It's the State. It's their burden to
3 provide you with the evidence that will corroborate her
4 story. There's no evidence of anyone that came in and
5 testified that she actually stayed at work after two
6 o'clock. There's no evidence that talks about that Joshua
7 is the one that picked her up. There's no evidence about
8 texts between them that day. There's no evidence about a
9 phone call that day.

10 And Officer Ward told you she knows how to get a
11 search warrant. They could have easily gotten a search
12 warrant. The prosecutor could have gone and got the search
13 warrant in order to look at that phone and to get the
14 evidence of those texts and see what was really going on.
15 When were they texting? When did they call? That's
16 evidence that the State should be bringing you but didn't.

17 How about Tanisha? Two or three weeks ago, she
18 told the prosecutor about Tanisha. Tanisha is the person
19 she said was there and covered for her at six o'clock.
20 Where is Tanisha? She told you prosecutor couldn't find
21 her. Why is that? Because Tanisha doesn't exist and she
22 made her up later to try to cover her story.

23 You will remember too in her -- in the 911 call
24 that her mom testifies about, the mom says, she told me she
25 got off at 6:00. She didn't say she told me she got

1 somebody to cover for her. That's another inconsistency
2 that you need to be thinking about.

3 The other thing about stories and lies is that
4 generally the truth stays consistent over time. What is --
5 why would she come in here and testify about being -- trying
6 to jump out of a car, that he kept her in that car? Why
7 would she come and do that? Well, because it makes it sound
8 worse. It makes it sound like he kidnapped her. And that
9 sure makes the story sound a little better, a little more
10 dangerous, a little more realistic. Ask yourself why she
11 had that little flourish.

12 You may wonder why would she lie about this? Well,
13 for one, her mom was demanding some answers. Two, it was
14 convenient because when she showed up with Josh, he was the
15 only one there. The main reason, though, it's probably
16 **J.P.**. Because she wants to keep **J.P.**. She loves
17 **J.P.**. She doesn't want him to be with **J.P.**. And she
18 found an easy way to get rid of him.

19 The other thing about this kidnapping story is, if
20 that really happened and if the State's theory that Mr.
21 Parker put those bruises is true, why in the world would he
22 bring her back to the mom? If he's kidnapping her, if he's
23 just inflicted all these wounds on her, why would he bring
24 her back to the mom? It doesn't make any sense.

25 Just a few more minutes. I want to talk to you

1 about beyond a reasonable doubt, because it's important.

2 And I think we all know it's important. I mean, it's one of
3 the really kind of the founding, the cornerstones of the
4 criminal justice system and of our constitution.

5 When I have two of my kids fighting and I've got to
6 figure out who is doing what, I have to look at the evidence
7 and try to punish people. And a lot of times, I don't know
8 what really happened. But I can sort of figure it out what
9 happened. That's not your job today. It's not to sort of
10 figure out what happened, because the burden is much higher
11 than that. As the judge told you, she said, if there's a
12 real possibility that Joshua is not guilty, you've got to
13 set him free.

14 I like to think about beyond a reasonable doubt
15 about a football field. There's different standards of
16 proof. And the judge talked to you about a couple of them.
17 I am not an artist, so don't hold it against me, but
18 everybody knows a football field. Here's touchdown, end
19 zones. You've got the 50-yard line. And obviously, the
20 goal is to score. Okay? Well, there's four kinds of
21 standard of proof in the justice testimony. One is probable
22 cause. And you heard testimony about that from Officer
23 Ward.

24 What's probable cause like on a football field?
25 Well, it's just some evidence that a crime occurred, that

1 it's all they need to get a warrant and to arrest somebody.
2 And I consider that the offense going about 10 yards and
3 getting a first down. Okay? It's just a little evidence.
4 All right.

5 Now, there's another standard that judge talked
6 about that's called a preponderance of the evidence standard
7 or more likely than not. And you've all seen picture of
8 Lady Justice. And she's holding the scales in her hands.
9 And the scales are even because Lady Justice's job is to
10 mete out justice. It also represents the standard in civil
11 cases in lawsuits, when somebody alleges that you did
12 something wrong and that because of that, you have damages,
13 a car wreck maybe. The plaintiff, in a civil suit, all they
14 have to do is prove their case more likely than not. Okay?
15 All they have to do is a little bit and they win the case.
16 That's not where we are today. I like to think about that
17 as getting to the 50 yard line.

18 Now, there's another standard that's not applicable
19 called clear and convincing evidence. This is the standard
20 that courts use when they want to terminate somebody's
21 parental rights. Obviously, it's a very serious thing to
22 do. And the evidence they need is whether or not it's clear
23 and convincing that this is not a fit parent. It's pretty
24 high standard. And I like to think of that as maybe field
25 goal range. We are still not to reasonable doubt yet, but

1 we are going to talk about it now.

2 Reasonable doubt is doubt that is do you have a
3 reason to doubt? I like to think about it as scoring a
4 touchdown. Everybody knows touchdown's worth six points,
5 right? And everybody knows that this football field is 120
6 yards. It's 100 within the playing, but you get to the end
7 zone, you get a touchdown. What's a touchdown worth? Six
8 points. That's beyond a reasonable doubt, scoring the
9 touchdown.

10 Beyond all doubt is kicking the field goal. It's a
11 high burden. It's a really high burden, and it should be.

12 There's a lot of people that think that we have a
13 very high incarceration rate and that it's too high. Could
14 you imagine what the incarceration rate would be if somebody
15 could come into court and only prove, I think he probably
16 did it? Imagine what that incarceration rate would be.

17 That high burden protects every American from
18 someone using the awesome power of the State to take away
19 somebody's freedom. That's what Jennifer Parker wants you
20 to do, is to take his freedom away.

21 I ask that because she is not credible and because
22 there's not corroboration for those six hours, that you find
23 my client, Joshua Parker, not guilty. Thank you very much.

24 THE COURT: All right. Ladies and gentlemen, you
25 have now heard closing arguments on behalf of counsel. I

1 have instructed you on the law applicable to this case. I
2 have also gone over the verdict form with you at one time.
3 But once again, Mr. Foreperson, it is your responsibility to
4 complete this verdict form. All 12 of you must agree.

5 Is there any member of the first 12 of my panel who
6 feels that they would not be able to complete the
7 deliberations for whatever reason? If you would be unable
8 to continue your deliberations and reach a verdict, please
9 stand at this time.

10 (No response from the Jury.)

11 THE COURT: Thank you. 12 jurors have indicated
12 that they would be able to complete their deliberations.

13 Mr. Foreperson, the verdict form indicates that the
14 State of South Carolina vs. Joshua James Parker, we, the
15 jury, find the defendant, Joshua Parker, not guilty of
16 criminal domestic violence; or, we, the jury, find the
17 defendant, Joshua Parker, guilty of criminal domestic
18 violence. You will simply check one or the other.

19 Once you have reached a unanimous decision, you
20 will sign and date the verdict form. Once you have done
21 that, if you will knock on the jury room door indicating to
22 the bailiff that you have reached your decision.

23 To my two alternates, you at this time have
24 completed your service to this case. We will keep you with
25 us to make sure that the first 12 have begun their

1 deliberations. And then I will come and personally release
2 you from your service.

3 Ladies and gentlemen, this is the last time that I
4 will say this to any of you: Do not begin your
5 deliberations. Do not discuss this case amongst yourselves.
6 We are gathering the verdict form as well as the exhibits.
7 Once we have done that, we will -- the bailiff will let you
8 know that you may begin your deliberation. And a little
9 fairy has told me that cheesecake has been delivered. Thank
10 you.

11 (Whereupon, the jury leaves open court at 02:42
12 p.m.)

13 THE COURT: Thank you. Any motions or matters
14 before the verdict form and the evidence goes back?

15 MS. SIGAL: Nothing from the State, Your Honor.

16 MR. GROEBER: No. You normally send the indictment
17 back?

18 THE COURT: I'm not sending the indictment back.

19 You need to put some things on the record, so let's go ahead
20 and get the verdict form and the exhibits back. Ms. Linda,
21 can you help with that?

22 (Whereupon, the jury deliberates at 02:45 p.m.)

23 THE COURT: All right. Mr. Groeber, you need to
24 place something on the record, a proffer?

25 MR. GROEBER: Yes, Your Honor. I just wanted to

1 call Ms. Parker and Ms. Schwartz about the accuser's drug
2 use, because we believe that it would be relevant.

3 THE COURT: I'm going to give you very little
4 leeway. All right. Ms. Parker.

5 MR. MCNEELY: Your Honor, we haven't explained
6 what's going on.

7 THE COURT: If you would just come forward. Ms.
8 Parker, please have a seat. Ms. Parker, I remind you you
9 are still under oath. What's going to happen, the case has
10 already gone to the jury. I had excluded testimony that I
11 did not find to be relevant to this trial. But in order to
12 protect the record for appellate purposes, in case that I
13 made an error in my ruling, the defense attorney has asked
14 that he make a proffer of what your testimony would be. So
15 that's what we are going to do. I'm going to allow him to
16 ask you some questions. And as I indicated to you, I had
17 felt that these were not admissible during the trial.

