

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Hampton County

Honorable George C. James, Circuit Court Judge

THE STATE,

V.

RESPONDENT,

EBONY EVELYN CASTRO,

APPELLANT

APPELLATE CASE NO 2016-001056

RECORD ON APPEAL

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1 In the Court of General Sessions for the
2 State of South Carolina, County of Hampton

3
4 Case No.: 2015GS2500296

5 State of South Carolina,
6 Plaintiff(s),

7 vs. Transcript of Record

8 Ebony Evelyn Castro,
9 Defendant(s).

10

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13

14 May 9-11, 2016

15 Hampton, South Carolina

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20 BEFORE:

21 The Honorable George C. James

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1 PROCEEDINGS

2 THE COURT: All right. The State can call its
3 first case.

4 MR. WRIGHT: The State calls State versus
5 Barrington Grant and Ebony Castro.

6 MR. PLEXICO: May we approach, Your Honor?

7 THE COURT: Sure.

8 (Discussion at the Bench.)

9 THE COURT: All right. Go ahead, Mr. Wright.

10 MR. WRIGHT: State calls two defendants, both
11 Mr. Barrington Grant and Ebony Castro, in reference
12 to warrant 2015-GS-2500030, possession of a firearm.

13 Mr. Barrington Grant in warrant -- I mean,
14 Indictment 2015-GS-2500297, pointing or presenting a
15 firearm at a person. And Ms. Ebony E. Castro, in
16 Indictment 2015-GS-2500296, assault and battery of a
17 high and aggravated nature.

18 THE COURT: Okay. Do you have copies of the
19 indictments for me?

20 MR. WRIGHT: Yes, sir.

21 THE COURT: All right. Ladies and gentlemen of
22 the jury, I'm going to remind you it's against --
23 extremely important for you to understand that you
24 are under oath. You're expected to answer all
25 questions that I ask you truthfully. There are a

JURY SELECTION

1 few ground rules that I'll cover.

2 If I do ask a question that applies to you, the
3 first thing I would like for you to do is stand. All
4 you need to do is stand up. If there are more than
5 one of you who stand up, we'll wait for everyone to
6 stand up. The first thing I will do is get your
7 name, then I will get your juror number. And more
8 than likely, I'll ask you to come up here at some
9 point for follow-up questions. The reason for that
10 is, I don't have any idea what you might say, and I
11 don't want anyone to say anything in this courtroom
12 prior to jury selection that would have any impact on
13 any other jurors.

14 What I do not want you to do is stand up and
15 start talking. People do that when they're nervous.
16 They'll stand up, say their name, and just boom, say
17 everything they want to say. Do not -- please do not
18 do that.

19 All right. You heard the call of the case. It
20 is entitled the State of South Carolina versus
21 Barrington Grant and Ebony Castro. I'm going to
22 refer now to charges in the indictments. In these
23 indictments, the charges lodged against these
24 individuals are summarized, and I'm going to go over
25 that in just a minute.

JURY SELECTION

1 I will tell you that the fact that a person is
2 arrested or charged or indicted for any criminal
3 offense is not evidence of anything. These
4 indictments are the pieces of paper that figuratively
5 walk these cases into the courtroom. They have to
6 get in front of a jury in some fashion, and in South
7 Carolina the indictment process is used.

8 So the fact that I'll refer to these indictments
9 is not intended to be evidence, it's not intended to
10 be a comment by me on what the facts are. I simply
11 have to tell you what the charges are so I can ask
12 you the first question, and that is going to be, is
13 there anybody on this jury who knows anything about
14 this case in any way at all?

15 All right. And in no particular order, the
16 indictment that ends in the number 296 alleges that
17 on or about August 22, 2015, in this county, the
18 Defendant, Ebony Evelyn Castro, caused great bodily
19 injury to one Sandra Singleton, or that the act
20 involved did or was likely to cause great bodily
21 injury, specifically that the Defendant was involved
22 in a fist fight with the victim and the Defendant
23 pulled a sharp object and cut the victim's ear,
24 causing it to be nearly severed from the victim's
25 head and to lose a high volume of blood that could

JURY SELECTION

1 have resulted in death, and/or did result in
2 permanent disfigurement or protracted loss or
3 impairment of function of the skin or ear.

4 I'm mentioning all those particulars that are
5 alleged because I'm telling you that, as I will tell
6 you at the end of the case, the State has the burden
7 of proving the elements of that crime charged beyond
8 a reasonable doubt. And as I will tell you for all
9 these charges, the Defendants are presumed innocent.
10 They do not have to prove or disprove anything. The
11 burden at all times remains on the State to prove the
12 elements of the crimes charged beyond a reasonable
13 doubt. That is the crime charged against Ebony
14 Evelyn Castro.

15 Ms. Castro is not here right now, you are not to
16 hold that against her. The fact that she is not
17 present right now is not to be considered by you in
18 any way for her or against her as a specific and
19 serious instruction.

20 All right. Indictment ending in No. 292305
21 charges Mr. Barrington Wayne Grant with illegal
22 possession of a firearm. and it is alleged in the
23 indictment that that offense occurred in this county
24 on or about August 22, 2015.

25 Indictment ending in 297 alleges that on or

JURY SELECTION

1 about August 22, 2015, the same date, the Defendant,
2 Barrington Wayne Grant, did present or point a
3 firearm at one Sandra Singleton. And specifically
4 the indictment alleges that the Defendant pulled out
5 the handgun and presented it in a manner and told the
6 victim, Ms. Singleton, that if she touched his
7 sister, it was going to get serious. Those are the
8 allegations.

9 Again, I'm mentioning all of that to tell you
10 what the elements of the crime charged are and to ask
11 this question: Is there anyone on this panel who
12 knows anything about this case from any source
13 whatsoever other than what I just referenced from
14 these indictments? If so, please stand.

15 All right. No one's read anything about it,
16 heard anything about it, or has any information, even
17 casual? Again, I'll ask you to stand if you know
18 anything about it.

19 All right. No one stood.

20 All right. Mr. Grant, if you could please stand
21 and face the jury panel. This gentleman is
22 Barrington Wayne Grant.

23 Thank you, sir, you may be seated.

24 The other Defendant is Ebony Evelyn Castro.

25 As I go through these questions, if I use the

JURY SELECTION

1 term, immediate family member, that would mean your
2 father, mother, brother, sister, spouse, child, or
3 anyone else you consider to be a close family member.

4 Is there anyone on this panel, or to your
5 knowledge, is there anyone in your immediate family
6 who, first of all, might be related by blood or
7 marriage, which means kin to, either Mr. Grant or
8 Ms. Castro? If so, please stand.

9 Is there anyone on this panel or anyone in your
10 immediate family who might have -- who has any
11 connection or acquaintance or association with either
12 Defendant? And I don't care if it's know them
13 really, really well or you barely know them, or you
14 met them once in your life, or somewhere in between.
15 Might have gone to school with them, worked with
16 them, or had some type of connection through school,
17 church, wherever else it might be, and that would be
18 now or in the past. Any connection at all with
19 either of these two defendants? If so, please stand.

20 All right. I'm going to call out now the names
21 of some potential witnesses. Some of these may be
22 called or all of them may be called, I do not know.
23 There's no way to know right now. If any of the
24 witnesses are present, if you would please stand.

25 The question is going to be the same, is there

JURY SELECTION

1 anyone on the jury or anyone in your immediate family
2 who, first of all, might be kin to any of these
3 witnesses or otherwise have any connection,
4 acquaintance, or association, however strong or
5 however slight. That's now or in the past.

6 Sandra Monique Singleton, she's in the back of
7 the courtroom. If you could look back there, please.
8 She's standing.

9 Thank you, ma'am.

10 Patrolman Quincy Jarelle Smith of Estill police
11 department. Is he present?

12 MR. WRIGHT: I don't think so, sir.

13 THE COURT: Okay. Again, Patrolman Quincy
14 Jarelle Smith, Estill police department.

15 Officer Zatch Jason Pouch from also the police
16 department.

17 Chief Mark Collins of the Estill Police
18 Department.

19 Sergeant Michael Thomas of the Estill Police
20 Department. Face the back of the room, sir. Thank
21 you.

22 Faith Manual from Hampton, in the back of the
23 courtroom, ladies and gentlemen. Please look back
24 there.

25 Mary Ann Fields of Hampton. Melissa Fields

JURY SELECTION

1 Daughtry of Hampton. Brenda Ellis and Laura Mayer,
2 or Myer. Both are EMTs.

3 All right. You can have a seat, and I'll ask
4 you to stand back up in just a moment.

5 Kenny LaVonte. Shay Smith. Frederick
6 McPherson. And Darnell Burgess.

7 Again, that's a listing. You can have a seat.
8 Just -- thank you, ma'am.

9 That's a listing of possible witnesses in this
10 case, and they're covered again -- these -- my
11 question is, is there anyone on the panel who might
12 be related or anyone in your immediate family who
13 might be related by blood or marriage or have any
14 type of connection, acquaintance, or association with
15 any of these possible witnesses?

16 And two people stood. In just a moment I'm
17 going to ask y'all to come up here and we'll get that
18 information privately.

19 Okay. Your name, sir?

20 PROSPECTIVE JUROR: Chris Altman.

21 THE COURT: Altman. And your name, ma'am?

22 PROSPECTIVE JUROR: Fallon Gordon.

23 THE COURT: Gordon. Okay. Thank you.

24 All right. Beginning with the State, I'm going
25 to ask the lawyers to stand and introduce themselves

JURY SELECTION

1 and anyone else other than a previously named witness
2 who will be assisting you in a trial. Okay?

3 MR. WRIGHT: Good afternoon, ladies and
4 gentlemen. My name is Kelvin Wright. I am a
5 Solicitor for Hampton County. I am assisted here by
6 the Solicitor's investigator, Mr. Bruce Davis,
7 already named, and I won't go back to Sergeant
8 Thomas. And we also may have some assistance from
9 Solicitor Corey Williams.

10 THE COURT: Okay. All right. The Defense.

11 MR. PLEXICO: I'm Stephen Plexico, I'm the
12 Chief Public Defender for Allendale, Hampton, and
13 Jasper Counties, and been so for the last 26 years.

14 THE COURT: Okay. Ms. Smart.

15 MS. SMART-GITTINGS: Stephanie Smart from the
16 Public Defender's Office here in Allendale, Hampton,
17 and Jasper Counties.

18 THE COURT: All right. The lawyers have
19 introduced themselves. And in the case of the
20 State, also Mr. Wright has introduced the
21 investigator, Mr. Davis, and Assistant Solicitor
22 Williams.

23 My question is this: Is there anyone on this
24 panel, or anyone in your immediate family, to your
25 knowledge, who, first of all, might be kin to any of

JURY SELECTION

1 these individuals who have been introduced to you?

2 Or any connection, acquaintance, or association?

3 As I typically say, the lawyers are people, too.

4 They have casual and business acquaintances just like

5 the rest of us. Any -- again, you might have gone to

6 school with some of these folks, you might go to the

7 church with them, might have been in a club with

8 them. Any connection at all is what I'm looking for.

9 And, again, that's now or in the past.

10 All right. Your name, please, ma'am?

11 PROSPECTIVE JUROR: Jennifer Hicks.

12 THE COURT: Hicks. All right. You can have a

13 seat for the time being on the far left.

14 Yes, ma'am.

15 PROSPECTIVE JUROR: Jasmine Sanders.

16 THE COURT: Last name?

17 PROSPECTIVE JUROR: Sanders.

18 THE COURT: Singleton?

19 PROSPECTIVE JUROR: Sanders.

20 THE COURT: Okay. Thank you, ma'am.

21 And in the orange shirt, close to me.

22 PROSPECTIVE JUROR: Kayla Cannon.

23 THE COURT: Kayla Cannon. All right. On the

24 right, closer to the aisle, your name, please.

25 PROSPECTIVE JUROR: Erica Grant.

JURY SELECTION

1 THE COURT: All right. Ms. Grant, thank you.
2 Your name, please.
3 PROSPECTIVE JUROR: Suzette Henderson.
4 THE COURT: Okay. Thank you.
5 Yes, ma'am.
6 PROSPECTIVE JUROR: Cindy Rhodes.
7 THE COURT: Rhodes?
8 PROSPECTIVE JUROR: Yes, sir.
9 THE COURT: All right. And, yes, sir, your
10 name again?
11 PROSPECTIVE JUROR: DeMario Dobson.
12 THE COURT: All right. Thank you, Mr. Dobson.
13 In the blue shirt in the back?
14 PROSPECTIVE JUROR: Larry Brown.
15 THE COURT: Mr. Brown. Okay.
16 And your name right beside him?
17 PROSPECTIVE JUROR: Barbara Brant.
18 THE COURT: Branch?
19 PROSPECTIVE JUROR: Brant.
20 THE COURT: Brant.
21 And your name?
22 PROSPECTIVE JUROR: Tiffany Scriven.
23 THE COURT: Last name?
24 PROSPECTIVE JUROR: Scriven.
25 THE COURT: Okay. Thank you.

JURY SELECTION

1 All right. The folks who did stand in response
2 to these questions so far, please, when I ask you to
3 get in line, I want you to all come, get in line at
4 the same time.

5 Okay. Is there anyone on this panel kin to --
6 again, that's related by blood or marriage -- or a
7 close personal friend of anyone who is employed by a
8 law enforcement agency?

9 We got a lot of law enforcement agencies in the
10 United States. We have city police departments,
11 county sheriff's department. So we have, for
12 example, the South Carolina -- SLED, we have the FBI,
13 we have military police.

14 Again, is there anyone on this panel who is
15 related by blood or marriage or close personal
16 friends with anyone who is employed by a law
17 enforcement agency?

18 Okay. Your name, sir?

19 PROSPECTIVE JUROR: Hunter Nix.

20 THE COURT: N-I-X?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: All right. What -- what's your
23 answer to that question?

24 PROSPECTIVE JUROR: Close -- close friends.

25 THE COURT: And who do they work for?

JURY SELECTION

1 PROSPECTIVE JUROR: Hampton County.

2 THE COURT: Okay. And sheriff's office?

3 PROSPECTIVE JUROR: Yes, sir.

4 THE COURT: How long have they been there?

5 PROSPECTIVE JUROR: I'm not sure.

6 THE COURT: Okay. How many?

7 PROSPECTIVE JUROR: One.

8 THE COURT: Are they actually -- he's an
9 officer, or she's an officer?

10 PROSPECTIVE JUROR: He's an investigator.

11 THE COURT: Okay. The last name only.

12 PROSPECTIVE JUROR: Russell.

13 THE COURT: Russell. Okay. You can have a
14 seat. I'm going to ask you to stand right back up
15 in a second.

16 Your name, ma'am?

17 PROSPECTIVE JUROR: Fagu Washington.

18 THE COURT: Washington?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Okay. Yes, ma'am.

21 PROSPECTIVE JUROR: I have one at the sheriff's
22 department and one at the Barnwell police.

23 THE COURT: Okay. And the sheriff's
24 department, is he a law enforcement officer or she a
25 law enforcement officer, or just employed as an

JURY SELECTION

1 office worker or some other --

2 PROSPECTIVE JUROR: She's an officer, I
3 believe.

4 THE COURT: Okay. Her last name?

5 PROSPECTIVE JUROR: Washington.

6 THE COURT: Okay. How is she -- you related to
7 her?

8 PROSPECTIVE JUROR: She is my sister-in-law.

9 THE COURT: Okay. Thank you, ma'am. And how
10 about the Barnwell police?

11 PROSPECTIVE JUROR: He's my nephew.

12 THE COURT: And last name?

13 PROSPECTIVE JUROR: Butler.

14 THE COURT: Butler. Okay. Thank you very
15 much. You can have a seat for the time being.

16 Your name, please, ma'am.

17 PROSPECTIVE JUROR: Jessie Segars.

18 THE COURT: Okay. And your answer to that
19 question?

20 PROSPECTIVE JUROR: He is Hampton County
21 sheriff's office.

22 THE COURT: Last name?

23 PROSPECTIVE JUROR: Jordan.

24 THE COURT: Is that a relation -- blood or
25 marriage relation or a close personal friend?

JURY SELECTION

1 PROSPECTIVE JUROR: Marriage relation.

2 THE COURT: And what relation?

3 PROSPECTIVE JUROR: He's my cousin.

4 THE COURT: Okay. And his last name again?

5 PROSPECTIVE JUROR: Jordan.

6 THE COURT: Jordan. Thank you.

7 Your name, please?

8 PROSPECTIVE JUROR: Charmonique Risher.

9 THE COURT: Yes, ma'am.

10 PROSPECTIVE JUROR: Sheriff's department. His

11 last name is Risher. Cousin.

12 THE COURT: Risher? Okay. Thank you.

13 Yes, ma'am, your name?

14 PROSPECTIVE JUROR: Heather Ginn Allman. And

15 my brother is a sergeant for the Hampton police

16 department.

17 THE COURT: And his last name?

18 PROSPECTIVE JUROR: Ginn.

19 THE COURT: Okay. How do you spell your last

20 name?

21 PROSPECTIVE JUROR: G-I-N-N.

22 THE COURT: Okay. Anymore -- anyone else?

23 All right. Your name, sir?

24 PROSPECTIVE JUROR: Charles A. Tuten, Junior.

25 THE COURT: Your last name?

JURY SELECTION

1 PROSPECTIVE JUROR: Tuten.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR: I have a cousin in Hampton
4 County sheriff's department.

5 THE COURT: Last name?

6 PROSPECTIVE JUROR: Ayer.

7 THE COURT: Okay. Thank you.

8 And when I call your name, please.

9 PROSPECTIVE JUROR: Sandra Grant, and my
10 cousin -- have a cousin who is a police officer in
11 Allendale.

12 THE COURT: Where?

13 PROSPECTIVE JUROR: Allendale.

14 THE COURT: Allendale. Last name?

15 PROSPECTIVE JUROR: Kelvin Grant.

16 THE COURT: His name is Kelvin Grant? Ma'am?

17 PROSPECTIVE JUROR: Kelvin Grant.

18 THE COURT: Okay. Thank you.

19 And your name, please, ma'am.

20 PROSPECTIVE JUROR: Sharon Farris. My
21 brother-in-law is chief of police.

22 THE COURT: Where?

23 PROSPECTIVE JUROR: Hampton.

24 THE COURT: In Hampton. Okay.

25 All right. If you folks who answered that

JURY SELECTION

1 particular question, if you could stand back up, I'll
2 go ahead and ask you a follow-up question. If you
3 would, just stand back up, who answered the law
4 enforcement question.

5 The answers that you've given me, of course,
6 obviously, they're full and complete based on your
7 oath. Taking into account the relationships that you
8 have explained to me on the record, would you still
9 be -- based on the connections you have with people
10 who are employed by law enforcement agencies, could
11 you still be fair and impartial in a case that was
12 perhaps investigated by the county sheriff's
13 department or the Estill police department, and be
14 completely fair and impartial to the State and to the
15 Defendants? If you can be completely fair and
16 impartial, simply raise your hand.

17 All right. They all raised their hands. You
18 can have a seat. Thank you.

19 All right. There are different prosecutorial
20 agencies in the state of South Carolina as well. On
21 a more local level, we have the Solicitor's Office,
22 which is your elected Solicitor, Mr. Stone, and his
23 assistants. In this case, Mr. Wright and
24 Mr. Williams. Those are examples of prosecuting
25 attorneys.

JURY SELECTION

1 We also have the South Carolina Attorney
2 General's Office. And we also have the United States
3 Attorney that we call the United States Attorney.

4 My question is this: Is there anyone on this
5 panel who is employed by or related by blood or
6 marriage or close personal friends with anyone
7 employed by the State Attorney General's Office or
8 any Solicitor's office, or any federal prosecutor's
9 office? If so, please stand.

10 Your name again?

11 PROSPECTIVE JUROR: Charmonique Risher.

12 THE COURT: Yes, ma'am.

13 PROSPECTIVE JUROR: My dad works at the
14 Solicitor's Office.

15 THE COURT: Okay. What's his name?

16 PROSPECTIVE JUROR: Leonard Rischer.

17 THE COURT: Okay. Is he an attorney?

18 PROSPECTIVE JUROR: No.

19 THE COURT: All right. If you were on this
20 jury, ma'am, would you be able to set that aside and
21 be completely fair and impartial?

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: And base your verdict on what the
24 evidence and the law is in this case? You could
25 do -- ma'am?

JURY SELECTION

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Okay. Thank you.

3 Is there anyone on this panel who has ever been
4 employed by any civilian or military law enforcement
5 agency? That's you yourself been employed by any law
6 enforcement agencies?

7 No one stood.

8 There are different types of crimes across the
9 spectrum. Some are classified as crimes of violence,
10 and I'm going to refer to these crimes in general
11 categories as follows: Armed robbery, burglary,
12 sexual assault, murder, attempted murder, or any
13 other crimes that would be classified as violent.

14 The question is this: Is there anyone on this
15 panel, or is there anyone in your immediate family
16 who, first of all, may have ever been accused of
17 committing such a crime; or second of all, who may
18 have ever been the victim of or claimed to have been
19 the victim of such crime? If so, please stand.

20 All right. No one stood.

21 And more specifically, is there anyone on this
22 jury panel who has ever been accused of committing or
23 been the victim of a crime involving the use of a
24 firearm? If so, please stand.

25 No one stood.

JURY SELECTION

1 THE BAILIFF: You have one, Your Honor.

2 THE COURT: Your last name again, ma'am?

3 PROSPECTIVE JUROR: Farris.

4 THE COURT: Okay. I'll have you come up in
5 just a minute. Thank you, ma'am.

6 Is there anyone on the panel who is a member of
7 or contributor to any organization that has as its
8 primary focus the promotion of law enforcement or the
9 enforcement of victim's rights? And these
10 organizations include, but they are not limited to,
11 groups such as Mothers Against Drunk Driving,
12 Students Against Drunk Driving, Citizens Against
13 Violent Crime. CADRE, which is an acronym for
14 Citizens Advocating and Return to Ethics, Citizens
15 Opposed to Domestic Abuse, or any other similar type
16 organizations? Again, that's a member of or any
17 contributor to.

18 All right. No one stood.

19 All right. And I'm going to ask these next
20 questions as kind of a group, and they may -- they
21 don't really intertwine with one another, but I'm
22 going to ask them all in basically the same fashion.

23 A moment ago I told you that the fact that a
24 person is arrested or charged or indicted for any
25 offense is not evidence of anything. I've also told

JURY SELECTION

1 you that there are two Defendants who will be on
2 trial.

3 Is there anyone on the jury panel who believes
4 as a threshold matter that if two people are on trial
5 at the same time, and that if one -- well, let me
6 back up. Let me explain this a little bit more
7 clearly.

8 If you get put on this jury, I'll be telling you
9 at the end of the case that your verdict on one
10 charge does not control your verdict on the other.
11 And your verdict as to one Defendant does not control
12 your verdict as to the other Defendant.

13 In other words, based on your review of the
14 evidence and taking that law as I give it to you, you
15 might conclude that both Defendants are not guilty,
16 that both Defendants are guilty, or that one
17 Defendant is guilty and the other Defendant is not
18 guilty.

19 In other words, you don't base your verdict on
20 one thing so as to control your verdict on the other.

21 Is there anyone on this panel who would think
22 that just because two people are on trial together
23 and one is found guilty, that the other must also be
24 found guilty? Is there anyone who would believe
25 that?

JURY SELECTION

1 All right. No one stood.

2 Is there anyone on the panel, keeping in mind
3 that within certain parameters under the laws of this
4 state and this nation, persons are entitled to have
5 possession of firearms? There are certain exceptions
6 to that.

7 Is there anyone on this jury panel who believes
8 as a fundamental matter that a private citizen should
9 not be allowed to have a firearm under -- in his or
10 her possession under any circumstances? Is there
11 anyone who believes that a person should not be
12 allowed to possess a firearm under any circumstance?
13 If so, please stand.

14 I've covered this next question partially, I'm
15 going to ask it all together. Is there anyone on
16 this jury panel who has ever been the victim of a
17 violent crime or been accused of a violent crime?

18 I'm going to add this: Anyone ever been a
19 witness for the State or the defense in any type of
20 criminal trial? If so, please stand.

21 All right. No one stood.

22 Is there anyone on this jury panel who knows of
23 any bias or prejudice that you might have for or
24 against the State or either Defendant or any of the
25 possible witnesses whose names have been called, or

JURY SELECTION

1 any of the lawyers whose names have been called?

2 And, again, that's a bias for or against any of those
3 people.

4 Is there anyone on this panel who believes that
5 the testimony of a law enforcement officer should be
6 given less believability or more believability just
7 because that person is a law enforcement officer?

8 Is there anyone on this panel who knows of any
9 reason you should not serve as a juror in this case,
10 keeping in mind your primary responsibility to be
11 fair and impartial as a juror?

12 All right. The folks who had -- except for the
13 ones who I asked specific follow-up questions to, and
14 I believe the gentleman in the front and the lady
15 right behind were the first two. If I asked you a
16 question and I told you to go ahead and sit right
17 back down after I got your name, if you could please
18 go ahead and get in line in the center. I'll have
19 you come up one at a time.

20 And I know there were probably nine or ten of
21 them, maybe more.

22 (Prospective jurors complied.)

23 THE COURT: And your last name?

24 PROSPECTIVE JUROR: Gordon.

25 THE COURT: Gordon. You can come on up.

JURY SELECTION.

1 (Talking privately.)
2 THE BAILIFF: Juror No. 1, Altman.
3 (Talking privately.)
4 THE BAILIFF: Juror No. 92, Hicks.
5 (Talking privately.)
6 THE BAILIFF: Juror No. 31.
7 (Talking privately.)
8 THE BAILIFF: Juror No. 90.
9 (Talking privately.)
10 THE BAILIFF: Juror No. 127.
11 (Talking privately.)
12 THE BAILIFF: Juror No. 73.
13 (Talking privately.)
14 THE BAILIFF: No. 136.
15 (Talking privately.)
16 THE BAILIFF: No. 141.
17 (Talking privately.)
18 THE BAILIFF: No. 22.
19 (Talking privately.)
20 THE BAILIFF: Juror No. 15.
21 (Talking privately.)
22 THE BAILIFF: No. 55.
23 (Talking privately.)
24 THE BAILIFF: No. 75.
25 (Talking privately.)

JURY SELECTION

1 THE COURT: Could I see the lawyers up here for
2 just a minute?

3 All right. Any additional questions from the
4 State?

5 MR. WRIGHT: None, Your Honor.

6 THE COURT: Mr. Plexico?

7 MR. PLEXICO: No, Your Honor.

8 THE COURT: Ms. Smart?

9 MS. SMART-GITTINGS: None, Your Honor.

10 THE COURT: All right. Ladies and gentlemen,
11 the clerk is going to give you some instructions
12 about what to do if your name is called. We will
13 select the jury at this time.

14 For your information, in the years past, I've
15 been in this business, I guess, 30 -- 31 years, and
16 we used to have a different method, where every
17 county you'd have a brass drum with all your names on
18 a piece of paper. They'd spin it around. We've had
19 a cigar box. I've even seen a styrofoam cup with
20 balled up pieces of paper used.

21 But now, across the state, every county uses a
22 computer system. Your names are in this computer and
23 its jumbled by the computer. So the names are going
24 to be put on that list randomly.

25 I will have a copy, the clerk will have a copy,

JURY SELECTION

1 the lawyers won't know who you are, if your name is
2 on the list, until your name is called.

3 THE CLERK: When I call your name, please come
4 forward.

5 No. 144, Joya Singleton -- Singletary. Sorry.

6 THE COURT: Just come up through these double
7 doors, right by this microphone and turn around and
8 face the back of the courtroom.

9 THE CLERK: What says the State?

10 MR. WRIGHT: Please present the juror.

11 THE CLERK: What says the Defendant -- hold on.
12 Hold on just a second.

13 What says Defendant Grant?

14 MR. PLEXICO: Please swear the juror.

15 THE CLERK: And Defendant Castro.

16 MS. SMART-GITTINGS: Please seat the juror.

17 THE CLERK: No. 164, Fagu Washington. What
18 says the State?

19 MR. WRIGHT: Please present the juror.

20 THE CLERK: What says the Defendant Grant?

21 MR. PLEXICO: Please present the juror.

22 THE CLERK: And the Defendant Castro?

23 MS. SMART-GITTINGS: Please seat the juror.

24 THE CLERK: No. 28, Annie Butler. What says
25 the State?

JURY SELECTION

1 MR. WRIGHT: Please present Ms. Butler.

2 THE CLERK: The Defendant Grant?

3 MR. PLEXICO: Please swear the juror.

4 THE CLERK: Defendant Castro?

5 MS. SMART-GITTINGS: Please seat the juror.

6 THE CLERK: No. 161, Charles Tuten. What says
7 the State?

8 MR. WRIGHT: Please present the juror.

9 THE CLERK: Defendant Grant?

10 MR. PLEXICO: Please swear the juror.

11 THE CLERK: Defendant Castro?

12 MS. SMART-GITTINGS: Please excuse this juror.

13 THE CLERK: No. 87, Jimmie Hay. What says the
14 State?

15 MR. WRIGHT: Please present Mr. Hay.

16 THE CLERK: Defendant Grant.

17 MR. PLEXICO: Please swear the juror.

18 THE CLERK: And Defendant Castro.

19 MS. SMART-GITTINGS: Please seat the juror.

20 THE CLERK: No. 42, Gwendolyn Davis. What says
21 the State?

22 MR. WRIGHT: Please present the juror.

23 THE CLERK: Defendant Grant.

24 MR. PLEXICO: Please swear the juror.

25 THE CLERK: Defendant Castro.

JURY SELECTION

1 MS. SMART-GITTINGS: Please seat the juror.

2 THE CLERK: No. 44, John Davis. What says the
3 State?

4 MR. WRIGHT: Please present Mr. Davis.

5 THE CLERK: Defendant Grant.

6 MR. PLEXICO: Please swear the juror.

7 THE CLERK: Defendant Castro.

8 MS. SMART-GITTINGS: Please seat the juror.

9 THE CLERK: No. 16, Bruce Brant. What says the
10 State?

11 MR. WRIGHT: Please present the juror.

12 THE CLERK: Defendant Grant.

13 MR. PLEXICO: Please swear the juror.

14 THE CLERK: Defendant Castro.

15 MS. SMART-GITTINGS: Seat the juror.

16 THE CLERK: No. 75, Sandra Grant. What says
17 the State?

18 MR. WRIGHT: Please present the juror.

19 THE CLERK: What says the Defendant Grant?

20 MR. PLEXICO: Please swear the juror.

21 THE CLERK: Defendant Castro.

22 MS. SMART-GITTINGS: Please seat the juror.

23 THE CLERK: No. 40, Geneva Crosson. What says
24 the State?

25 MR. WRIGHT: Please present Ms. Crosson.

JURY SELECTION

1 THE CLERK: Defendant Grant.

2 MR. PLEXICO: Please swear the juror.

3 THE CLERK: Defendant Castro.

4 MS. SMART-GITTINGS: Please seat the juror.

5 THE CLERK: No. 31, Kayla Cannon. What says
6 the State?

7 MR. WRIGHT: Please present Ms. Cannon.

8 THE CLERK: Defendant Grant.

9 MR. PLEXICO: Please excuse the juror from the
10 trial of this case.

11 THE CLERK: No. 22, Larry Brown. What says the
12 State?

13 MR. WRIGHT: Please present the juror.

14 THE CLERK: Defendant Grant.

15 MR. PLEXICO: Please swear the juror.

16 THE CLERK: Defendant Castro.

17 MS. SMART-GITTINGS: Please seat the juror.

18 THE CLERK: No. 86, Joshua Harris. What says
19 the State?

20 MR. WRIGHT: Please present the juror.

21 THE CLERK: Defendant Grant.

22 MR. PLEXICO: Excuse the juror from the trial
23 of this case.

24 THE CLERK: No. 68, Heather Ginn. What says
25 the State?

JURY SELECTION

1 MR. WRIGHT: Please present the juror.

2 THE CLERK: Defendant Grant.

3 MR. PLEXICO: Please excuse the juror from the
4 trial of this case.

5 THE CLERK: No. 156, Cheryl Terry. What says
6 the State?

7 MR. WRIGHT: Please present the juror.

8 THE CLERK: What says Defendant Grant?

9 ATTORNEY3: Please swear the juror.

10 THE CLERK: And Defendant Castro?

11 MS. SMART-GITTINGS: Please seat the juror.

12 THE CLERK: No. 1, Christopher Altman. What
13 says the State?

14 MR. WRIGHT: Please present the juror.

15 THE CLERK: Defendant Grant.

16 MR. PLEXICO: Please swear the juror.

17 THE CLERK: And Defendant Castro.

18 MS. SMART-GITTINGS: Please excuse the juror.

19 THE CLERK: No. 160, Earl Triplett. What says
20 the State?

21 MR. WRIGHT: Please present the juror.

22 THE CLERK: What says Defendant Grant?

23 MR. PLEXICO: Please indulge.

24 Please excuse the juror from the trial of this
25 case.

JURY SELECTION

1 THE CLERK: No. 90, Suzette Henderson. What
2 says the State?

3 MR. WRIGHT: Please present the juror.

4 THE CLERK: What says the Defendant Grant?

5 MR. PLEXICO: Please swear the juror.

6 THE CLERK: Defendant Castro.

7 MS. SMART-GITTINGS: Please seat the juror.

8 THE CLERK: No. 37, Russell Corbin. What says
9 the State?

10 MR. WRIGHT: Please seat the juror.

11 THE CLERK: What says Defendant?

12 MR. PLEXICO: Please swear the juror.

13 THE CLERK: And Castro.

14 MS. SMART-GITTINGS: Please seat the juror.

15 THE CLERK: Judge, do you want me to call the
16 next one?

17 No. 127, Cindy Rhodes. What says the State?

18 MR. WRIGHT: Please present the juror.

19 THE CLERK: Defendant Grant.

20 MR. PLEXICO: Please excuse the juror.

21 THE CLERK: No. 46, Louis Davis. What says the
22 State?

23 MR. WRIGHT: Judge, can we approach real quick?

24 THE COURT: Yes, sir.

25 (Discussion at the Bench.)