18 So he's going to ask some questions. I do not
19 anticipate that the State will be asking questions. But
20 feel free to object if you feel necessary.

21

22 JENNIFER PARKER,

23 having been previously sworn, testifies as follows:

24

EXAMINATION

25 BY MR. GROEBER:

1 Q. It's fair to say that you have a drug problem,
2 right?

3 A. I've used drugs before, yeah.

4 Q. And around the time of this accusation, you were
5 using drugs?

6 A. I used them prior, but not on that day.

7 Q. Not on that day?

8 A. I had used them around that time, yeah.

9 Q. Around that time?

10 A. Yeah.

11 Q. When, prior to that day, was the last time that you
12 used?

13 A. Let me think, maybe couple weeks.

14 Q. Okay. And, specifically, we are talking about
15 methamphetamines?

16 A. Correct.

17 Q. And marijuana?

18 A. I wouldn't -- I've used it a couple of times, but
19 that's it.

20 Q. Any other drugs at that time?

21 A. No, sir.

22 Q. Now, when -- I believe you told the solicitor that
23 you've been trying to quit using drugs even since this
24 happened?

25 A. Correct.

1 Q. But you've had some problems still using drugs
2 since this happened?

3 A. I wouldn't say problems --

4 MS. SIGAL: Objection, Your Honor. I believe that
5 Mr. Groeber's sort of characterizing a statement that the
6 victim made to me that I tried to relay, but I don't want
7 him to put words in her mouth with this question. It was my
8 understanding she was trying to get clean. And that was the
9 only statement I made to Mr. Groeber. I don't want him to
10 twist it.

11 THE COURT: Rephrase your question. Be careful. I
12 don't want her to be in a position she's going to
13 incriminate herself without having -- appointing an attorney
14 and doing all of those things. I think what -- I think
15 where you were going with this question was whether or not
16 she was under the influence of drug or alcohol here today or
17 in the last few days. Was that the point of your
18 questioning?

19 MR. GROEBER: Yes, Your Honor.

20 THE COURT: That's why I have allowed this. I
21 don't know Ms. Parker. And based upon what I've observed, I
22 did not have any concerns about her testifying. But because
23 you did, I will allow you to have some questions.

24 MR. GROEBER: Thank you, Your Honor.

25 BY MR. GROEBER:

1 Q. When was the last time that you used drugs? Have
2 you used drugs in the last two weeks?

3 A. March.

4 MR. GROEBER: That's it for me, Your Honor.

5 THE COURT: All right. You may step down. Thank
6 you.

7 MR. GROEBER: I will call Ms. Schwartz.

8 THE COURT: All right. Ms. Schwartz.

9 KIM SCHWARTZ,

10 having been previously sworn, testifies as follows:

11 THE COURT: Ma'am, I remind you you are still under
12 oath, Mr. Groeber.

13 MR. GROEBER: Thank you, Your Honor. May it please
14 the Court.

15 EXAMINATION

16 BY MR. GROEBER:

17 Q. Ms. Schwartz, to your knowledge, was Jennifer using
18 any kind of drugs around the time of Christmas of this year?

19 A. No, sir.

20 Q. Let me rephrase. Sorry. Do you know if Jennifer
21 was using drugs around Christmas of last year?

22 A. No.

23 Q. You don't know?

24 A. I don't know.

25 Q. Okay. But it's fair to say that she had a drug

1 problem around that time?

2 A. She had a drug problem prior.

3 Q. Okay. Weeks prior?

4 A. Yeah.

5 Q. And that drug problem has continued after this
6 event too?

7 A. Not to my knowledge.

8 Q. So you are not aware she's used drugs in the last
9 two weeks?

10 A. Last two weeks?

11 Q. Yes.

12 A. No, sir.

13 Q. You are not aware?

14 A. She has not, I don't think -- she has not.

15 MS. SIGAL: Objection, Your Honor. This calls for
16 speculation at this point.

17 THE COURT: She answered this question.

18 BY MR. GROEBER:

19 Q. Do you have information about -- do you know which
20 drugs that she has used?

21 A. I know she used methamphetamines before.

22 Q. And any other drugs that you know of?

23 A. She might have smoked pot back, way back, but not
24 since J.P. was born. That's my -- that's what I think.

25 MR. GROEBER: Okay. Okay. Thank you, Your Honor,

1 that's it.

2 THE COURT: You may step down. Thank you so much.
3 Anything else you wish to put on the record? Anything about
4 the 409 that I did not allow into evidence?

5 MR. GROEBER: I believe that it's been marked and
6 that I have asked the Court to take judicial notice that she
7 was not -- that she was found in violation. And I think we
8 already put that on the record.

9 THE COURT: I just want to make sure, is there
10 anything else you need to place on the record?

11 MR. GROEBER: No, Your Honor. Thank you.

12 THE COURT: Anything you need to place on the
13 record?

14 MS. SIGAL: No, Your Honor.

15 THE COURT: All right. I'm going to release the
16 alternates. Thank you. We will be at ease.

17 (A recess transpired.)

18 THE COURT: We have a verdict. Anything before we
19 bring in the jury?

20 MS. SIGAL: Nothing from the State, Your Honor.

21 MR. GROEBER: Nothing, Your Honor.

22

23 (Whereupon, the jury returns to open court at 03:22
24 p.m.)

25 THE COURT: Thank you. Please be seated. I

1 understand you have reached a verdict. If you will hand the
2 form to the bailiff.

3 Madam Clerk.

4 THE CLERK: State of South Carolina vs. Joshua
5 James Parker, Indictment No. 2015-GS-08-329, we, the jury,
6 find the defendant, Joshua Parker, guilty of criminal
7 domestic violence, signed by the foreperson, Mr. Rossington.

8 Ladies and gentlemen of the jury, if this is your
9 verdict, please signify by raising your right hand at this
10 time. Thank you.

11 THE COURT: Anything further required of the jury?

12 MR. GROEBER: I request polling, Your Honor.

13 THE COURT: Please poll the jury.

14 THE CLERK: Juror No. 163, Julio Rossington, if
15 this is your verdict -- is this your verdict?

16 JUROR 163: Yes.

17 THE CLERK: Is this still your verdict?

18 JUROR 163: Yes, ma'am.

19 THE COURT: Juror No. 192, Jonathan Turner, is this
20 your verdict?

21 JUROR 192: Yes.

22 THE CLERK: Is this still your verdict?

23 JUROR 192: Yes.

24 THE CLERK: Juror No. 36, Rodante Carlos, is this
25 your verdict?

1 JUROR 36: Yes, ma'am.

2 THE CLERK: Is this still your verdict?

3 JUROR 36: Yes, ma'am.

4 THE CLERK: Juror No. 193, Kevin Updike, is this
5 your verdict?

6 JUROR 193: Yes.

7 THE CLERK: Is this still your verdict?

8 JUROR 193: Yes, ma'am.

9 THE CLERK: Juror No. 194, Charles Vallas, is this
10 your verdict?

11 JUROR 194: Yes, ma'am.

12 THE CLERK: Is this still your verdict?

13 JUROR 194: Yes, ma'am.

14 THE CLERK: Juror No. 26, Anthony Brown, is this
15 your verdict?

16 JUROR 26: Yes, ma'am.

17 THE CLERK: Is this still your verdict?

18 JUROR 26: Yes, ma'am.

19 THE CLERK: Juror No. 159, Tashauna Ritenour, is
20 this your verdict?

21 JUROR 159: Yes, ma'am.

22 THE CLERK: Is this still your verdict?

23 JUROR 159: Yes.

24 THE CLERK: Juror No. 95, Denise Hudson, is this
25 your verdict?

1 JUROR 95: Yes, ma'am.

2 THE CLERK: Is this still your verdict?

3 JUROR 95: Yes.

4 THE CLERK: Juror No. 56, Richard Dunn, is this
5 your verdict?

6 JUROR 56: Yes, ma'am.

7 THE CLERK: Is this still your verdict?

8 JUROR 56: Yes, ma'am.

9 THE CLERK: Juror No. 136, Cedric Mosley, is this
10 your verdict?

11 JUROR 136: Yes, ma'am.

12 THE CLERK: Is this still your verdict?

13 JUROR 136: Yes, ma'am.

14 THE CLERK: Juror No. 63, Patricia Floyd, is this
15 your verdict?

16 JUROR 63: Yes, ma'am.

17 THE CLERK: Is this still your verdict?

18 JUROR 63: Yes, ma'am.

19 THE CLERK: Juror No. 140, Kenneth Owens, is this
20 your verdict?

21 JUROR 140: Yes, ma'am.

22 THE CLERK: Is this still your verdict?

23 JUROR 140: Yes, ma'am.

24 THE CLERK: Your Honor, the jury has been polled.

25 Verdict stands.

1 THE COURT: Thank you. Anything further?

2 MR. GROEBER: Not of the jury. Thank you.

3 MS. SIGAL: Anything further?

4 MS. SIGAL: No, ma'am.

5 THE COURT: This completes your service to this
6 case. Please be escorted to the jury room. I will be in
7 there in a minute to thank you for your service.

8 (Whereupon, the jury leaves open court at 03:25
9 p.m.)

10 THE COURT: Thank you. Please be seated. State
11 ready to proceed with sentencing?

12 MS. SIGAL: Yes, Your Honor.

13 MR. GROEBER: Your Honor, we have the issue of
14 whether or not to treat it as a second or a third. I
15 submitted a brief on that and I'm prepared to argue now or
16 we can do it tomorrow if you want to review the case law and
17 the brief.

18 THE COURT: Does the State take a position as to
19 when we wish to do it?

20 MS. SIGAL: No, Your Honor, prefer to do it today,
21 but there's a part of Mr. Groeber's brief that makes me
22 think we might need to call a case.

23 THE COURT: Let's do it tomorrow then.

24 MS. SIGAL: Would you prefer tomorrow morning or
25 afternoon?

1 THE COURT: We will just set it in the morning and
2 get to it when we get to it. I will release the jury. All
3 right? Thank you.

4 (Whereupon, the proceedings adjourn for the day.)

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1 (Whereupon, the proceedings continue on June 4, 2015.)

2 MS. SIGAL: Your Honor, this is in regard to the
3 sentencing for Mr. Parker and Mr. Groeber's motion to
4 challenge the indictment.

5 THE COURT: You've indicated you had some witnesses
6 or --

7 MS. SIGAL: I do have a witness in response to the
8 anticipated argument by Mr. Groeber. I can go ahead with
9 the witness. That might help facilitate -- I don't know
10 however you would like it to be, Your Honor.

11 THE COURT: Mr. Groeber, you believe that this is a
12 second offense?

13 MR. GROEBER: I do believe he was convicted of two
14 prior CDVs, the first of which was uncounseled. And under
15 the Sixth Amendment and Fourteen Amendment, we do not
16 believe that should be used for enhancement purposes.

17 THE COURT: He signed a waiver, correct, waiving
18 his right to counsel?

19 MR. GROEBER: He did sign a waiver, Your Honor.
20 And to the extent that -- I would argue first that if the
21 waiver doesn't matter. There's no addressing a waiver in
22 Robinson, which is the most recent Supreme Court case on
23 this issue. I filed and shared with the Court my brief on
24 this matter. And I cite Robinson extensively.

25 And so to the extent that there is a waiver, I

1 don't think that that really matters as germane to the issue
2 under Robinson. If the Court believes differently, than I
3 certainly am prepared to address that as well.

4 THE COURT: I will be happy to hear from you on
5 that issue.

6 MR. GROEBER: On the waiver, Your Honor?

7 THE COURT: Yes.

8 MR. GROEBER: Thank you, Your Honor.

9 For a waiver to be knowing and intelligent and for
10 a valid waiver to be established, the trial court needs to
11 do two things. And the first is that they advise the
12 accused of the right to counsel. And I think that the
13 waiver provided by the clerk of court shows that he waived
14 counsel. What I would argue is that that waiver in and of
15 itself is insufficient to advise him fully of his rights.
16 So I don't believe that that was a knowingly and intelligent
17 waiver.

18 Secondly, and most especially important in this
19 case, is the court not only should advise them of the right
20 to counsel but of the dangers -- that the court must
21 adequately warn the accused of the dangers of
22 self-representation. This, of course, comes from Faretti.
23 I'm sure the Court is aware of the Faretti, because I've
24 been in front of you plenty of times and I've seen you
25 advise people plenty of times. So I know you are familiar

1 with that.

2 I think it's an extensive list of what someone must
3 be advised about before they waive their right. And that
4 extensive list, I can go through that extensive list, Your
5 Honor, but they are listed in the brief. Specifically,
6 they've got to be aware of the risk against
7 self-incrimination, the right to a jury trial, the right to
8 confront one's accusers, the nature and crucial elements of
9 the offense, the maximum and mandatory minimum penalty and
10 the nature of the constitutional rights being waived.

11 Additionally, for CDV purposes, there should be an
12 advisement of the collateral consequences, which certainly
13 would include the enhancement features, as well as the loss
14 of gun privileges pursuant to the federal code 922(g)(9).

15 Looking a little bit more closer, which the Gardner
16 case addresses this a little more as well, there's really a
17 host of factors that the court should consider when looking
18 at whether or not a case should be enhanced or should be
19 allowed to be enhanced from an uncounseled waiver. The
20 first is the accused's age, educational background, physical
21 and mental health. Two, whether the accused is previously
22 involved in criminal trials; three, whether the accused knew
23 the nature of the charges and of the possible penalties,
24 four, whether the accused was represented by counsel before
25 trial and whether that attorney had explained to him the

1 dangers of self-representation; five, whether the accused
2 was attempting to delay or manipulate the proceedings; six,
3 whether the court was appointed standby counsel -- or
4 whether the defendant was appointed standby counsel; seven,
5 whether the accused knew he would be required to comply with
6 the rules of procedure; eight, whether the accused knew the
7 legal challenges he could raise in defense; nine, whether
8 the exchange between the accused and the court consisted
9 merely of pro forma answers to pro forma questions; and 10,
10 whether the accused waiver resulted in coercion or
11 mistreatment.

12 The real problem we have in this case is that there
13 is no record. What we have received from the clerk of court
14 was presented to Your Honor. And there's a one-page waiver
15 form that says, you have a right to an attorney, we will
16 appoint you one if you want one, do you waive your rights?
17 That is pretty much the extent of it. And certainly, to use
18 for enhancement purposes, much more should be shown.

19 I will inform the Court that we inquired as to
20 whether or not there was a recording of the hearing. And we
21 were informed that they keep it for 30 days. I've spoken --
22 the recording, the recording of the proceedings. The clerk
23 who is here today says that for CDVs, they, at least at some
24 point in time, have kept for a year, which obviously is not
25 available to us now. She also informed me that they do not

1 notify the defendants that their record will be destroyed.

2 I will also note for the Court's consideration is
3 statute South Carolina Code Section 22-3-790. I can pass
4 the Court up a copy. It's basically a statute that attempts
5 to make sure that the record is preserved in magistrate
6 court. And what it basically says is, if there's -- you
7 know, in any trial in magistrate court, they need -- they
8 will take notes and have the defendant or the witness sign
9 saying that this is what they said. That is excused if they
10 have a recording or if there is a stenographer present.
11 It's my understanding there's no stenographer present at
12 that time. And while there may have been a recording, it's
13 certainly been destroyed by now. I will tell Your Honor
14 that I've -- I think that makes it a lot more difficult to
15 examine.

16 Now, what I believe it's Price addresses or Gardner
17 addresses says that the court must look at the record from
18 the trial court. The problem, Your Honor, is that we don't
19 have a record. And so for those reasons, I believe that the
20 proper response of the Court and what we are seeking is that
21 you would not allow that prior uncounseled conviction.
22 There's not evidence to suggest that it was knowingly,
23 intelligently, voluntarily given, as well as that there is a
24 host of rights that are not on the record demonstrated that
25 his decision to represent himself was made with an

1 understanding of the risk of self-representation, as well as
2 the significant rights that he was waiving.

3 THE COURT: Ms. Sigal.

4 MS. SIGAL: Your Honor, before I argue, I would
5 like to call State's witness Latashia Simmons.

6 LATASHIA SIMMONS,
7 having been duly sworn, testifies as follows:

8 THE CLERK: State your full name for the record and
9 spell your last name.

10 THE WITNESS: My name is Latashia Simmons,
11 S-i-m-m-o-n-s.

12 DIRECT EXAMINATION

13 BY MS. SIGAL:

14 Q. Good morning, Ms. Simmons. Where do you work?

15 A. I work for Charleston County.

16 Q. And what department of Charleston County?

17 A. I work for the magistrate's court.

18 Q. And where, which location in magistrate's court?

19 A. North Area 3.

20 Q. Is that in North Charleston?

21 A. Yes, ma'am.

22 Q. All right. And how long have you worked for
23 Charleston County?

24 A. March of '98.

25 Q. And what is your position there currently?

1 A. I am senior clerk.

2 Q. And what do your duties currently include?

3 A. Pretty much just oversees the clerks and just to
4 help answer phone calls, file documents and stuff like
5 that.

6 Q. Okay. What was your position back in 2008?

7 A. I was a CDV clerk at that time.

8 Q. CDV clerk?

9 A. Uh-huh.

10 Q. And who specifically did you work for as a CDV
11 clerk?

12 A. Judge Deborah C. Summey at the time.

13 Q. And as a CDV clerk, what were your duties at that
14 time?

15 A. We did -- like, procedures that we did was for
16 first hearings, make sure that their rights and stuff has
17 been told. And then we will have our -- give them a chance
18 if they want a public defender. And just a whole bunch --
19 there's like a little Bible I had. I was trying to look for
20 it, but pretty much just make sure that they came into
21 court, victims was there or defendant was there. It's
22 pretty much like a roll call, is how we had it set up for
23 court.