JURY SELECTION

1 THE COURT: The State has presented the juror,
2 Defendant Grant.

3 MR. PLEXICO: Please swear the juror.

4 MS. SMART-GITTINGS: Please excuse this juror.

5 THE COURT: All right.

6 THE CLERK: No. 142, Jessica Segars -- Jessie
7 Segars. Sorry. What says the State?

8 MR. WRIGHT: Please present the juror.

9 THE CLERK: Defendant Grant.

10 MR. PLEXICO: Please swear the juror.

11 THE CLERK: And Defendant Castro.

12 MS. SMART-GITTINGS: Please excuse this juror.

13 THE CLERK: No. 132, James Rosier. What says
14 the State?

15 MR. WRIGHT: Please present the juror.

16 THE CLERK: Defendant Grant.

17 MR. PLEXICO: What number was that? I'm sorry.

18 THE CLERK: 132.

19 MR. PLEXICO: Please excuse the juror from the
20 trial of this case.

21 THE CLERK: No. 72, Fallon Gordon. What says
22 the State?

23 MR. WRIGHT: Please excuse the juror.

24 THE CLERK: No. 2, Mark Altman.

25 THE COURT: Mark Altman. We got two Altmans,

JURY SELECTION

1 correct? You're Mark Altman?

2 PROSPECTIVE JUROR: Yes, sir.

3 MR. WRIGHT: Please present the juror.

4 THE CLERK: Defendant?

5 MR. PLEXICO: Please swear the juror.

6 MS. SMART-GITTINGS: Swear the juror.

7 THE CLERK: Have a seat.

8 THE COURT: All right. Any motions or any
9 other matters pertaining to the jury selection,
10 other than what we briefly mentioned up here a
11 moment ago from the State?

12 MR. WRIGHT: Not from the State, Your Honor.

13 THE COURT: Anything from either Defendant?

14 MR. PLEXICO: No, Your Honor.

15 MS. SMART-GITTINGS: Nothing, Your Honor.

16 THE COURT: All right. Can I see the lawyers
17 up here for just a second?

18 (Discussion at the Bench.)

19 THE COURT: Okay. All right. Ladies and
20 gentlemen, if you were selected a juror for the
21 trial of this case, let me have your attention for a
22 few minutes. We're going to start tomorrow morning
23 right here in the courtroom at 9:30.

24 Oh, excuse me, Wednesday. Apologize! Tomorrow
25 is a state holiday, and the only people who get the.

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1 holiday are me, the court reporter, and my law clerk.
2 It is Confederate Memorial Day. I didn't even know
3 we had Confederate Memorial Day until I went on the
4 Bench about ten years ago, but it's a state holiday.
5 Even if we wanted to work, which I would rather do,
6 we just couldn't have court because they tell us
7 we're not supposed to.

8 In any event, we're going to start Wednesday at
9 9:30, right here in this courtroom. So between now
10 and that time, which I will tell you more times than
11 you will ever dream here, you cannot discuss this
12 case with anybody. That includes amongst yourselves.
13 This might be the only thing that the 14 of you have
14 in common, but you can't talk about it at all.

15 When you're leaving this building today, going
16 to your cars, coming back on Wednesday, even when
17 you're in the jury room waiting to start, or during a
18 break in the trial, you can't talk about this case at
19 all. You can't talk about any of the witnesses,
20 can't talk about what the allegations are, the
21 lawyers, anybody else. You can't talk about it.

22 When you go home, you go to work, wherever you
23 might go, you can't talk to anyone in the universe
24 about this case. I may tell you the reason I say the
25 universe, that means anybody. If you get on Twitter

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1 or Facebook or any other social media, I'm ordering
2 you not to put anything on there about this case.
3 You can't even text anybody, oh, great, or okay, I
4 got put on the jury. You can't talk about it at all.

5 So, again, put this out of your mind until
6 Wednesday morning, and I'll see you back then
7 promptly at 9:30. Okay? Thank you.

8 By the way, you're not permitted to read
9 anything about the case, listen to anything about it,
10 watch anything about it either. Okay?

11 Okay. Ladies and gentlemen who were not
12 selected as jurors for the trial of this case, of
13 course, you're released for the rest of today and
14 tomorrow. All of you should have a piece of paper
15 with a call back number on it. In the old days, you
16 would have to come back everyday at 9:30 and 2:30
17 just in case you were needed. But now, you have a
18 call back number. Does anybody not have that?

19 THE CLERK: It's at the security desk on their
20 way out.

21 THE COURT: Okay. The security desk on your
22 way out, you can pick up a card. The reason that's
23 important is this: Call the number on that card
24 after 6:00 on Wednesday evening. You will hear a
25 voice, I don't know whose it will be, but the voice

COLLOQUY

1 will tell you what to do. The voice may tell you to
2 come back at a certain time, it may tell you to call
3 back at a certain time. Follow the instructions
4 that you hear in that voice recording.

5 If you are instructed to come back -- if you are
6 instructed to come back and you don't, the nicest way
7 I can put it is you will get a free ride up here, and
8 the car will have stripes on it. So uniformly or
9 commonly, if somebody doesn't show up because they
10 say that they didn't know that recording was meant
11 for them, the recording that you hear after 6:00 on
12 Wednesday is meant for you. Okay?

13 Thank you for your patience, you're free to go.

14 Okay. We will take ten minutes. All right.

15 (Whereupon, a brief recess was
16 taken.)

17 THE COURT: Okay. The reason I asked earlier,
18 Mr. Plexico, was the fact that I had two motions up
19 here from you. One is a motion to exclude for the
20 one dealing with the felony possession; the other
21 one is hearing to determine what prior crimes the
22 Defendant's been convicted of.

23 What would you like to cover first?

24 MR. PLEXICO: Well, I think we have an
25 agreement on -- I had a third one for asking for a

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1 preliminary jury charge in your introduction to the
2 jury, which I think you wanted I could handle on
3 voir dire. So I'm going to withdraw that one.

4 THE COURT: Okay.

5 MR. PLEXICO: And I withdraw my objection to
6 Juror 46, we were going to put on the record. I'll
7 just withdraw that to make -- clean up the record a
8 little bit.

9 THE COURT: Just to be clear, that was the
10 gentleman, Mr. Davis, who had a relative or a
11 father --

12 THE INVESTIGATOR: His father retired from
13 the --

14 THE COURT: The father retired from -- what was
15 the law office?

16 THE INVESTIGATOR: From the Solicitor's office.

17 THE COURT: Solicitor's office. Okay. And you
18 withdraw that?

19 MR. PLEXICO: Yes, Your Honor.

20 THE COURT: Okay. Yes, sir. What's the next?

21 MR. PLEXICO: I think we have an agreement on
22 the motion to hold a hearing to determine what prior
23 crimes the Defendant has been convicted of, and
24 which of these are admissible under 609. I don't
25 believe they're going to attempt to -- he has an

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1 ABHAN, which would clearly be covered under the
2 statute. But I don't think they have anything else.
3 I'll let them --

4 THE COURT: Okay. When you say it's clearly
5 covered, what do you mean?

6 MR. PLEXICO: It's an ABHAN, it's a violent
7 crime, carries more than a year, and it's within ten
8 years.

9 THE COURT: Okay. But still there's a
10 balancing test that I'll have to employ if you
11 object to it, but --

12 MR. PLEXICO: I do object to it. I think it's
13 unduly prejudicial, but that is also the basis for
14 their possession of a weapon by one who is not
15 entitled to, is because of his conviction on that
16 particular charge.

17 THE COURT: And that's the old ABHAN law?

18 MR. PLEXICO: It's the new ABHAN law, 2014.

19 THE COURT: So if he was convicted of ABHAN
20 after 2014 --

21 MR. PLEXICO: Well, after 2010. In 2014, he
22 was convicted of ABHAN.

23 THE COURT: And that's a felony?

24 MR. PLEXICO: Yes, sir.

25 THE COURT: We have two issues, one is whether

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1 or not it can come in as an element of the crime
2 charged; and, two, if it can come in to impeach him
3 if he testifies.

4 MR. PLEXICO: Yes, Your Honor.

5 THE COURT: All right. First of all, what's
6 his -- what's your authority for it not coming in as
7 an element of the crime charged?

8 MR. PLEXICO: Well, Your Honor, I just -- I'm
9 just citing the rules. We're willing to stipulate
10 to that. They would only -- it would make their
11 case easier. Actually, they only have to prove
12 possession of a firearm instead of possession of a
13 firearm and the conviction. We don't contest the
14 conviction, and we stipulate on the record that he
15 does have a 2014 ABHAN, which in fact, if he were
16 entitled -- if he were to have a firearm, Judge, it
17 would be contrary to the specific law that he's
18 indicted under.

19 But we just think it would be unduly
20 prejudicial, and their focus would be on the firearm
21 and not on -- on the past conviction and not on
22 whether or not he had the firearm.

23 THE COURT: Okay. Mr. Wright?

24 MR. WRIGHT: It's my understanding, based on
25 the case law, that as long as we don't go into

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1 details of the crime, it's not -- hasn't been
2 considered unduly prejudicial in the past by the
3 courts, therefore, just get onto the record that he
4 has a conviction and leave it there, that it's not
5 unduly prejudicial. And that's what we plan on
6 doing.

7 THE COURT: Well, I -- unduly prejudicial may
8 not -- well, prejudicial, let's stick with that
9 first. It may not make a difference.

10 Am I wrong, Mr. Plexico, in analogizing it to
11 the burglary in the first degree scenario, where the
12 predicate -- or excuse me, one of the elements of the
13 crimes charged that he has two or more prior burglary
14 convictions?

15 MR. PLEXICO: I believe you're absolutely
16 correct on the law, Judge. I don't have anything to
17 argue against --

18 THE COURT: Okay. On the first degree
19 burglary, or under the first degree burglary line of
20 cases, they all say that the State's not required to
21 accept the Defendant's stipulation that he had two
22 or more prior burglary convictions, and the State's
23 not precluded from offering evidence of the two or
24 more prior burglary convictions in the face of that
25 offer.

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1 I'll look at these cases. I agree with you that
2 it's prejudicial. I may disagree whether it's unduly
3 prejudicial, especially if our Supreme Court has said
4 that's what the law is. I would not be surprised if
5 at some point in the future that law was changed, but
6 that's the way it is now.

7 So if you find anything between now and
8 Wednesday, we can re-visit it Wednesday morning. But
9 as it sets now, I think I'm going to respectfully
10 deny your motion.

11 MR. PLEXICO: All right. That only leaves,
12 does he have any other crimes they intend to
13 introduce, and I don't believe, based on our
14 discussions, that they plan on introducing anything
15 else. But we need to --

16 THE COURT: All right. If he were to
17 testify -- let's switch gears for a moment. If
18 Mr. Grant were to testify, would the State be
19 wanting to offer the ABHAN, which you'll have to get
20 that in, in your case-in-chief anyway, to survive a
21 directed violence.

22 Would you be offering the ABHAN for impeachment
23 purposes or just to establish the -- an element of
24 the crime charged?

25 MR. WRIGHT: Just to establish an element of

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1 the crime charged.

2 THE COURT: Okay. So you wouldn't be offering
3 it to argue credibility?

4 MR. WRIGHT: No, sir.

5 THE COURT: All right. That takes care of
6 that. Okay.

7 MR. PLEXICO: Is there anything else he's going
8 to -- that he would use?

9 MR. WRIGHT: Just to enlighten the Court, he
10 has a 2004 criminal possession of --

11 THE COURT: Go slower, please.

12 MR. WRIGHT: Say again?

13 THE COURT: Go slower.

14 MR. WRIGHT: 2004 criminal possession of loaded
15 firearm, third degree, from New York, in New York
16 County; a possession of controlled substance, second
17 degree from Queens County, New York; assault, second
18 degree, with intent to cause serious physical
19 injury; and criminal possession of controlled
20 substance, 2007. He has a 2010 --

21 THE COURT: When was the assault?

22 MR. WRIGHT: The assault was both 2007.

23 THE COURT: That was conviction in 2007?

24 MR. WRIGHT: Yes, sir.

25 THE COURT: And the first controlled substance

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1 was 2004?

2 MR. WRIGHT: 2006, the first controlled
3 substance.

4 THE COURT: All right.

5 MR. WRIGHT: In 2010, resisting arrest. In
6 2014, he had jumping bail -- jumping bail, third
7 degree; unlawfully in a dwelling, criminal trespass,
8 second degree; criminal trespass, third degree; and
9 criminal possession of a controlled substance.

10 And then 2015, he had the ABHAN conviction in
11 Allendale County, South Carolina.

12 THE COURT: And you would not be seeking to
13 introduce that last one for credibility?

14 MR. WRIGHT: No. Just to establish the
15 element.

16 THE COURT: Okay. Were you -- well, will you
17 be offering any of the other convictions solely on
18 the issue of whether or not the jury should believe
19 him?

20 MR. WRIGHT: I don't believe that any of them
21 fall into the category of going into his veracity.

22 THE COURT: Okay. So you wouldn't be offering
23 those if he were to testify?

24 MR. WRIGHT: No, sir.

25 THE COURT: Okay. Of course, unless he opens

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1 the door and say I don't ever break the law, I'm not
2 that kind of guy, I guess.

3 Do you agree with that, Mr. Plexico?

4 MR. PLEXICO: I do agree with that, Your Honor.

5 THE COURT: All right. So that resolves that.
6 The State will be offering those convictions for
7 impeachment purposes.

8 Anything else, Mr. Plexico?

9 MR. PLEXICO: I don't have anything further,
10 Your Honor.

11 THE COURT: Ms. Smart, do you have any motions?

12 MS. SMART-GITTINGS: I do not, Your Honor.

13 THE COURT: All right. I thought I heard
14 somebody had a motion to sever, but that's no longer
15 the case?

16 MR. PLEXICO: I don't have a motion to sever.

17 THE COURT: Okay. All right. Anything else
18 from the State?

19 MR. WRIGHT: Nothing further, Your Honor.

20 THE COURT: All right. Will everybody be ready
21 to go in about -- to be in the courtroom at about
22 9:20 on Wednesday?

23 MR. WRIGHT: I will, Your Honor.

24 MR. PLEXICO: Yes, Your Honor.

25 THE COURT: Ms. Smart?

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1 MS. SMART-GITTINGS: Yes.

2 THE COURT: And you'll let your client know to
3 be here then?

4 MS. SMART-GITTINGS: She's here, now,
5 Your Honor.

6 THE COURT: Okay. Where is she?

7 MS. SMART-GITTINGS: She's right here. She was
8 downstairs and security didn't let her up.

9 THE COURT: Okay. Ms. Castro, we're going to
10 start the trial at 9:20 on Wednesday.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You have the right to be present.
13 But if you are not present, one of three things --
14 well, basically, two things could happen. One is
15 we'll go on without you, which is pretty much a
16 certainty. Number two is the State could request
17 that I issue a Bench warrant for your arrest. But I
18 want to make sure that you know that you have to be
19 here at 9:20 on Wednesday should you choose to
20 participate. Okay?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Is that suitable
23 instruction as far as the State's concerned?

24 MR. WRIGHT: Yes, Your Honor. But before we
25 allow them to go, I'd like to put their offers on

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1 the record.

2 THE COURT: Okay. Ms. Smart, is that a
3 suitable instruction for your client?

4 MS. SMART-GITTINGS: It is, Your Honor.

5 THE COURT: And the State's willing to let her
6 stay out on her own recognizance between now and
7 Wednesday?

8 MR. WRIGHT: Yes, sir.

9 THE COURT: - Okay. Yes, sir.

10 MR. WRIGHT: Your Honor, in reference to
11 Barrington Grant, the State has offered that if he
12 pled to pointing/presenting, that we would just ask
13 for -- hold on, let me confirm. I've had a couple
14 of hearings, so I don't want to say the wrong thing
15 on the record.

16 THE COURT: Sure.

17 MR. WRIGHT: The State now is offering three
18 years for the pointing/presenting and he would have
19 to have a hearing for revocation of his probation
20 from Allendale. That would be totally outside of
21 anything that I'm offering. So just --

22 THE COURT: So this plea would perhaps be
23 written up as a citation of a warrant for probation
24 violation?

25 MR. WRIGHT: Yes.

COLLOQUY

1 THE COURT: All right.

2 Mr. Plexico, is that your understanding of the
3 offer?

4 MR. PLEXICO: Yes, and that's what I relayed to
5 my client, Your Honor.

6 THE COURT: Okay. All right.

7 MR. WRIGHT: And as far as Ms. Castro --

8 MR. PLEXICO: May -- no -- not to be rude, I'm
9 sorry, but would you like him to reject that on the
10 record? I don't think there's actually --

11 THE COURT: I would assume that if he's not
12 going to plead today that he's rejecting it, that I
13 -- I don't want to get involved in that, quite
14 frankly.

15 Mr. Grant, do you understand that's what the
16 offer is?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Okay. I'm not going to get
19 involved in whether or not he accepts it or rejects
20 it, so we can't say that I suggested one way or the
21 other. I want to make sure he understands it.

22 When does the offer expire?

23 MR. WRIGHT: Today.

24 THE COURT: Okay. Do you understand that?

25 THE DEFENDANT: Yes, sir.

COLLOQUY

1 THE COURT: All right.

2 MR. WRIGHT: And for Ms. Ebony Castro, she's
3 currently charged with ABHAN, and the offer is that
4 she pleads to assault and battery, first degree, and
5 receive a sentence of ten years suspended and one
6 year active, and probation at the Judge's
7 discretion. Plus condition of pre offer that she
8 held on the record about all the actions that
9 occurred including any possession of a firearm by
10 her brother, Barrington Grant.

11 THE COURT: Okay. Is that the offer,
12 Ms. Grant -- I mean, Ms. Smart?

13 MS. SMART-GITTINGS: That is the offer,
14 Your Honor.

15 THE COURT: And, Ms. Castro, is that your
16 understanding of the offer?

17 Do you need to talk to your lawyer?

18 THE DEFENDANT: Yes, ma'am -- yes, sir.

19 THE COURT: Okay. Go ahead and do that.

20 THE DEFENDANT: No.

21 THE COURT: That is not your understanding?

22 THE DEFENDANT: No, that is my understanding.

23 THE COURT: Okay. Thank you. And that expires
24 today. Do you understand that, ma'am?

25 THE DEFENDANT: Yes, sir.

COLLOQUY

1 THE COURT: All right.

2 MR. WRIGHT: Thank you, Your Honor.

3 THE COURT: Now, just to get on the record
4 about the felony conviction, possession of a weapon
5 by a person convicted of a felony.

6 MR. WRIGHT: Yes, sir.

7 THE COURT: You will not be able to argue that
8 or otherwise suggest to the jury or to anybody that
9 he's a bad person or that they shouldn't believe him
10 because of that. The only thing it's offered to
11 prove is the predicate element for the crime
12 charged.

13 MR. WRIGHT: Yes, Your Honor.

14 THE COURT: Period.

15 MR. WRIGHT: Yes, Your Honor.

16 THE COURT: Okay. And I'll likely instruct the
17 jury as to that at the time you offer that evidence.
18 Okay?

19 MR. WRIGHT: Yes, sir.

20 THE COURT: All right. And aside from the fact
21 that you disagree with my ruling, Mr. Plexico, is
22 that a suitable instruction, assuming that I'm
23 correct?

24 MR. PLEXICO: Yes, Your Honor.

25 THE COURT: All right. Ms. Smart, do you have

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1 any input to any of the issues we've had about
2 Mr. Grant's prior felony convictions?

3 MS. SMART-GITTINGS: I do not, Your Honor.

4 THE COURT: And is the State going to get into
5 evidence that he was convicted of a felony or what
6 the felony actually was? Because the statute says
7 by a person convicted of a felony; is that correct?

8 MR. WRIGHT: It's actually a violent felony.
9 It has to be --

10 THE COURT: Okay. Aside -- do you want to tell
11 the jury exactly what the violent felony name was,
12 ABHAN?

13 MR. WRIGHT: I believe that as long as I'm able
14 to express that he was found guilty of assault and
15 battery, high and aggravated nature, if Mr. Plexico
16 will still stipulate that that's a crime of violence
17 to the statute, then I won't go into details. But
18 if he doesn't, typically then I need to go into
19 details of why it's considered a crime of violence
20 and the different things, because I believe -- well,
21 let's talk about high and aggravated nature, the
22 fact that a gun is involved elevated it up to a
23 crime of violence following the statute. And I can
24 go into details of the fact that he had a gun, as
25 part of that charge.

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1 But if not, he's willing to stipulate to that
2 part of it, then I have a certified copy of the plea
3 from Allendale. We can put that on the record as a
4 Court's exhibit. And then I would have to go into
5 details other than the fact that he was found guilty
6 of assault and battery, high and aggravated nature.

7 MR. PLEXICO: I think that's a perfect
8 solution. And so the current crimes of violence
9 would not need to be defined by the Court or the
10 Solicitor, if he tries to open on the law or
11 whatever. I find violence and so stipulate on the
12 record.

13 THE COURT: All right. Okay. Anything else
14 before we stop?

15 MR. WRIGHT: That would be it, Your Honor.

16 THE COURT: Do y'all want me to stay here until
17 5:00, so the Defendants have a chance to think about
18 it, or if I adjourn right now and I go and they
19 change their minds, I'm not going to turn around on
20 the interstate and come back.

21 MR. WRIGHT: I hate to sound greedy, but I was
22 trying to get some pleas done, some other --

23 THE COURT: Oh, okay. We got more to do?
24 Right. Then I'll be here.

25 Okay. Now, Ms. Castro, I don't know if you have

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1 any conditions of your bond that covered this, but
2 I'm instructing you, especially since you're out, you
3 can have no contact with Ms. Singleton. Do you
4 understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And that would include suggesting
7 or having anyone that you know or you're connected
8 with to contact her for you. Do you understand
9 that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Because that would be not only
12 perhaps a separate offense, but it would also
13 perhaps be admissible evidence in this case, and
14 would also cause your bond to be revoked by me. Do
15 you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. And Mr. Grant, I'm going to
18 instruct you the same. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right.

21 Okay. We'll adjourn in this case, and we'll do
22 whatever else you'd like to do.

23 MR. WRIGHT: Thank you, Your Honor.

24 (Whereupon, the trial is adjourned for the day.)

25

* * *

COLLOQUY

1 (The following proceedings were held on May 11, 2016:)

2 THE COURT: Okay. Mr. Wright.

3 MR. WRIGHT: Your Honor, it's going to come out
4 in this trial that Ms. Ebony Castro and the victim,
5 Sandra Monique Singleton, have been fighting for
6 years. This is not the first time that they've been
7 involved in a fist fight. And I just got aware, I
8 don't want it to be anything that's going to be
9 reversible if it comes out, so I want to at least
10 have a ruling so I can monitor what she can and
11 can't say.

12 THE COURT: Well, this is the kind of stuff
13 that I wanted to take care of on Monday.

14 MR. WRIGHT: Yes, sir.

15 THE COURT: For you to talk about it in your
16 opening and for you to put evidence on about it. If
17 there's an objection, I'm going to have to hear a
18 proffer, and that's going to take a while. I would
19 like to have done that on Monday, or at least
20 started that at 9:00 this morning.

21 MR. WRIGHT: I don't intend on bringing it up
22 in my opening. I just -- when I was reviewing
23 information and after my communications, reviewing
24 my notes from -- I was like, well, I think the Judge
25 should know about this, I don't want it to be

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1 something that pops up.

2 THE COURT: Okay. Are you going to object to
3 that?

4 MS. SMART-GITTINGS: I am, Your Honor, because
5 my client is not going to testify. My client does
6 not have any convictions, and so I'm not sure what
7 prior bad acts his witness intends to testify to.
8 We don't have any knowledge, we weren't aware of it
9 prior to trial --

10 THE COURT: Is she your first witness?

11 MS. SMART-GITTINGS: -- so we don't have no way
12 to defend it.

13 MR. WRIGHT: She's not my first witness.

14 THE COURT: Okay. When will she be called,
15 who's going to be -- well, let me ask you this.
16 first, who's the first witness?

17 MR. WRIGHT: Law enforcement, Patrolman Quincy
18 Smith.

19 THE COURT: Are they going -- is he going to
20 talk about it?

21 MR. WRIGHT: No, he's not.

22 THE COURT: Okay. When will Ms. Singleton be
23 called?

24 MR. WRIGHT: Next to last. She'll be like my
25 fifth witness.

COLLOQUY

1 THE COURT: Okay. Is any other witness before
2 her going to talk about it, the difficulty?

3 MR. WRIGHT: The daughter, Faith Manual, was
4 there during those other incidences also.

5 THE COURT: When is she going to testify?

6 MR. WRIGHT: She'll probably be like number
7 three.

8 THE COURT: So she'll testify this morning?

9 MR. WRIGHT: Yes, sir.

10 THE COURT: All right. Well, we'll take care
11 of that during a break, I guess, what -- I'll give
12 the jury a break and we'll deal with that, and we
13 just -- we just won't take a lunch.

14 MR. WRIGHT: Yes, sir.

15 THE COURT: All right. So nobody mention it
16 during the opening statement, and we'll cross that
17 bridge when we almost get to it. But just to -- I
18 know that I haven't come here that much, but that's
19 why I like to know about these things ahead of time.

20 MR. WRIGHT: Yes, sir.

21 THE COURT: So we could have done that at 9:15,
22 9:20, and already been done with it.

23 Is the witness here, Ms. Singleton here?

24 MR. WRIGHT: Yes.

25 THE COURT: Okay. Where is she?

COLLOQUY

1 MR. WRIGHT: In this room.

2 THE COURT: Is she going to sit with you during
3 the trial?

4 MR. WRIGHT: Yes, sir.

5 THE COURT: All right. Okay. Anything else?

6 MR. WRIGHT: Yes. I have a witness that's not
7 here, but she's been subpoenaed, and we have proof
8 of service. I'd like to get law enforcement to go
9 and pick her up.

10 THE COURT: Her name?

11 MR. WRIGHT: Melissa Daughtry Fields.

12 THE COURT: Okay. Any objection to that from
13 any -- either Defendant?

14 MR. PLEXICO: I don't have an objection,
15 Your Honor.

16 MS. SMART-GITTINGS: I don't have an objection
17 either.

18 THE COURT: Okay. She's been served properly?

19 MR. WRIGHT: Yes, sir.

20 THE COURT: You want to just mark that as an
21 exhibit, just for the record, in case she takes
22 issue with it?

23 MR. WRIGHT: Will it be Court exhibits or
24 State's exhibit?

25 THE COURT: Oh, Court exhibit.

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1 MR. WRIGHT: I'd like to have this marked as
2 Court Exhibit 1.

3 Any objection?

4 THE COURT: No, they said they didn't object.

5 *(Whereupon, Court's Exhibit No(s). 1 marked for*
6 *identification and received in evidence.)*

7 THE COURT: All right. Who's going to go get
8 her?

9 MR. WRIGHT: The sheriff's department?

10 THE COURT: You'll find somebody, you know it's
11 her -- is her address on the subpoena?

12 MR. WRIGHT: My investigator will be able to
13 relay her address.

14 THE COURT: Okay. All right. Anything else?

15 MR. PLEXICO: Yes, Your Honor. I have the
16 medical records from my client I would like to get
17 in under 803. Madeira Stanley is the records
18 custodian and she has a funeral today. I subpoenaed
19 her, she told me she has a funeral. The Solicitor,
20 as I understand, will not agree to allow the records
21 in without her verifying that this is a certified
22 copy.

23 THE COURT: Are there going to be any other
24 objections to the records when they're offered as
25 she testifies?

COLLOQUY

1 MR. WRIGHT: No, sir.

2 THE COURT: Okay. Her name again?

3 MR. PLEXICO: Madeira Stanley.

4 THE COURT: Madeira Stanley.

5 MR. PLEXICO: I would ask that she be
6 qualified.

7 THE COURT: And what's -- where does she work
8 again?

9 MR. PLEXICO: The Allendale County Hospital,
10 she is the records custodian.

11 THE COURT: Allendale County Hospital. Okay.

12 MR. WRIGHT: One more thing, Your Honor.
13 There's a stipulation that was made about Defendant
14 Barrington Grant's conviction in Allendale. That's
15 the one we find is ending. Do we need to put it on
16 the record or is there any type of instructions?

17 THE COURT: I denied his motion. If you're
18 talking about his motion on Monday to basically
19 require you to accept the stipulation that he had
20 been convicted of a felony, I denied that. I don't
21 know --

22 MR. WRIGHT: I thought we agreed that we were
23 stipulating he had been convicted of a felony and I
24 wouldn't go into it, any facts around the felony in
25 Allendale. I have a copy of -- a certified copy of

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1 a report, because if not, then I'm going to have to
2 have the clerk from Allendale come over. It was my
3 understanding from speaking to Mr. Plexico that
4 he --

5 THE COURT: Oh, okay. That he had been
6 convicted of a felony.

7 MR. WRIGHT: Yes, sir.

8 THE COURT: Period.

9 MR. WRIGHT: Yeah, no details.

10 THE COURT: No description of the type or
11 details.

12 MR. WRIGHT: Exactly.

13 THE COURT: I think that's what you stipulated
14 to?

15 MR. PLEXICO: Yes, Your Honor. I don't need
16 the clerk here. I mean, it's going to come in, I
17 understand that.

18 THE COURT: All right.

19 MR. WRIGHT: Is there anything I need to --

20 THE COURT: You just did it. And you made -- I
21 guess the question I have, it's up to y'all, the
22 stipulation that's reached, either one of y'all can
23 publish it, which means tell the jury what it is.
24 You can do it as part of your case-in-chief, or
25 y'all can jointly request me to do it.

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1 MR. WRIGHT: I'd like for you to do it.

2 MR. PLEXICO: I'd ask that you do it, Judge.

3 THE COURT: All right. I'll do that at the
4 time that you -- when you want it in, you ask me to
5 publish to the jury the stipulations that you and
6 Defendant Grant have reached, and I'll do it then.
7 And I will say this, I'll say, Ladies and gentlemen
8 of the jury, the Defendant Grant and the State have
9 stipulated that Mr. Grant has been convicted of a
10 felony in the past, in Allendale County.

11 Is that suitable?

12 MR. WRIGHT: Yes, sir.

13 MR. PLEXICO: Yes, Your Honor.

14 THE COURT: Okay. And, again, whenever you
15 want me to do that, that's when I'll do it.

16 MR. WRIGHT: Thank you, Your Honor.

17 THE COURT: All right. Anything else?

18 MR. PLEXICO: No, Your Honor.

19 MR. WRIGHT: That's it, Your Honor.

20 THE COURT: Okay. You can bring in the jury.

21 Ms. Smart, you ready?

22 MS. SMART-GITTINGS: We're ready, Your Honor.

23 THE COURT: All right.

24 MR. PLEXICO: Yes, Your Honor.

25 (Jury enters the courtroom at

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1 9:40 a.m.)

2 THE COURT: All right. Ladies and gentlemen,
3 we are ready to move forward with the trial of this
4 case. The first thing that will be done this
5 morning is for the clerk to administer an oath to
6 you. So if you would follow her instructions,
7 please.

8 (The Jury was sworn.)

9 THE COURT: All right. Ladies and gentlemen,
10 you now have been sworn in as jurors in this case.
11 I'm going to talk to you for just a few minutes
12 about how the trial will progress and what you might
13 expect, at least procedurally. And I'll explain to
14 you in detail what your role will be.

15 Before we do get started, I didn't call out the
16 name of a witness on Monday by the name of Madeira
17 Stanley, the medical records custodian at Allendale
18 County Hospital.

19 Is there anyone on the panel who knows her or
20 has any connection with her?

21 JUROR: I know her.

22 THE COURT: All right. Your name, sir?

23 JUROR: John Davis.

24 THE COURT: All right. Would that give you any
25 pause in being completely fair and impartial?

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1 JUROR: No, sir.

2 THE COURT: All right. Anybody else?

3 All right. Now, ladies and gentlemen, what your
4 responsibilities as jurors in this case is to be
5 finders of fact. That's what your responsibility is.

6 How many of you have actually been on a jury
7 before?

8 Okay. So you may have some -- a little bit of
9 inside knowledge about what your responsibilities
10 are. But during this case, as jurors, you'll be the
11 finders of facts. You'll be considering the evidence
12 that is introduced, and it will be your
13 responsibility to apply your view of the evidence to
14 the law as I give it to you at the end of this case,
15 and you'll reach verdicts in this case.

16 I will tell you from the outset that your
17 verdicts must be unanimous. And in addition to that,
18 you can't talk about this case until I tell you that
19 you can. For example, we'll work this morning
20 probably until about quarter to 11, or 11 o'clock,
21 and we'll take a break. During that break, you'll be
22 back in your jury room. You can't talk about this
23 case at all. Even though you may have seen or heard
24 something in the way of evidence that you want to
25 talk about, you can't talk about it.