24 Q. What was the process? Did they have a first
25 appearance?

1 A. Yes, ma'am.

2 Q. Defendants who were charged with criminal domestic
3 violence, they had a first appearance?

4 A. Yes, ma'am.

5 Q. And at the first appearance, were they ever read
6 their rights?

7 A. Yes, ma'am.

8 Q. And how so?

9 A. Judge would come in and she will state the rights
10 out loud to everyone. And then once the solicitor will come
11 up and call the defendant and make sure that the victim was
12 there. She will say individually to them and make sure they
13 understood their rights.

14 Q. And what kind of rights were read?

15 A. You have a right to a trial. You have a right to
16 an attorney, blah, blah, all of that.

17 Q. Were they offered the services of the public
18 defender at that time?

19 A. Oh, yes, yes.

20 Q. And at the first appearance, did anybody plead
21 guilty?

22 A. No, Judge wouldn't allow them because she wanted
23 them to make sure they understood their rights and
24 understood their charges, that it was being brought forth.
25 And she will explain to them how serious the charge was and

1 what they could possibly face if they were found guilty.

2 Q. Okay. So what happened after the first appearance?
3 What would the next appearance be?

4 A. That's when we actually have a trial. And
5 hopefully by then -- in-between from the first appearance to
6 our second appearance, hopefully if we had an attorney, we
7 will schedule, you know, with the attorney. If he can't
8 come that day, we will schedule a different time. If they
9 do come and they still don't have an attorney, she will ask,
10 do you still understand your rights from the first hearing,
11 and then she'd give them another chance.

12 Q. Okay. And so on occasion, would defendants let the
13 judge know that they wanted to plead guilty without a trial?

14 A. Yes.

15 Q. And would they on occasion not have an attorney --

16 A. Yes.

17 Q. -- when they indicated that?

18 A. Yes.

19 Q. If they did not have an attorney at the second
20 appearance and they indicated they wanted to plead guilty,
21 what was the standard protocol?

22 A. She will read their rights again to them. And then
23 she will have them -- there's a form, the waiver of right
24 counsel form. She will actually ask them if they can read,
25 you know, not to knock anyone's education, but she will ask

1 them if they can read and then if they understood what they
2 read. And she will actually read it to them. And she did
3 it like three times.

4 Q. I want to go back briefly to -- you said she would
5 read their rights to them. What did that include at the
6 second appearance prior to their plea?

7 A. Just the same rights, just the same initial rights
8 that she'd give to them all the time.

9 Q. And did that include their right to counsel?

10 A. Yes.

11 Q. And did that include their right to public
12 defender?

13 A. Yes.

14 Q. Did that include the risk of representing
15 themselves?

16 MR. GROEBER: I will object, Your Honor, this is
17 leading.

18 THE COURT: I'm going to on allow it just to lay
19 the foundation.

20 THE WITNESS: Yes.

21 BY MS. SIGAL:

22 Q. Do you remember any other rights that were read in
23 regard to pleading to criminal domestic violence?

24 A. That if they were found guilty, that they had up to
25 five years to have it expunged and that they can't carry a

1 weapon. And that was pretty much it, from what I recall.

2 Q. Was there any kind of right about the effect of
3 pleading to criminal domestic violence specifically?

4 A. Oh, that if they are found guilty and found guilty
5 like a second time, that it would be bumped up to a GSC
6 charge.

7 Q. Thank you. And so after she would read them their
8 rights, you mentioned that she would then get them to sign a
9 waiver of counsel?

10 A. Yes, ma'am, and she will actually read it to them
11 after they read it.

12 MS. SIGAL: Permission to approach, Your Honor.

13 THE COURT: Yes.

14 BY MS. SIGAL:

15 Q. I'm showing you State's Exhibit No. 5. Please
16 identify what that document is.

17 A. Yes, this was their right to have appointed counsel
18 or the services of a public defender form that we used back
19 then.

20 Q. Is that the form that you used in 2008 when you
21 were the CDV clerk?

22 A. Yes, ma'am.

23 Q. At this time, the State moves to admit State's
24 Exhibit 5 into evidence.

25 THE COURT: Any --

1 MR. GROEBER: I think it would probably be proper
2 to make it as a Court's exhibit or State's Exhibit attached.
3 Should be on the record.

4 MS. SIGAL: I think it needs to be admitted per
5 this hearing.

6 THE COURT: Okay. So it's marked. What is it
7 marked as, State's 5?

8 THE COURT: And you have no objection, Mr. Groeber?

9 MR. GROEBER: I just want it clear on the record
10 this wasn't introduced in the trial or anything.

11 THE COURT: This is for sentencing only.

12 MR. GROEBER: Sure. I understand.

13 MS. SIGAL: We did it as State's 5 because we
14 already started ones before that.

15 BY MS. SIGAL:

16 Q. Was that form signed after the rights were read?

17 A. Yes.

18 Q. And did you ever miss a day of CDV court when you
19 clerked for Judge Summey?

20 A. No, ma'am, because it was so much, Mondays and
21 Wednesday I could not miss a day.

22 Q. And do you remember the plea with Joshua Parker at
23 all?

24 A. To be honest with you, he does look familiar now
25 that I see his face. But if he got to this point, to be

1 honest with you, his rights has been read more than one
2 time. And he's been given more than one opportunity to get
3 an attorney and to understand.

4 Q. So you are just stating the standard protocol from
5 when you were clerk?

6 A. Yes, yes, because our judge was very by the book.

7 MS. SIGAL: Thank you. No further questions.

8 CROSS-EXAMINATION

9 BY MR. GROEBER:

10 THE COURT: Mr. Groeber.

11 BY MR. GROEBER:

12 Q. You said that -- when was the first appearance for
13 Mr. Parker?

14 A. In '98?

15 Q. Yes.

16 A. I have no idea. We did first appearance every
17 Monday, I do know that. And I think the first and the last
18 Wednesday of the month is when we had our hearings.

19 Q. If you look at the case history for the case from
20 North Area 3 magistrate court, would that help tell you what
21 the first appearance date would be?

22 A. Of this?

23 Q. No, the actual case history. You provided a
24 case --

25 A. I don't have it in front of me.

1 Q. I know. If you looked at that, would that be able
2 to tell you when the first appearance date is?

3 A. Possibly.

4 MR. GROEBER: Permission to approach?

5 THE COURT: You may. You said '98, did you mean
6 2008?

7 THE WITNESS: No, ma'am. I started March 8th
8 working with the county, March 8th, 1998.

9 THE COURT: Thank you.

10 (Defendant's Exhibit 4, Case History, was marked
11 for identification.)

12 BY MR. GROEBER:

13 Q. I'm going to hand you what's been marked Defense
14 Exhibit 4. I think this is something your office provided
15 to the Solicitor's Office last week. It's my Exhibit A for
16 your reference. Is that the case history from 2008 for
17 Mr. Parker's case?

18 A. Transferred -- it appears to be so, sir.

19 Q. So what was the --

20 A. His initial first appearance trial date?

21 Q. Yes.

22 A. Whatever date from his bond hearing was for, if you
23 looked at a calendar back then, his first appearance it
24 looks like to be -- let's see. That's when the bench
25 warrant was issued, hearing date, February 4th -- no, that

1 was bond -- I'm not sure. But on his bench trials, just
2 showing -- see, this is our new system that we transferred
3 over to from our old system, so I'm not showing -- doesn't
4 look like it's showing -- excuse me.

5 Q. Shows bench trial on March 10th, right?

6 A. That's the actual trial date that he signed when he
7 pled guilty.

8 Q. But there's nothing to indicate from the case
9 history that there was a first appearance date?

10 A. It should show, but, again, with our new system
11 that we transferred to, it's not showing it for whatever
12 reason. I can't explain it. I'm not an IT guy.

13 Q. But this is the case history provided from your
14 office?

15 A. Correct, uh-huh.

16 Q. And there's nothing on there showing the first
17 appearance date?

18 A. Well, June 12th, 2008, he was a no-show, but that
19 might have been it there and we might have rescheduled,
20 because according to this, we issued bench warrants because
21 he didn't appear. And then -- maybe June the 12th.

22 Q. Look again at the signature that the State provided
23 you of waiver of rights for Mr. Parker, what's the date of
24 that?

25 A. March the 10th.

1 Q. So that would be the date he entered his plea?

2 A. Correct.

3 Q. And that's reflected on the case history as well?

4 A. Correct, uh-huh.

5 Q. But there's nothing on the case history to indicate
6 a first appearance?

7 A. First appearance, again, sir, I'm sure it is,
8 however, with our old system versus this, which was a
9 dinosaur that we had, to this new system, I'm not showing
10 where it seems to be picking it up. I can't explain why.
11 But I don't show where it says first appearance.