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1 The reason for that is, you have just taken an
2 oath to try this case according to the evidence and
3 the law. You're not going to have all the evidence
4 until the end of the case. You're not going to have
5 the law until the end of the case. So it would be
6 inappropriate for you to then begin discussing things
7 and perhaps making up your mind before you've seen
8 and heard everything. Because that wouldn't be fair
9 to the parties involved.

10 The testimony of the first or the second or the
11 third witness is no more or no less important than
12 the testimony of perhaps in any given case the 200th
13 witness who might testify, because things change
14 based on the evidence and in your mind as the case
15 progresses. So what you -- just keep an open mind
16 and you have a valuable tool that you brought with
17 you today. And that is your common sense, and that's
18 what the parties are asking you to do, is use your
19 common sense and reach verdicts in this case.

20 Now, ladies and gentlemen, the evidence that is
21 going to come in in this case is going to come in to
22 you in various ways. The evidence that is coming
23 into the case will be relevant to the issues
24 surrounding the charges against these Defendants.

25 As I mentioned to you, these two Defendants have

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1 been charged with offenses as follows: Ms. Castro,
2 the Defendant, Ebony Evelyn Castro, has been charged
3 with assault and battery of a high and aggravated
4 nature. The State is going to have to prove the
5 elements of that crime to you beyond a reasonable
6 doubt. And I will tell you in advance, very briefly,
7 that that is proof that leaves you firmly convinced
8 of guilt. That's what the burden of proof beyond a
9 reasonable doubt means.

10 Mr. Barrington Wayne Grant has been charged with
11 two offenses. One is pointing or presenting a
12 firearm at a person, and the second one is possession
13 of a firearm by a person convicted of a felony.

14 I'm going to -- the State is going to have to
15 prove those elements of those crimes charged beyond a
16 reasonable doubt.

17 Now, ladies and gentlemen, the fact that a
18 person is arrested or charged or indicted for any
19 criminal offense, no matter what it is, is not
20 evidence of anything. These Defendants are presumed
21 innocent. They do not have to prove or disprove
22 anything.

23 The State has the sole burden of establishing
24 the elements of these crimes charged beyond a
25 reasonable doubt. And as I told you on Monday, your

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1 verdict as to one Defendant does not control your
2 verdict as to the other Defendant. Your verdict on
3 one particular count, as it pertains to Mr. Grant,
4 does not control your verdict on the other. It'll be
5 your separate view of the evidence in accordance with
6 the law, as I give it to you, that will govern what
7 your verdicts will be.

8 I've spoke briefly about evidence. Evidence
9 comes to a jury in different ways during a trial, and
10 these are basically three ways.

11 One is by testimony. That is when a witness is
12 sworn to tell the truth, sits in this chair, and
13 testifies to you. Lawyers are permitted to ask
14 questions, the witness will give answers, that's one
15 way evidence comes in.

16 Another way evidence comes in is by way of an
17 exhibit. Those are typically things that you can see
18 or touch. In any given case, it might be a shoe, an
19 automobile tire. It could be the automobile itself.
20 It could be a piece of paper. If an exhibit is
21 offered and accepted into evidence, it will typically
22 have a sticker or a tag on it. And this is really
23 not for you to be concerned, but in case you wonder,
24 before exhibits are actually in evidence, they're
25 called Exhibit 10 for I.D. The I.D. means it's

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1 identified for the record so everybody will know what
2 they're talking about, but it's not into evidence
3 until I allow it into evidence.

4 Sometimes things are marked for identification,
5 then never actually put into evidence, and that's a
6 legal point that doesn't concern you. That's one of
7 the areas where I come in.

8 All right. So exhibits are another way that
9 evidence might come in.

10 Another way evidence can come in is by way of a
11 stipulation. That is when the parties agree that a
12 fact or a certain set of facts is true. Either I or
13 one of the lawyers will explain or publish or read a
14 stipulation to you.

15 So we have testimony, we have exhibits, and we
16 have stipulations. Those are the ways evidence comes
17 in.

18 I will tell you at the end of this case, before
19 you retire to deliberate, you're to base your verdict
20 on the evidence that comes into this case, not on
21 what you think other evidence might be, or other
22 things that might be out there. You use your common
23 sense and apply it to the evidence that is in the
24 case.

25 Now, if I tell you to disregard something you've

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1 seen or heard, since you have to follow the law under
2 your oath, under the law you got to disregard what I
3 tell you to disregard. That's one of the areas where
4 I come in.

5 Going back to witness testimony, how do you
6 evaluate the believability of a witness? Use your
7 common sense. You do that everyday when you watch
8 somebody talk, whether they're under oath or not.
9 You're looking at them and in your mind's eye, you're
10 saying, do I believe what he or she says? And you
11 can believe under the law or within your common sense
12 every single word that comes out of a witness' mouth,
13 you can disbelieve every word, or you can believe
14 parts and disbelieve the rest. Again, that's
15 entirely up to what your common sense view of the
16 evidence is.

17 But, again, remember that once you hear a
18 witness testify, you can't go back there in that room
19 or go to your cars or go home and then talk about
20 what you've seen or heard. You can't do that.

21 Your independent evaluation of credibility is
22 something that all of y'all will put together while
23 you're deliberating and not before.

24 Now, you can believe one witness over many. You
25 can believe many over one. You don't count up the

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1 number of witnesses who say, A, and compare it to the
2 number of witnesses who say the opposite, and say,
3 well, more said this than that, so I've got to go
4 with more. That's not how you do it. I believe you
5 realize that that's not a common sense way to
6 approach it.

7 Some things you can take into account when
8 determining believability is how does a witness act
9 on the stand. Hesitant? Straightforward when
10 they're answering questions? We call that demeanor.

11 Now, you can take into account whether or not
12 that witness' testimony might be strengthened or
13 weakened by other evidence that's in the record. And
14 you can take into account whether or not these
15 witnesses's testimony is consistent or inconsistent
16 with something that witness has said in the past.

17 You can take into account whether or not that
18 witness might have a bias or a prejudice, for or
19 against one side or the other. All those things you
20 can factor in and, again, anything else you think is
21 appropriate within your common sense, you can take
22 into account as well.

23 At the end of the case I'm going to charge you
24 on what the law is, and I will tell you at the end
25 that you must accept the law exactly as I give it to

COLLOQUY

1 you. Even if you think the law should be different,
2 or if you thought the law was different, for this
3 case and in all cases, you have to accept the law
4 exactly as I give it to you.

5 Now, to move forward to where I come in, we have
6 several sets of rules that we operate under in this
7 state. We have statutory rules, which I'll get to at
8 the end of the case, we have rules of procedure, and
9 my copy is in this purple book, and we have the rules
10 of evidence. My copy's in this brown book.

11 The rules themselves aren't very long, but these
12 books are longer because there is interpretations of
13 the rules depending upon the facts and circumstances.

14 You will hear during the course of this trial,
15 more than likely, at any given time, one lawyer stand
16 up and make an objection. That is a word that is
17 used under the law to let me know that there's a
18 procedural or an evidentiary objection made by one
19 party, and they want me to rule on it. Don't keep
20 score on how I rule. Don't think that because I rule
21 in favor of or against one party more than the other,
22 that I think you ought to reach one particular result
23 over another. That's not how it works.

24 My rulings are based on what the law is. I have
25 no view of the facts. And by the way, don't take

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1 from anything that I say or do that I think you
2 should reach one particular result over another.
3 That's entirely up to you.

4 Sometimes I will rule in your presence. In many
5 instances, I may send you out. Frankly, the reason
6 for that is, is right now, you and I know as much
7 about this case as each other, and sometimes I may
8 not know what the lawyers are trying to explain to
9 me. So it's safer for you to go out of the room and
10 me hear what they have to say. That's the way --
11 that's the way the rules are set up. You're not
12 going to hear any full blown evidentiary or
13 procedural arguments out here because those don't
14 concern you, because you're finders of fact. I deal
15 with the law. So we do that in many instances
16 outside of your presence.

17 We do have rules, and the lawyers know the
18 rules, and they will follow them. You might watch
19 movies and television shows where they stand up and
20 the lawyers start hollering and start talking to each
21 other. That doesn't happen here. There's not going
22 to be any hollering, slamming hands on the tables,
23 and there's not going to be arguments between the
24 lawyers, they're going to be talking to me. So there
25 aren't going to be any fireworks or theatrics. I

COLLOQUY

1 hope you're not disappointed in that.

2 Now, the case itself is going to be conducted in
3 stages. First phase of the trial will be for the
4 State, through the Solicitor, to stand up and give an
5 opening statement. The opening statements are not
6 evidence. That is his opportunity to explain to you
7 what he believes the evidence will or will not
8 establish in this case.

9 Right after that, the Defendants, if they want
10 to, can make an opening statement. They can waive it
11 entirely, or they can wait until the State rests to
12 make their opening statements. The reason they don't
13 have to make one is because they don't have any
14 burden at all. They have no burden of proof at all.

15 After the opening statement or statements are
16 given, the State will present its case-in-chief, and
17 that's a set of words that means they present the
18 evidence that they want to present, that they contend
19 will establish the elements of these crimes.

20 After the State rests, the Defendants, if they
21 want to, can present evidence. Remember, they don't
22 have to because they have no burden. If they choose
23 to present evidence, that doesn't mean they've taken
24 on or assumed any burden. But the Defendants do have
25 the right, if they choose, to present evidence as

COLLOQUY

1 well.

2 After the Defendant or the Defendants present
3 any evidence they want to present, the State, if the
4 rules permit, can offer reply evidence. After all of
5 the evidence is in, the lawyers will give a closing
6 argument. After that, I will give a charge on the
7 law to you. I'll tell you what the law is, and
8 then -- then and only then may you retire and
9 deliberate this case.

10 Keep an open mind. Please pay attention. I
11 know that we all have different responsibilities in
12 the nighttime or the day before, but this is not an
13 opportunity to let your mind wander or doze off. You
14 can't do that. If I note that you are doing it, I'll
15 likely either take a break or ask all of you to stand
16 up. And as I typically tell juries, if I do ask you
17 to stand and stretch during the trial, even if you
18 don't want to, if you would please do it anyway,
19 because that makes sure that everybody is remaining
20 awake.

21 Okay. Any objection to those remarks from the
22 State?

23 MR. WRIGHT: None, Your Honor.

24 THE COURT: Mr. Plexico?

25 MR. PLEXICO: None, Your Honor.

COLLOQUY

1 THE COURT: Ms. Smart?

2 MS. SMART-GITTINGS: None, Your Honor.

3 THE COURT: All right. Mr. Wright, you can
4 give your opening statement.

5 OPENING STATEMENT BY MR. WRIGHT

6 MR. WRIGHT: If it please the Court.

7 Court's indulgence. Can I move this?

8 THE COURT: Yes, sir.

9 MR. WRIGHT: That's better. That's better.
10 How you guys doing? My name is Kelvin Wright.

11 I'm the community prosecutor for Hampton County. I'm
12 from a far, far away distance. Originally I'm from
13 Colleton County. That's where I was born and raised,
14 educated.

15 If you guys are familiar with the office, I
16 wasn't here last year, I was deployed by the
17 military, out of Kuwait. Fighting the good fight.
18 I'm an attorney in the military also, so doing a lot
19 of similar things over there.

20 But today we're here for a case that could be
21 summarized as "be careful what you ask for because
22 you just might get it".

23 When I was growing up, that was one of the
24 things that -- I couldn't wait to grow up. I'd tell
25 my parents, and when I grow up, I'm going to do this.

Opening statement by Mr. Wright

1 I can't wait to get out of your house.

2 My mom telling me, be careful what you ask for,
3 you just might get it. And I remember getting that
4 first electric bill, first time paying rent. Mom,
5 can I move back in? No, you grown now. Go ahead,
6 you know. So be careful what you ask for, you just
7 might get it.

8 In this particular case, on August 22nd, 2015,
9 in -- on Morrison Avenue, they call it Rose Quarters
10 in Estill, South Carolina -- the evidence I'm going
11 to present from the witness stand show that the
12 Defendant, female in the pink shirt, Ms. Ebony
13 Castro, went to the victim, Sandra Singleton's,
14 neighborhood, in a fighting scene. Careful what you
15 ask for because you just might get it.

16 That wasn't her neighborhood. That was Sandra
17 Singleton's neighborhood, as the evidence from the
18 jury stand is going to show. And she is bigger than
19 Ms. Sandra Singleton. You're going to see her come
20 out, she's a small little thing, little firecracker.
21 She's about this tall right here. And Ms. Castro not
22 much bigger, but she's bigger. And when they got to
23 fighting -- be careful what you ask for, you just
24 might get it, she got a fight. So much of a fight
25 that her brother, Mr. Barrington Grant, tried to come

Opening statement by Mr. Wright

1 to her rescue. He -- evidence is going to present
2 that he pulled a gun. Said, hey, don't touch my
3 sister. Things about to get more serious.

4 But, these ladies, they were bent on fighting
5 that day and they got -- they kept fighting. You
6 know, after he presented the gun. That's what he's
7 on trial for, coming to the rescue of his sister.
8 It's not the fact that he was trying to be chivalrous
9 and help his sister out. And as the Judge is going
10 to tell you later on, he's not allowed to have a gun.
11 And he had a gun, so that's what he's on trial for,
12 for having a gun.

13 He didn't hit anybody, he didn't fight, we're
14 not alleging that. He's on trial because he's not
15 allowed to have a gun and he had a gun. And that's
16 it.

17 So if you find that there's credible evidence
18 from the jury stand that he had a gun, your job on
19 that part is done. You've done your full duty on
20 that. If you believe he had a gun, that's beyond a
21 reasonable doubt that he's guilty of possession of a
22 firearm.

23 He's also -- he's also charged with pointing and
24 presenting. Because when you pull a gun up and you
25 show the gun to people and you make statements of

Opening statement by Mr. Wright

1 that nature, that's legally presenting the gun. I
2 know when I was growing up, presenting meant like
3 giving it to somebody. He didn't give it to
4 somebody, but he presented the gun and made that
5 statement. So if you believe that's a thing that
6 he's guilty of, those two charges, of possession of a
7 firearm and presenting -- pointing and presenting a
8 firearm. That's how it's codified in our rules.

9 Ms. Castro, Ms. Ebony Castro, she's on trial
10 for -- not the fight. These are two consenting
11 adults. I personally, I'm too big to get in a fight.
12 I'll hurt myself or hurt somebody else, I'll be laid
13 up for weeks and, you know, if I got into in a fight.
14 But these women, they got into a fight, and it's not
15 the fight that she's on trial for, it's for what she
16 did to get little Ms. Singleton off of her. Somehow
17 she got a knife or sharp object, and she sliced her
18 ear in such a manner that the earlobe almost became
19 detached from her face, almost severing her ear from
20 her face. And we'll present pictures and you could
21 see exactly what we're talking about.

22 And we're going to have a medical EMT
23 professional testify, and they're going to talk about
24 the fact that when they arrived on the scene, the
25 condition, things of that nature, and the fact that

Opening statement by Mr. Wright

1 blood was being lost. And the way the rule is laid
2 out -- so I don't want to misconstrue any
3 terminology -- assault and battery high and
4 aggravated nature is committed when someone assaults
5 somebody and they leave great bodily injury, is the
6 way that the statute describes it. And it means
7 bodily injury that causes substantial risk of death
8 or causes serious permanent disfigurement or
9 protracted loss or impairment of the function of the
10 bodily member or organ.

11 You see it is an organ, and when she cut her ear
12 and it detached, you know, we got great medical
13 professionals here in Hampton County. They were able
14 to save her ear, but she has a long keloid scar
15 through her ear. And that's considered a
16 disfigurement. So if you believe -- and she's going
17 to show you her ear, she's going to be on the stand,
18 so you have an opportunity to look for yourself and
19 make your own opinion. If you see that there is a
20 keloid scar, that's disfigurement, and if you believe
21 that Ms. Ebony Castro is the one that cut her, then
22 she's guilty of assault and battery high and
23 aggravated nature, and I'll ask you to do your full
24 duty and find her guilty when you go in the back to
25 deliberate.

Opening statement by Mr. Wright

1 Reasonable doubt. The Judge told you that if
2 you're firmly convinced of guilt, just remember, it's
3 a reasonable doubt. Not unreasonable doubt. You
4 know when you first came up the Judge asked you
5 questions, hey, do you know this person or that
6 person? If you do know that person, are you able to
7 put aside the fact that you know them?

8 The reason why he asked that, we don't want
9 somebody's first cousin, mama, up here. Because my
10 mama love me, and no matter what I did, she's going
11 to come to my rescue, and we assume that everybody's
12 mom is going to be the same way. So that's why it's
13 considered beyond a reasonable doubt, not an
14 unreasonable doubt. Because you would need a lot
15 more proof to prove to my mama that I was a bad boy
16 at school than you would for somebody who doesn't
17 know me and they saw me acting up.

18 My mom would say, oh, he's a good boy, let's let
19 him go. So what we're asking for is for you to be
20 objective, look at it, and if we present evidence
21 from the State's side, when you go in the back, do
22 your full duty and come back with a guilty verdict.
23 We don't want you to be unreasonable. That's why we
24 tried to exclude people who are church members and
25 things of that nature, because they're going to look

Opening statement by Mr. Wright

1 out for them.

2 You're here to be objective and look at the
3 case, and if you find that there's evidence
4 presented, and it's sufficient evidence, do your full
5 duty to find them guilty.

6 We're going to try to get through this case, as
7 much today, it may go till tomorrow. I know you guys
8 had a long day off yesterday. We worked. And you
9 guys had a day off yesterday, so you might be
10 chomping at the bit, ready to go, but listen to the
11 whole case before you come up with any conclusions.
12 But we feel confident that when all evidence is
13 presented and you go in the back, and if you do your
14 full duty, you're going to come back with guilty
15 verdicts against Ms. Ebony Castro for assault and
16 battery high and aggravated nature, and
17 Mr. Barrington Grant for pointing and presenting it,
18 and possession of a firearm.

19 Thank you for your time. You look very, very
20 attentive, very intelligent bunch, and I can't wait
21 for you to get this evidence and go in the back and
22 just do your full duty and come back with a guilty
23 verdict. Thank you very much.

24 THE COURT: All right. Any opening statement,
25 Mr. Plexico?

Opening statement by Mr. Wright

1 MR. PLEXICO: Yes, Your Honor. If it pleases
2 the Court.

3 THE COURT: Yes, sir.

4 OPENING STATEMENT BY MR. PLEXICO

5 MR. PLEXICO: Ladies and gentlemen of the jury,
6 I'm Steve Plexico. I've been a public defender here
7 for about 26 years now. It's a pleasure every time
8 that I appear in front of a Hampton County jury. I
9 know this is an imposition on your time, I want to
10 thank you.

11 This is my client, Barrington Grant. This is
12 his only day in court. We're here on the really
13 serious charges. And it's the State's burden, they
14 have to put up convincing evidence -- not just
15 evidence -- evidence of such a nature and strength
16 that it convinces you beyond a reasonable doubt. And
17 we all know what a reasonable doubt is. Okay? Not
18 something petty.

19 I think they can certainly -- are going to have
20 some evidence, but it's going to fail to convince you
21 beyond a reasonable doubt that my client is guilty of
22 anything.

23 Here, you have a melee, a riot. You had many
24 people in this area that were out that evening. I
25 don't know how high the numbers are going to get

Opening statement by Mr. Plexico

1 through the testimony that the State is going to
2 present, but it looked like it was just a situation
3 out of control.

4 There is -- I believe you're going to hear
5 evidence of serious injury to my client that resulted
6 from this melee. But you have to have reliable
7 evidence that my client actually had a firearm. And
8 I believe what the testimony the State is going to
9 put up, is that there were many people flailing my
10 client and assaulting my client while he's standing
11 there holding the gun.

12 And they're going to want you to believe -- and
13 I want you to keep this in mind -- is the evidence
14 that they're putting up from this witness stand
15 asking you to believe that multiple people are
16 walking up to a man with a gun and assaulting him.
17 Is that rational, and is that believable?

18 Now, if that's not rational and believable, that
19 would just mean that my client got pummeled --
20 pummeled, and then -- when he wasn't armed. If y'all
21 don't think it's rational and believable from the
22 State's evidence that people are going to come up to
23 a man with a gun and then -- and beat him up
24 severely. I believe that's the evidence they're
25 going to put forward.

Opening statement by Mr. Plexico

1 And remember, being at the scene of the crime,
2 if you're at the Food Lion and there's a robbery at
3 the Food Lion, that doesn't mean that all the
4 customers there buying beer were guilty of anything.
5 That just means that y'all were present during a
6 crime.

7 Now, when you hear all of this commotion and
8 lively stuff happen, it's going to give you a lot of
9 hesitation. Remember, stay past the -- overcome your
10 hesitation. They have to go farther down there to
11 come up all the way up to wherever guilty beyond a
12 reasonable doubt is.

13 If they're asking you to believe something that
14 is incredible, that would show you just how weak a
15 case it is. There's no dispute that someone hurt,
16 injured the lady here. There's no allegation at all
17 from the State's opening that my client injured that
18 lady's ear. None at all.

19 He's only a peripheral figure in this fight,
20 who's supposed to be out armed, and yet getting beat
21 up. I'm trying to find the logic. I want y'all to
22 see if you can find the logic. There is no logic
23 here.

24 They have to put up evidence, the purpose in the
25 case, with this question out in your mind. Is it

Opening statement by Mr. Plexico

1 rational that people are going to come up and hit a
2 man with a gun? Is that normal behavior? No. Is it
3 believable behavior? No.

4 Listen to the evidence, but keep questions in
5 mind. This is why you keep an open mind. It's not
6 just what one person says to explain what people say.
7 It is, does the thing make sense? That is important.
8 Does it make sense to you?

9 I want to thank you for your time, and like I
10 said, this is my client's only day in court. In a
11 civil case, whoever ran the red light and caused the
12 accident, you know, their insurance company or them
13 pull out their checkbook and write a check and that's
14 it. But, you know, the standard is only 51-49. You
15 know, whichever one is more than half. They've over
16 tipped the scales to find liability.

17 But here, you know, this is criminal court.
18 This is a court of general sessions. There's no
19 higher criminal court in South Carolina. I mean,
20 we're talking about people losing their freedom.
21 This is extremely, extremely serious.

22 You are the judges of the facts. That means
23 once you decide something, it's going to stay that
24 way. The judge is the judge of the law. If he makes
25 a mistake, there are judges in Columbia that could

Opening statement by Mr. Plexico

1 correct it.

2 Once you decide what the facts are, there are no
3 juries up in Columbia that are going to correct it.
4 You can't change your mind. So these are very, very
5 important decisions that you're making.

6 You'll never have this much power over the life
7 of another person probably ever again because you get
8 jury duty so seldom. And, again, I'm asking y'all to
9 just pay attention. And remember, the standard's
10 entirely different here. It's not iffy and maybe,
11 it's not more likely than not, probably not, or
12 substantially. It is guilty. The statement is
13 guilty beyond a reasonable doubt.

14 Does it make sense? Y'all keep listening and
15 looking at this evidence. Thank you.

16 THE COURT: Thank you, Mr. Plexico.

17 Ms. Smart, any opening statements?

18 MS. SMART-GITTINGS: Yes, sir. May it please
19 the Court, Your Honor.

20 THE COURT: Yes, ma'am.

21 OPENING STATEMENT BY MS. SMART-GITTINGS

22 MS. SMART-GITTINGS: Mr. Plexico, Assistant
23 Solicitor Wright. Good morning, ladies and
24 gentlemen. Thank you for your time and thank you
25 for your patience with us.

Opening Statement by Ms. Smart-Gittings

1 I saw that earlier that a few of you have been
2 on a jury before, and that's one of the reasons
3 why -- first I'll start with jury selection. When
4 you were fortunate to make the cut, although you
5 probably don't feel fortunate, but we believe that
6 you were fortunate to make the cut. Although it's
7 not a lottery for you, but we believe that you're
8 well able to use your life experiences to judge the
9 character of the witnesses that are going to be
10 presented to you during the course of this trial.

11 You are fortunate in that it's not going to be a
12 long trial, and it's not an emotional trial, it's not
13 a serious trial. It's not a trial that will cause
14 you to have a great deal of burden and stress. So
15 that's why, one of the reasons why I say that you won
16 the lottery, and that you're fortunate in being
17 selected as this jury.

18 We chose you all because we believe that you
19 will be fair. We believe that you will be impartial.
20 We believe that you have life experiences that will
21 allow you to determine credibility of the witnesses..
22 That's important because they're the ones that are
23 going to paint the picture for you about what
24 happened in Rose Quarters in Estill in August of last
25 year.

Opening Statement by Ms. Smart-Gittings

1 They're going to tell you their versions of the
2 facts. They're going to swear to tell the truth when
3 they testify. And they're going to tell their truth.

4 Our truths are different based on our life
5 experiences. We see things differently. That's why
6 we have the cliché, you see the glass half empty,
7 some people see the glass half full, and it's the
8 same glass.

9 Well, you see it differently. So in observing
10 the characteristics of the witnesses, you're going to
11 take into consideration -- first of all, let me tell
12 you about the witnesses.

13 As Your Honor told you, the Defense does not
14 have to prove that they're innocent. That will be a
15 difficult thing to do, and that's why the law does
16 not require the Defendant to prove that he didn't do
17 it.

18 Because if he was, for example, if this was a
19 case of a burglary, how difficult would it be for
20 someone to prove that they were someplace else if
21 they were alone? That would be very difficult, and
22 that is why the burden of proof is not on the
23 Defendant, but it's on the State to prove that a
24 person was actually there.

25 And as the Court told you, they do that by

Opening Statement by Ms. Smart-Gittings

1 evidence. They do that by testimony, stipulation,
2 and exhibits. So the State has told you about ten
3 witnesses that they're going to bring before you to
4 prove their burden. They have Sandra Monique
5 Singleton. She's the person that was cut. She's
6 going to come to court and testify. And she's going
7 to tell you her truth, her version of the facts.

8 She's going to tell you that there was a fight,
9 she was engaged in mutual combat with Ebony Castro,
10 and during the course of that fight, I believe her
11 testimony is going to be that someone gave her some
12 type of weapon, and she used that weapon to cut her
13 ear.

14 Now, why is that important? Why am I telling
15 you that before she tells you that? Because as she's
16 testifying, I need you to think about the probability
17 of it happening the way that it has happened. I'm
18 not sure if any of you have ever engaged in an
19 altercation before, a physical fight. But if, in
20 fact, you have, or if you have observed one and you
21 are in mutual combat, is it possible -- is it
22 probable that during a fight you stop fighting long
23 enough to reach to somebody else to get a weapon and
24 to use that weapon to cut somebody on the ear? And
25 if you don't believe that that's possible from your

Opening Statement by Ms. Smart-Gittings

1 life experiences, then you use that to judge the
2 credibility of the story that she's telling you. If
3 it's not possible -- if it's not probable, then did
4 it happen?

5 The State also is going to bring Patrolman
6 Quincy Smith. He's the Estill police department,
7 he's one of the ones, one of the first responders.
8 But remember, he wasn't there. He didn't see the
9 fight. Patrolman, or Officer Zatch -- I don't know
10 how to pronounce his name -- Pouchprom -- again, he's
11 a police officer. He wasn't there. He didn't see
12 the fight.

13 Chief Mark Collins, he wasn't there, he didn't
14 see the fight. Sergeant Michael Thomas, he wasn't
15 there, he didn't see the fight.

16 Faith Manual, the daughter of Sandra Miller, she
17 was there, but she was also fighting. So what was
18 her probability to observe the fight between her
19 mother and Ms. Castro, if she was also involved in a
20 fight?

21 Mary Ann Fields, she's a witness, she was there.
22 Melissa Fields, she's a witness, she was there. So
23 there are four people that the State is going to
24 bring to you that were actually there during the
25 course of the fight, and they're going to be the ones

Opening Statement by Ms. Smart-Gittings

1 to give to you the fact testimony about what they saw
2 and what happened. And then you have the two EMTs,
3 who again, were not there and will not be able to
4 come to court and testify from this stand as to who
5 did what.

6 So based on -- and I believe Patrolman Smith is
7 going to testify that there were about 60 people
8 there running around -- it was a melee. It was a
9 mess. And about 60 people witnessed this fight, but
10 only four of them are coming to testify today. Only
11 four of them. And out of those four is the person
12 that got cut, her daughter, and her other two
13 friends. So think about that as they're testifying.
14 You're not having any neutral witnesses coming
15 forward to tell you what they observed that day.
16 Only the friend of the person that was cut, and the
17 person that was cut.

18 Why is that important? Are they biased? Are
19 they prejudiced? Do they have a reason to say that
20 Ms. Castro cut her? Do they have a reason to say
21 that Mr. Grant passed Ms. Castro the knife to cut
22 her?

23 So even if you believe, if you believe the four
24 witnesses who say that they -- who may say that they
25 saw Ms. Castro cut Ms. Middleton (sic), is it

Opening Statement by Ms. Smart-Gittings

1 possible that she was acting in self-defense?

2 The Solicitor told you that she did what she had
3 to do to get her off of her. And if, in fact, that
4 is the case, should she have used a knife to get her
5 off of her?

6 The Solicitor wants you to believe that she was
7 beaten -- being beat so badly that her brother had to
8 come and help her out. So that suggests that
9 Ms. Ebony Castro may have been under the belief that
10 she needed -- she was in need to defend herself and
11 had to use whatever measure necessary to defend
12 herself.

13 But to get to self-defense, you first have to
14 believe and be firmly convinced that she cut her. If
15 first they haven't proved that she's the one that
16 actually cut her, then you don't have to consider
17 whether she cut her in self-defense, because it's not
18 an issue. If you don't believe that it's possible
19 for someone to stop fighting to retrieve a weapon and
20 then continue fighting, then you don't have to worry
21 about it, because you don't believe the story as it
22 is.

23 So that is what the Defense -- what Ms. Castro
24 needs you to think about.

25 This is going to be crazy. Because the

Opening Statement by Ms. Smart-Gittings

1 Solicitor is going to question a witness, Mr. Plexico
2 is going to question the witness, and then I'm going
3 to question the witness. And my questions of the
4 witness will be concerning my client, Ms. Castro.
5 Mr. Plexico's questions to the witnesses will be
6 concerning his client, Mr. Grant.

7 So you have to not only separate what the
8 witnesses are saying, but how they relate to each
9 Defendant. That's not going to be easy. But pay
10 attention, we know that you're well able to do it,
11 because that is why we chose you. And although, in
12 the Solicitor's opening, he said that -- I think he
13 said, if you do your full duty, you will find the
14 Defendants guilty.

15 Well, we submit that if you do your full duty,
16 that you're going to take into account and
17 consideration your life experiences, you're going to
18 take into consideration any prejudices or biases, and
19 you're going to decide whether or not the facts
20 occurred. And whatever verdict you come out with,
21 you perform your full duty. You shouldn't feel
22 obligated to give a guilty verdict, or you shouldn't
23 feel obligated to give a not guilty verdict unless
24 the case was proved or disproved.

25 So regardless of what your verdict is, we

Opening Statement by Ms. Smart-Gittings

1 believe that you're going to perform your full duty
2 as jurors.

3 Thank you.

4 THE COURT: Thank you, Ms. Smart.

5 First witness.

6 MR. WRIGHT: The State calls Patrolman
7 Quincy Smith. I believe he's in the back.

8 Thereupon,

9 QUINCY SMITH

10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MR. WRIGHT::

14 Q Patrolman Smith, please tell the jury your full
15 name.

16 A Quincy Jarelle Smith.

17 Q And where are you currently employed?

18 A Estill Police Department.

19 Q How long have you been in that capacity?

20 A For about ten -- nine months.

21 Q Okay. Nine months. That takes up back beyond the
22 August 22nd, 2015 date; is that correct?

23 A That is, sir.

24 Q So you were employed there on August 22nd, 2015?

25 A Yes, sir.

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 Q Did you have an opportunity to be involved in a
2 call to go to Morrison Avenue in what is commonly called
3 Rose Quarters in Estill, South Carolina?

4 A Yes, sir.

5 Q Can you tell the jury about that situation?

6 A Okay. I was actually a patrolman in the area,
7 near Nixon and Campbell, when we received a call stating
8 that there was a fight in progress and possible shots fired.
9 Me and my partner responded over there. When we got over
10 there, is a --

11 Q Who's your partner?

12 A Pouchprom.

13 Q Pouchprom?

14 A He's actually Pouchprom.

15 Q That's his name?

16 A Yes, sir.

17 When we got to the area, it was a crowd of
18 people, a good amount of people, too much -- too many people
19 that we couldn't gain control, so I initially called
20 back-up, where other officers came.

21 Once we got, you know, out and everything
22 controlled out, I went over and tried to talk to the victim,
23 Mrs. Singleton, I believe.

24 When I saw her, you know, she was -- had a
25 towel on her ear and bleeding consistently. And I was

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 trying to get information from her and to see what happened,
2 what was going on. She was very hysterical, crying, and she
3 couldn't speak. So I was trying to talk to anybody else who
4 may have saw what had happened.

5 Q Did she have any injuries?

6 A Yes, sir. Her ear was pretty much split, just
7 like pretty much barely hanging on.

8 Q Do you remember how her ear looked?

9 A Yes, sir.

10 MR. WRIGHT: May I approach, Your Honor?

11 THE COURT: Yes, sir.

12 MR. WRIGHT: I'm just going to hand it to him
13 and then --

14 THE COURT: All right. Number, please.

15 MR. WRIGHT: This has previously been labeled
16 State's Exhibit 1 for identification purposes.

17 THE COURT: Okay.

18 MR. WRIGHT: Permission to approach, Your
19 Honor?

20 THE COURT: Yes, sir.

21 BY MR. WRIGHT:

22 Q Don't show this to the jury, but just look at it
23 and tell me if you recognize what's in that picture?

24 A Yes, sir.

25 Q Does that fairly and accurately describe the

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 situation that you came upon in Rose Quarters?

2 A Yes, sir.

3 Q And can you recognize who's in that picture?

4 A That's Ms. Singleton, sir.

5 Q So it's your belief that that's Ms. Singleton,
6 that's Ms. Singleton's ear, and that's how her ear looked
7 when you arrived on August 22nd, 2015?

8 A Yes, sir.

9 MR. WRIGHT: Your Honor, at this time, I'd ask
10 that this picture be admitted into evidence.

11 THE COURT: Any objection?

12 MR. PLEXICO: Yes, Your Honor. We believe it's
13 unduly inflammatory.

14 THE COURT: Any -- any objection?

15 MS. SMART-GITTINGS: Your Honor, I think it is
16 very prejudicial.

17 THE COURT: All right. Overruled.

18 *(Whereupon, State's Exhibit No(s). 1 marked for*
19 *identification and received in evidence.)*

20 BY MR. WRIGHT:

21 Q All right. Now, so tell me about how her ear
22 looked when you arrived on the scene again.

23 A When I arrived on scene, like I said, she had a
24 towel over it, and then when I saw a lot of blood on the
25 towel, and then when she -- when I tried to see what was

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 going on, she removed it a little bit where it was enough I
2 could see the full ear. And it looked like her ear was
3 pretty much split, almost cut in half.

4 Q Was there any blood?

5 A It was a lot of blood, sir.

6 Q A lot of blood?

7 A Yes, sir.

8 Q A couple drops?

9 A No, sir. It was more than that, sir. How can I
10 say, what -- the towel wasn't soaked, but it was enough to
11 say it was, you know, quite a bit of blood on the towel.

12 Q Did you believe she needed medical attention?

13 A No, sir. I called EMS to respond, and they
14 responded.

15 Q Is that something you normally do, you provide
16 medical attention?

17 A Yes, sir. Yes, sir, that's the only medical thing
18 I can do. I'm not a doctor or an EMT or anything.

19 Q So you need to call the EMT to come out there?

20 A Yes. Yes, sir.

21 Q All right. Was anybody else hurt?

22 A Not that I can -- not that I saw physically, but I
23 think based on my investigation, a few other people were
24 involved in the fight and had small minor injuries.

25 Q So nobody needed EMT except for Ms. Singleton?

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 A Nobody needed EMT except for Ms. Singleton.

2 Q Did any of the other Defendants -- you recognize
3 these folks at the table here?

4 A No, sir, I do not.

5 Q Any -- any of them come to you asking for medical
6 attention?

7 A No, sir.

8 Q Okay. So neither -- nobody at this table -- I'm
9 not going to name anybody -- nobody at this table came to
10 you and said hey, I'm hurt, I need some medical attention?

11 A No, sir.

12 Q Did you go around doing a particular count, or
13 figuring out how many people were at -- on the scene when
14 you arrived?

15 A Say that again, sir?

16 Q Did you -- did you come up with an estimate or a
17 number of people that were on the scene when you arrived and
18 you were first there?

19 A No, sir. The -- I was basically trying to, you
20 know, get assistance with the young lady that was injured,
21 Ms. Singleton. So there was -- I was trying to figure out
22 what was going on. It was really no time or the need to
23 figure out how many was on scene.

24 Q Were people coming to you asking -- could they
25 give you a statement?

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 A A few people did come -- well, I approached them
2 to try to find out what was going on. They did give a
3 statement. But my partner, Pouch Prong, he -- he pretty
4 much took care of those, that part, while I was attending to
5 Ms. Singleton.

6 Q Were people eager to be a part of your record?

7 A Yes, sir.

8 Q Okay. All right. Where exactly is Rose Quarters?

9 A It's in -- I believe, it's in zone one. It's next
10 -- it's near the elementary school.

11 Q And is that in Estill?

12 A Yes, sir. It's in Estill, South Carolina.

13 Q Would that be in Hampton County?

14 A Yes, sir.

15 Q So this incident occurred in Hampton County?

16 A Yes, sir.

17 Q And what was the date; do you remember?

18 A I believe it was August 22nd, if I'm not correct.

19 Q Okay.

20 MR. WRIGHT: The Court's indulgence.

21 THE COURT: All right.

22 BY MR. WRIGHT:

23 Q Did you ever just, as a patrolman, you don't
24 investigate these matters?

25 A No, sir. We just gather the initial facts of

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 what's going on, and we type up our report and then we pass
2 it on to the lead investigator, Sergeant Thomas.

3 Q Sergeant Thomas.

4 A Yes, sir. And then he identifies, you know, who
5 the suspects are and after his -- after his final
6 investigation.

7 Q So as a recap, you got on scene, you met with the
8 victim, you called EMT, what did do you next?

9 A Like I said, when we got on scene, called the EMT,
10 made sure Ms. Singleton was okay. I met with my partner, we
11 talked about it. They -- they get the -- gather what we had
12 gotten from both sides, from the victim and from, you know,
13 the statements he received. And based off of the
14 investigation, they -- he stated, you know, the facts that
15 led to a person named Mr. Barrington Grant and the young
16 lady, Ms. Castro.

17 Q And you don't know those people?

18 A So I -- no, sir, I don't know them all. But like
19 I say, after that we went to the office and did our report
20 and notified my supervisor, Sergeant Thomas, about the case
21 and he took the case from there.

22 Q Okay. And no one by the name of Ebony Castro or
23 Barrington Grant came to you saying that they were
24 victimized and they had been injured?

25 A No, sir. They wouldn't --

DIRECT EXAMINATION OF Q. SMITH BY WRIGHT

1 MR. PLEXICO: Your Honor, I would object to
2 that. That would be an improper comment.

3 THE COURT: Sustained.

4 BY MR. WRIGHT:

5 Q Other than Ms. Singleton, did anybody come to you
6 asking for medical assistance?

7 A No, sir.

8 MR. PLEXICO: Objection, Your Honor.

9 THE COURT: That's -- well, that's already been
10 asked and answered anyway, earlier, at the beginning
11 of the testimony. The objection's overruled.

12 MR. WRIGHT: All right. The Court's
13 indulgences one more time.

14 BY MR. WRIGHT:

15 Q Please answer any questions. You're going to have
16 to answer questions to both Mr. Plexico and
17 Ms. Smart-Gittings. So please give them --

18 A Okay.

19 THE COURT: All right. Cross examination.

20 CROSS EXAMINATION

21 BY MR. PLEXICO:

22 Q Did you review your incident report before you
23 came today?

24 A I did. Not today though.

25 Q And you're familiar with it?

CROSS EXAMINATION OF Q. SMITH BY PLEXICO

1 A Yes, sir, but -- yes, sir.

2 Q Okay. All right. Is this your incident report,
3 y'all -- you typed this up?

4 A My partner typed it up. I was there assisting
5 him, basically giving him information I received.

6 Q Were you the first person who arrived on scene?

7 A Yes, sir. My partner was shortly behind me. He
8 was coming from a different area of town.

9 Q Okay. And when you -- when you were -- y'all
10 pulled up, there was a gray Honda that was leaving; is that
11 correct?

12 A I wasn't able to see it. I came from a different
13 area of town, so I don't know, you know, where the Honda was
14 located at. It wasn't present when I arrived.

15 Q Okay. But you didn't stop at a car and tell my
16 client that he needed to go get medical assistance, you're
17 not the office that did that?

18 A No, sir.

19 Q Okay. Were the people leaving the area when you
20 pulled up?

21 A No, sir. The people were still around. Like I
22 said, it was quite a crowd of people still hanging around.
23 I guess they wanted to see what was going on as well.

24 Q Is there any video on your vehicle?

25 A Sir?

CROSS EXAMINATION OF Q. SMITH BY PLEXICO

1 Q Is there video on your vehicle?

2 A No, sir.

3 Q Is there video on your person, do you have a body
4 camera?

5 A Not at the time, sir. I had just started with the
6 department.

7 Q Okay. All right. Did any other officer have
8 video?

9 A I'm not sure.

10 Q Okay. All right. So you have no clue exactly
11 what happened, you just know there were 60 people running
12 around or so, that's what you're referring to?

13 A Yes, sir. I was trying, you know, to make order
14 at the scene, sir. Yes, sir.

15 Q Okay. So did it look like this was just
16 practically been a riot? I mean, is this the kind of scene
17 you walked into?

18 A I can't -- I can't understand what you're saying,
19 sir.

20 Q Did it appear there had just been a riot, was that
21 the scene you had walked into?

22 A I mean, not a riot, but there was a crowd of
23 people, you know, around. It was -- they were all in the
24 road, we couldn't even get to the victim. We had to
25 actually exit our car and then walk down to the victim.

CROSS EXAMINATION OF Q. SMITH BY PLEXICO

1 Q Okay. You described them as yelling loudly and
2 gesturing. So was it an angry crowd?

3 A I don't know if it was angry, but there was a
4 lot of -- like I say, there was a lot of loud yelling, you
5 know, screaming and stuff, if I can recall, yes, sir.

6 Q Okay. Did you see the car that contained
7 Ms. Castro leaving?

8 A No, sir. Like I said, I came from a different
9 area of town, so I don't know exactly sure which path they
10 took.

11 Q Okay. All right. So there were 60 potential
12 witnesses, correct?

13 A Possibly, sir.

14 Q All right. How many did y'all talk to?

15 A Well, I don't know how many my partner talked to,
16 I talked with a few and I referred them to go to my partner
17 so that they could write a statement, because I was -- while
18 he was trying to get the information, I was trying to make
19 sure Ms. Singleton was okay and, you know, until medical
20 assistance arrived.

21 Q Okay. All right. Well, are you aware of any list
22 of the people that were there?

23 A Say that again, sir?

24 Q Was there any list made of the individuals who
25 were there?

CROSS EXAMINATION OF Q. SMITH BY PLEXICO

1 A I'm pretty sure my partner took notes.

2 Q Okay. All right. But you didn't do any yourself?

3 A Yes, sir. I didn't do any that I can recall.

4 Yeah, I didn't do any.

5 MR. PLEXICO: Okay. But I actually don't have
6 anything further. Thank you.

7 THE WITNESS: All right.

8 THE COURT: Ms. Smart.

9 MS. SMART-GITTINGS: May it please the Court,
10 Your Honor.

11 THE COURT: Yes, ma'am.

12 CROSS EXAMINATION

13 BY MS. SMART-GITTINGS:

14 Q Patrolman Smith --

15 A Yes, ma'am.

16 Q -- good to see you back. You look well.

17 A Thank you, ma'am. I appreciate it.

18 Q You said that you remember -- you remember your
19 report that you helped your partner type up?

20 A Oh, yes, ma'am.

21 Q Okay. Now -- and I don't know, because it's only
22 one report that was provided to us, but you -- were you the
23 one that received information that someone else cut
24 Ms. Middleton? Without -- without calling the names of
25 anyone else, but were you the officer that received

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 information that she was cut by a named individual?

2 A I'm -- I'm not sure how you mean, because I
3 remember calling -- well, I remember receiving a call from
4 like another officer or a hospital stating that the person
5 that was involved in a fight over in Estill was at the
6 hospital in Allendale.

7 Q Okay.

8 A So --

9 Q Seeking medical treatment?

10 A Yes.

11 Q Okay.

12 MS. SMART-GITTINGS: May I approach, Your
13 Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. SMART-GITTINGS:

16 Q Can you tell me if this is your statement, your
17 report that you contributed to?

18 A This appears to be my report I assisted with, yes,
19 ma'am.

20 Q Okay. And in that report, doesn't it say that --
21 and please don't say the name, another individual cut
22 Ms. Middleton?

23 MR. PLEXICO: I would object, Your Honor. That
24 would be hearsay. He's already testified he doesn't
25 know what happened during the fight.

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 THE COURT: May I see it, please?

2 All right. Ladies and gentlemen, step into your
3 jury room, please. You may not discuss the case in
4 any way at all. Okay?

5 (Jury exits the courtroom at
6 10:34 a.m.)

7 THE COURT: Okay. Go ahead and question the
8 witness in full, Ms. Smart, and then -- does the
9 State object to this as well or just the Defendant?

10 MR. WRIGHT: Just the Defendant. I'm going to
11 clarify it later on.

12 THE COURT: All right. Go ahead, Ms. Smart.
13 You can fully examine him since the jury is out, and
14 we'll go -- we'll approach it in that fashion. You
15 can just get him to go into details just like you
16 fully want to.

17 BY MS. SMART-GITTINGS:

18 Q And, I'm sorry that I have to do this to you,
19 Officer Smith --

20 A That's fine.

21 Q -- but -- and you were hurt on your job, correct?

22 A Yes, sir -- yes, ma'am. I'm sorry.

23 Q And you were off for a while?

24 A Yes, ma'am.

25 Q And does that affect your memory of your work in

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 this particular case?

2 A No, ma'am. I remember quite a bit what happened
3 in this case.

4 Q Okay. So you don't -- so you don't know whether
5 or not you were the one that put that part of the report
6 there?

7 A I mean, I didn't type the report personally, you
8 know. From what I got from the victim, information I got
9 from the victim, what she was able to tell me, you know,
10 after being cut and stuff like that, she -- she -- based off
11 the investigation, she did state that, you know, Ms. Ebony
12 Castro had -- was the one that did cut her.

13 Q Okay.

14 A And I told him and I guess he -- from what the
15 other witnesses he talked to, I guess they stated the same
16 thing. So, I mean, that's best I can --

17 Q So the part of the report that says that Mr. Grant
18 cut the victim, you didn't put that in there, and you don't
19 know where that came from?

20 A I didn't -- like I say, I don't know what other
21 information my partner received. You know, what other
22 information my partner received. I don't know, I -- all I
23 know is I heard, based on through the investigation, what we
24 found, you know, that Ms. Castro had cut, you know, her.
25 And I'm not sure what my partner found.

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 MS. SMART-GITTINGS: Okay. So he can't answer
2 that question, Your Honor, because he obviously
3 didn't write the report. It's confusing because his
4 name is on the report, and I thought he was the
5 author of the report.

6 THE WITNESS: Well, I was an assisting officer,
7 you know. As you -- if you can see on the report,
8 my partner's name is first, so he's the primary one
9 who took the most information and everything. I was
10 there assisting him, and so I'm the secondary
11 officer.

12 MS. SMART-GITTINGS: Okay. Okay.

13 THE COURT: Okay. Ms. Smart, may we put
14 Defendant Castro's Exhibit 1 I.D. on there just so
15 if there's ever a record that somebody looks at,
16 they'll know what piece of paper we're talking
17 about? Does that suit you?

18 MS. SMART-GITTINGS: Yes, sir.

19 THE COURT: All right. This will be -- if
20 you'd hand that to me.

21 *(Whereupon, Defendant Castro's Exhibit No(s) 1*
22 *marked for identification.)*

23 MS. SMART-GITTINGS: And I'll withdraw that
24 question, Your Honor, because he can't answer that.
25 It isn't --

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 THE COURT: Plus, it is hearsay.

2 MS. SMART-GITTINGS: Right, it is hearsay.

3 THE COURT: It's offered to prove the truth of
4 the matter asserted, and that document says that
5 somebody named McPherson, or somebody named Grant,
6 might be Barrington Wayne Grant, cut her in the ear.
7 And that's hearsay.

8 MS. SMART-GITTINGS: Right.

9 THE COURT: And I think when we get to the
10 point where you're offering it through the other
11 officer, how it's from, will it be your position
12 that it's properly admitted through him?

13 MS. SMART-GITTINGS: I believe so, Your Honor.

14 THE COURT: And, Mr. Plexico, what would be
15 your objection then?

16 MR. PLEXICO: That would still be hearsay
17 because Officer Pouch Prong would have talked to
18 somebody who told it was actually an available
19 witness.

20 THE COURT: All right. And your -- Mr. Wright?

21 MR. WRIGHT: He's cleared for that. Mr. Pouch
22 Prong is away at the academy, so we won't be
23 available, so I'm not calling him. He was listed in
24 case he was going to be available, because he --
25 that won't come up. It won't be -- it's a moot

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 issue.

2 THE COURT: Okay. All right. Well, if he's
3 summoned to this courtroom, we'll deal with it then.
4 But I suspect you're going to have a hearsay problem
5 with that.

6 MS. SMART-GITTINGS: Yes, sir.

7 THE COURT: Because it would be offered value
8 to prove the proof of the matter asserted,
9 specifically that Mr. Grant is the one who cut
10 Ms. Singleton.

11 Okay. Let's mark that, please, for the record,
12 and then --

13 MS. SMART-GITTINGS: May I approach,
14 Your Honor?

15 THE COURT: Yes, ma'am.

16 THE COURT: All right. Anything before we
17 bring the jury back in, Ms. Smart?

18 MS. SMART-GITTINGS: Nothing, Your Honor.

19 THE COURT: Will you have any additional
20 questions?

21 MS. SMART-GITTINGS: I won't have any other
22 questions for this witness.

23 THE COURT: All right. Well, when the jury
24 does come in, you can just say that for the record,
25 and you can have any redirect that you choose, Mr.

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 Wright.

2 Okay. Bring in the jurors.

3 And, Mr. Plexico, you'll have the right to
4 recross, assuming that she brought out anything new.

5 (Jury enters the Courtroom at
6 10:39 a.m.)

7 THE COURT: All right. We're ready to
8 continue. Additional questions from the Defendant
9 Castro?

10 MS. SMART-GITTINGS: No further questions, Your
11 Honor.

12 THE COURT: Any redirect, Mr. Wright?

13 MR. WRIGHT: None, Your Honor.

14 THE COURT: Mr. Plexico, re-cross?

15 MR. PLEXICO: None, Your Honor.

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

17 MR. WRIGHT: May he be excused, Your Honor?

18 THE COURT: Any objection?

19 MR. PLEXICO: I have none.

20 MS. SMART-GITTINGS: No objection, Your Honor.

21

22 THE COURT: You may stay if you want or you can
23 leave. Thank you.

24 MR. WRIGHT: Thank you, Officer Smith.

25 THE COURT: Next witness.

CROSS EXAMINATION OF Q. SMITH BY SMART-GITTINGS

1 MR. WRIGHT: The State calls Ms. Brenda.Ellis.

2 Thereupon,

3 BRENDA ELLIS

4 was called as a witness, having been first duly sworn,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WRIGHT:

8 Q Ms. Ellis, please tell the jury your full name.

9 A Brenda Lee Ellis.

10 Q All right. Ms. Brenda, where do you work?

11 A Hampton County EMS.

12 Q How long have you been in that capacity?

13 A I've been there since 2010.

14 Q And what is it that you do there?

15 A I respond as a paramedic and I supervise
16 additional crews, provide medical care to the public.

17 Q And how does one get to be an EMT?

18 A Go to class.

19 Q All right. So you went to classes?

20 A Yes.

21 Q All right. What type of classes did you go to?

22 A Medical paramedic class for a standard amount of
23 time, provide clinicals, respond on units with assistance.

24 Q About how many calls have you been called upon
25 since you've been an EMT? I know it's a big number, just

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 kind of give me an estimate.

2 A It's a large number, yes.

3 Q About how many have you been called to that
4 involved lacerations?

5 A Another large number.

6 Q How many lacerations to the ear?

7 A A little smaller, more like 50.

8 Q Okay. All right. On -- were you working on
9 August 22nd, 2015?

10 A Yes.

11 Q Did you have occasion to be involved in this
12 incident we're here in court about?

13 A I responded to it.

14 Q All right. Can you tell the jury your involvement
15 when you responded to the incident?

16 A My involvement was providing care to the patient
17 that we found on scene.

18 Q And who was that patient?

19 A I believe it was Ms. Singleton.

20 Q Okay. And what type of care did she need?

21 A She needed bleeding controlled to her left ear.

22 She had some minor lacerations or abrasions on her face, and
23 on her left hand and left foot.

24 Q All right. Did you create a report in reference
25 to your encounter with her?

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 A Yes.

2 Q Would it help you, do you need it, are you good to
3 go?

4 A I think I'm okay.

5 Q Okay. All right. Specifically, the laceration to
6 the ear, can you tell the jury about that injury?

7 A The laceration to the ear looked like it's
8 punctured just below the cartilage portion of the pinna,
9 went in and it pulled downward. It extended beyond the
10 earlobe, and then she got continued abrasions peripheral
11 along on her jaw line.

12 MR. WRIGHT: The Court's indulgences.

13 Permission to approach, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. WRIGHT:

16 Q I'm handing to you what's previously been entered
17 into the record as State's Exhibit 1. Do you recognize that
18 photo?

19 A Yes.

20 Q Do you recognize who's depicted in that photo?

21 A I'm sorry?

22 Q Do you recognize who the person is in the photo?

23 A I believe it's Ms. Singleton.

24 Q Okay. All right. Does that clearly -- is that a
25 representation of how her ear was when you arrived on scene?

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 A Yes.

2 Q All right. And you said there's a puncture; what
3 does that mean?

4 A It looks like a sharp object had actually entered
5 on the top inside portion of her ear and then ripped
6 downward.

7 Q So I believe what you're saying is something went
8 in here and down, not down and then up?

9 A Correct.

10 Q Okay. All right.

11 MR. WRIGHT: Your Honor, can I publish this to
12 the jury at this time?

13 THE COURT: Yes, sir.

14 All right. Ladies and gentlemen, y'all have a
15 -- okay, you can pass it through.

16 MR. WRIGHT: Yes, sir.

17 THE COURT: Any objection to that other than
18 your earlier objection?

19 MR. PLEXICO: No, Your Honor.

20 MS. SMART-GITTINGS: No, Your Honor.

21 THE COURT: All right. Ladies and gentlemen,
22 as to any exhibits passed through the jury box for
23 you to look at, make sure you do two things: Look
24 at the exhibit and then continue to pay attention.
25 In other words, do both at the same time. All

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 right?

2 MR. WRIGHT: Feel free to pass it around as I'm
3 talking.

4 (Photo published to the jury.)

5 BY MR. WRIGHT:

6 Q So you arrived on scene, you saw there was a
7 puncture and it pulled down type of injury. What did you do
8 next? Describe it to the jury.

9 A We cleaned the area, made sure there was no debris
10 in it. And then bandaged it and controlled the bleeding.
11 Transported her to the hospital.

12 Q Was there any bleeding?

13 A There was a little bleeding.

14 Q Just to be clear, was there enough bleeding for
15 her to bleed out from that injury?

16 A No.

17 Q All right. But there was injury to the skin?

18 A Yes.

19 Q Was there any -- is that the type of injury that
20 results in a permanent disfigurement?

21 A Yes.

22 Q All right. And it wouldn't be preposterous if she
23 showed up and she showed an injury to her ear with a keloid
24 scar in it, that wouldn't be out of the ordinary?

25 A No.

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 Q And that would be a permanent disfigurement?

2 MS. SMART-GITTINGS: Objection, Your Honor.

3 THE WITNESS: Possibly.

4 THE COURT: Wait a second.

5 Basis?

6 MS. SMART-GITTINGS: Whether or not she's -- is
7 an expert to testify, and then the foundation been
8 made for her basis for testimony.

9 THE COURT: Well, I think it's leading, first
10 of all. Second of all, you can establish any
11 qualifications that she might have.

12 The objection's sustained at this point, but you
13 can continue, at least on that technical point.

14 MR. WRIGHT: Thank you, Your Honor.

15 BY MR. WRIGHT:

16 Q All right. Did you treat anybody else on the
17 scene other than Ms. Singleton?

18 A No.

19 Q So no one else came to you and said, hey, I got a
20 cut to my head, or anything like that?

21 A Not that I recall.

22 Q Was she transported to the hospital?

23 A Yes.

24 Q How was she transported?

25 A By the ambulance.

DIRECT EXAMINATION OF ELLIS BY WRIGHT

1 MR. WRIGHT: The Court's indulgences.

2 THE COURT: All right.

3 BY MR. WRIGHT:

4 Q Just to clarify, this occurred in Hampton County?

5 A Yes.

6 MR. WRIGHT: Please answer any questions that
7 Mr. Plexico and/or Ms. Smart-Gittings has for you.

8 THE WITNESS: Okay.

9 THE COURT: All right. Mr. Plexico.

10 MR. PLEXICO: May I approach the witness?

11 THE COURT: Yes, sir.

12 CROSS EXAMINATION

13 BY MR. PLEXICO:

14 Q Is this -- could you examine that, please?

15 A Yes, sir.

16 Q Is that part of your report?

17 A Yes, sir.

18 Q And as part of your diagnosis, being able to
19 determine what you need to do as an EMT, is that in talking
20 with the patient?

21 A I'm sorry?

22 Q Does some of the decisions you make as an EMT on
23 what course of treatment for the patient depend on talking
24 to -- to the patient?

25 A Talking to them and assessing what their injuries

CROSS EXAMINATION OF ELLIS BY PLEXICO

1 are, yes.

2 Q Okay. And if someone was cut or if someone was
3 bitten, might that necessitate a different course of
4 treatment?

5 A I'm not following.

6 Q Depending on how the jury occurred, that would --
7 that may necessitate a different course of treatment; is
8 that -- from y'all's standpoint?

9 A No. We're there to address immediate life
10 threats.

11 Q Okay. All right. Was she unsure of what happened
12 to her when she talked to you?

13 A Yes. Yes, she was.

14 Q So she was unsure of what happened or who did it?

15 A She -- as far as I can recall, she did indicate
16 who had done it. I don't know who, but she did not know
17 whether she was cut or bit.

18 Q Okay. All right. So she wasn't sure what
19 happened?

20 A She's not sure how the injury occurred.

21 Q Okay. All right. Did she -- was there a -- when
22 you were there, were there still a lot of people there, a
23 large crowd?

24 A Yes.

25 Q Did it appear to be a rowdy crowd, so to speak?

CROSS EXAMINATION OF ELLIS BY PLEXICO

1 A It seemed to be a neighborhood gathering.

2 Q Okay. All right. Did it take crowd control from
3 the police?

4 A Yes.

5 Q Okay.

6 MR. PLEXICO: Could I have this marked as
7 Court's Exhibit 1 for Defense, for Barrington?

8 MR. WRIGHT: That's Defendant's -- your
9 exhibit?

10 MR. PLEXICO: No. Court's Exhibit 1 for now.

11 It's been identified --

12 THE COURT: All right. Court's exhibit
13 whatever the next number is.

14 THE CLERK: Court 2.

15 MR. WRIGHT: Now, I'm not sure if it's going to
16 simply be a Defense exhibit?

17 THE COURT: Well, as long as it's clear for the
18 record what it is, I don't think it matters.

19 MR. PLEXICO: I haven't moved it into --

20 THE COURT: Well, I don't think it matters.

21 MR. PLEXICO: I haven't moved it into evidence.

22 THE COURT: Well, if you intend to do it, let's
23 go ahead and make it your No. 1 for I.D. Then if
24 you want, you can offer, if it's admissible under
25 the rules, it will come in.

CROSS EXAMINATION OF ELLIS BY PLEXICO

1 MR. PLEXICO: That would make it my No. 1 for
2 I.D. purposes.

3 THE COURT: All right. Will you just put that
4 sticker beside it, please?

5 MR. PLEXICO: I have nothing further,
6 Your Honor.

7 THE CLERK: This will be Defendant Grant 1?

8 THE COURT: For I.D., yes, ma'am.

9 *(Whereupon, Defendant Grant's Exhibit No(s). 1*
10 *marked for identification.)*

11 THE COURT: And that -- you said you had no
12 more questions, Mr. Plexico?

13 MR. PLEXICO: Yes, Your Honor.

14 THE COURT: All right. Ms. Smart. Wait for
15 the -- her to finish with the sticker. Okay.

16 CROSS EXAMINATION

17 BY MS. SMART-GITTINGS:

18 Q Ms. Ellis, just a few questions. You'd indicated
19 that Ms. Middleton (SIC) had abrasions to her hand as well?

20 A Yes.

21 Q Did it appear to you from your experience that she
22 was in a fight?

23 A That's what she had stated.

24 Q Okay. And did you observe her clothes being in
25 disarray or dirty or anything like that?

CROSS EXAMINATION OF ELLIS BY SMART-GITTINGS

1 A I don't really recall her clothing.

2 Q You don't recall that?

3 A No.

4 Q And you did not -- you didn't go to medical
5 school, correct?

6 A No.

7 Q And you're not a doctor?

8 A No.

9 Q You're a paramedic?

10 A Yes.

11 Q And you're not able to tell this jury whether or
12 not from a medical degree of certainty that the injury
13 received to Ms. Singleton is a permanent disfigurement, are
14 you? You're not qualified to make that call, correct?

15 A I would have to disagree on that.

16 Q So you've been to medical school and you can tell,
17 you're a surgeon, you can tell whether or not an injury is a
18 permanent disfigurement?

19 MR. WRIGHT: Your Honor, I object. It's
20 getting argumentative as opposed to inquisitive.

21 THE COURT: That's overruled, but the witness
22 can certainly answer it. And you can redirect on it
23 if you want.

24 Go ahead.

25 BY MS. SMART-GITTINGS:

CROSS EXAMINATION OF ELLIS BY SMART-GITTINGS

1 Q Have you testified in court as an expert, a
2 medical expert, before?

3 A No.

4 Q So this is the first time that you're testifying
5 and giving an opinion in court, correct?

6 A Correct.

7 Q And you weren't qualified as an expert, correct?
8 An expert witness.

9 A No.

10 Q So by that, you're telling this jury that you are
11 not an expert, correct?

12 A Correct.

13 Q Okay. And so you're not able to give an expert
14 opinion regarding the injury received, correct?

15 A Based on the fact that I'm not qualified as an
16 expert, correct.

17 MS. SMART-GITTINGS: Thank you. No further
18 questions.

19 THE COURT: All right. Redirect.

20 MR. WRIGHT: Just a couple of questions.

21 REDIRECT EXAMINATION

22 BY MR. WRIGHT:

23 Q You are an EMT, correct?

24 A Correct. I'm a paramedic.

25 Q A paramedic. And a paramedic is a higher level

REDIRECT EXAMINATION OF ELLIS BY WRIGHT

1 than a standard EMT?

2 A Yes, sir.

3 Q And you have some medical training about the
4 bodies that you can provide traumatic --

5 A Yes, sir.

6 Q Is there anything else in this area that's vital
7 for life?

8 A Yes. Back to the circulation and, you know, be
9 able to move our facial muscles, our nerves.

10 Q So it's some vital stuff in this area?

11 A Yes.

12 MR. WRIGHT: There's no additional questions at
13 this time.

14 THE COURT: Sir?

15 MR. WRIGHT: No additional questions.

16 THE COURT: Okay. Anything else, Mr. Plexico?

17 MR. PLEXICO: I have nothing, Your Honor.

18 THE COURT: Ms. Smart?

19 MS. SMART-GITTINGS: Just a few more.

20 RE-CROSS EXAMINATION

21 BY MS. SMART-GITTINGS:

22 Q When you left the scene, no lights and sirens,
23 correct?

24 A Correct.

25 Q And if -- what dictates whether or not you will

RE CROSS EXAMINATION OF ELLIS BY SMART-GITTINGS

1 need to use lights and sirens when you leave the scene?

2 THE COURT: Wait just a second.

3 Yes.

4 MR. WRIGHT: I believe that these questions are
5 improper. They're beyond anything that was brought
6 up on redirect.

7 THE COURT: Sustained.

8 THE WITNESS: Do I answer?

9 THE COURT: No, ma'am.

10 Anything else from Ms. Smart?

11 MS. SMART-GITTINGS: Nothing further,

12 Your Honor.

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

14 MR. WRIGHT: May this witness be excused, Your
15 Honor?

16 THE COURT: Yes. Any objection? Any objection
17 to her being excused?

18 MR. PLEXICO: I have no objection, Your Honor.

19 MS. SMART-GITTINGS: No objection, Your Honor.

20 THE COURT: All right. Thank you, ma'am. You
21 can leave or stay.

22 Everybody on the jury okay?

23 (Jury indicates.)

24 THE COURT: All right. Next witness.

25 MR. WRIGHT: The State calls Ms. Mary Ann

RECROSS EXAMINATION OF ELLIS BY SMART-GITTINGS

1 Fields.

2 Thereupon,

3 MARY ANN FIELDS

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. WRIGHT:

8 Q Ms. Fields, please tell the jury your full name.

9 A What happened that Saturday --

10 THE COURT: No. He asked you for your name,
11 please.

12 A Oh, my name -- excuse me. My name is Mary Ann
13 Fields.

14 Q I'm going to step a little closer to make sure I
15 project so you can hear me.

16 You say your name is Mary -- Ms. Mary Ann
17 Fields?

18 A Yes, sir.

19 Q Where do you live, Ms. Fields?

20 A ██████████, Estill, South Carolina, ██████.

21 Q Yes, ma'am. Is that -- what is that -- it's in
22 the Rose Quarters?

23 A Rose Quarters.

24 Q Yes, ma'am. All right. How long have you lived
25 in that area?

DIRECT EXAMINATION OF FIELDS BY WRIGHT

1 A Just about all of my life. I came here when I was
2 21.

3 Q Yes, ma'am.

4 On August the 22nd, 2015, you were living
5 there at that address?

6 A Yes, sir.

7 Q And did you observe an incident occur in your
8 neighborhood?

9 A They came -- it was fighting down the road and
10 came up in my yard. I was sitting on my front porch, and
11 they tied up in my yard between my step and my mailbox.