12 Q. Okay. Now, you said it was busy at first
13 appearance?

14 A. Yes, we had maybe about 15 to 20 cases.

15 Q. Okay. And then was it busy on trial days as well?

16 A. Uh-huh.

17 Q. How many people would be there for trial day,
18 defendants?

19 A. Same amount. We did in the morning 15 to 20 cases.

20 Q. And it's your testimony that the waiver or that the
21 judge would tell the people their rights?

22 A. Uh-huh.

23 Q. As a group?

24 A. Uh-huh.

25 Q. And then ask if they understood it when they came

1 up?

2 A. Correct.

3 Q. And if they said no, explain more fully?

4 A. She did it regardless. She explained it to them

5 regardless.

6 Q. And did she do it from memory?

7 A. Did she do it from memory?

8 Q. Yeah, did she advise them of their rights from

9 memory?

10 A. She had a form.

11 Q. Do you have a copy of that form here?

12 A. No, I don't.

13 Q. Did you mention that certain forms were revised --

14 A. No, sir, I didn't.

15 Q. -- over the course of years? So to your knowledge,

16 has the form of rights given to the defendants ever been

17 revised?

18 A. They may have.

19 Q. But you don't know?

20 A. Hum-um.

21 MR. GROEBER: I think that's all I have for now,

22 Your Honor.

23 MS. SIGAL: Your Honor, we have no further

24 questions for this witness. I am prepared to argue.

25 THE COURT: Let me hear your argument, Ms. Sigal.

1 MS. SIGAL: Just to begin with, in accordance with
2 State v. Payne, the defendant does bear the burden of proof
3 to collaterally attack his conviction. The State's position
4 is that he has not proven that his plea was involuntary in
5 2008.

6 Furthermore, it is his constitutional right to
7 waive the right to counsel and proceed pro se. Under the
8 case Mr. Groeber cited in Farettta, it was determined that a
9 judge cannot deny a defendant his right to waive his right
10 to counsel and proceed pro se.

11 And under the Robinson case in which Mr. Groeber
12 cited earlier, that is -- this is South Carolina Supreme
13 Court case from 2008 and I'm not disputing that ruling in
14 that case. However, in 2009, the Court of Appeals came out
15 with a case that State vs. Spratt which I provided in my
16 brief earlier this week. And I don't believe that Spratt
17 disputes Robinson. I believe it supplements Robinson.
18 Robinson states that an uncounseled conviction cannot be for
19 enhancement. Spratt says the first step is to see whether
20 or not the defendant waived his right, his constitutional
21 right to waive his right to counsel. That should be the
22 first step in the analysis. And I think that that is on
23 point with the case here today. As the defendant has
24 indicated in the waiver of rights form, clearly was read his
25 rights several times prior to waiving his right to counsel.

1 Ms. Simmons just testified that, not only did he
2 waive his right to counsel and the assistance of the public
3 defender, but he also was told about the enhancement feature
4 of CDV, about the loss of gun privileges that happens when
5 someone pleads guilty to CDV, in addition to all of his
6 other constitutional rights. She indicated that he would
7 not even have gotten to the waiver process, the waiver form,
8 until he was read those rights several times.

9 Because of that, I believe that Mr. Groeber's
10 argument that the waiver not being valid is improper. It
11 sounds like from the testimony from Ms. Simmons and the
12 waiver form which Your Honor has, that he was warned of the
13 dangers of self-representation. He was warned of his
14 rights, and he chose to waive those rights at that time.

15 And, finally, Your Honor, the State's position
16 is -- this is perhaps one of the most important arguments to
17 make, should we go with Mr. Groeber's argument that this
18 kind of conviction can never be used for enhancement, then
19 what's to stop every person who's charged with CDV first
20 from waiving the right to counsel in magistrate court and
21 never facing the enhancement statute ever. Every defendant
22 could just get 20 CDV convictions in magistrate court and
23 never face the enhancement statute because all they have to
24 do is waive their right to counsel. And I don't believe
25 that's what the legislature intended when they created the

1 enhancement statute. And I think that's what's spelled out
2 in State v. Spratt, that that's the first step, whether or
3 not they did, indeed, waive their right to counsel as this
4 defendant did in 2008.

5 And it's for those reasons, the State would
6 respectfully request that the 2008 conviction be used for
7 the enhancement purposes today.

8 And I just want to point out that this defendant
9 pled guilty to criminal domestic violence second offense
10 before Your Honor in 2010 when he was represented by
11 counsel. So it has actually already been used for
12 enhancement. And we ask that it be used for enhancement
13 accordingly.

14 THE COURT: Mr. Groeber.

15 MR. GROEBER: Thank you, Your Honor. I need to add
16 some exhibits, if I may. And I can address -- let the Court
17 know what these are. If I may approach. I will mark these
18 as another defense exhibit for the record.

19 I hand the Court Defense 5, Defendant's Exhibit
20 5.

21 (Defense Exhibit 5, Faretta Warnings, was marked
22 for identification.)

23 BY MR. GROEBER:

24 Q. These are forms printed off the judicial
25 department's website. First is Faretta warnings.

1 Specifically, there's a lot of language in there about
2 self-representation being dangerous and the different
3 rights. This is an extensive and nearly exhaustive list.
4 That's Exhibit F.

5 Exhibit G is the form waiver of right to counsel,
6 that is used here in magistrate court in Berkeley County.
7 And I give that to the Court for comparison.

8 Exhibit H is also given defendants and used here in
9 the magistrate court of Berkeley County.

10 And then Exhibit I is just the standard checklist
11 for magistrate and municipal judges, for the Court's
12 consideration.

13 To the extent that the State relies on Spratt and
14 Payne, both of those are Court of Appeals cases. Neither of
15 them engaged the analysis of Shelton, certainly not of
16 Robinson. And so we still believe that Robinson is really
17 the lead case here, and would ask the Court to follow
18 Robinson's holding in this case.

19 You know, the State's kind of trying to attempt to
20 re-create a record. And to the extent that they've tried to
21 do that, there's really not been evidence of what happened
22 on the day that he waived his rights and whether or not that
23 was a knowing and intelligent waiver that would satisfy
24 Faretta, Faretta requirement, the Gardner requirements.

25 I will tell the Court, you know, I can call

1 Mr. Parker to the stand, but, basically, he would say he
2 does not remember being advised of those rights.

3 THE COURT: Is he going to tell me it wasn't his
4 signature?

5 MR. GROEBER: No. It's certainly his signature
6 that he signed that form. The problem that we have with --
7 if a waiver is -- the waiver is at issue, is that it's not a
8 knowing, intelligent and voluntary one, and it doesn't meet
9 the requirements, specifically the second prong in Faretta
10 of how dangerous it is to represent yourself. There's been
11 no testimony. There's nothing in the record that that was
12 done.

13 If I could have one second to make sure I'm
14 touching on everything, Your Honor.

15 THE COURT: Mr. Groeber, if he's already pled
16 guilty to a second offense, isn't this argument effectually
17 moot?

18 MR. GROEBER: I don't believe so, Your Honor. I
19 don't think there's any case law to that effect, at least
20 that we know.

21 THE COURT: How did we get to a second in November
22 of 2010?

23 MR. GROEBER: I did not represent him, so I do not
24 know. I can tell the Court we looked, we did pull the file
25 from our office. There was no indication that this issue

1 was examined at that time. And so I certainly don't think
2 that Mr. Parker --

3 THE COURT: He pled guilty in front of me?

4 MR. GROEBER: He did plead guilty in front of you.
5 That's why I don't think there's any way we can challenge
6 that as being used as enhancement. And that's why we argue
7 this as a second. We believe the real issue is the first
8 one and whether or not that was --

9 THE COURT: So your argument is this would be a
10 second second.

11 MR. GROEBER: It should be treated as a second. I
12 mean, it's kind of -- maybe it's semantics, but he was
13 convicted. But for using for enhancement purposes, relying
14 upon the first one we think would violate his constitutional
15 rights.

16 THE COURT: What does the statute say? Person
17 convicted of two or more, so if he's been convicted of two
18 or more and he's already been -- and I convicted -- I
19 sentenced him on a second, isn't that in and of itself
20 pursuant to the statute enough?

21 MR. GROEBER: I guess I don't understand the
22 question. I think the way it appears, you may be thinking
23 of it, Your Honor, is that that would make it almost an
24 element of the offense, which is certainly not -- we can
25 address that issue pretrial. And I may be misunderstanding

1 the question, Your Honor.

2 THE COURT: In the statute, it indicates for a
3 third or subsequent offense, the person is guilty of a
4 felony unless being imprisoned not less than a mandatory
5 minimum of one year, but not more than five years. So if
6 he's already been convicted of two offenses, DUI second -- I
7 mean, sorry, CDV second, and he has now been convicted -- of
8 this would be his third offense, conviction, you would
9 agree?