12 Q You say "they," who is they?

13 A Monique and that girl.

14 Q When you say "that girl," do you know her name?

15 A I don't know her name.

16 Q Do you know how she looks?

17 A Monique know her name, but I don't.

18 Q Okay. Okay. So Monique and another person got
19 into --

20 A They got in -- they went to fighting. They was
21 fighting and then Monique had her like this, and she had
22 this hand that she'd been keeping it to. I was sitting on
23 my front porch in the chair. When they got to fighting,
24 Monique was doing this like this here (indicating.) She
25 been going down, and I called her son to come and get your

DIRECT EXAMINATION OF FIELDS BY WRIGHT

1 mother. He sat on my step and she was bleeding on her ears.

2 Her ears was hanging down, it was cut.

3 Q Yes, ma'am. Did you see her get cut?

4 A She -- she got cut. Her brother walk up there.

5 Q Her brother being who?

6 A I don't know his name, and I don't know him
7 either. But it been a boy walk up there by her, and after
8 that Monique ear was bleeding. And she been going down like
9 that. And I called her son, I said, come here, your mother
10 is blacking out. And he sat on my step. He called the EMS,
11 but the EMS take so long before they came, and he had put
12 her in her car and took her to the Hampton Hospital.

13 Q The cops got there before EMS got there, correct?

14 A Yes.

15 Q And looking at the defense side, you don't know
16 any of these people over here?

17 A No, sir.

18 Q Okay. So they're not from your neighborhood?

19 A Not that I know of, but I don't think none of them
20 in my neighborhood.

21 Q But you did observe two females fighting, two
22 girls fighting?

23 A Monique and the other girl the onliest two I see
24 fighting. I know walking on down that road, I don't know,
25 but I didn't been down that highway.

DIRECT EXAMINATION OF FIELDS BY WRIGHT

1 Q Yes, ma'am.

2 Please answer any questions that Mr. Plexico
3 or Ms. Smart-Gittings has for you. They're going to both
4 ask you questions separately. Okay?

5 A Sir?

6 Q They both have the opportunity to ask you
7 questions, so don't be caused --

8 A Both the attorneys?

9 THE COURT: Wait, wait. Wait just a second.
10 Wait till somebody asks you a question. Okay?

11 THE WITNESS: All right.

12 THE COURT: All right. Mr. Plexico, any
13 questions?

14 MR. WRIGHT: Before I go -- do you have
15 something you wanted to say? I just wondered before
16 I commence --

17 MR. PLEXICO: Objection.

18 THE COURT: Sustained. It's got to be an
19 answer to a question. It can't be a statement.

20 MR. WRIGHT: Oh, okay.

21 THE COURT: All right. Mr. Plexico, any cross
22 examination?

23 MR. PLEXICO: Yes, Your Honor.

24 CROSS EXAMINATION

25 BY MR. PLEXICO:

CROSS EXAMINATION OF FIELDS BY PLEXICO

1 Q That incident, that was -- there were a lot of
2 people out there fighting, weren't there, out in the road?

3 A Down the road, but I didn't been down that road to
4 know what was going on..

5 Q Okay. But there was -- you could see in your
6 vision, there was a lot of people, 40 or 50 people fighting?

7 A Yes, out in the road. Yes, sir. And Monique
8 drove her car in my yard, and talking on the other side of
9 their house, then the -- and the house had burned down. She
10 got out of her car, the girl came up. I don't know what
11 kind of car she been in, and the girl come in my yard, her
12 and Monique, and they started fighting right there by my
13 step and my mailbox.

14 Q So they came and hooked up together?

15 A Yes, they did their boxing one another. And they
16 hook up and Monique catch her right --

17 Q Did the dogs -- did you remember seeing the dogs
18 outside biting on Monique?

19 A A dog?

20 Q Yes. Do you remember seeing a dog?

21 A Oh, it's -- I didn't see no dog.

22 Q Okay. But you do -- or do you -- or do you
23 remember seeing about 60 people out fighting in the street?

24 A They were down the road.

25 Q Okay. No, no. First say yes or no. Do you

CROSS EXAMINATION OF FIELDS BY PLEXICO

1 remember seeing about a large group of people, about 60
2 people, fighting in the street, down the road there?

3 A Down the road.

4 Q Okay. All right. And you don't -- you can't --
5 you can't -- you don't remember what the boy that you say
6 walked up to the girls fighting looked like; is that
7 correct?

8 A Yes, sir, that is correct.

9 Q Okay. All right. So -- and can you remember any
10 of the other boys who were fighting down the road?

11 A No, sir, I don't.

12 Q Were there some girls fighting down the road, too?

13 A Yes, sir, but I don't know who they been because I
14 didn't move off my porch.

15 Q Okay. All right. So there was kind of a riot
16 going on?

17 A Yes, sir.

18 Q Okay. And you were there, witnessed the whole
19 thing?

20 A I was on my porch because they came in my yard.

21 Q Okay. All right. Do you remember anybody hitting
22 anybody with a stick?

23 A I didn't see no stick.

24 Q Okay. All right.

25 MR. PLEXICO: The Court's indulgence.

CROSS EXAMINATION OF FIELDS BY PLEXICO

1 THE COURT: Okay.

2 BY MR. PLEXICO:

3 Q When that boy came up to the two girls fighting,
4 were they standing up and fighting, were they rolling down
5 on the ground at that point?

6 A No, they -- Monique had her then up side my porch,
7 and she was getting out her fist like this and had her in
8 that wrap with that other hand. I don't know whether it
9 been her right or either her left hand.

10 Q So Monique --

11 A Yes.

12 Q -- had a hold of her and was beating on her?

13 A Yes.

14 Q Okay?

15 A Yes.

16 Q All right. Were they face to face?

17 A They were face to face.

18 Q So she had her cornered against the wall, you

19 said?

20 A Yes, sir.

21 Q And Monique had a hold of her around her neck?

22 A Yes.

23 Q And was beating on her?

24 A Yes, sir.

25 Q Okay. So Monique was winning the fight?

CROSS EXAMINATION OF FIELDS BY PLEXICO

1 A Yes, sir.

2 Q Okay. Now -- but you didn't see the boy's hand
3 come up and cut her or a knife or anything, right?

4 A I -- no. When he walked up there, like he walk up
5 there where they been at, and Monique had the girl. When I
6 looked back again, he was stepping out the yard. Monique
7 was doing this, like this here (indicating). Okay? And I
8 called her son Grady to come and get her, she was bleeding
9 out of her ears.

10 Q Okay. Do you think when the woman was holding her
11 and beating on her, she could have beat on her ear, too, or
12 beat on her head and --

13 A No, no, no. Monique was beating her. Monique was
14 beating the girl.

15 Q Okay. All right. But you don't -- you don't --
16 you didn't -- you can't say the boy did anything when he
17 walked up because you can't -- you just didn't see?

18 A I don't know what he did, but he walk up there
19 close by, and Monique been bleeding on her ear.

20 Q The other girl was fighting back, right?

21 A She -- she -- Monique had hold up like this here
22 and had her, hitting her with her fist.

23 Q Yeah. So her two hands, the other girl's two
24 hands were free?

25 A Was free.

CROSS EXAMINATION OF FIELDS BY PLEXICO

1 Q They could move up and down or wherever.

2 A Yes.

3 Q And they were fighting back on the girl, right?

4 A Yes.

5 Q So you had Monique beating on her, and her
6 fighting back?

7 A Yes, sir.

8 Q Okay. So it was mutual combat?

9 A Yes.

10 MR. PLEXICO: I don't have anything further.

11 THE COURT: All right. Cross, Ms. Smart?

12 CROSS EXAMINATION

13 BY MS. SMART-GITTINGS:

14 Q Ms. Fields?

15 A Yes, ma'am.

16 Q I'm going to come a little closer to you; is that
17 okay?

18 A Yes, ma'am.

19 Q Okay. So do you remember talking to the police
20 that day?

21 A Yeah, I talked to the police.

22 Q You talked -- you know which one you talked to?

23 A It been one like a Mexico with curls in his head.

24 Q Okay. So he wasn't black?

25 A He been a Mexico. He was kind of, you know how

CROSS EXAMINATION OF FIELDS BY SMART-GITTINGS

1 the Mexicos look.

2 Q Okay. I understand.

3 And you told him what you saw?

4 A I tell him just what I saw, and he write it down.

5 Q Oh, so you didn't write it, he wrote it down for
6 you?

7 A He wrote it down. My daughter did some writing
8 for me, too, but I can't read too good, either write too
9 good.

10 Q Okay. And that's understandable because you're a
11 wise woman. So as long as you remember what happened.

12 A Yeah.

13 Q And now -- now, you said earlier that Ms. Monique
14 was beating the other girl up?

15 A Uh-huh. (Indicating affirmatively.)

16 Q Now -- but you didn't see the other girl cut
17 Monique, did you?

18 A All I know, when Monique was beating her, her
19 brother walk up by, by them, and Monique still was beating
20 her. And I look again, Monique was bleeding out of her ears
21 and I called her son. I said, Come and get your mama
22 because she is blacking out.

23 Q Okay. Now -- but other than that, Monique was
24 beating up the girl. The girl was getting beat up?

25 A Uh-huh. (Indicating affirmatively.)

CROSS EXAMINATION OF FIELDS BY SMART-GITTINGS

1 Q And you didn't see the girl, you didn't see her
2 get cut at all, did you?

3 A Well, what I could see, the blood.

4 Q Okay. So you don't know whether she got cut?

5 A Well, she -- she had to get cut because she been
6 down -- she didn't fall down of it.

7 Q Oh, so she didn't fall down? Did the girl, the
8 other girl fall down?

9 A No.

10 Q Now, were -- you said the girl, she had the girl
11 up against your house?

12 A Yeah.

13 Q So up against the wall of your house, like this?

14 A Yeah, uh-huh. (Indicating affirmatively.) Right
15 by my step, because a piece out my step.

16 Q Oh, there was a piece out your step?

17 A Uh-huh. (Indicating affirmatively.)

18 Q And she was pinned against the wall and she was
19 getting beat?

20 A Uh-huh. (Indicating affirmatively.)

21 Q Now, did you see her hand go up?

22 A I didn't -- I didn't see no hand.

23 Q Okay. So she was kind of like trying to protect
24 herself?

25 A She had her just like this (indicating) and

CROSS EXAMINATION OF FIELDS BY SMART-GITTINGS

1 Monique had her -- both of her both hands around her neck.

2 Q Oh, so Monique was holding her down?

3 A Monique was beating her.

4 Q Okay. All right. And so she couldn't have been
5 doing this because Monique was holding her?

6 A She been -- Monique had her all around her neck.

7 MS. SMART-GITTINGS: Okay. All right. Thank
8 you.

9 THE WITNESS: You're welcome.

10 THE COURT: Anything else, Ms. Smart?

11 MS. SMART-GITTINGS: Nothing further,
12 Your Honor.

13 THE COURT: Redirect?

14 MR. WRIGHT: No additional questions,
15 Your Honor.

16 THE COURT: All right. Thank you, ma'am. He's
17 going to help you step down. Okay?

18 MR. WRIGHT: May she be excused, Your Honor?

19 THE COURT: Any objection to her being excused?

20 MR. PLEXICO: None from Defense.

21 MS. SMART-GITTINGS: No objection, Your Honor.

22

23 THE COURT: Thank you, Ms. Fields. You can
24 leave if you like. Okay?

25 THE WITNESS: All right.

CROSS EXAMINATION OF FIELDS BY SMART-GITTINGS

1 THE COURT: We'll take a break now, ladies and
2 gentlemen, for about ten minutes. This will be
3 perhaps a morning -- probably let's take -- let's
4 make it 15 minutes. So this will be the last
5 morning break before lunch.

6 When you're in your jury room, you may not
7 discuss the case in any way at all. Okay? Thank
8 you.

9 (The Jury exits the Courtroom at
10 11:08 a.m.)

11 THE COURT: All right. Before we recess, is
12 your next witness perhaps going to be the one where
13 you would want to get into issues about prior
14 difficulties? Or is that coming up soon?

15 MR. WRIGHT: She's not -- it's coming up soon.
16 She's not a specific person, but she's a -- she may
17 have that same information.

18 THE COURT: All right. Well, let's go ahead
19 and let's take about five minutes ourselves, and
20 we'll come in and I want to hear a proffer on what
21 the evidence is you introduced, before lunch anyway,
22 about prior difficulties.

23 MR. WRIGHT: Do you want me to call that
24 witness forward and let her testify? Or do you want
25 me to tell you?

CROSS EXAMINATION OF FIELDS BY SMART-GITTINGS

1 THE COURT: After we -- we're going to take
2 about a five-minute break first, but just so -- have
3 her available in the next few minutes.

4 MR. WRIGHT: Yes, sir. Yes, sir.

5 THE COURT: And whoever else you think you
6 might be calling before lunch. I just want to get
7 it all on the record. Okay?

8 (Whereupon, a brief recess was
9 taken.)

10 THE COURT: Thank y'all. Have a seat.

11 Okay. Do you have the witness? Can we get
12 Ms. Sandra Singleton from that room?

13 MR. WRIGHT: It may be resolved with some
14 curative instructions of telling her not to go into
15 certain things, and I may --

16 THE COURT: Well, let's get the Defendant out
17 here first before we start with anything.

18 All right. Go ahead. You can swear her in, and
19 we'll just approach it piece by piece. Okay?

20 Thereupon,

21 SANDRA MONIQUE SINGLETON
22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24 PROFERRED DIRECT EXAMINATION

25 BY MR. WRIGHT:

PROFFERED DIRECT EXAMINATION OF S. SINGLETON BY
WRIGHT

1 Q For purposes of the record, state your whole name.

2 A Sandra Monique Singleton.

3 Q All right. Ms. Singleton, in our prior
4 conversations, you alluded to the fact that this is not the
5 first encounter with yourself and Ms. Ebony Castro; is that
6 correct?

7 A Yes, sir.

8 Q All right. I wanted to bring you out so we could
9 preserve the record and make sure that during this trial, it
10 would be inappropriate for you to talk about any prior
11 instances with yourself and Ms. Castro. I just wanted to
12 make sure you knew that, and that both accounts had an
13 opportunity to be known, or let it be known in case -- so
14 they won't open up the door.

15 THE COURT: So you're not going to be getting
16 into prior instances?

17 MR. WRIGHT: No. I just wanted --

18 THE COURT: Well, I hadn't ruled on it yet, but
19 if that's what you're going to do, then that's fine.
20 I don't think I need to hear anything. But if you
21 want to go ahead and give her that instruction on
22 the record, that suits me fine.

23 Go ahead, I just want it to be clear.

24 MR. WRIGHT: Yeah, I just wanted -- I don't
25 want any appeal issues to pop up by them asking

PROFFERED DIRECT EXAMINATION OF S. SINGLETON BY
WRIGHT

1 questions, because I can see them asking, A, is this
2 the first time you've ever been, and then she goes
3 into the legal --

4 THE COURT: Well, if they ask the question,
5 it's open season.

6 MR. WRIGHT: Yes, sir.

7 THE COURT: If they choose to cross that
8 threshold --

9 MR. WRIGHT: So I'll keep it as clean as
10 possible. I just don't want something to pop up.

11 THE COURT: Well, I don't know, but you can do
12 whatever you want to do within the rules. What I
13 wanted to do is hear your questions if you wanted to
14 bring those prior difficulties out. But since you
15 aren't going to --

16 MR. WRIGHT: Well, let me back up then. If
17 that's what --

18 THE COURT: I haven't ruled on anything.

19 MR. WRIGHT: Okay. Well, let me back up then.

20 THE COURT: All right.

21 BY MR. WRIGHT:

22 Q Please tell me about when you first met
23 Ms. Castro.

24 A It was between -- when I first met -- well, I've
25 been with her like in Estill, but I didn't know the

PROFFERED DIRECT EXAMINATION OF S. SINGLETON BY
WRIGHT

1 children. But I first -- my first tangle with her was when
2 me and my daughter -- my daughter and her daughter fight.

3 Q So your daughter and her got into a fight?

4 A Yes, sir.

5 Q All right. And what happened after that?

6 A Like I told you, I sent my daughter go to the
7 grocery store to get -- because I was cooking some food, and
8 I sent her to the grocery store. I went hunting them
9 because it took too long for them to come back. So when I
10 went hunting them and I came back, I saw a crowd on First
11 Street. When I looked on my right, I looked over there and
12 I saw my daughter and her daughter fighting. It was just
13 those two in -- in the -- by theyselves and a little crowd,
14 but it wasn't close to the turn, so I got out and went and
15 talked to Felicia Black.

16 I didn't went to the police, let them fight
17 one on one. So I walked to Felicia Black, who were watching
18 her child. So I asked her, I say, well, Felicia, why is
19 this -- why do these two girls fighting? And she say, they
20 been had a beef and they wanting to fight, so she let them
21 fight. So I sit there -- when she say that, I sit there and
22 I let them fight. After they got tired, Felicia grabbed her
23 -- Ebony Castro daughter, I grabbed mines. When I grabbed
24 mines, I started pushing mines down the road. I was in a
25 car, but I forgot I was in a car because it was so much

PROFFERED DIRECT EXAMINATION OF S. SINGLETON BY
WRIGHT

1 confusion, you know, going on. So I started pushing my
2 daughter down the road. Ebony Castro came up in a van,
3 shoot me down the road. And she jump out with a knife.

4 So I was steadily trying to push my daughter
5 down the road. So she asked her daughter, what B you want.
6 Her daughter --

7 THE COURT: What what?

8 THE WITNESS: What B.

9 MR. WRIGHT: Expletive. Expletive.

10 THE COURT: Well, she can say the word.

11 BY MR. WRIGHT:

12 Q Okay.

13 A She asked -- she asked her daughter what bitch you
14 want. Her daughter say, Faith.

15 So when -- while me, I'm pushing Faith down
16 the road, I see her daughter running towards us, so as me, I
17 move and turn Faith Manual around. And I told her, I said,
18 well, she -- she coming at you. You better beat her ass. I
19 said, beat her ass, and that's what I told her. So they
20 started fighting.

21 THE COURT: I'm sorry, slow down a little bit.

22 You said what?

23 THE WITNESS: I told her, it was like I said,
24 when she was running to Faith Manual, turn her
25 around and I told her, I said, you better beat her.

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1 ass.

2 MR. WRIGHT: Faith is her daughter.

3 THE COURT: Who's --

4 MR. WRIGHT: Her name's Faith Manual.

5 THE WITNESS: Faith Manual, my daughter.

6 THE COURT: All right. You told your daughter
7 what?

8 THE WITNESS: That I had turned her around, and
9 I told her, You better beat her ass.

10 THE COURT: You told your daughter that?

11 THE WITNESS: Yes, because she was running
12 towards us.

13 THE COURT: All right. Go ahead.

14 THE WITNESS: So when they were fighting, so
15 they climbed down and they started fighting. So we
16 let them fight. Ebony went over -- and my daughter
17 was on top of her daughter, beating her daughter.
18 Ebony took it upon herself to go to the fight and
19 start -- and flip them, try to flip her daughter on
20 top of my daughter.

21 THE COURT: Flip whose daughter on top of whose
22 daughter?

23 THE WITNESS: Ebony tried to flip -- Ebony
24 Castro tried to flip her daughter on top of my
25 daughter, Faith Manual.

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1 THE COURT: So your two daughters were
2 initially fighting?

3 THE WITNESS: No. My daughter and Ebony Castro
4 daughter was fighting.

5 THE COURT: All right.

6 THE WITNESS: So when the -- so when Ebony got
7 there, she like I think she was trying to flip her
8 daughter over on top of my daughter. My boy got
9 there before I did. So my oldest son pushed them --
10 pushed Ebony. Ebony took it upon her, she punched
11 him. When she punch him, I jump in --

12 THE COURT: Can we stop for a second? Is this
13 other events, or is this the event in question?

14 MR. WRIGHT: This is other events.

15 THE COURT: Okay. All right. Go ahead.

16 THE WITNESS: So Ebony punch my son. So when
17 Ebony punch my son, me and her got into it, and then
18 they were like Monique was -- my name Sandra, but
19 they call me Monique -- they were like, Monique,
20 your son bleeding.

21 So I stop and went and looked and see, look, and
22 she had cut him right here to his eye. And then
23 the -- me, I wanted to fight her. I wanting to fight
24 her, but they wouldn't let me fight her. Because
25 they were like, the police was coming.

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1 So the police came and -- to the scene and
2 stuff, and he charged me disorderly conduct and
3 charge her disorderly conduct.

4 While it was going on, come to find out, she cut
5 my daughter, too. We did -- my daughter did not know
6 she was cut until somebody saw her shirt, and they
7 had her cut and blood right here.

8 So when she -- so when we saw the -- the police
9 took pictures of my daughter cut and my little son
10 eye. So after that, we went to court and stuff, you
11 know, she got -- like I say, she didn't get in
12 trouble for that at all.

13 So she left around there after -- after it
14 happened, she left for a little while. She didn't
15 dare ask for no more. So she came back to Estill.
16 So when she came back to Estill --

17 THE COURT: How much later did she come back?

18 THE WITNESS: I'm going to say probably it was
19 a couple of months to a year. She ain't been gone
20 that long.

21 THE COURT: A couple months to a year.

22 THE WITNESS: Yeah, she ain't been gone that
23 long. So she had left after all that happened, she
24 had left. So she came back to Estill.

25 When she came back to Estill picking, you know,

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1 saying this stuff, we -- me and -- my daughter, her
2 daughter gonna end up fighting at noon time. They
3 jump my daughters and all that stuff, and -- okay.
4 We end up at court in Hampton.

5 All right. Hampton, they found me not guilty,
6 because they try to say I hit a child. No, I was
7 trying to break the fight up. But -- so when me and
8 her got -- me and her got -- getting in stuff,
9 because she cut two of my kids. Instead of, you
10 know, letting the kids, you were there, you seen your
11 daughter was fighting her, I don't know why she
12 jumped in. So that's how me and her got into it.
13 Okay?

14 After that, that day when the -- when she cut my
15 kids, that night, that day, the next -- later that
16 night, I was playing cards at Ms. Knapp house, Ms.
17 Mary Ann Fields house, and I was -- I lost my money,
18 so I walked on home. I saw two cars. One car this
19 way here in her yard, and one car across the street
20 from Ms. Knapp house. So I was walking home, not
21 thinking the car was for me, I walk home. So when I
22 was start walking down the road, I saw the first car
23 come out this way, then I saw the other car.

24 So her, Barrington, and all the -- Barrington,
25 her, two and -- and her cousins and some other guys

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1 jump out on the car on me, out on me. Fighting. She
2 did -- I got -- they got pictures of that. She jump
3 on me. She digging me, digging me -- she didn't
4 never hit me, but she went straight in my eyes, like
5 trying to push my eyes in the back of my head.

6 THE COURT: All right. When are you we talking
7 about now?

8 THE WITNESS: The same -- the first -- next
9 day.

10 MR. WRIGHT: Same day.

11 THE COURT: Same day of what?

12 MR. WRIGHT: The cutting.

13 THE COURT: Of this case?

14 MR. WRIGHT: No. The prior incident. That's
15 what --

16 THE COURT: I thought she said she was gone for
17 a year.

18 THE WITNESS: No, I'm talking about when --
19 before she -- before she left.

20 MR. WRIGHT: Before -- this is all before she
21 left for that year.

22 THE WITNESS: Yeah, before she left. She had
23 jumped on me before she left.

24 THE COURT: All right.

25 THE WITNESS: And she dig me all in my eyes and

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1 try to push my eyes in the back of my head, because
2 she know she had her brother and all them. She had
3 me -- she had me kind of scared, but I would still
4 fight her.

5 So after that, the police came and she -- they
6 ran, but they ran and stuff when the police came and
7 took me to the office, and that's when all the police
8 press charges on both of -- press charges on her, but
9 it didn't -- she got the same charge I got,
10 disorderly conduct, instead of beating me up. You
11 know, jumping on me. She didn't get the charges like
12 that. That's when she left, after she got clear from
13 disorderly conduct, that's when she left.

14 The other incident, the other stuff, when she
15 came back, she was picking, her and her cousins, now
16 pick -- her and her cousin picking, her children used
17 to pick, you know. So, I started picking, too.

18 So the current -- what happened to me and her,
19 how this happened, well, what end up here was, one
20 day I had saw her. We was -- I was to my friend Nika
21 house, and I was talking to my home girl, Nika. Her
22 and her boyfriend pull up in a blue big -- a big
23 truck.

24 THE COURT: Who's her?

25 THE WITNESS: Ebony -- Ebony Castro and her

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1 boyfriend pulled up, and she started talking trash.
2 So I tell her, you and your children can go and
3 be -- every time they fight, her children with her
4 and my children, my children will let them hurt me a
5 little. So, it was just her and me. She come
6 popping her mouth, so I tell her, Fight me one on
7 one. You here, I'm here. No kids to jump in, fight
8 me one on one.

9 She going -- she say, No, you will call the
10 police, you going to call the police. I ain't going
11 to call no police, fight me one on one. You tell
12 everybody you going to cut me. Okay. She pulled
13 off, she spit out the truck, spit out the truck and
14 it missed me, it hit the other girl. So then she
15 left.

16 Then the next day, I was to my cousin house to
17 have --

18 BY MR. WRIGHT:

19 Q This is the following day, not the same day as the
20 spit, the next day?

21 A Yeah, the next day. I was to my cousin house,
22 they had a party. I had parked my car in Mary Ann Fields
23 yard, and I was, you know, drinking a little bit at the
24 party. So I walked to my car and get my cigarettes. So
25 when I walked, out my eye, I saw the truck when it passed

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1 me, but I never paid attention to it.

2 So when I got to my car to get my cigarette,
3 and I let it -- and when I got out my car, her and her
4 daughter done already jumped out the car. You know, ready
5 to fight. So when they hit me, we fight.

6 They jump me, they called my daughter, my
7 daughter and them got there. When my daughter got there,
8 all us started, you know, thing. I asked her, I said, Eb,
9 are you going around telling people you going to cut me, and
10 she told me, I am going to cut you. So I just -- so I -- at
11 the time, I ain't saw no blade in her hand. So --

12 THE COURT: Say that again?

13 THE WITNESS: I didn't see the blade in her
14 hand.

15 BY MR. WRIGHT:

16 Q At that time.

17 A At that time, I did not see the blade in her hand.
18 So I was like, well, when I catch her, I ain't going to let
19 her get the blade.

20 So her brother -- okay, but before that
21 happened, well, we -- before they jump on me, her brother
22 pulled up, and Barrington in a car. Her and a friend pulled
23 up, jumping out the truck -- I mean, jumping out the car.
24 He jumping out the car by his sister. But mind you, now,
25 your sister coming here where I'm at. So your sister

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1 looking for -- she looking for me, so she here. I'm -- this
2 my -- where I stay at. So she come to me.

3 So he about, ain't nobody going to touch my
4 sister. I say, Your sister touch me, we going to fight. So
5 he went in his pants and pull out his gun. And he say, If
6 you touch my sister, it gonna get more serious. I say,
7 Well, it just have to get serious because if she touch me,
8 it gonna be a problem. And we fight.

9 So while we fight, in the midst of the
10 fighting, I end up in the yard, like I say, by my car. We
11 end up to Ms. Field -- Ms. Mary Ann Fields' porch fighting.

12 So I was fighting her and stuff. I heard a
13 gunshot. So like I say, my kids was out there. So I heard
14 a gunshot. Being that my kids was out there, you know, I
15 pause a little bit and I try to see, you know, to see where
16 my kids at.

17 But next thing I know, when I turn back
18 to get -- you know, back to her, she had a blade in her
19 hand. So I pushed off from her, but not knowing that I been
20 cut.

21 But when I stand up, that when everybody saw
22 the -- my ear split. I didn't know -- like I said, I saw
23 her with the blade. I didn't know she cut -- I didn't know
24 -- I was mad at the time, I didn't felt nothing. So when I
25 saw the blade, I push off of her, because I had her pin up

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1 to the house. So I had a chance to pin off -- throw myself
2 off of her. I fell onto the ground and then I, you know, I
3 was backing up, trying to keep her from cutting me.

4 But then when I stand up, Melissa Fields
5 started hollering, oh, gosh, she been cut, she been cut.

6 So I didn't -- I didn't know where I was cut
7 at the first, but I knew I was cut. But then after the
8 time, I still wanted -- I still wanted her.

9 THE COURT: Okay. That's -- I've heard what I
10 need to hear about prior difficulty.

11 MR. WRIGHT: Right.

12 THE COURT: As it comes up, I don't need to
13 hear the aftermath of this moment.

14 All right. Anything else you want to ask her
15 about that comports with your theory that the prior
16 is admissible?

17 MR. WRIGHT: That's it, based on res judicata
18 and based on nature --

19 THE COURT: Res judicata, what do you mean?

20 MR. WRIGHT: Yeah, because in order to
21 understand why they're fighting, I think --

22 THE COURT: Oh, res gestae.

23 MR. WRIGHT: Gestae, yeah.

24 THE COURT: Okay. All right.

25 Mr. Plexico, first, do you have any questions?

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1 MR. PLEXICO: No, I don't have any questions.

2 THE COURT: All right. I'll hear your argument
3 in a minute.

4 Ms. Smart, do you have any questions about the
5 -- surrounding the problem?

6 MS. SMART-GITTINGS: I don't have any
7 questions, Your Honor.

8 THE COURT: Okay. So the defense actually
9 wants this out?

10 MR. PLEXICO: No. I'm not --

11 THE COURT: Oh, I thought y'all wanted to --
12 this evidence to not be admitted.

13 MR. PLEXICO: No, I never intended to admit it,
14 and Ms. Smart opposes it.

15 THE COURT: No, no. Do you object to that
16 prior difficulty testimony?

17 MR. PLEXICO: Absolutely, Your Honor. I don't
18 think it's going to be admissible under 404-B. It
19 doesn't help -- it doesn't show a common theme or
20 plan. It doesn't -- there's no identity issues
21 here. She says she knows who cut her and who was
22 holding the knife, and that she was -- who she was
23 fighting.

24 THE COURT: All right. Ms. Smart?

25 MS. SMART-GITTINGS: Your Honor, we don't want

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1 it in because it's obviously prejudicial. We don't

2 --

3 THE COURT: It's got to be -- it obviously is
4 prejudicial. But that's not the key. The key is
5 whether it's unduly prejudicial.

6 MS. SMART-GITTINGS: It is. Because she's
7 saying that, you know, her -- from what she said on
8 the stand, she wants to tell the jury that
9 Ms. Castro not only cut her in the past, but she cut
10 her son and her daughter, and she wants the jury to
11 believe that that character is the character that --
12 for the truth of the matter asserted today.

13 THE COURT: Well, this witness is not going to
14 say that your client cut her son and daughter unless
15 I determine that I've heard evidence that, first,
16 she saw it, and second that that part is not unduly
17 prejudicial under 403.

18 So did you see her cut your children, or you
19 just -- they told you that? Now, answer that
20 question.

21 THE WITNESS: Well, I didn't see her cut my
22 son, but where she punch him at, that where the cut
23 at.

24 THE COURT: Did you see her punch them?

25 THE WITNESS: I seen her punch my son, yes, I

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1 did. That's why I jump on her.

2 THE COURT: Did you see her punch or cut your
3 daughter?

4 THE WITNESS: Not the other one, no, sir.

5 THE COURT: All right. Go ahead, Ms. Smart.
6 Any additional argument?

7 MS. SMART-GITTINGS: No other.

8 (Pause)

9 MS. SMART-GITTINGS: Did you see a knife when
10 she was allegedly punching your son?

11 THE WITNESS: When she jump in her truck, she
12 jump out with a knife.

13 THE COURT: All right. Okay. Any other
14 questions or arguments at this time?

15 MS. SMART-GITTINGS: Not related to that, Your
16 Honor. I -- no, sir.

17 THE COURT: Okay. Mr. Wright, what is your
18 argument under res gestae? There are two issues,
19 404-B, the prior acts have to be established by
20 clear and convincing evidence. To the extent I
21 could follow her, I'm not so sure whether or not
22 they've been established by clear and convincing
23 evidence.

24 The res gestae theory, under State versus Adams
25 and the other cases, is -- doesn't -- the proof

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1 doesn't have to rise to that level.

2 So what's your argument about that?

3 MR. WRIGHT: When I brought this to you before
4 we had people on the witness stand, I wasn't sure
5 whether or not you were going to go into the whole
6 idea that maybe somebody else cut the Defendant -- I
7 mean, the victim. But they did bring up the idea
8 that maybe Mr. Barrington cut her or some other
9 person. I think that that goes to the identity of
10 the person that they cut. I wasn't sure they were
11 going to go into that. They did go into that, and I
12 think that's going to be appropriate --

13 THE COURT: Well, when were the cuttings? A
14 year before this? I can't -- see, I can't follow
15 her.

16 MR. WRIGHT: That's my understanding --

17 THE COURT: I mean, she's talking like a
18 machine gun.

19 MR. WRIGHT: From my own prior conversations
20 with her, it was -- had to be around like the --
21 correct me if I'm wrong --

22 THE COURT: No, you got to tell me. I mean,
23 you got to -- she's -- her witness time is over.

24 MR. WRIGHT: Okay. I think it was 2012, 2011
25 time frame. That can be cleared up on the record,

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1 because her daughter was involved in the fight and
2 she'd be able to corroborate when it occurred.

3 But it was at least a year to a year and a half
4 beforehand when they had their first encounter with
5 the kids. And then it's just been going on and on
6 since then. That's why I thought that --

7 THE COURT: Well, what's going on here? I
8 mean, I guess --

9 MR. WRIGHT: The kids started fighting and then
10 the mamas got involved in it.

11 THE COURT: The mamas jumped in?

12 MR. WRIGHT: Yeah. When the mamas jumped in,
13 that particular fight --

14 THE COURT: The witness -- ma'am, you can step
15 down. You can have a seat.

16 Y'all want her -- she is the victim of it all --

17 MR. WRIGHT: She's the victim.

18 THE COURT: You don't want her out here during
19 the trial?

20 MR. WRIGHT: No, she just -- her daughter back
21 there and she's pregnant. She's just with her
22 daughter.

23 THE COURT: Okay. So -- is she going to be
24 your next witness?

25 MR. WRIGHT: No, she not the next witness.

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1 THE COURT: Oh, I thought you were going to
2 talk --

3 MR. WRIGHT: She's going to happen somewhere in
4 there later. I only got like two short witnesses
5 and then her.

6 THE COURT: Anybody else going to testify
7 before lunch about prior difficulties?

8 MR. WRIGHT: They could.

9 THE COURT: That's who I wanted to hear from.

10 MR. WRIGHT: And she's the one with prior
11 difficulties we wanted to get out the way. The
12 daughter can all -- was also there. The daughter,
13 Faith Manual, she's the one that -- she's the one
14 that got in the fight originally, that she's talking
15 about that original situation that was --

16 THE COURT: What's she going to say? That's
17 who I wanted to hear from, who's going to testify
18 next.

19 MR. WRIGHT: Okay. It's the exact same
20 testimony. I can bring her forward, but she's going
21 to say the same thing.

22 THE COURT: No. Well -- no, it's been 30
23 minutes since we took a break. I thought that when
24 you brought her out that you were going to proffer
25 her because she was going to be the next witness.

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1 So she's not going to be the next witness?

2 MR. WRIGHT: No, she's going to be the -- right
3 before law enforcement.

4 THE COURT: All right.

5 MR. WRIGHT: I can make her next witness if
6 that --

7 THE COURT: No, that's up to you. I just --
8 I'm -- before I let anybody testify, where I said I
9 needed a proffer, we got to get it done --

10 MR. WRIGHT: We'll make it easy, she can be the
11 next witness, because it won't mess up what I have
12 going on.

13 THE COURT: Okay. So what is it about the
14 cutting or cuttings a year before this, or several
15 months prior to this, that -- first of all, what's
16 -- is it clear and convincing that these things
17 happened?

18 MR. WRIGHT: Yes. Clear -- the best that she
19 was there, and that she's giving the actual
20 testimony that she was the first -- she didn't hear
21 about this, she was actually there, she saw it. I
22 think that meets the clear and convincing part, and
23 I think the identity part, because they brought in a
24 question whether or not somebody else was the person
25 that did the cutting, you know, I think that kind of

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1 goes into her -- that this person is --
2 traditionally when they fight, she has a knife.

3 THE COURT: All right. Okay. Anything else,
4 Mr. Plexico or Ms. Smart? Since it's your
5 objection, I'll hear from you.

6 MR. PLEXICO: Yeah. With reference to my
7 client, my client is not alleged to have -- it's
8 unclear that exactly what it is aside from being
9 merely present, what he was doing in regards to the
10 daughters and her in prior altercations. I'd ask
11 that he not be mentioned at all in reference to
12 prior altercations.

13 THE COURT: Well, I don't know if she mentioned
14 him or not because I, frankly, couldn't really
15 follow her.

16 MR. PLEXICO: Because she did say he was
17 present in one of them.

18 THE COURT: Did she say he did anything?

19 MR. PLEXICO: No, Your Honor.

20 THE COURT: Well, then, you don't have a
21 concern.

22 MR. PLEXICO: Well, she's trying to make him
23 part of the mob scene, which would be a basis for
24 conviction in the jurors' minds once that --

25 THE COURT: This time. Not a year or two --

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1 year before or months before. She just said he was
2 there. So were other people, based on what I think
3 she said.

4 MR. WRIGHT: You're correct, Your Honor.

5 THE COURT: So I don't really think that you've
6 got -- no pun intended -- you don't have a dog in
7 that fight.

8 MR. PLEXICO: I understand that.

9 THE COURT: But -- go ahead, Ms. Smart. What
10 is your response to what Mr. Wright said?

11 MS. SMART-GITTINGS: Your Honor, I'm somewhat
12 like the Court. It was difficult for me to follow,
13 as far as when the incidences occurred, and then she
14 said that Ms. Castro was gone for six months to a
15 year. So as far as the time line between when those
16 prior -- alleged prior bad acts occurred to this
17 offense, I don't know if they were even close in
18 proximity to make it a part of a res gestae because
19 I don't know when they occurred.

20 And it seems like there were at least two prior
21 -- two or three prior instances that she had been
22 referring to, which we don't know when they occurred.
23 As far as clear and convincing, she said so much, she
24 said that it was a fist fight. She said that when
25 she saw her, that she saw her with a knife, but she

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1 didn't see the cut. She saw the punch, and when she
2 saw the punch, later she noticed that there was a
3 punch -- a punt -- I'm sorry, a cut. And that's if I
4 understood her.

5 With the daughter, it's not clear as to whether
6 or not she saw it.

7 THE COURT: Well, let me -- I think I've heard
8 enough. 404-B and the res gestae theory are two
9 different things. 404-B, I'm not going to let the
10 witness, I don't think it's clear and convincing
11 because, first of all, it wasn't clear. To be
12 convincing, it has to be clear, because it's clear
13 and convincing.

14 I think that what you have to establish is that
15 other acts occurred that are not admissible to prove
16 that this Defendant committed this crime. They're
17 offered to prove motive, common theme or plan,
18 identity, absence of mistake or accident, so forth
19 and so on. There's evidence of it, but I don't think
20 it rises to the level of admissibility under 404-B
21 because of the clear and convincing.

22 However, I am going to allow testimony or
23 questions and answers under the res gestae theory
24 because as State versus Adams says, if I can find
25 it -- well, now my computer's frozen.

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1 Okay. Here we go. State versus Adams, by the
2 way, in case anybody looks it up, it's 322 South
3 Carolina 114, it was reversed on other grounds in
4 another case, I think McGee.

5 So, it's still good law for this proposition,
6 and it talks about this common scheme -- excuse me,
7 the res gestae theory. I'll just read it.

8 One of the accepted bases for the admissibility
9 of evidence of other crimes -- and let's just say
10 other events -- arises when such evidence furnishes
11 part of the context of the crime or is necessary to a
12 full presentation of the case, or is so intimately
13 connected with an explanatory of the crime charged
14 against the Defendant, and is so much a part of the
15 setting of the case and its environment that its
16 proof is appropriate in order to complete the story
17 of the crime by proving its immediate context or the
18 res gestae for the uncharged offenses so linked
19 together in point of time and circumstances with the
20 crime charged that one cannot fully be shown without
21 proving the other.

22 When evidence is admissible to prove this full
23 presentation, there's no reason to fragmentize the
24 event by suppressing parts of what occurred before.

25 I'm not going to allow any witness to say,

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1 because it's still subject to 403, I'm not going to
2 allow this witness or any other witness to say that
3 on prior occasion, the Defendant, Ms. Castro, cut
4 somebody else. I'm not going to allow that.

5 I'm going to allow this witness and another
6 witness to say, to the extent that this witness saw
7 it, what she observed Ms. Castro and the son or the
8 daughter or this witness herself in an altercation,
9 because the State is entitled to a full presentation
10 because what that would beg the Defendants to do is
11 to argue to the jury later on that the State wants
12 you to believe that out of the blue Ms. Castro just
13 attacked Ms. Singleton.

14 So your objection is sustained in part and
15 overruled in part, Ms. Smart and Mr. Plexico. I'm
16 going to allow the witness to talk about prior
17 difficulties only to establish perhaps some reason
18 for them to be so in turmoil, or undercurrent of
19 animosity, but I'm not -- I think it's too
20 prejudicial under the rules, any probative value of
21 the prior cuttings is substantially outweighed by the
22 danger of unfair prejudice.

23 So are we clear on that?

24 MR. WRIGHT: Yes, sir. Would you like to
25 instruct her, or you want me to go in back and tell

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1 her, or --

2 THE COURT: Is she going to be your next
3 witness?

4 MR. WRIGHT: I'll make her my next witness,
5 Your Honor.

6 THE COURT: All right. I'll instruct her to
7 that.

8 Now, where the rub will come in, when she
9 testified, I did catch this part when Ms. -- she says
10 Ms. Castro spit at her or jumped out of her truck or
11 whatever, and said -- and she said, I heard you said
12 you were going to cut me, and Ms. Castro allegedly
13 said, I am going to cut you.

14 What's your position on that? I'm not talking
15 about in the context of what happened to the son and
16 the daughter, I'm talking about in that immediate
17 exchange. What's your position on that testimony?

18 MS. SMART-GITTINGS: Your Honor, I just think
19 it's too prejudicial and -- I think it's
20 prejudicial, because she didn't see a knife. I
21 don't think she said that she saw a knife.

22 THE COURT: And we're talking about two
23 different things. Regardless of whether you like it
24 or not, she just said, I saw a knife.

25 MS. SMART-GITTINGS: Not this date, she didn't.

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1 THE COURT: Did she see a knife this time?

2 MS. SMART-GITTINGS: I don't think she did.

3 MR. WRIGHT: When she said, I'm going to -- I
4 heard you were saying you were going to cut me, and
5 she said, I am going to cut you, she said she didn't
6 see a knife specifically right then, but then she
7 did see a knife when she got cut.

8 THE COURT: How about that?

9 MS. SMART-GITTINGS: I don't --

10 THE COURT: I don't know what --

11 MS. SMART-GITTINGS: I don't think she said she
12 saw -- she said she didn't even know she was cut
13 until someone told her.

14 MR. WRIGHT: She said she saw the knife, that
15 was why I wanted --

16 THE COURT: No, that's not really -- ma'am, you
17 don't need to be shaking your head, this isn't a
18 spectator sport. And that's because it's
19 distracting. Okay? So anybody out there can't be
20 doing this, especially when a witness is on the
21 stand.

22 The deal is this: It's not whether or not she
23 did or didn't have a knife, whether it's too
24 prejudicial because she didn't know she was cut until
25 somebody told her she was cut. My question is, on

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1 the exchange that they had, this witness said, I
2 heard you said you were going to cut me.

3 She had to hear that from somebody, so that
4 brings up the hearsay.

5 MS. SMART-GITTINGS: That's hearsay. If she --
6 I --

7 THE COURT: Okay. Is it offered to prove the
8 truth of the matter asserted that she said she was
9 going to cut her?

10 MS. SMART-GITTINGS: I believe it is, Your
11 Honor. Because she wants to say she was cut and
12 then she heard -- I'm sorry.

13 THE COURT: All right. I'm going to allow the
14 witness to say that Ms. Castro -- whether the jury
15 believes it or not, I don't know. I'm going to
16 allow the jury to hear this witness say that
17 Ms. Castro said, I'm going to cut you.

18 MS. SMART-GITTINGS: To her or to someone else?

19 THE COURT: To her. At that time.

20 MS. SMART-GITTINGS: Okay.

21 THE COURT: Okay. Now, I hope that the
22 cautionary instruction to the witness will have a
23 result, but that's my ruling. Okay?

24 MR. WRIGHT: Thank you, Your Honor.

25 THE COURT: All right. You can --

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1 MR. WRIGHT: Just to be clear, you're going to
2 instruct her?

3 THE COURT: I'm going to tell her that before
4 the jury comes out.

5 MR. WRIGHT: Thank you. Thank you, Your Honor.

6 THE COURT: Then she's going to sit by you, and
7 then when the jury comes in, she's going to come up
8 and be sworn.

9 MR. WRIGHT: So it's okay for me to reiterate
10 it.

11 THE COURT: I'm going to reiterate it, too.
12 You can bring the witness back.

13 (The Witness returns to the
14 stand.)

15 THE COURT: Okay. You're still under oath
16 right now, ma'am. I'm just going to ask a couple of
17 questions.

18 The incidents where you said that you think
19 Ms. Castro cut your son and daughter, you witnessed
20 your son get cut?

21 THE WITNESS: I saw her -- like I said, I
22 didn't see --

23 THE COURT: No.

24 THE WITNESS: I saw her hit my son when she cut
25 --

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1 THE COURT: Okay. Did you see her cut your
2 son?

3 THE WITNESS: No, sir, but I saw that when she
4 punched him in the eye, that's where he was bleeding
5 from.

6 THE COURT: Okay. All right. You didn't see
7 any of that about your daughter?

8 THE WITNESS: No, I didn't see her at all cut
9 my daughter, no.

10 THE COURT: All right. Here's my instruction
11 to you. Okay? I want you to listen carefully.

12 THE WITNESS: Yes, sir.

13 THE COURT: When Mr. Wright asks you questions,
14 I want you to do two things. Answer his question,
15 and answer the question only. He and the lawyers
16 will lead you down the path of question and answer.
17 Okay? I'm not going to permit you to testify that
18 you saw or -- excuse me, that you heard that
19 Ms. Castro cut your daughter. Okay? You're not
20 permitted to say that.

21 THE WITNESS: Okay.

22 THE COURT: If you saw them in any difficulty,
23 verbally or physically, you can testify to that. but
24 since you said that you did not see Ms. Castro cut
25 your daughter, you can't say you heard that.

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1 THE WITNESS: Okay. I can't --

2 THE COURT: You can't say your daughter told
3 you that.

4 THE WITNESS: Okay.

5 THE COURT: You can say that you saw
6 Ebony Castro in a fight with your son and that his
7 eye was bleeding. You can say that. Okay?

8 THE WITNESS: Yes, sir.

9 THE COURT: But you can't say it must have been
10 a cut. Are you clear on that?

11 THE WITNESS: Yes, sir.

12 THE COURT: All right.

13 Secondly, the evening or the night or the time
14 in question where you say she cut you, you can
15 testify that she told you she was going to cut you.

16 THE WITNESS: Yes, sir.

17 THE COURT: You cannot say that you said, Hey,
18 I heard that you were going to cut me.

19 THE WITNESS: Yes, sir.

20 THE COURT: You can't say that. Do you
21 understand?

22 THE WITNESS: Uh-huh. (Indicating
23 affirmatively.)

24 THE COURT: Mr. Wright. Do you think she
25 understands that?

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1 MR. WRIGHT: I got confused on the last part,
2 because you said that she can say that she heard her
3 say, yeah, I'm going to cut you.

4 THE COURT: She can say that the Defendant told
5 her, I'm going to cut you. And then the altercation
6 occurred in whatever form you choose to describe it
7 to the jury. What you cannot say is that you told
8 her first, I heard you're going to cut me.

9 THE WITNESS: Yes, sir.

10 THE COURT: You can't say that part. Is that
11 clear?

12 THE WITNESS: Okay. Yes, sir.

13 MR. WRIGHT: One more thing. She said earlier
14 that in the first incident, she got out of the car
15 with the knife. Can she not go into that, or can
16 she go into that?

17 THE COURT: And how long ago before was that
18 you saw her get out of a car or a van with a knife?

19 THE WITNESS: That was when the kids were
20 fighting and she -- like I say, when we broke it up
21 and we was pushing -- I was pushing my daughter down
22 the street, the van pull up, fast pulling up, she
23 jump out with a knife. When she got out the car,
24 she jump out with the knife -- to the van.

25 THE COURT: What did she do with the knife?

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1 THE WITNESS: She was -- my cousin Christopher
2 Fields, she really was -- she was going after
3 Christopher because she thought Christopher was
4 going to help her fight. But she was -- she pulled
5 it out at Christopher walking fast -- walking back
6 from her because she had a knife, walking toward
7 her.

8 THE COURT: How long ago was that before you
9 had the fight on Ms. Fields' porch?

10 THE WITNESS: That the same time, when it first
11 began, first start.

12 THE COURT: Same evening, or time before?

13 THE WITNESS: Time before.

14 THE COURT: Okay. I'm not going to let you
15 testify that you saw her with a knife before. My
16 ruling is based on the fact that any probative value
17 is substantially outweighed by the danger of unfair
18 prejudice.

19 Okay? Everybody clear on that?

20 MR. WRIGHT: Yes, sir.

21 THE COURT: All right. Mr. Plexico, I know you
22 disagree with my ruling, but does that cover with
23 the witness the instruction that I said I was going
24 to give her before she came back out?

25 MR. PLEXICO: Yes, it does, Your Honor.

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1 THE COURT: All right. Ms. Smart.

2 MS. SMART-GITTINGS: Yes, sir, Your Honor.

3 THE COURT: Okay. When the jury comes -- I
4 want you to go have a seat behind Mr. Wright. When
5 the jury comes back in, the clerk is going to swear
6 you back in.

7 All right. Anything else from the State before
8 we bring the jury out?

9 MR. WRIGHT: Nothing else, Your Honor.

10 THE COURT: From the defense?

11 MR. PLEXICO: Nothing from Defendant Grant.

12 THE COURT: And I'll leave it up to y'all to
13 lodge your proper objections at the proper time. I
14 certainly can't advise you on what an appellate
15 court would or would not do on the preservation
16 issues. Okay?

17 MS. SMART-GITTINGS: Thank you, Your Honor.

18 THE COURT: It's not going to hurt my feelings.

19 MS. SMART-GITTINGS: Thank you.

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

21 (End of Proffer.)

22 (The Jury enters the courtroom
23 at 11:55 a.m.)

24 THE COURT: Okay. I apologize for the delay in
25 bringing you back out, ladies and gentlemen. We

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1 were resolving, for the purposes of streamlining
2 certain things that lawyers request, and we did some
3 things outside of your presence that I may have to
4 send you in and out for, so we just did it all at
5 once so we wouldn't have to stop and start, stop and
6 start.

7 All right. The State can call its next witness.

8 MR. WRIGHT: The State calls Ms. Sandra Monique
9 Singleton.

10 Thereupon,

11 SANDRA MONIQUE SINGLETON

12 was called as a witness, having been first duly sworn,
13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. WRIGHT:

16 Q Please tell the jury your whole name and what you
17 prefer to be called.

18 A What's that?

19 Q Tell the jury your name and what you prefer to be
20 called.

21 A My name is Sandra Monique Singleton, but everybody
22 call me Monique.

23 Q All right. Is it okay if I call you Monique?

24 A Yes, sir.

25 Q All right. Where are you from, Ms. Monique?

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1 A I'm from Estill.

2 Q How long have you lived there?

3 A Like probably 11 years, 12.

4 Q Where did you live before that?

5 A I'm from, originally from New York.

6 Q Okay. But you -- all right. And where do you
7 currently live?

8 A In Estill.

9 Q All right. And which area of town?

10 A In Rose Quarters.

11 Q All right. So you live in Rose Quarters.

12 A Yes, sir.

13 Q Did you live in Rose Quarters in August 2015?

14 A Yes, sir.

15 Q Okay. All right. Before we get into that, do you
16 recognize any people at the defense table?

17 A Yes, sir.

18 Q Who do you recognize?

19 A Ebony Castro and Barrington.

20 Q What is Ms. Ebony Castro wearing? Or what color
21 top does she have on?

22 A Like a pinkish brown, pinkish top.

23 Q What about Mr. Grant?

24 A A grayish blue, like gray.

25 MR. WRIGHT: May the record show that she

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 described Ms. Ebony Castro sitting at the defense
2 table with the pink top, and Mr. Barrington Grant
3 sitting at the defense table with a gray shirt?

4 THE COURT: Any objection?

5 MR. PLEXICO: None from Defendant Grant.

6 MS. SMART-GITTINGS: None, Your Honor.

7 THE COURT: All right. The record will so
8 reflect.

9 BY MR. WRIGHT:

10 Q All right. How do you know these two people?

11 A Like I say, I had knew them for -- not Barrington,
12 I didn't know him, but I had knew Ebony from being in
13 Estill.

14 Q All right. Tell the jury how you know her. Now,
15 when's the first time you met her?

16 A The first time of the incident?

17 Q Yes.

18 A Oh, well, me and my kid -- her kids and my kids
19 got into it.

20 Q When you say "got into it," what do you mean?

21 A Fighting.

22 Q All right. Just to be clear, her daughter -- her
23 kids and your kids were fighting.

24 A Yeah. My daughter and her daughter were fighting.

25 Q All right. What happened in that situation where

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 you got to meet Ms. Castro?

2 A She pulled -- after they fight, we broke it up.

3 And by me pushing my daughter down the road, I saw her pull
4 up in the van, in like a hurry, pull up and got out, jump
5 out.

6 Q All right. During that situation, did you and her
7 get into it?

8 A Huh-uh. (Indicating negatively.)

9 Q All right. Did she get into it with anybody that
10 you observed?

11 MS. SMART-GITTINGS: Objection, Your Honor.
12 Leading.

13 THE COURT: That question's not leading.

14 Overruled. That particular one. Go ahead. Did she
15 get into it with -- and that's where you stopped.

16 BY MR. WRIGHT:

17 Q Yeah. Did you observe her get into it with
18 anybody?

19 A Say that again?

20 Q Did you observe her -- let's use the word
21 "fighting," did you observe her fighting with anybody?

22 A When, that day?

23 Q Yes.

24 A No, she wasn't fighting with nobody. My daughter
25 was -- her daughter and my daughter was fighting. She

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 didn't see the fight.

2 Q All right. What did you observe her do at that
3 incident?

4 A Well, like I say, when I broke -- when we broke it
5 up, I push my daughter down the road. She went to talk to
6 her daughter, and she asked her daughter --

7 MS. SMART-GITTINGS: Objection.

8 BY MR. WRIGHT:

9 Q Yeah, don't say what she said. Only say what you
10 observed.

11 A Okay. Well, I heard her say, okay, I heard her
12 say to her daughter -- can I say it?

13 Q Yeah.

14 A What bitch you want? And her daughter say, Faith.
15 And she say, go get her.

16 Q And who's Faith?

17 A My daughter.

18 Q Faith is your daughter?

19 A Uh-huh. (Indicating affirmatively.)

20 Q All right. Continue on.

21 A Okay. Then when I were pushing Faith down the
22 road to take her home, her daughter -- I turned around, her
23 daughter was charging, like running towards us. So when I
24 saw her, I turn Faith around and I told her, beat her ass,
25 and that's what I told her. And they hook up when they --

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1 when they got to tie together, and they started fighting.

2 And while they fighting, we moved from the
3 little area while they were fighting, it would be a one on
4 one fight. And Ebony Castro, she saw my daughter on top of
5 her daughter, and she went to my daughter and tried to grab
6 her daughter from underneath, off the ground, and try to
7 flip her daughter on top of my daughter. And that's when my
8 son and her -- and my son and her got into it, when my son
9 push her off his sister, and she pun -- she punch him.

10 Q Okay. Did your son receive any injuries?

11 A Yeah, back over his eye.

12 Q Okay. Did he bleed?

13 A Yes, sir.

14 Q All right. Did any other things happen on that
15 particular day?

16 A Yes, sir. Okay. Later that night, I was playing
17 cards at Ms. Fields' house, Mary Ann Fields' house, and I
18 see two cars. And I lost -- like I say, I lost my money and
19 I was going home. And I saw two cars out there, but not
20 thinking it was for me, her, Barrington, her cousin, and two
21 other guys, they started to jump out, two cars on me.

22 And she -- she jump out on me and she started
23 digging me in my -- she started digging me in my eyes and
24 stuff, you know, to hit me in my eyes. She ain't hit me,
25 she just was trying to push my eyes in the back of my head.

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1 So we called the police, and the police took
2 me to the jailhouse and took pictures and stuff. I had to
3 go to the hospital and the eye doctor and stuff.

4 THE COURT: What happened? Not the aftermath,
5 what happened at the event?

6 BY MR. WRIGHT:

7 Q Okay. Just talk about what happened at the event.

8 At the event, who was all present at the event?

9 A Ebony Castro, Barrington, LaGayle Francis, Frank
10 Blake, and his brother, another boy, his little brother.

11 Q I don't want to put any names in your mouth.

12 That's sufficient for the jury at this time.

13 And just to be clear, Mr. Grant didn't do
14 anything to you on that particular day, correct?

15 A No. He just telling me, I better not fight his
16 sister.

17 Q Okay. On that particular day?

18 A Uh-huh. (Indicating affirmatively.)

19 Q All right. Was that -- did you have any more
20 encounters with Ebony Castro prior to the event we're here
21 for today?

22 A Yes, sir.

23 Q Can you tell the Court about those, remembering
24 what we spoke about earlier?

25 A Okay. Well, I mean, like I say, she left -- she

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1 had left. I ain't had no problem, she had left. She came
2 back, she was picking and stuff, so I got tired and I
3 started picking back. And when I seen her, I pick back.
4 And one day she saw me at my friend, Anika Smith, house, and
5 she was in a truck. And when she was with her boyfriend, I
6 think that her boyfriend, and she stopped and she was
7 talking trash. So I started talking my trash back. So I
8 tell her, Well, shoot me one on one. That what I tell her.

9 Q What does that mean?

10 A Fight me.

11 Q Okay.

12 A So I told her, Fight me, fight me -- you tell -- I
13 mean --

14 Q Don't say anything anybody else said, only what
15 you heard.

16 A I know, I'm going to shut up.

17 You -- I told her, Come on and fight me.

18 You tell -- oh, I'm sorry.

19 Q Yeah, yeah.

20 A Well, I told her, Come fight me.

21 Q Yes, ma'am.

22 A You want to fight me and stuff, come on and fight
23 me. My children ain't here, your children ain't here.
24 Because every time we go on, her kids get together with her,
25 they picking. I feel like kids shouldn't get in grown

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1 people business, but her and her kids be picking at me. And
2 they -- and I know they'll jump me, and that what they did.

3 So I told her fight me one on one. She tell
4 me, I ain't gonna fight you because you'll call the police.
5 I tell her, I ain't gonna to call no police. She spit out
6 the truck and hit my other friend, the spit didn't hit me,
7 and she took off.

8 Q You believe she was trying to spit on you?

9 A Yes, sir. And then the next day --

10 Q All right. So the spit went on the next -- on
11 somebody else?

12 A Yes, uh-huh.

13 Q Is that the end of that day?

14 A Yes, sir.

15 Q And proximity to the event we're here in Court
16 about, how far back was that?

17 A The day before.

18 Q Day before.

19 A Day before of the fight.

20 Q Okay. Day before the fight?

21 A Uh-huh. (Indicating affirmatively.)

22 Q All right. Let's get to the fight. Do you
23 remember the exact date?

24 A I don't remember the date but --

25 Q If I told you August 22nd, would that be not in

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 line with what you remember?

2 A I know it was in August.

3 Q Okay. All right. On the day of the fight, what
4 occurred?

5 A Okay. My cousin was having a party for his old
6 lady, a birthday little party, a little get-together or
7 whatever, and we was drinking and having a good time and
8 such. So I decided to go across the street to go in my car
9 and get my cigarettes out my car. Because when I drink, you
10 know, I smoke, so I went and got my cigarettes.

11 So by me go -- I see -- like I say, when I
12 was crossing the street, I saw the truck pass. I ain't pay
13 no attention. I was going in my car. So I went to my car
14 to open the door to get the cigarettes, and I looking up,
15 Ebony Castro, her two daughters was out -- done pull up and
16 then jump out the truck.

17 Q Okay. And this -- do they live in your
18 neighborhood?

19 A No.

20 Q Okay. So they came to your neighborhood. And
21 then what happened when they jumped out of the truck?

22 A They jump me. They talked trash. I talked to
23 them, I say we was jumping -- they jump me, but they was
24 talking trash, and I was talking my trash back. And I told
25 them, If you hit me, y'all going to have to jump me, and I

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 told her that.

2 Q Did Ms. Castro say anything to you on that
3 particular day?

4 A Talking about when she jump out?

5 Q Yes.

6 A Yeah. Her and her daughters, they came, they came
7 at me and we fight.

8 Q Did she say anything specifically to you?

9 It's okay to say what was said.

10 A What you mean when she --

11 MS. SMART-GITTINGS: Leading, Your Honor.

12 MR. WRIGHT: I'm trying to stay within the
13 Court's instructions.

14 THE COURT: That's overruled. All right. Go
15 ahead and repeat your question.

16 BY MR. WRIGHT:

17 Q Did she say anything specifically to you that's
18 okay to say?

19 A About she will cut me?

20 Q Exactly.

21 A Yes, sir. But that -- no. But that's not in the
22 beginning, that wasn't the first of the fight. That when
23 they come jump me and broke up the fight.

24 Q So there's multiple fights that night?

25 A Yeah. She -- we fight at first. They jump out at

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1 me the first time. This before my daughter came.

2 Q Okay. Go ahead. Tell us about that.

3 A Yes, sir. Okay. They jump out at me first. My
4 daughter and them wasn't there. Her and her friends was not
5 there at first, when it happened. Then when they broke us
6 up, and they broke them up off of me, that's when my
7 daughter done came up, pulling up and going on and going
8 after her daughters now because they done jumped me. Then
9 when Melissa Daughtry were holding me, trying not to -- and
10 I asked her, I need --

11 Q You said Melissa. Would that be Melissa Daughtry
12 Fields, or Fields Daughtry?

13 A Melissa Daughtry Fields. She was holding me,
14 trying to keep me from fighting Ebony, but they already had
15 jumped me. So I was the one -- I was wanting to get at her.
16 So I tell her, I say, yeah, you going around, you know --

17 Q So Melissa --

18 A And I asked her, I say, so you gonna cut me. So
19 you gonna cut me? She say, and I am gonna cut you, too.
20 And that's what she told me.

21 Q Was anybody else at the defense table there at
22 that time?

23 A Barrington.

24 Q What did he do?

25 A He told me, say -- he told me I wasn't going to

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1 fight his sister. And I told, if she hit me, I was going to
2 hit -- fight her. He say -- that when he went in his pants
3 and pulled up his shirt, pulled out his gun and say, there
4 gonna be problems if I hit his sister. I said, well,
5 there's gonna be problem if she hit me.

6 Q Did you see the gun with your eyes?

7 A Yes, sir.

8 Q How did the gun look?

9 A Like a silver gun with a black handle, little gun.

10 Q And you're sure you saw a gun?

11 A Yes, sir.

12 Q Okay. All right. What happened after that?

13 A We fight. She -- what happened was, we were
14 supposed to -- Melissa, like I say, when Melissa was trying
15 to hold us from fighting, they wouldn't let me get her. She
16 grab -- she grab my daughter friend, and fighting her. When
17 she grab my daughter friend, what are you grabbing her, me
18 and you supposed to fight. So I walk to her and we started
19 fighting.

20 Q You're not afraid to fight?

21 A No. No, sir. No.

22 Q All right. So you guys -- this is when you guys
23 start fighting and something else happened?

24 A That when she cut me. Well, when we were
25 fighting -- when we were fighting and stuff, you know, we

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1 was -- like I said, when she grabbed the little girl,
2 because me and her were supposed to fight -- her -- my
3 daughter never fight. They was supposed to fight and her
4 daughter, that when they were jumping me, but she went after
5 the little girl instead of coming after me, you know, and
6 jump me. So I went towards her while she was fighting the
7 little girl. And me and her started fighting. And I -- and
8 we ended up in Ms. Mary Ann Fields' yard. I had her pin up
9 to the -- pin up to Ms. Mary Ann Fields' porch, and I was
10 beating her.

11 Q Beating her?

12 A Yes, sir.

13 Q All right. Did you have any weapons?

14 A No.

15 Q Did she -- what happened to you afterwards?

16 A Okay. After me and her fight, right after me and
17 her fight, I heard a gunshot and that what made me pause.
18 To tell you the truth, if I remember, I did -- if I remember
19 this right, I did told her, hold on, I heard a gunshot.
20 When I first heard it, I could have sworn I told her, hold
21 on, I heard a gunshot. That's when I started looking around
22 because I thought my kids was out there. But I couldn't see
23 nothing. Like I say, I was still trying to hold her. But
24 when I turned back around at her, she had the blade in her
25 hand.

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1 And when she had the blade in her hand, I got
2 my weight and I pushed off of her. She already been on
3 Ms. Knapp porch.

4 Q Your weight; how much do you weigh?

5 A Probably -- huh?

6 Q How much do you weigh?

7 A 105.

8 Q Yes, ma'am. Okay. So you used all that weight?

9 A I used her weight, too, but I used my weight like
10 to push me off her, and I hit the ground. Didn't know she
11 cut me already. I just knew I saw the blade. And then when
12 I stand up, everybody, Melissa and all them yelled at me,
13 Oh, she cut her, she cut her. So I didn't really know who
14 she cut me yet at first, because I was still trying to get
15 at her.

16 And then that when Melissa started crying
17 about my ear. That when I -- I didn't pay attention to my
18 ear because I was, like I said, she was trying to get at --
19 get from around me and I was trying to get behind her. They
20 already say she cut me, so I wanted her.

21 Q Yeah.

22 A You know? So after that, I walked past the car
23 and that when I noticed that she split my ear.

24 Q Okay. Was it a little split?

25 A No. She almost took a piece of my ear off.

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 Q All right. Were you bleeding?

2 A Yes.

3 Q All right. Do you remember after that, do you
4 remember everything that happened after that?

5 A I don't remember. I was -- I didn't remember
6 riding in the ambulance, but they said I rode in the
7 ambulance. I fall -- they say I fall out.