10 MR. GROEBER: Yes.

11 THE COURT: The statute is clear the person is
12 guilty of a felony unless -- so regardless, I think that
13 it's almost another -- this will be his third offense.

14 MR. GROEBER: I guess if we look to Robinson, it
15 was -- the Robinson defendant's second offense, he was
16 sentenced pursuant to a second offense based upon a prior
17 conviction, and that was ruled unconstitutional because of
18 the prior conviction was uncounseled.

19 THE COURT: All right. Anything further,
20 Mr. Groeber?

21 MR. GROEBER: I believe that's it, Your Honor.

22 THE COURT: Anything further?

23 MS. SIGAL: No, Your Honor, nothing from the
24 State.

25 THE COURT: Anything further, Mr. Groeber? I heard

1 co-counsel.

2 MR. GROEBER: No, Your Honor, I think we are
3 sufficient for the record. Thank you.

4 THE COURT: All right. Based upon my review of the
5 information that was presented by both the defendant and the
6 State and the testimony and argument that I've heard today,
7 I will be treating this as a third offense.

8 I find that Mr. Parker waived his rights in front
9 of Judge Summey on March 10th of 2008. There has been no
10 indication, no testimony that that was not his signature.
11 And Ms. Simmons indicated that the procedures that they
12 followed were very thorough. I have heard nothing that
13 would indicate that he did not voluntarily and intelligently
14 waive his right. So we will be treating this -- the State
15 has proven the prior conviction and the defendant has not
16 proved that it was constitutionally defective or otherwise
17 invalid by the preponderance of the evidence.

18 And I note your objection to my ruling. And that
19 will be made part of the record for appeal.

20 Are we ready to go forward on sentencing?

21 MS. SIGAL: Yes, Your Honor, the State is ready.

22 THE COURT: Anything further?

23 MS. SIGAL: Your Honor, I believe the victim is
24 present. I wanted to point that out. I don't believe she
25 wishes to address Your Honor. And the State's position on

1 sentencing is that he receive the full five years.

2 His prior record, just briefly, he has criminal
3 domestic violence second offense from 2010; driving under
4 suspension from 2010; grand larceny \$2,000 and \$5,000 from
5 2010; simple assault from 2010; criminal domestic violence
6 2008; driving under suspension 2006; public disorderly
7 conduct, 2006, and grand larceny 2006.

8 THE COURT: Mr. Groeber, I will be happy to hear
9 from whomever regarding sentencing. I know that at this
10 point you are likely going to -- you advised your client of
11 his right to appeal. So he may not wish to address the
12 Court. I will not hold that against him if he does not
13 address the Court. Happy to hear from anyone regarding
14 sentencing.

15 MR. GROEBER: Thank you, Your Honor. Can I just
16 have one moment?

17 Thank you, Your Honor. May it please the Court.
18 Mr. Parker is 30 years old. Obviously, you know he's
19 married to Ms. Parker. He has three children, **J.P.**, who
20 is the youngest that he shares with Ms. Parker, and then two
21 other children who are 10 and 9, **████████** and **████████**. They
22 live with their grandmother in Goose Creek and he sees them
23 every weekend. And he was planning for them to live with
24 him for the summer, this summer.

25 He has been working regularly. He's one of those

1 people -- a lot of my clients you can tell if they work hard
2 or not by their hands. He has a worker's hands. He has
3 been working as a diesel mechanic for the last couple of
4 years working on 18-wheelers in Summerville, at Redi Truck
5 Repair. And before that, he help set up and moved mobile
6 homes around and get them ready to be delivered.

7 He only went through the 9th grade, never got his
8 GED. And he said -- told me that he actually started with
9 classes and done well in the pretests, but because he got a
10 new job was unable to finish work, chose not to finish the
11 GED classes. Your Honor, he's never been to prison which
12 certainly will change considering the Court's ruling and the
13 jury's finding. What I will tell you is that the very first
14 time I met him, he came in, this was in 2000 ... November, I
15 believe or December of 2012 -- maybe '13, excuse me. And he
16 asked me then to try to help arrange counseling with Ms.
17 Parker. I reached out to the solicitor at the time in order
18 to try to arrange that, but that just never happened,
19 unfortunately.

20 THE COURT: Was she the victim in 2010?

21 MR. GROEBER: There was another pending charge, the
22 first charge from 2013.

23 THE COURT: She was not the victim in 2010?

24 MR. GROEBER: No, she was not.

25 THE COURT: And she was not the victim in 2008; is

1 that correct?

2 MR. GROEBER: No, Your Honor.

3 THE COURT: Did he complete probation? I ordered a
4 mandatory drug and alcohol/substance abuse in 2010.

5 PROBATION OFFICER: What was his last name?

6 THE COURT: Parker, Joshua James Parker.

7 Do you know, Mr. Groeber?

8 MR. GROEBER: I don't. I'm sure he's not on
9 probation now.

10 THE COURT: I don't think he is on probation,
11 however, see if he completed --

12 PROBATION OFFICER: Yeah, he successfully
13 completed -- November the 3rd, 2013, he did complete anger
14 management.

15 THE COURT: And the drug and alcohol?

16 PROBATION OFFICER: Yes, it says if needed. Let me
17 see if he tested. No, it was just anger management.

18 THE COURT: All right.

19 MR. GROEBER: I will tell Your Honor too that I
20 know he's really worried about his kids and him being away
21 from them. That's his biggest concern. It's been his
22 concern continuously as I've represented him. And I know
23 he's also worried, and I think this is one of the more
24 perspective things I've heard out of my clients, about the
25 influence that being in prison will actually have on him.

1 He's worried about the negative influence being in prison.
2 And I think there's some wisdom in that for him. And I
3 think that -- I'm encouraged that he recognizes that. I
4 also know he's worried about losing his job, which probably
5 will happen. Although I will say that he can work, has
6 worked, and has shown that over the last few years. I'm
7 certainly heartened by the fact that he was able to
8 successfully complete probation. I'm sure the Court should
9 be as well. So I would ask that you consider a split
10 sentence. The court is required to sentence him at least
11 the mandatory minimum one year. I will remind the Court, as
12 you decide on the sentence, that that is day-to-day for that
13 first year. So I would ask that you consider a suspended
14 sentence of five years suspended on the one year, followed
15 by five years probation, depending on conditions that you
16 deem appropriate.

17 And I would hate for his children to be without
18 their father for too long, Your Honor. And I know that is
19 his biggest concern as well.

20 He tells me their mother, the mother of his two
21 older children, is deceased. That's why his grandmother
22 helps them out caring for them. Thank you, Your Honor.

23 THE COURT: Is there anything else? Anyone else to
24 address to the Court?

25 MR. GROEBER: No, Your Honor. His grandmother is

1 caring for the kids, so she can't be here. And I've talked
2 to various people that he's been working with in the past
3 and just know that he's been a hard worker and continuously
4 working since I've known him over the last nearly two years.
5 I don't believe he will address Your Honor for the purpose
6 that you recognize. I appreciate the Court's understanding
7 of that. And thank you in advance. Thank you.

8 THE COURT: Mr. Parker, please stand. It's the
9 order of the court on 2015-GS-08-329 that you be committed
10 to the State Department of Corrections for a term of five
11 years. Provided upon the service of one year, your balance
12 is suspended with probation for four years. Give you credit
13 for time served. You must obtain your GED, substance abuse
14 counseling, if needed, random drug and alcohol testing. You
15 must complete the batterers treatment program. Good luck to
16 you, sir.

17 MS. SIGAL: If I may, can we add a no-contact with
18 the victim during the probationary period?

19 THE COURT: I will put that in there, however,
20 since they have children, sometimes it's tricky with any
21 family court visitation issues. But I will put that in with
22 the understanding no contact with the exception of family
23 court order.

24 MS. SIGAL: Thank you, Your Honor.

25 MR. GROEBER: Thank you, Your Honor.

1 THE COURT: Thank you.
2 (Whereupon, proceedings are adjourned.)
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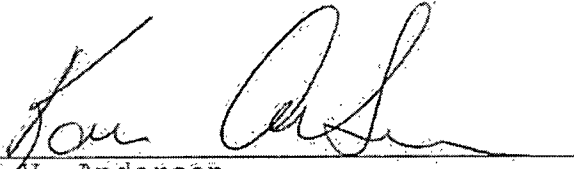
CERTIFICATE OF REPORTER

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I, Karen V. Andersen, Registered Merit Reporter,
Certified Realtime Reporter, and Notary Public for the
State of South Carolina at Large, do hereby certify that
the foregoing transcript is a true, accurate and complete
Transcript of Record of the proceedings.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 20th day of July, 2015, at Charleston,
Charleston County, South Carolina.


Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

SIG2015-01-00131

WITNESSES

Berkeley County Sheriff's Office

DET W. Hickman

AGENCY CASE NUMBER

201412064730

ARREST WARRANT NUMBER

2014A0810200426

DATE OF ARREST

January 17, 2015

ACTION OF GRAND JURY

Javan Duren
Foreperson of Grand Jury
Date:

VERDICT

Guilty

True Bill

[Signature]
Foreperson of Petit Jury

INDICT

6/3/15
Date:

DOCKET NO. 2015GS0800329

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

March Term

THE STATE

vs.

JOSHUA JAMES PARKER

DOB: [REDACTED]

W/M

Indictment for

Criminal Domestic Violence 3rd Offense

\$16-25-0020

CDR: 3055

FILED
15 APR 10 PM 2:51
BERKELEY COUNTY, SC
JFH

JFH

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on March 10, 2015 the Grand Jurors of Berkeley County present upon their oath:

Criminal Domestic Violence 3rd Offense

That in Berkeley County, South Carolina, on or about December 26, 2014, the Defendant, JOSHUA JAMES PARKER, did cause physical harm or offer or attempt to cause physical harm to JENNIFER PARKER, a family or household member, with apparent present ability under circumstances reasonably creating fear of imminent peril; ~~such being his third or subsequent offense,~~ in violation of §16-25-0020 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


PRICE S. SIGAL
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

STATE VS.

JOSHUA JAMES PARKER

AKA:

Race: White

Sex: M

Age: 30

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Summerville, SC 29483-1406

DL# [REDACTED]

SID# [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

ID: Criminal Domestic Violence

In violation of § 16-25-0020(A) of the S.C. Code of Laws bearing CDR Code # 3055

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)

The charge is

☒ As indicted.☐ Lesser Included Offense.☐ Defendant Waives Presentment to Grand Jury.☐ (Def's initials)

The plea is

☒ Without Negotiations or Recommendation.☐ Negotiated Sentence.☐ Recommendation by the State.

ATTEST

Price S. Sigal

80233

Price S. Sigal, Assistant Solicitor

SC Bar #

Defendant

Attorney for Defendant.

7622

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 5 days/months/year or ☐ under the Youthful Offender Act not to exceed _____ yearsand/or to pay a fine of \$ _____; provided that upon the service of one days/months/years and or paymentof \$ _____, plus costs and assessments as applicable*, the balance is suspended with probation for 40 (four)

month/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered:

PTUP

Total: \$ _____

plus 20% fee: _____

\$ _____

days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☒☐ Set by SCDPPPS: _____

Attend Voc. Rehab. Or Job Corp: _____

May serve W/E beginning: _____

Substance Abuse Counseling ☒ if neededRandom Drug/Alcohol Testing ☒

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund.

Other: Defender's treatment program
Completion
no contact with exception
of family court order☒ Appointed PD or appointed other counsel.

\$47.12 requires \$500 be paid to Clerk

during probation

Presiding Judge: *Joshua*Judge Code: *2131*Sentence Date: *6/4/15*

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1) (Conv. Surcharge)

\$100

\$ 100.00

§14-1-211 (A)(2) (DUI Surcharge)

\$100

\$ _____

§56-5-2995 (DUI Assessment)

\$12

\$ _____

§56-1-286 (DUI Breath Test)

\$25

\$ _____

Proviso 47.9 (Public Def/Prob)

\$500

\$ 500.00

§14-1-212 (Law Enforce. Funding)

\$25

\$ 25.00

§14-1-213 (Drug Court Surcharge)

\$150

\$ _____

§50-21-114 (BUI Breath Test Fee)

\$50

\$ _____

§56-5-2942 (J) (Vehicle Assessment)

\$40/ea

\$ _____

Proviso 90.5 (SCCJA Surcharge)

\$5

\$ 5.00

3% to County (if paid in installments)

\$

\$ 18.90

TOTAL:

\$ 648.90Clerk of Court/Deputy Clerk: *K. Mills*Court Reporter: *Karen Andersen*



Judge Deborah C. Summey
Magistrate

NORTH CHARLESTON MAGISTRATE'S COURT

843.767.2743
Fax: 843.760.6887
7272 Cross County Road
North Charleston, SC 29418

Waiver of Right to have Appointed Counsel or Services of the Public Defender

Joshua Parker, you have been charged with
Defendant's Name

CDV. You are advised that you have the right to
have your own legal counsel or the services of the Public Defender's office. You,
wish to waive your rights of legal counsel or services
of the Public Defenders office and go forward with a Bench Trial in front of
Magistrate Deborah C. Summey.

Joshua Parker
Defendant's Signature

This form has been read to Joshua Parker in my presence, at
11:05 o'clock a.m. on this 10 day of March 2008

Deborah C. Summey
Magistrate Deborah C. Summey



Exhibit A 261

North Area 3 Magistrate
CASE HISTORY FOR CASE 69760EC
The State of South Carolina VS Joshua James Parker

FILED DATE 2/4/2008

CASE TYPE CR

STATUS Dispos

JUDGE Summey, Deborah Crosby

ARRESTING AGENCY: Charleston County Sheriff

CASE PARTIES:

Defendant: Parker, Joshua James

SC 294830000

Officer Jones, Deputy

Victim Ammeam, Darla

SC 294560000

CASE HISTORY FOR CASE 69760EC

Parker, Joshua James

Age 30

DOB:

DL#

SSN: 000-00-0000

Summerville, SC 294830000

CHARGE	VIOL. DATE	DISPOSITION	DISP. DATE
2671 DOMESTIC/CDV 1ST OFFENSE	2/3/2008	TIA Guilty Bench Trial	6/12/2008

SENTENCING

BW-30 DYS JAIL OR \$2,500.00 BW-30 DYS JAIL OR \$2,500.00

R/O FRM CONUSELING TO B.W. R/O FRM CONUSELING TO B.W.

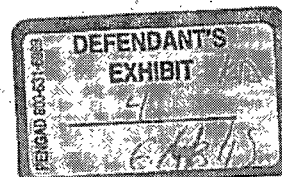
COST	ORIGINAL	BALANCE DUE	DISBURSED	PAY PRIORITY
Charge: DOMESTIC/CDV 1ST OFFENSE				
State Assessment	\$1,137.32	\$0.00	\$1,137.32	99
Fine to General Fund	1,180.90	0.00	1,180.90	99
Law Enforcement Funding Surcharge \$	25.00	0.00	25.00	99
Victim Services Asm 38.0013% / 5.783	131.78	0.00	131.78	99
Victim Conviction Surcharge \$100 / \$2	25.00	0.00	25.00	99
Total:	\$2,500.00	\$0.00	\$2,500.00	

DATE	TIME	EVENT DESCRIPTION
2/4/2008	11:00 AM	Court event: Bond Hearing
3/10/2008	10:00 AM	Court event: Bench Trial
2/4/2008	12:00 AM	Filing recorded: BOND CONDITIONS: SEE FREEFORM
7/10/2008	12:00 AM	Filing recorded: BENCH WARRANT ISSUED
2/4/2008	12:00 AM	Filing recorded: TRANSFERED FROM: CASE ID: 2008SU83001255 DEFENDANT: A COUNT

Print Date: 05/27/2015
Print Time: 11:10:51AM
Requested By: SUMNJJ

CaseHistory.rpt V6.1

Page 1 of 2



CASE HISTORY FOR CASE 69760EC

1/23/2009	12:00 AM	Received payment of \$2500 from Joshua James Parker for Joshua James Parker. Printed receipt #133807.
2/4/2008	12:00 AM	Bond 114 was set in the amount of 2500 by
2/4/2008	12:00 AM	Bond was posted in the amount of 2500 by Joshua James Parker
1/4/2008	12:00 AM	recorded the following Case Note: Legacy Defendant Status - JL - Jail - Defendant in Custody
2/4/2008	12:00 AM	recorded the following Case Note: SU682008000177
6/12/2008	12:00 AM	recorded the following Case Note: DEFENDANT NO SHOW
2/4/2008	12:00 AM	recorded the following Case Note: BOND CONDITIONS: SEE FREEFORM; NO CONTACT AT ALL WITH THE VICTIM. BARRED FROM WITHIN ONE BLOCK OF THE VICTIMS RESIDENCE, WORKPLACE AND SCHOOL. MAY RETURN ONE TIME WITH POLICE ESCORT TO GET CLOTHING AND 96 DODGE TRUCK, LOMBARD
2/4/2008	12:00 AM	recorded the following Case Note: TRANSFERED FROM: CASE ID: 2008SU83001255 DEFENDANT: A COUNT: 01

State vs. _____
Ticket/Warrant Number(s) _____
Offense(s) Charged _____
Penalty: _____

FARETTA WARNINGS

You have been charged with the criminal offense(s) listed above. Before you can plead guilty or not guilty to this charge(s) or proceed to trial, you must be informed that you have the right to an attorney. If you cannot afford an attorney (and meet certain income guidelines established by the Court), an attorney will be appointed to represent you, if you so choose. If you do not meet the eligibility guidelines to have an attorney appointed to represent you, you still have the right to an attorney to represent you on the charge(s) listed above, however the attorney must be retained at your own expense.