8 Q Okay. So there was enough blood to make you fall
9 out?

10 A Yeah. I had faint.

11 MR. WRIGHT: The Court's indulgence.

12 THE COURT: All right.

13 BY MR. WRIGHT:

14 Q All right. So tell me more about your ear. What
15 happened to your ear, and the treatment to your ear after
16 this incident?

17 A Oh, okay. Well, like I say, I don't remember how
18 I got to the hospital, but I know when I got there they was
19 fixing on my ear and stuff. When I woke up, that when I
20 knew my ear, they were still like calm -- we about to fix
21 your ear, so when they was doing my ear and stuff, they kind
22 of messed my ear up, too.

23 Q Do you know what they did to your ear?

24 A They stitch -- they gave -- they stitch it up.

25 Q Okay. Does it look like it did before?

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 A No. It don't feel the same either.

2 Q So tell me, you said that they -- you had to have
3 two procedures on your ear? Explain that.

4 A Yes. Okay. I went to Hampton, but they took me
5 to Hampton hospital to do my ear. And when Hampton did it,
6 they didn't do it right. So, you know, and when I looked at
7 my ear, it looked like -- it was like right here, like
8 cherry red. You know, real red. So I was like something
9 wrong, I just came from the doctor -- I mean, the hospital,
10 and they didn't tell me nothing about my ear. So I went to
11 Beaufort for a second opinion.

12 MR. WRIGHT: And the test, it's already into
13 evidence. I want to show --

14 MR. PLEXICO: It's already in.

15 THE COURT: It's already in?

16 MR. WRIGHT: Yeah, it's already in. I just
17 want to approach.

18 THE COURT: Okay. You can approach the
19 witness.

20 BY MR. WRIGHT:

21 Q I'm handing you what's already been entered as
22 evidence as State's Exhibit 1. Can you tell the jury what
23 that is?

24 A My -- that's my ear.

25 Q Is that how you remember it looking?

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 A Yes, sir.

2 Q All right. Did it hurt?

3 A Yes. Certainly, sir.

4 Q Okay. All right. And as a result of the surgery,
5 or procedures, to get it back onto your ear, do you have any
6 scarring or anything of that nature?

7 A Uh-huh. (Indicating affirmatively.)

8 MR. WRIGHT: Your Honor, can I ask her to step
9 down?

10 THE COURT: Yes..

11 BY MR. WRIGHT:

12 Q Please step down.

13 THE COURT: You ask her questions and you
14 answer those, ma'am. You don't have a microphone
15 down there, so keep your voice up.

16 MR. WRIGHT: I won't ask any questions while
17 she's down here.

18 THE COURT: All right. Go ahead. You can have
19 her step down.

20 MR. WRIGHT: Well, I apologize. I am asking a
21 question.

22 THE COURT: Okay.

23 BY MR. WRIGHT:

24 Q Can you show the jury your ear? Just point to
25 where -- when the jury's satisfied, I'll ask you to sit back

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 down.

2 And your -- do you believe that that's a scar
3 from this incident, that's not from anything else that ever
4 happened in your life?

5 A No, sir.

6 Q So you're telling the jury that that scar on your
7 ear is from this incident?

8 A Yes.

9 Q Okay. When -- do you believe it's going to go
10 away? Is that a permanent disfigurement?

11 A No. I been -- I'm going to -- I go to the doctor,
12 and it's still not -- it's not -- all the feeling's not back
13 in it. It's not -- I don't think it going to be the same.
14 It -- I mean, it's connected, but the feeling ain't going to
15 be -- I can't put no earring in no more.

16 Q So it's permanent?

17 A Uh-huh. (Indicating affirmatively.)

18 Q All right. Let's go back to where you said you
19 saw Mr. Barrington Grant go in his pants and pull out a gun,
20 silver in color, I believe you said?

21 A Yes, sir.

22 Q Was he talking to you when he said the part about
23 his sister?

24 A Yes, he was. Yes, sir. He say -- like I say, he
25 say if I touch my sister, it's going to get serious. So ...

DIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 Q And that's why he had the gun?

2 A Yeah -- that why he pull it out.

3 Q Okay. You said you live in Rose Quarters?

4 A Yes.

5 Q Is that in Hampton County?

6 A No, that Estill.

7 Q Is that in Hampton County though?

8 A Yes, sir. Yes, sir.

9 MR. WRIGHT: Thank you very much. Please
10 answer any questions that Mr. Steve Plexico and Ms.
11 Smart-Gittings have for you.

12 THE WITNESS: Yes, sir.

13 THE COURT: Mr. Plexico.

14 CROSS EXAMINATION

15 BY MR. PLEXICO:

16 Q You gave a statement earlier to the police; is
17 that true?

18 A Sir?

19 Q You gave a statement earlier to the police; is
20 that true?

21 A When it first happened?

22 Q Yes.

23 A Yes, sir.

24 Q Okay. All right. Now, how many people were
25 involved in a fight that day that you could see?

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 A What I seen was -- well, before me -- well, what I
2 seen, my daughter and Ebony children fighting, and me and
3 her. That's all I saw.

4 Q Okay. Did you see anybody hit Barrington with a
5 stick?

6 A Me and her was fighting. No, sir.

7 Q Did you see anybody else in the street fighting?

8 A No, sir. Me and her were fighting. No, sir.

9 Q Did you see anybody fighting Darnell Burgess?

10 A Say that again, sir?

11 Q Did you see anybody fighting Don or Darnell
12 Burgess?

13 A Did I see --

14 Q Anybody fighting or hitting upon the person of
15 Darnell Burgess?

16 A No.

17 Q Okay. Did you see anybody fighting or hitting
18 upon the person of Fred McPherson?

19 A Huh-uh. (Indicating negatively.)

20 Q Okay. So you were only concentrated on Ms. Ebony;
21 is that correct?

22 A Yes, sir.

23 Q All right. And even after you were cut, you were
24 trying to get in behind her to get an advantage on her and
25 keep beating on her; is that correct?

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 A Say that one more time.

2 Q You -- after you were cut, you were still wanting
3 to get behind her to get an advantage and keep beating on
4 her; is that correct?

5 A I mean, yes, sir. I was still wanting to fight
6 her, but I already had advantage when we were fighting first
7 time.

8 Q Okay. And you had her against the wall and you
9 were beating on her head?

10 A Uh-huh, yes. I was -- yeah. When I had her
11 against the wall, I was beating her, yes, sir.

12 Q On her head?

13 A Yes. Yes, sir.

14 Q Okay. And you intended to continue doing so?

15 A Yes, sir.

16 Q Okay. All right. What point did you plan on
17 stopping?

18 A When she cut me, I ain't thought about stopping,
19 when she cut me.

20 Q So you were going --

21 A I ain't thought about -- I ain't gonna stood there
22 and thought about hurting her because she done cut me.

23 Q Okay. Well, but you hadn't thought about stopping
24 when you had her pinned, right, and you were beating on her.
25 That hadn't occurred to you.

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 A She -- when she jump out -- she jump out on the
2 truck on me, they jump on me first, and I was retaliating
3 back. Yes, ma'am -- yes, sir.

4 Q All right. So you -- so do you have any
5 explanation of how Mr. Grant could have been injured?

6 A I heard -- I mean, no, sir.

7 Q Okay.

8 A Like I say, I was fighting her the whole time when
9 --

10 Q But you're saying he had a gun, correct?

11 A Yes, sir.

12 Q So you don't mess with a man standing there with a
13 gun, correct?

14 MR. WRIGHT: Your Honor, I object.

15 THE WITNESS: I was on the -- I --

16 THE COURT: Wait just a second. Wait just a
17 second. Sir --

18 THE WITNESS: I was --

19 THE COURT: Wait. Wait, ma'am.
20 Sir?

21 MR. WRIGHT: I objected to the characterization
22 of that statement. He's not -- he didn't ask her a
23 question, he made a statement that --

24 THE COURT: You can't make a statement. Just
25 frame it as a question, please, or you can restate

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 it.

2 BY MR. PLEXICO:

3 Q Now, would it be reasonable to attack somebody
4 with a gun?

5 MR. WRIGHT: Your Honor, I object again.

6 THE WITNESS: I didn't attack him.

7 THE COURT: Wait just a second.

8 MR. WRIGHT: He's asking her is it reasonable
9 to do something that she --

10 THE WITNESS: I didn't attack him, I --

11 THE COURT: Wait, ma'am. Ma'am. Ma'am, when I
12 tell you to stop, you got to stop. Okay? You wait
13 until I tell you you can answer.

14 Sir?

15 MR. WRIGHT: What he's doing is -- amounts to
16 testifying. He's trying to put stuff into evidence
17 that she's not saying. He's saying things that he
18 wants her -- he's trying to testify, Your Honor.

19 THE COURT: Okay. That's overruled.

20 You can ask that question. That one and the one
21 you just asked.

22 BY MR. WRIGHT:

23 Q Okay. Well, your answer, please?

24 A Say that again?

25 Q All right. Would it be reasonable to attack

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 somebody with a gun?

2 A No, sir.

3 Q Okay. All right. So do you -- you don't remember
4 anything about -- about -- do you remember my client
5 leaving?

6 A No, I never saw him left. I saw her leaving, I
7 never saw him left. After me and her started fighting, I
8 didn't see him no more.

9 Q Okay. All right.

10 MR. PLEXICO: So may I approach the witness?

11 THE COURT: Yes, sir.

12 BY MR. PLEXICO:

13 Q I just want to ask you about the last couple lines
14 of your statement.

15 A Okay. What part?

16 Q Okay. So you can't even say my client was there
17 near you and Ebony when you were cut, correct? Because you
18 don't remember where he is.

19 A No, sir, I can't. No.

20 Q Okay. All right.

21 MR. PLEXICO: Could I have -- may I approach?

22 THE COURT: Yes, sir.

23 MR. PLEXICO: All right. The Court's
24 indulgence.

25 MR. WRIGHT: Your Honor.

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 THE COURT: Yes, sir.

2 MR. WRIGHT: Can that be marked for
3 identification purposes?

4 THE COURT: It can be marked for I.D. purposes,
5 not that it will go into evidence, but it has to be
6 marked so if anybody is going to talk about it, I
7 just want it to have a sticker on it. So that will
8 be Defendant Grant No. 2 for I.D.

9 All right. Let's wait a moment for the court
10 reporter to mark it.

11 *(Whereupon, Defendant Grant Exhibit No(s). 2*
12 *marked for identification.)*

13 BY MR. PLEXICO:

14 Q Do you know a Bernard Castro?

15 A Do I know Bernard Castro?

16 Q Correct.

17 A No. That what he had told me his name was.

18 Q Okay.

19 A When I first was trying -- when they was asking me
20 what his name and I was trying to get his name. They first
21 told me it was B. When I found out it was B, they try to --
22 they told me it was Bernard. I put Castro with it because I
23 know his sister was Castro.

24 Q Okay. So you didn't even know who he was at the
25 time, correct?

CROSS EXAMINATION OF S. SINGLETON BY MR. PLEXICO

1 A Not his name.

2 MR. PLEXICO: Nothing further, Your Honor.

3 THE COURT: Ms. Smart.

4 MS. SMART-GITTINGS: May it please the Court,
5 Your Honor.

6 THE COURT: Yes, ma'am.

7 CROSS EXAMINATION

8 BY MS. SMART-GITTINGS:

9 Q Ms. Singleton, you and Ebony just don't like each
10 other, correct?

11 A No, ma'am.

12 Q And y'all have this history of not liking each
13 other, correct?

14 A Yes.

15 Q And your daughters don't like each other, correct?

16 A Huh-uh. (Indicating negatively.)

17 Q And as parents, you didn't try to fix the problem
18 between the two daughters, did you?

19 A No. Because when I got there, it was already a
20 fight. I was not going to stop it because the first

21 thing -- if I had would have got between the fight, they

22 would have said I was taking up for my daughter. Nobody

23 else was trying to break up the fight, so why was I going to

24 break up the fight for her? I wasn't -- didn't want nobody

25 to say I tried to jump her, on her daughter or nothing, so I

CROSS EXAMINATION OF S. SINGLETON BY SMART-GITTINGS

1 let them fight.

2 Q Okay. So on the day that your ear was injured,
3 you were getting the best of Ebony, correct?

4 A Uh-huh. (Indicating affirmatively.)

5 Q You had her pinned to the house?

6 A Yes, ma'am.

7 Q And even when you had -- when you say you heard
8 the gunshot, you said you still had her held down?

9 A I didn't have her down. I had her pinned to the
10 thing, I didn't have her held down.

11 Q You had -- and you told -- you said, hold on,
12 let's stop fighting?

13 A I said that -- as I recall, I said, I'm feeling --
14 I think I told her, hold on, because I heard a gunshot and
15 my children was out the house. I'm not there, but this
16 what I felt, like I told her, hold on. But I know I had her
17 pinned and looking around and making sure where my children
18 at.

19 Q So she couldn't have got --

20 A I know.

21 Q She couldn't have gotten away from you when you
22 had her pinned down?

23 A Oh, no, because I had her.

24 Q Okay.

25 A Yes, ma'am.

CROSS EXAMINATION OF S. SINGLETON BY SMART-GITTINGS

1 Q And you had her pinned down. She couldn't get --
2 she couldn't leave, she couldn't get away?

3 A Huh-uh. (Indicating negatively.)

4 Q And you were beating her?

5 A Yes, ma'am.

6 Q And you feel like you won the fight that day?

7 A Oh, yes, ma'am.

8 Q Okay. And even after your ear was damaged, you
9 were still ready to fight?

10 A Oh, I was furious, yes, ma'am.

11 Q And you still were going to attack her?

12 A Yes, ma'am.

13 Q So you weren't going to stop even then?

14 A I mean, if it was a regular fight, and she was
15 shooting me one on one without cutting me, it would have
16 just been a fight. She tried to hurt me.

17 MS. SMART-GITTINGS: Okay. I don't have
18 anything further.

19 THE COURT: Redirect.

20 REDIRECT EXAMINATION

21 BY MR. WRIGHT:

22 Q I want to clear up a couple things.

23 You didn't know the Defendant as Barrington
24 Grant, but you knew him; is that correct?

25 A Yes, sir. I knew him as B.

REDIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 Q That was his street name?

2 A Yes, sir.

3 Q Okay. How big is Ebony; is she bigger than you?

4 A Yes, sir.

5 Q Taller than you?

6 A No. She was a little taller than me, about --
7 little bigger than me, too.

8 Q All right. So you're the smaller of the two?

9 A Yeah.

10 Q Okay. And just, you know, to clarify, you said,
11 hey, she shooting me one on one, you mean, she going to
12 fight me. That's just the way you say it?

13 A Yeah. It's -- because I told her, it was this
14 about -- this is before the fighting, but, yeah, it was --
15 she was popping -- she was talking junk in front of
16 everybody. So I was like, what, you here, I'm here, let's
17 fight, get it over with.

18 Q And when you fight somebody, you're not trying to
19 kill them?

20 A No. I'm not -- listen. I ain't never had a
21 weapon in my life. I don't fight with a weapon. I'm a
22 small thing, but I'm not scared. I'm not.

23 Q And generally, at some point the fight was going
24 to end? It wasn't going to --

25 A Yeah, it wasn't going to continuously -- if she

REDIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 wouldn't have cut me and it would have broken up, and she
2 wouldn't have never cut me and it was broken up, it was
3 done. Because I already felt -- because my thing was to her
4 to show her, you can't beat me. You picking at me with your
5 friends, she come up around with her friend picking at me
6 and stuff. Well, knowing that was your friends, I'm going
7 to talk my trash back.

8 Q It wasn't your intention to kill her that day?

9 A No. I ain't wanting to kill her, I was wanting to
10 -- she claims she tough, I claim I'm tough. She from New
11 York, I'm from New York. She claim she was -- you know, so
12 I feel like that. I'm more than you, more woman than you.
13 So I'm like, shoot me one on one.

14 Q Fight you one on one?

15 A Yeah, fight me, you know.

16 Q Exactly.

17 A You ain't got to cut me. Fight me.

18 MR. WRIGHT: No additional questions.

19 THE COURT: Anything else, Mr. Plexico?

20 MR. PLEXICO: Nothing further, Judge.

21 THE COURT: Ms. Smart?

22 MS. SMART-GITTINGS: Nothing, Your Honor.

23 THE COURT: You can step down. Thank you,
24 ma'am.

25 May I see the lawyers up here?

REDIRECT EXAMINATION OF S. SINGLETON BY WRIGHT

1 (Discussion at the Bench.)

2 THE COURT: Next witness.

3 MR. WRIGHT: Melissa Daughtry Fields.

4 Thereupon,

5 MELISSA DAUGHTRY FIELDS

6 was called as a witness, having been first duly sworn,

7 was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. WRIGHT:

10 Q Ms. Melissa, please tell the jury your whole name.

11 A Melissa Latrelle Fields.

12 Q Okay. Is that Daughtry in there somewhere?

13 A No, that -- yeah, Daughtry is my maiden name.

14 Q Okay. So Fields is your married name?

15 A Yes.

16 Q Okay. Do you know the Defendants?

17 A I know one of them. I don't know her brother like
18 that.

19 Q Okay. Do you know his name?

20 A All I know is B.

21 Q That's his street name is B?

22 A Uh-huh. (Indicating affirmatively.)

23 Q All right. Well, what's the person who you know's
24 name?

25 A Ebony Castro.

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 Q All right. And real quick, who's bigger, Ebony or
2 Monique? Who's taller?

3 A I'm not sure.

4 Q Okay. If you don't know, you don't know.

5 All right. Where do you live?

6 A I live in Hampton now, but I was located on Brian
7 Road. Used to stay on Brian Road.

8 Q Is that on Rose Quarters?

9 A Uh-huh. (Indicating affirmatively.)

10 Q So you got family who live in Rose Quarters?

11 A My in-laws.

12 Q In-laws?

13 A Yes, sir.

14 Q All right. We had a Ms. Mary Ann Fields, is she
15 related to you?

16 A My mother -- that's my husband's grandmother.

17 Q Okay. So that's his grandmother. Okay.

18 All right. Let's just get to it. On
19 August 22nd, 2015, did you have occasion to be in Rose
20 Quarters?

21 A No, we just went down there for the day.

22 Q Okay. And that's -- well, why were you already
23 down there?

24 A Actually I had to take my brother-in-law back his
25 baby. I was babysitting for him and I walked across the

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 street to speak to my husband grandmother.

2 Q That's Ms. Mary Ann Fields?

3 A Uh-huh. (Indicating affirmatively.)

4 Q Did you happen to see any of the Defendants there
5 at that time?

6 A When I first got there, no.

7 Q All right. But eventually they arrived there?

8 A Yes.

9 Q All right. Can you tell the Court about that?

10 A Only thing that I can remember is when
11 Ebony Castro came up, Monique walked across the street to
12 where she was. Then they left. Then when we came back,
13 Ebony -- they came back. I was trying to stop them from
14 fighting, then her brother rolled up. I'm not going to --
15 I -- I -- as far as I can remember, I don't remember him
16 just actually jumping out and jumping on nobody, he was just
17 trying to, you know ...

18 Q Trying to break up?

19 A Well, somehow or another everybody started
20 fighting. I did hear a gunshot. I pulled Monique and Ebony
21 from apart, I ain't see -- I didn't see no knife. But I did
22 see Monique ear bleeding. It was hanging.

23 Q Did you give a statement in this situation?

24 A Yes.

25 MR. WRIGHT: May I approach, Your Honor?

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 THE COURT: Mark it for I.D. if you want to ask
2 her about it.

3 MR. WRIGHT: Okay. State's Exhibit 2.

4 THE COURT: I.D.

5 MR. WRIGHT: For I.D.

6 *(Whereupon, State's Exhibit No(s). 2 marked for*
7 *identification.)*

8 MR. WRIGHT: Permission to approach,
9 Your Honor?

10 THE COURT: Yes, sir.

11 BY MR. WRIGHT:

12 Q Ms. Fields, do you recognize the document that I
13 handed to you?

14 A Yes.

15 Q Is your signature on that document?

16 A Yes, my signature is.

17 Q Okay. Do you mind reading it over real quick, to
18 yourself?

19 A (Begins reading aloud.)

20 Q No, just read it to yourself, to yourself.

21 A Yeah, I read it earlier.

22 Q Okay. Can you tell the jury what you told law
23 enforcement without reading it verbatim?

24 A Excuse me?

25 Q Can you tell the jury what you told law

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 enforcement without reading it verbatim, in general terms?

2 A About the incident?

3 Q About the incident. Which is as it pertains to
4 both Defendants, Mr. Barrington Grant and Ms. Ebony Castro.

5 A Like I said before, when I walked -- when -- when
6 they came out -- when I came there, me and Monique was
7 already talking. So Monique left to go down the road to her
8 friend's house. Ebony rode through, she spoke to me. She
9 went down the road and spoke to me because she was on this
10 side of the road. Monique was on this side of the road. I
11 saw from my brother-in-law house her walking across the
12 street to Ebony.

13 So -- and it was like, I'm not going to fight
14 you, however it went, and I see -- heard Monique call her
15 kids, they came back over. I guess that's when Ebony and
16 her daughters came back over. And when they came back over,
17 I was in the middle of them, trying to stop them from
18 fighting, because like both of them I speak with, and I talk
19 to both of them, so I didn't want them to fight.

20 Q You're friends with both of them?

21 A Huh -- yeah.

22 Q So it's difficult for you to be here today because
23 you're friends with both of them.

24 A In a way, yes.

25 Q Okay.

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 A But when the fight escalate, I know Monique and
2 Ebony was over there by Ms. Knapp porch fighting. And when
3 I look -- I didn't catch the fight with Barry, but I know
4 that the guy who was with him didn't jump in. He was out
5 there by hisself. Like you see people jumping over
6 everybody --

7 Q Let's back up.

8 Read your statement. There's a part in there
9 you could talk to me about this Defendant. Can you tell the
10 jury about that part?

11 THE COURT: Which Defendant?

12 MR. WRIGHT: Defendant Grant.

13 THE WITNESS: About the gun situation?

14 BY MR. WRIGHT:

15 Q Yes.

16 A Like I said, when I wrote this statement then, it
17 was so many people around. And so when I did heard the
18 gunshot, I assumed it was him.

19 Q But why did you assume it was him?

20 MR. PLEXICO: Your Honor, I object.

21 THE COURT: Wait. Wait just a second. Wait.

22 MR. PLEXICO: Improper foundation.

23 THE COURT: What's your objection?

24 MR. PLEXICO: Improper foundation, Your Honor.

25 THE COURT: Sustained. You can ask her the

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 question first, and then use the statement according
2 to the rules. You've got to ask her what she knows
3 about that scenario absent the statement first.

4 BY MR. WRIGHT:

5 Q What do you know about this incident as it
6 pertains to a gun and the Defendant?

7 A Because I heard the gunshot went off out there.

8 Q Back up. Tell me, when you first saw him and
9 anything dealing with a gun, please tell the jury about
10 that.

11 A When I first saw him, he had a cast on his hand,
12 when he got out walking towards the fight.

13 Q He had a cast on his hand?

14 A He had a cast on his hand.

15 Q Okay. As it pertain to any guns?

16 A All I remember was hearing a gunshot.

17 Q Okay. All right. Let's put this a different way.

18 Okay?

19 MR. WRIGHT: Can I get the document back?

20 THE COURT: Yes, sir. Hand it back to him,
21 please.

22 BY MR. WRIGHT:

23 Q Do you remember giving him a statement on --

24 A Actually I did --

25 THE COURT: Wait just a second. Wait just a

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 second.

2 Sir?

3 MR. PLEXICO: She's already -- I think that's
4 asked and answered, and I would object to him
5 reading her statement to her.

6 THE COURT: All right. Ladies and gentlemen,
7 go to your jury room, please. Don't discuss the
8 case.

9 (The Jury exits the courtroom at
10 12:33 p.m.)

11 THE COURT: All right. You can question the
12 witness. The jury is out of the courtroom.

13 PROFFER

14 BY MR. WRIGHT:

15 Q Do you remember giving a statement on August 24th,
16 2015 to law enforcement?

17 A I gave the statement, but --

18 THE COURT: Answer yes or no. Do you remember
19 giving a statement?

20 THE WITNESS: Yes, sir.

21 BY MR. WRIGHT:

22 Q And the document I gave you earlier is the
23 statement that you gave?

24 A But I didn't write it.

25 Q You didn't write it?

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 A No.

2 Q Did you sign it?

3 A I just signed it, yes.

4 Q Did you agree with the information in the
5 statement when you signed it?

6 A I really didn't pay no attention when I signed it,
7 but as far as the situation about the gun, when Monique
8 daughter wrote the statement for me, because during that
9 time one of my hands was messed up. So I glanced through
10 it.

11 But when I get here, I really paid attention
12 because I didn't figure this would get this far. But when I
13 paid -- when I looked at the statement and paid it some
14 attention, I actually didn't see the boy with the gun, but I
15 did heard the gunshot.

16 Q So in your statement where you say, Ebony's
17 brother, they call B, pulled out a gun, and say if Sandra
18 touch his sister, it's going to get serious, you're saying
19 now that's not your statement?

20 A I didn't write the statement, I signed the
21 statement. I didn't pay that no attention on there because,
22 no, I did not hear him say nothing about, It was going to
23 get serious, because they was already fighting before he
24 came.

25 THE COURT: Ask the witness if she made the

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 statement.

2 BY MR. WRIGHT:

3 Q Did you make the statement?

4 A What do you mean, make it or write it? No, I
5 didn't make that statement.

6 Q So this is not your statement?

7 A That's the statement that's supposed to been
8 mines, but like I said, when I read over the statement, I
9 didn't read over it clearly. There was a lot of stuff going
10 on. We was trying to get them to go to the hospital, so
11 Monique daughter wrote the statement for me and I signed the
12 statement.

13 Q All right.

14 THE COURT: Okay. Go ahead.

15 BY MR. WRIGHT:

16 Q What do you remember from that day?

17 A Like I said before, when Ebony and Monique got
18 into it, they daughters was already -- Ebony two daughters
19 was charging at Monique daughter, okay, and I tried to stop
20 them. And I look over to the left, and Monique and Ebony
21 was already fighting.

22 Okay. When I broke them up, after all this
23 escalating with everybody out there fighting, when I pulled
24 -- I asked Ebony boyfriend to pull her while I pulled
25 Monique. When we got them apart, Monique ear was leaking

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 blood.

2 Q As it pertains to Mr. Grant, you don't have
3 anything to add?

4 A No.

5 THE COURT: Okay.

6 MR. WRIGHT: I would like permission to treat
7 her as a hostile witness and get her to read her
8 statement and impeach her.

9 THE COURT: Well, that's not what the rule
10 says. Let's go by Rule 613.

11 Who -- here's the rule: Extrinsic evidence of a
12 prior inconsistent statement is not admissible unless
13 the witness is advised of the substance of the
14 statement, the time, the place it was made, the
15 person to whom it was made, and is given the
16 opportunity to explain or deny the statement.

17 Now, I have heard everything in that
18 foundational preface there except the person to whom
19 it was made. Now, you can ask her that.

20 BY MR. WRIGHT:

21 Q Who was present --

22 THE COURT: No, you can say the person's name.
23 Did you give this statement on this date at this
24 time to this person?

25 BY MR. WRIGHT:

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 Q Did you give a statement to Officer Thomas?

2 A Yes. I gave the statement, but everything besides
3 this man, me actually see him have a gun, I did not. And
4 like I told him before, yes, I got Monique daughter to write
5 the statement for me because of my hand being messed up at
6 the time we trying to break up the fight. Okay. But I did
7 not read over the statement. I figure she would write that,
8 she wouldn't put that in there knowing that --

9 THE COURT: Okay. You can stop.

10 She's been given the opportunity to explain or
11 deny the statement. Okay?

12 So Mr. Plexico, is the foundation covered under
13 613, or do you -- I think you're technically correct
14 that he can't get into the -- he can't complete the
15 blow, if you will, on this statement. He'll have to
16 lay his foundation and then recall somebody or call
17 somebody to whom the statement was allegedly made,
18 and that would be the extrinsic evidence of the
19 statement.

20 Do you still object to that, Mr. Plexico?

21 MR. PLEXICO: I would not require him to do it
22 if that's the way it's going to go.

23 THE COURT: Well, he can do it. That's his
24 prerogative under the rule. And that's the same
25 Officer Thomas who was here before?

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 MR. WRIGHT: It's going to be the last witness,
2 yes, sir.

3 THE COURT: All right.. And he's already
4 testified?

5 MR. WRIGHT: He will be the last witness.

6 THE COURT: Oh, so, he has not. Okay.

7 MR. WRIGHT: Yes.

8 MR. PLEXICO: I'm wanting to withdraw my
9 objection to that, Judge.

10 THE COURT: All right. So you can question the
11 witness in detail. Of course, if you choose to
12 object on other grounds, on other parts,
13 Mr. Plexico, you can certainly do that. Okay?

14 MR. PLEXICO: Yes, Your Honor.

15 THE COURT: All right. You ready for the jury
16 to come back in?

17 MR. WRIGHT: Yes, sir.

18 THE COURT: All right. Bring the jury back in.

19 (The Jury enters the courtroom
20 at 12:40 p.m.)

21 THE COURT: Okay. Go ahead, Mr. Wright.

22 BY MR. WRIGHT:

23 Q Are you good friends with Ebony Castro and
24 Barrington Grant?

25 A I don't know Barrington Grant, but me and Ebony

DIRECT EXAMINATION OF M. FIELDS BY WRIGHT

1 Castro, I consider her as a friend.

2 Q You consider her as a friend?

3 A Uh-huh. (Indicating affirmatively.)

4 Q So it's difficult for you to be here today?

5 A Kind of, but I just came to tell the truth.

6 Q Okay. You gave a statement involved -- in
7 reference to this case to Officer Thomas?

8 A Yes, sir.

9 MR. WRIGHT: No additional questions.

10 This statement, do you want me to just leave
11 this up here?

12 THE COURT: For I.D., yes. It's not into
13 evidence, it's just for I.D.

14 Are you offering the statement?

15 MR. WRIGHT: No, I'm not.

16 THE COURT: Okay. All right. Any questions,
17 Mr. Plexico?

18 MR. PLEXICO: Yes, Your Honor.

19 CROSS EXAMINATION

20 BY MR. PLEXICO:

21 Q Who wrote the statement for you?

22 A Monique's daughter.

23 Q What was your condition at that time?

24 A My hand was messed up and I had to go to the
25 hospital.

CROSS EXAMINATION OF M. FIELDS BY PLEXICO

1 Q Were you in a lot of pain?

2 A Yes. I couldn't write.

3 Q Okay. And Monique is Sandra Singleton; is that
4 correct?

5 A She didn't write the statement, I said her
6 daughter.

7 Q Okay. Yes, her daughter.

8 A Uh-huh. (Indicating affirmatively.)

9 Q Okay. All right. So now you've had a chance to
10 review the statement, correct?

11 A Yes, sir.

12 Q All right. And did you closely review the
13 statement that Monique's daughter wrote for you when you
14 were in a lot of pain?

15 A No, sir.

16 Q All right. Was there anything inaccurate that's
17 in this statement?

18 A About me? As far as I can remember, I didn't see
19 B with a gun, I just heard a gunshot went off.

20 Okay. And B didn't have time to talk because
21 Ebony and Monique was already fighting.

22 Q Wait. All right. Back up a little bit.

23 So the daughters were fighting; is that
24 correct?

25 A They both was fighting at the same time. Ebony

CROSS EXAMINATION OF M. FIELDS BY PLEXICO

1 and Monique, and the daughters were over here.

2 Q So the daughters are fighting in one group, Ebony
3 and Monique are over here in another group?

4 A Yes, sir.

5 Q So there were at least those two fights going on?

6 A Yes.

7 Q Okay. Now, was Mr. Grant -- you said the only
8 thing he was trying to do was break it up; is that correct?

9 A No, sir, I didn't say that.

10 Q Okay. Did you see anybody hitting on Mr. Grant?

11 A I see fighting.

12 Q Okay.

13 A I saw Mr. Grant and some other guys fighting, just
14 like I saw Monique fighting Ebony -- and Monique and Ebony
15 fighting, and Monique and Ebony daughter fighting. I can't
16 say who was actually hitting who because there was three
17 fights.

18 Q Okay. How many people were fighting Mr. Grant?

19 A I'm not sure because it was a bunch of people
20 fighting Monique, and there was bunch of people over there
21 fighting was a -- and Ebony and Monique was over here
22 fighting. So I'm not sure. They was a bunch of people
23 running around out there, too.

24 Q Was anybody fighting Fred McPherson?

25 A No. He ran to the car.

CROSS EXAMINATION OF M. FIELDS BY PLEXICO

1 Q Was anybody fighting Darnell Don Burgess?

2 A I don't know who that is.

3 Q Okay. All right. Was there even another fight
4 going on?

5 A No. Not only but the three fights that I just
6 told you about.

7 Q Okay. All right. So what is it, 40 to 60 people
8 out there by then?

9 A I'm not sure.

10 Q At least 40 people?

11 A I'm not sure. All I know, it was a lot of people
12 out there.

13 Q Would you call it just a flat out riot?

14 A Excuse me?

15 Q Would you just call it a flat out riot by the time
16 it was all said and done?

17 A I'm not going to call it a riot either. I'm just
18 going to say they was fights.

19 Q All right. 15, 20 people involved in fights?

20 A Yes.

21 Q Okay. Okay. So you had to go to the hospital
22 that day, right?

23 A Yes.

24 Q All right. And you never saw my client with a
25 gun, and you're here to testify today?

CROSS EXAMINATION OF M. FIELDS BY PLEXICO

1 A I'm not sure who had the gun. During this time,
2 before the gun went off and he first jump out the car out to
3 fight, no, I didn't see a gun.