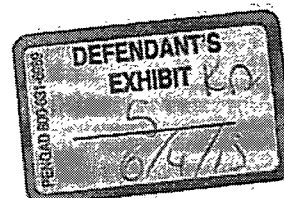
You do have the constitutional right to represent yourself and proceed without an attorney; however, I must inform you of the following:

- Self-representation can be dangerous and you have the right to have the assistance of a lawyer at all stages of the proceedings, and if you cannot afford a lawyer, a lawyer can be appointed to represent you.
- Criminal defense is a highly specialized and technical area of the law.
- There may be certain factual, legal, or other defenses to the charge(s) you are facing and if you choose to proceed without the services of a licensed attorney, you may not be aware of certain defenses.
- There may be issues related to the conduct of trial or a guilty plea that could arise in the future that you may not be aware of and it would be your attorney's responsibility to be aware of those issues and how to properly address them before the Court, and, if necessary, preserve the issues for appellate review.
- There may be collateral consequences of a conviction or plea that you are not aware of, including, but not limited to, you could face increased penalties for subsequent offenses, suspension of your driver's license, the restriction of the right to possess firearms and/or ammunition, or your immigration status may be affected.
- If you exercise your right to proceed without the services of an attorney, you are responsible for complying with all applicable rules of court, including rules of evidence, procedural rules, and proper behavior before the Judge and/or Jury.
- You understand that if you waive screening for a court-appointed attorney, that you are responsible for hiring a private attorney if you want one.

I state that I have fully and completely read this document regarding self-representation and I have had any and all of my questions answered to my complete satisfaction. At this time, I **DO/DO NOT** (circle one) wish to be screened for a court-appointed attorney and I wish to proceed with my trial at this time.

Signature of Defendant Date

Signature of Judge Date



STATE OF SOUTH CAROLINA

COUNTY/CITY OF BERKELEY

STATE OF SOUTH CAROLINA

VS

IN THE SUMMARY COURT

WAIVER OF RIGHT TO COUNSEL

TICKET #(s):

OFFENSE(s)

DATE OF VIOLATION:

MAXIMUM POSSIBLE INCARCERATION TIME (JAIL TIME):

I understand that I have been charged with the above offense and that:

1. I have a right to counsel at Pretrial Hearings, Trials, Show Cause Hearings or Conditional Sentencing Hearings, Contempt Hearings, or any other proceedings in this case.
2. If I cannot afford counsel, one will be appointed for me upon request by me at this time and upon determination that I am unable to pay for counsel.
3. A conviction for this charge may result in imprisonment.
4. If I try this case without counsel, I will be expected to comply with Rules of Court which will be made available to me upon request.
5. I have been explained the nature of the charges against me.
6. I am knowingly, that is consciously and intentionally, waiving my right to counsel.
7. I do so intelligently, that is with an understanding of the above, and have had all of the questions that I have asked, answered to my satisfaction.
8. I do so voluntarily, that is by intention and not accidentally or under any pressure or duress.
9. I have had ample time to consider this and need no further time or information to make this statement.
10. I am not under the influence of alcohol, other intoxicants or medicines which would in anyway affect my ability to understand what I am doing at this time.
11. I understand that this waiver extends to any further Hearings in this matter and until such time as it is revoked in writing to the Judge then handling the matter.
12. I have read and understand all of the above, and if I cannot read I have had this read to me to my satisfaction.

Signed: _____

Witness: _____

CERTIFICATION OF JUDGE:

I hereby certify that the above-named Defendant has been fully informed of the above, including his right to appointed counsel, that he has elected to proceed without counsel, and that he has validly executed the above waiver in this matter.

This _____ day of _____, 20____

Judge: _____

DEFENDANT'S RIGHTS

I am here to inform you that you have certain rights which assure that you will have a fair and impartial hearing.

1. You have a right to be represented by an attorney. If you cannot afford one, you can pay a \$40.00 non-refundable fee to the Public Defender's Office, fill out an application, and if you qualify, then one will be appointed for you. You need to be prepared to bring all required financial information including tax returns. If you do not qualify for a public defender, then your trial will be immediately rescheduled.
2. You have the right to have the charges read to you and explained if you do not understand them.
3. You have the right to call witnesses in your behalf and have them summoned by the court.
4. You have the right to plead guilty or not guilty to any charges and to know the possible consequences of a guilty plea.
5. You have the right to testify in your own behalf or to remain silent.
6. You have the right to ask proper questions of witnesses who appear against you.
7. You have the right to have a trial by jury of your peers.
8. You have the right to appeal the court's decision within 10 days, if you are not satisfied with the judgment of this court.

ASK DEFENDANT

1. Do you understand your rights?
2. Do you want to apply for a public defender or do you want to waive that right? (Have them sign waiver)
3. Are you ready to be tried at this time?

Name of Defendant _____

Warrant/Ticket No. _____

County/Municipality of _____

Charges: _____

Trial Court: _____

CHECKLIST FOR MAGISTRATES AND MUNICIPAL JUDGES

Directions. Magistrates and municipal court judges must use this checklist for ALL GENERAL SESSIONS and for ALL MAGISTRATE AND MUNICIPAL COURT CASES IN WHICH BOND IS SET BY A JUDGE. Magistrates and municipal judges must also use the Checklist on those non-bailable GENERAL SESSIONS OFFENSES IN WHICH THEY ARE CONDUCTING FIRST APPEARANCES. The judge shall attach this checklist to the charging document (arrest warrant or uniform traffic ticket) when the defendant first appears before a judge for a bond hearing or first appearance, and complete the appropriate sections. Defendant must be provided a completed copy of this form.

☐ BAIL PROCEEDING/☐ FIRST APPEARANCE (NON-BAILABLE OFFENSES)

- 1 Form used at bail proceeding ☐ Bond Form I (personal recognizance) ☐ Bond Form II (surety, cash, percentage)
- ☐ None (Non-Bailable Offense) because ☐ charge carries penalty of life or death; or
- ☐ defendant charged with violent offense while bonded out on violent offense.
- 2 For cases in which bond was set, defendant was informed:
- ☐ a. Warrant for arrest will be issued for violation of any condition of bail bond order.
- ☐ b. His right and obligation to be present at trial and that trial will proceed in his absence if he fails to attend.
- ☐ c. Failure to appear in court as required will result in institution of additional criminal charges. Failure to appear in connection with a felony, or while awaiting sentence after conviction, additional charge has penalty of not more than \$5,000 or imprisonment for not more than 5 years, or both. Failure to appear in connection with a charge for a misdemeanor for which the maximum possible sentence is at least one year, additional charge has penalty of not more than \$1,000 or imprisonment for not more than one year, or both. Failure to appear in court as required on any charge not specified above will result in the issuance of a warrant for defendant's arrest, as well as loss of any posted bond.
- 3 For cases to be tried in Court of General Sessions, defendant was informed of right to preliminary hearing if requested within ten (10) days:
- ☐ Orally ☐ In writing (NOTE: Defendant must be informed of right both orally and in writing.)
- ☐ 4 Defendant was informed of the right to trial by jury.
- 5 In all general sessions cases, in all criminal domestic violence cases, and in all magistrate or municipal cases in which a prison sentence is likely to be imposed, defendant was informed of the following:
- ☐ a. Charges against defendant and nature of the charges.
- ☐ b. Right to counsel and right to court-appointed counsel if financially unable to employ counsel.
- ☐ c. Defendant was informed orally and provided a copy of this form advising him of his right to obtain court appointed counsel if indigent (must meet federal poverty guidelines) and instructions on how to obtain court appointed counsel. In order to apply for court appointed counsel, defendant is required to appear before _____ located at _____ for indigency screening. Defendant is responsible for a statutory fee of \$_____ for indigency screening.
- ☐ 6 In all criminal domestic violence cases and any case where defendant is subject to an Order of Protection or Restraining Order, defendant signed and was provided a document explaining that entering the grounds or property of a domestic violence shelter in which the person's household member resides constitutes a additional misdemeanor charge and, if in possession of a dangerous weapon, an additional felony charge.
- ☐ 7 If the charges that have been brought against you are discharged, dismissed, or nolle prossed or if you are found not guilty, you may have your record expunged.

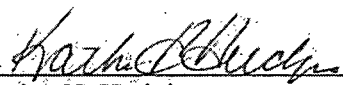
Appearance or
Hearing Date: _____

Judge's Signature _____

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."

January 29th, 2016


Kathrine H. Hudgins
Appellate Defender

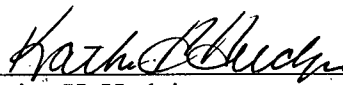
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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."

January 29th, 2016


Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED
JAN 29 2016
SC Court of Appeals