4 But I didn't see a gun in nobody hand until
5 when it went off. That's when everybody disappeared, except
6 for Ebony and Monique, because I had to break them up.
7 Ebony friend hold her while I grab Monique. We were the
8 only ones that were there after the gun.

9 Q Did you see my client as he left?

10 A Excuse me?

11 Q Did you remember seeing my client as he left?

12 A I saw him when he jumped in the car with
13 Fred McPherson's.

14 Q Was he bleeding?

15 A I'm not sure. I don't think so.

16 Q Okay. All right. Now, was your attention mainly
17 focused on -- about this time, on Sandra?

18 A My -- yes, on Sandra and Ebony Castro.

19 Q Okay. All right. So there are three younger
20 girls fighting over here, and Sandra and Ebony fighting over
21 here?

22 A Yes, sir.

23 Q Okay. All right. And you don't remember who was
24 saying what, back in August?

25 A You couldn't. If you was out there, you wouldn't

CROSS EXAMINATION OF M. FIELDS BY PLEXICO

1 understand who was saying what either because it was
2 everybody screaming.

3 MR. PLEXICO: Okay. The Court's indulgence?

4 THE COURT: All right.

5 (Pause.)

6 BY MR. PLEXICO:

7 Q All right. And you said you saw my client with
8 his hand bandaged up; is that why you (sic) were in a cast?

9 A Yes.

10 MR. PLEXICO: And that's how he came?

11 A Yes.

12 MR. PLEXICO: Okay.. Nothing further from
13 Defendant Grant.

14 THE COURT: Ms. Smart.

15 MS. SMART-GITTINGS: May it please the Court.

16 THE COURT: Yes, ma'am.

17 CROSS EXAMINATION

18 BY MS. SMART-GITTINGS:

19 Q Ms. Fields, I know you feel like you're on the hot
20 seat, and I'm sorry I've got to add to it. Just be patient
21 with me. Okay?

22 A All right.

23 Q And the reason why I'm going to -- because I'm
24 concerned because your testimony here today is somewhat
25 different from the statement that was written back when this

CROSS EXAMINATION OF M. FIELDS BY SMART-GITTINGS

1 incident occurred.

2 A Because I --

3 Q And I just want clarity.

4 You indicated, if I'm not mistaken, that
5 Monique went to where Ebony was.

6 A This is what I'm saying. When the -- when -- the
7 house sets right here. While I was standing up at on the
8 porch, Ebony came --

9 Q This Ms. Fields' house?

10 A No. This is the brother's house, my
11 brother-in-law house. Ebony came in the yard, turn around,
12 went and parked down there -- I forgot who she asked for,
13 but it wasn't down there. So she went down to Nika house.
14 They was parked across the street.

15 Monique had already -- I think Monique --
16 Monique had came after she did, I'm thinking. But, anyway,
17 however it go, I know that she pulled across the street,
18 Monique pulled across the street by Nika house, and she
19 jumped out that car. And all I saw was her walked across
20 the street.

21 When she walk across the street, I saw
22 Monique walk back. I wasn't down there that far to hear
23 what was going on.

24 So I saw where Ebony left, and then all I
25 know, Monique said she was going to get her kids and they

CROSS EXAMINATION OF M. FIELDS BY SMART-GITTINGS

1 was supposed to meet back there. Once they -- once Monique
2 kids heard -- once Monique kids heard about it, she couldn't
3 even -- she didn't have a chance to leave. They all went
4 and parked in that little -- and that's when Ebony and her
5 girls came back.

6 When Ebony and her girls came back, they was
7 there in front Nika house, I guess they argued all the way
8 up until they got in front of Ms. Knapp front door. Ebony
9 girls and Monique daughter started fighting, Ebony and
10 Monique started fighting.

11 Q Did Ebony and Monique stop fighting when the gun
12 shot?

13 A No.

14 Q So they kept fighting?

15 A Yes.

16 Q Now, did Monique have the best of Ebony?

17 A I don't know.

18 Q Okay. Now, did you say that Ebony told Monique
19 she didn't want to fight her?

20 A No, I didn't say that.

21 Q Okay. But you didn't see a knife?

22 A I didn't see a knife, but I did see Monique ear.

23 Q Cut.

24 A Uh-huh. (Indicating affirmatively.)

25 Q But you didn't see Ebony cut her?

CROSS EXAMINATION OF M. FIELDS BY SMART-GITTINGS

1 A They was down like this, together. It wasn't
2 nothing but those two over there by each other. They was
3 down here like this right here, and when I look around and
4 it was the gunshot fired off, I was like, oh, my God, these
5 two still fighting. So I asked Ebony friend to help pull
6 her while I pull Monique. So we pulling the -- we pull them
7 apart.

8 They both turn to each other, we pulled them
9 apart, I grab Monique. When I finally look at Monique and
10 her face, her ear was sliced.

11 Q Okay. Now, you're friends with Monique as well?

12 A Uh-huh. (Indicating affirmatively.)

13 Q Is any one of them your friend more than the
14 other?

15 A No, they both the same.

16 Q They both the same?

17 A Yes.

18 Q So you're not here trying to help Monique and
19 you're not here trying to help Ebony?

20 A No, ma'am. I'm married, if it ain't about my
21 husband, I can't help nobody.

22 Q Okay. Now, Officer Thomas, did he ask you
23 questions?

24 A No.

25 Q Did he ask you to write the statement?

CROSS EXAMINATION OF M. FIELDS BY SMART-GITTINGS

1 A Yes.

2 Q And did you tell him that you couldn't write the
3 statement?

4 A No. As a matter of fact, when he passed us the
5 papers to write the statement, I asked Monique daughter to
6 write the statement for me because my hand was messed up.
7 And if she didn't write the statement for me, then how was I
8 going to give a statement?

9 Q So is Officer Thomas aware --

10 A No.

11 Q -- that she wrote the statement for you?

12 A I don't think so.

13 Q Okay. Did you give Officer Thomas the statement
14 or did Monique's daughter give him the statement?

15 A I gave it to him.

16 Q Okay. And did you tell Officer Thomas that you
17 saw Ebony cut Monique?

18 A No. Only thing I told Officer Thomas was the same
19 thing that I'm telling you now. When we pulled them apart,
20 her ear was cut.

21 Q Okay.

22 MS. SMART-GITTINGS: I don't have any other
23 questions.

24 THE COURT: Redirect?

25 MR. WRIGHT: No additional questions,

CROSS EXAMINATION OF M. FIELDS BY SMART-GITTINGS

1 Your Honor.

2 THE COURT: Mr. Plexico, any redirect based on
3 Ms. Smart's questions on cross?

4 MR. PLEXICO: No, Your Honor.

5 THE COURT: All right. Thank you, ma'am. You
6 can step down.

7 MR. WRIGHT: Is she excused, Your Honor?

8 THE COURT: Any objection to her being excused?

9 MR. PLEXICO: Yes, I do have an objection, Your
10 Honor. I would briefly until some other witnesses
11 testify.

12 THE COURT: Do you have her contact
13 information?

14 Wait a minute, ma'am.

15 MR. PLEXICO: I do not have it, Judge.

16 THE COURT: Wait. Wait just a second. She
17 can't go.

18 MR. PLEXICO: I do not have it, Judge, but
19 there's a slight chance I may need to call her.

20 THE BAILIFF: She's not going.

21 THE COURT: Okay. All right. Anything else,
22 Mr. Plexico?

23 MR. PLEXICO: No, Your Honor.

24 THE COURT: All right. Can we break for lunch
25 now? Any objection?

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1 MS. SMART-GITTINGS: No objection.

2 THE COURT: All right. Ladies and gentlemen,
3 we are going to break for lunch now. We're going to
4 resume the trial at 2:15. It's a little bit longer
5 than we would normally take for lunch, but of
6 course, you got to get out of the building, get to
7 where you need to go, then you got to get back in.
8 So we're going to take until 2:15.

9 In the meantime, you may not discuss the case
10 amongst yourselves or with anyone else in the whole
11 wide world, or anywhere else. So I'll see you back
12 at 2:15. Thank you.

13 (The Jury exits the courtroom at
14 12:50 p.m.)

15 THE COURT: Okay. Anything before we recess?

16 MR. WRIGHT: Nothing, Your Honor.

17 MR. PLEXICO: Nothing from the defense,
18 Your Honor.

19 THE COURT: Anything before we recess?

20 MS. SMART-GITTINGS: Nothing, Your Honor.

21 THE COURT: What -- how many more witnesses --
22 well, do you think you'll be able to finish this
23 afternoon?

24 MR. WRIGHT: I'm going to call one more
25 witness, Your Honor. that's going to be my case.

COLLOQUY

1 THE COURT: All right. If we start back at
2 2:15, that witness, I would assume, be less than 30
3 minutes?

4 MR. WRIGHT: Yes, sir.

5 THE COURT: Will the defense be ready to
6 proceed at that time?

7 MR. PLEXICO: Yes, Your Honor.

8 THE COURT: Okay. Would you, please, during
9 the lunch break consult with your clients and
10 explain to them that the -- after the State rests,
11 I'll be asking them certain questions pertaining to
12 their Fifth Amendment rights, so go ahead and cover
13 that.

14 MS. SMART-GITTINGS: Yes, sir, Your Honor.

15 THE COURT: All right. If you call any
16 witnesses, Mr. Plexico, how many would you have?

17 MR. PLEXICO: I only have two witnesses, not
18 including the Defendant. If he chose to testify, it
19 would be three, Judge.

20 THE COURT: Okay. And if you present
21 witnesses, how many would you possibly have?

22 MS. SMART-GITTINGS: Only my client,
23 Your Honor.

24 THE COURT: All right.

25 MR. PLEXICO: I have four that I have the

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1 records for them, if I call them.

2 THE COURT: Okay. Do you anticipate you
3 completing your defense this afternoon?

4 MR. PLEXICO: I would, aside from the records
5 clerk, Judge.

6 THE COURT: All right. That's right. I forgot
7 about that.

8 So we'll be going into tomorrow anyway.

9 MR. PLEXICO: If we put on a defense. Right
10 now, it's up in the air.

11 THE COURT: All right. I'll see you back --
12 let's get back together at five after 2:00, just in
13 case there's anything we need to cover before we
14 start back at 2:15. Thank you.

15 (Whereupon, a lunch recess was
16 taken.)

17 THE COURT: All right. We'll go back on the
18 record now. Mr. Wright has indicated that at some
19 point before he rests he wants me to pronounce the
20 stipulation, just so the record is clear.

21 That stipulation is pertinent to SC Code
22 Section 16-23-500, Subsection A, which reads,
23 verbatim: "It is unlawful for a person who has been
24 convicted of a violent crime, as defined by Section
25 16-1-60 that is classified as a felony offense, to

COLLOQUY

1 possess a firearm."

2 The stipulation, as I understand it, that I was
3 going to read, was going to be that the State and the
4 Defendant Grant have stipulated that Defendant Grant
5 has in the past been convicted of a violent crime, as
6 defined by the law of this state, which is classified
7 as a felony.

8 That's what I was going to read because that is
9 the stipulation, as I understood it, that would keep
10 the Allendale records person from coming over to say
11 essentially the same thing.

12 Because the ABHAN under the new statute which he
13 was convicted of in Allendale is a felony, and it's
14 also classified as a violent crime.

15 All right. Mr. Plexico, your thoughts?

16 MR. PLEXICO: I believe what it actually says
17 is the crime of violence is defined as assault with
18 intent to commit any offense punishable by
19 imprisonment for more than one year.

20 THE COURT: What code section are you reading?

21 MR. PLEXICO: This is 16-23-10, the definition
22 of crime of violence in relation to weapons.

23 THE COURT: 162310. All right.

24 All right, Mr. Wright, your position?

25 MR. WRIGHT: I'm going to be okay with the way

COLLOQUY

1 that you proposed to do it in the back, Your Honor.
2 I just want to make sure the jury know that he has
3 previously been convicted of a felony, to prevent
4 him from having the ability to carry a firearm. So,
5 when they go in the back, they know what the
6 elements are in there. I don't want it to be
7 something that comes up where they don't find it
8 listed and not sure that he's been convicted of a
9 felony.

10 THE COURT: All right.

11 MR. WRIGHT: Well, it's actually violent felony
12 is where the --

13 THE COURT: Well, where's the definition under
14 16-23-10 fit into what you're saying, Mr. Plexico?

15 MR. PLEXICO: I thought that was the
16 prohibition, is that's the person -- that's the
17 individual who can't actually have a gun, Judge. I
18 thought that was what 500 was referring to.

19 MR. WRIGHT: It's my understanding that 16-160
20 is where the violent crime definition comes in, and
21 the ABHAN falls squarely under that portion. And
22 the way that the statute is reading, that possession
23 of a firearm by a person with a violent felony is, I
24 think that you made -- I would ask you also to say
25 that the felony that he's convicted of was a violent

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1 felony so that it fits squarely with it.

2 THE COURT: What I'm going to say, and what I
3 understood y'all to stipulate to today was that the
4 Defendant is a person who has been convicted of a
5 violent crime that is classified as a felony
6 offense.

7 MR. WRIGHT: Yes, Your Honor.

8 THE COURT: Because if I say the 16 -- that's
9 what 16-23-500A, which is the indicted offense,
10 that's what that says. Because your defense is
11 based solely on the fact, Mr. Plexico, that they
12 haven't proven that he had a gun.

13 MR. PLEXICO: Yes, sir. Solely, not the
14 offense.

15 THE COURT: So the element of the crime charged
16 under 500 doesn't have anything to do with 16-23-10
17 except by way of definition.

18 MR. PLEXICO: Your Honor, you're absolutely
19 correct, and if you would just charge A.

20 THE COURT: Okay. I'll do that. I'm not going
21 to mention to the jury that it was an ABHAN, I'm
22 just going to tell them that the parties
23 stipulate -- or these two parties stipulate that Mr.
24 Grant is a person who has been convicted of a
25 violent crime as defined by the law of this state,

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1 which crime is classified as a felony offense.

2 MR. WRIGHT: As to the matter earlier, I asked
3 that Ms. Fields be allowed to leave, and Mr. Plexico
4 said he may need her. I think she's in the back,
5 and if he's not going to need her, I'm going to ask
6 that she be excused from the court.

7 MR. PLEXICO: The witness I was concerned about
8 was Officer Thomas, who's about to testify. I will
9 be glad to agree to allow her to leave after he
10 testifies. I might need her as a rebuttal witness
11 to him.

12 THE COURT: Okay. All right. That's fair
13 enough.

14 All right. Since we may or may not be,
15 depending upon what the defense does, moving to the
16 portion of the trial where the Defendants can offer
17 their defenses, does anyone have any written jury
18 charges that they want to submit so I can -- I and my
19 clerk can be reviewing those?

20 MR. WRIGHT: No, Your Honor.

21 MR. PLEXICO: No, I do not, Your Honor. And
22 specifically I'd only ask about the silence of the
23 accused, Your Honor.

24 THE COURT: Okay.

25 MS. SMART-GITTINGS: Your standard self-defense

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1 charge would be appropriate.

2 THE COURT: All right. And we'll argue about
3 self-defense after the State rests and right up to
4 the point where we'll be giving the jury charge, the
5 State and the defense -- or your Defendant can
6 present argument on self-defense.

7 All right. Anything before we bring in the
8 jury?

9 MR. WRIGHT: No, Your Honor.

10 MR. PLEXICO: No, Your Honor, not from
11 Defendant Grant.

12 MS. SMART-GITTINGS: Nothing, Your Honor.

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

14 And you said you're going to let me know when
15 you want me to publish the stipulation.

16 MR. WRIGHT: I'd love to do it when they come
17 in.

18 (The Jury enters the courtroom
19 at 2:21 p.m.)

20 THE COURT: All right. I hope you had a nice
21 lunch, and I know this is the time of day when you
22 might need some energizing. Just don't take this
23 opportunity to -- sitting down for a while to keep
24 you from paying attention.

25 All right. Next witness for the State.

COLLOQUY

1 MR. WRIGHT: The State calls Sergeant Michael
2 Thomas, Estill police department.

3 THE COURT: Okay. And if y'all would come up,
4 please, while the witness is coming in. Would y'all
5 come up, please.

6 (Discussion at the Bench.)

7 Thereupon,

8 MICHAEL THOMAS

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 MR. WRIGHT: Your Honor, would you publish the
12 stipulation to the jury?

13 THE COURT: All right. Ladies and gentlemen,
14 as I mentioned to you earlier, evidence can come in
15 in different fashions -- testimony, exhibits, and
16 stipulations. I wanted to refer now, or recite now,
17 to you a stipulation that's been entered into by the
18 State of South Carolina and the Defendant,
19 Mr. Grant.

20 The stipulation is this: The Defendant Grant
21 and the State hereby stipulate or agree that the
22 Defendant Grant has in the past been convicted of a
23 violent crime as defined by the laws of this state,
24 which crime is classified as a felony offense.

25 That evidence, that stipulation, is to be used

COLLOQUY

1 by you, if at all, only in your determination on the
2 count pertaining to possession of a weapon by a
3 person convicted of a violent felony. It's to be
4 considered only to determine whether or not the State
5 has met its burden of proof in establishing that
6 element of the crime charged. It is not to be used
7 by you in any way to determine that because he has
8 been convicted of a violent crime which is a felony
9 in the past that he is, therefore, guilty of these
10 offenses. It is not to be used by you in any way
11 whatsoever along those lines. It's to be used,
12 again, by you -- if at all -- only on the issue of
13 whether or not the State has met the burden of
14 proving one of the elements of a pertinent charged.

15 All right. Any objection to that from the
16 State?

17 MR. WRIGHT: No objection, Your Honor.

18 THE COURT: Defendant Grant?

19 MR. PLEXICO: No, Your Honor.

20 THE COURT: All right. Mr. Wright, the witness
21 has been sworn.

22 Your name, again, sir?

23 THE WITNESS: Sergeant Michael Thomas.

24 DIRECT EXAMINATION

25 BY MR. WRIGHT:

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 Q Sergeant Thomas, please tell the jury what it is
2 you do for Estill police department.

3 A I am currently the lead investigator for the
4 Estill police department.

5 Q How long have you been in that capacity?

6 A Two years, two months.

7 Q On August 22nd, 2015, you were in that capacity?

8 A Yes, sir, I was.

9 Q Did you have an occasion to be involved in an
10 incident where Defendant Grant and Defendant Castro were
11 involved?

12 A Yes, sir.

13 Q Can you please tell the jury all facts related to
14 that situation?

15 A Yes, sir. On that particular day, I was the
16 investigator on call. I received the phone call and I
17 proceeded to go into the town limits. When I got into the
18 town limits, the patrol officers on duty, they already
19 collected some witness' statements, had the victim already
20 sent off to the hospital, and already cleared the scene.

21 When I got back to my desk, I started to look
22 over some of the witnesses' statements. It mentioned a
23 Frederick McPherson and a Barrington Grant as being
24 involved, and they gave a description of the vehicle, at
25 which time I patrolled around the town to see if I could

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 possibly locate the individuals.

2 I would say about two hours later, on Second
3 and, I would say, King Street, I located the vehicle, at
4 which time I identified Mr. Grant and Mr. Frederick
5 McPherson.

6 Mr. McPherson, I approached him and said,
7 Hey, listen, you guys' names were alleged to be involved in
8 a crime that occurred earlier today. He agreed to give me a
9 written statement.

10 When I approached Mr. Grant, he refused to
11 give me a statement.

12 MR. PLEXICO: I'd move to strike that, Your
13 Honor. That's --

14 THE COURT: All right. Ladies and gentlemen,
15 please go to your jury room. You may not discuss
16 the case.

17 (The Jury exits the courtroom at
18 2:26 p.m.)

19 THE COURT: All right. Mr. Plexico.

20 MR. PLEXICO: Your Honor, he has the right to
21 remain silent under the Constitution. I believe
22 that's an inadmissible comment on his right to
23 remain silent.

24 I don't have notes in the file about this
25 conversation, but I have a note in the file about a

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 conversation the day after that, where my client
2 explains what happened, and it's beneficial to him.
3 And I wasn't given a synopsis, which is in my rule
4 file, for any statement that they're going to bring
5 in nor did I know they intended to bring in a
6 statement of my client. So I'd make --

7 THE COURT: Are you moving for a mistrial?

8 MR. PLEXICO: No, sir. I'm asking for
9 instruction that that testimony be stricken and
10 upgraded with instruction to the jury, Your Honor.

11 THE COURT: All right. State.

12 MR. WRIGHT: Did I miss -- I thought he said he
13 didn't give a statement.

14 THE COURT: Well, I know. But we all know that
15 it's hornbook law that he -- he couldn't say
16 anything about post arrest silence.

17 What's the case law on a defendant when the
18 police come up and say, hey, I want to talk to you,
19 and the defendant says, no. What is the case --
20 there's case law on it. I want y'all to tell me what
21 it is.

22 MR. PLEXICO: Well, Your Honor, when he is the
23 focus of an investigation and he is subject to
24 arrest, they have the duty to give him Miranda.
25 They failed in that duty.

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 THE COURT: He wasn't -- he wasn't --

2 MR. PLEXICO: He wasn't --

3 THE COURT: Wait a minute. I'm talking.

4 He wasn't under arrest. They don't have to give
5 him Miranda.

6 MR. WRIGHT: He wasn't the focus of the
7 investigation either, it was about the cut, which
8 was dealing with Ebony Castro. He came up later on
9 after information was gathered, that he had his
10 weapon and then they researched and found that he
11 had a conviction.

12 THE COURT: Okay. What's the case law?

13 MR. PLEXICO: I don't have any case law to cite
14 right now, Your Honor. I didn't anticipate this
15 coming forward. Then it would be a violation of
16 Rule 5 to talk about something they haven't given
17 me.

18 THE COURT: All right. Go ahead and finish
19 examining the witness on this issue. And I'm going
20 to have to find it myself. Okay. Go ahead.

21 MR. WRIGHT: Are we going to get the jury back,
22 or you want me to --

23 THE COURT: No. You're going to question him
24 right now. Go ahead.

25 What did he say when you asked him -- you asked

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 me what again, sir?

2 THE WITNESS: I asked him if he would like to
3 talk with me.

4 THE COURT: And he said no?

5 THE WITNESS: "No."

6 THE COURT: All right. Go ahead. Go ahead,
7 Mr. Wright.

8 MR. WRIGHT: Did Mr. McPherson give a
9 statement?

10 THE WITNESS: Yes, sir, he did.

11 MR. WRIGHT: Okay. And what did his statement
12 lead you to?

13 THE WITNESS: Basically, by going by his
14 statement, it actually put Mr. Barrington -- excuse
15 me, Barrington Grant --

16 THE COURT: Whose statement?

17 THE WITNESS: Fred McPherson.

18 THE COURT: That's hearsay.

19 MR. WRIGHT: I've asked him what did it lead
20 him to do. I didn't ask him what he said to him.

21 THE COURT: All right.

22 THE WITNESS: It led me to go -- excuse me, to
23 go re-interview all of those witnesses whose
24 statements I had.

25 MR. WRIGHT: Okay. Based on your investigation

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 up to that point, had you developed any suspects?

2 THE WITNESS: Yes.

3 MR. WRIGHT: And who were those suspects, and
4 suspects for what?

5 THE WITNESS: Ebony Castro, in reference to the
6 assault on the victim, and Barrington Grant for
7 possession of a firearm and presenting.

8 MR. WRIGHT: Okay. Your Honor, do you want me
9 to keep going through the whole litany of what I've
10 asked him the whole time or just --

11 THE COURT: No, that's okay.

12 All right. Your position on the -- what's your
13 position on the instructions that Mr. Plexico wants?

14 MR. WRIGHT: I believe he wants me to say that
15 they can't use his silence against him, and I'm okay
16 with that.

17 THE COURT: All right. Is that what you want,
18 Mr. Plexico?

19 MR. PLEXICO: Yes, Your Honor.

20 THE COURT: All right. I'll do that.

21 Okay. Anything else before I bring the jury
22 back out?

23 MR. WRIGHT: Yeah, that's the only thing I'm
24 going to ask about that before he goes.

25 THE COURT: All right.

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 MR. PLEXICO: You asked, do they intend to
2 offer any other statements my client made?

3 MR. WRIGHT: That's the only non statement that
4 we have.

5 THE COURT: Were any statements made that you
6 have, Mr. Plexico?

7 MR. PLEXICO: I didn't have that statement.
8 The statement I do have was in this one paragraph
9 where essentially my client says he walked up, he
10 tried to calm them down, then everything broke
11 loose, and then he was pistol whipped, the gun went
12 off. He was struck with a brick. And are they
13 planning on introducing that one?

14 MR.. WRIGHT: That's not part of my
15 case-in-chief. I imagine he may want to ask that
16 question to try to establish his case, but I'm not
17 planning on asking for it.

18 THE COURT: Well, it's hearsay if he tries to
19 do it. My question is: Are you going to offer in
20 your case-in-chief any statements from either
21 defendant, your case-in-chief?

22 MR. WRIGHT: My case-in-chief? I believe that
23 he spoke to both Ms. Ebony Castro and to Mr.
24 Barrington Grant, and so I'd say yes.

25 THE COURT: Okay. And you -- does the defense

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 have those statements?

2 MR. WRIGHT: I don't have the statements, but
3 my understanding from speaking to the -- he spoke to
4 them, he didn't take statements from them, they
5 didn't want to give statements. He spoke to them.

6 THE COURT: What did they say?

7 MR. WRIGHT: My understanding that neither one
8 of them admitted to it. No admissions. It's just
9 that he spoke to them, asked them if they wanted to
10 give statements, and they said no, for the most
11 part. Is that --

12 THE WITNESS: That's not entirely true.

13 THE COURT: Let's go ahead and -- that's a Rule
14 5 issue, and may be a Brady issue, even a verbal
15 statement. You've got to tell them what it is.

16 MR. WRIGHT: Well, I don't know what it is.

17 THE COURT: But you got to know. You got to
18 find out. So we're going to find out right now.

19 Go ahead and ask him.

20 MR. WRIGHT: Did you ever speak to Ms. Ebony
21 Castro?

22 THE WITNESS: Not until her arrest, no.

23 MR. WRIGHT: Say again?

24 THE WITNESS: Not until her arrest, no.

25 MR. WRIGHT: Not until her arrest?

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 THE WITNESS: Yes.

2 MR. WRIGHT: Did you talk to her after her
3 arrest?

4 THE WITNESS: Yes.

5 MR. WRIGHT: Did she give you any statements?

6 THE WITNESS: No, sir.

7 MR. WRIGHT: Okay.

8 THE COURT: That's totally impermissible for
9 him to say. Do you agree with that?

10 MR. WRIGHT: That she didn't give any
11 statements prior to her arrest or --

12 THE COURT: No. After her arrest.

13 MR. WRIGHT: Oh, yes, I do agree.

14 THE COURT: Okay. Nobody talked to her
15 evidently before she was arrested, according to this
16 witness. And this is to the law enforcement people.

17 Comment on post arrest silence is strictly
18 prohibited. Okay? So you disagree or agree with
19 that?

20 MS. SMART-GITTINGS: I agree, Your Honor.

21 THE COURT: Okay. Do you have any other points
22 you want to put on the record about any statements
23 or non statements?

24 MS. SMART-GITTINGS: Well, Your Honor, if
25 Investigator Thomas were to give any statements

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 whatsoever according to -- in regard to Defendant
2 Castro, I don't have a police report, I don't have a
3 supplement, I don't have anything from Investigator
4 Thomas about his investigation --

5 THE COURT: The way I heard what he testified
6 to is she never gave one.

7 MS. SMART-GITTINGS: Okay. But even if he is
8 giving testimony that he heard from any other
9 witness, that information has not been provided.

10 THE COURT: Well, it's hearsay anyway.

11 MS. SMART-GITTINGS: Okay.

12 THE COURT: If he says that Joe Blow told him
13 that Ebony Castro cut the lady in the ear, that's
14 hearsay.

15 MR. WRIGHT: That's already been put into
16 evidence.

17 MS. SMART-GITTINGS: Okay.

18 THE COURT: So this witness will not be
19 permitted to testify about -- certainly about
20 Ms. Castro's post arrest silence.

21 MR. WRIGHT: Or Mr. Grant's --

22 THE COURT: Or any other statement that she may
23 have made because there's no production under Rule 5
24 or Brady.

25 In addition to that, I'll give the jury the

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 instruction that they are not to consider in any way
2 Mr. Grant's silence. Okay?

3 MR. WRIGHT: Okay.

4 THE COURT: That's what you wanted,
5 Mr. Plexico?

6 MR. PLEXICO: All right. Yes, Your Honor.

7 And my -- now, my client gave a statement which
8 I believe is admissible, that actually favors him.

9 THE COURT: Favors who?

10 MR. PLEXICO: My client.

11 THE COURT: You can't get that in through this
12 witness. Now, if you want to proffer it, you can,
13 but it's hearsay.

14 MR. PLEXICO: I understand, Your Honor.

15 MR. WRIGHT: I have a clear understanding, Your
16 Honor.

17 THE COURT: Okay. So you want to proffer it
18 now, Mr. Plexico?

19 MR. PLEXICO: No, Your Honor. That's fine.
20 I'm just -- if you'll just give the curative
21 instruction, I believe that'll take care of it.

22 THE COURT: Okay. Are you ready for the jury?

23 MR. WRIGHT: Yes, sir.

24 THE COURT: All right. You can bring them in.
25 And if y'all need a bench conference at anyE

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 time to clarify anything after the jury comes in,
2 that's fine. Just let me know, y'all can come on up.

3 MR. WRIGHT: Yes, sir.

4 (The Jury enters the courtroom
5 at 2:34 p.m.)

6 THE COURT: All right. Ladies and gentlemen,
7 I'm going to instruct you for some of the law.
8 You're required to follow the instructions that I
9 give you.

10 You're to disregard the testimony given
11 previously that Mr. Grant did not say anything.

12 All right. Any objection to that, Mr. Plexico?

13 MR. PLEXICO: No, Your Honor.

14 THE COURT: All right. Mr. Wright, any other
15 thing before we move forward?

16 MR. WRIGHT: None, Your Honor.

17 THE COURT: All right. You can go ahead.

18 DIRECT EXAMINATION CONTINUED

19 BY MR. WRIGHT:

20 Q During your investigation, did you have the
21 opportunity to speak to Melissa Fields?

22 A Yes, sir.

23 Q Did she give you a statement?

24 A Yes, sir, she did.

25 Q Did she give you a verbal statement or a written

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 statement?

2 A Actually, what she did was give me a verbal. She
3 wasn't able to quite write herself, because she said she was
4 too nervous, so she had a Ms. Manual -- excuse me, Faith
5 Manual, I believe, write it for her in my presence as she
6 verbally told it to her.

7 Q Walk us through the procedure that you went
8 through to get the statement from her.

9 A The patrol officers requested that any witness at
10 that situation come down to the police department, at which
11 point in time, I didn't read her her rights because
12 obviously she wasn't a suspect. But I asked her just to
13 tell me in her own words what occurred, at which point in
14 time she verbally gave it to me. And I asked her did she
15 have any problem putting it on paper, she said no.

16 MR. WRIGHT: May I approach, Your Honor?

17 THE COURT: Yes, sir. What number is that,
18 please?

19 MR. WRIGHT: This has been previously marked as
20 State's Exhibit 2 for identification purposes.

21 THE COURT: Okay.

22 BY MR. WRIGHT:

23 Q Take a look at that document and tell me if you've
24 ever seen that document before.

25 A Sir, I have.

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 Q Is your name on that document?

2 A No, sir.

3 Q Did you sign it at the bottom?

4 A This is Officer Thorp. He was the -- he was there
5 with me, yes, sir.

6 Q Okay. All right. Hang on one second.

7 Were you there when she was speaking to you?

8 A Yes, sir.

9 Q All right. And based on what she told you, what
10 did you do?

11 A Well, generally, first and foremost, I try not to
12 ever sign as a witness on a witness' statement. I always
13 have another officer there and they sign as the witness
14 because I'm the one asking the questions.

15 Q Okay. But without going into details of what she
16 said, based on what she said, what did you end up doing?

17 A I found that there was probable cause to believe
18 that there was a weapon involved. So, I requested through
19 our local judge, through an affidavit, to go ahead and give
20 me a warrant.

21 Q Based on what you received from Ms. Melissa
22 Fields, did you believe that there was a weapon involved in
23 this situation?

24 A Yes, sir, I did.

25 Q Did you believe that Defendant Castro lacerated --

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 MR. PLEXICO: That's going to be -- object,
2 Your Honor. The foundation would be hearsay for
3 that answer.

4 THE COURT: All right. Come on up, please.

5 (Discussion at the Bench.)

6 THE COURT: Objection's overruled.

7 BY MR. WRIGHT:

8 Q Could you please tell the jury what Ms. Fields
9 said to you, Ms. Melissa Fields?

10 A Basically what Ms. Fields stated was, she was
11 present at the melee. From her explanation, there was a
12 fight amongst a large group of people. She said during that
13 melee she observed Mr. Grant brandish a firearm, which I
14 believe -- I'm not looking back at the statement -- which I
15 believe she stated was silver in color, I believe.

16 Q Okay. And what about as it pertains to
17 Ms. Castro, what did she say?

18 A She didn't state verbally that she saw her cut
19 her. She saw her -- they were hooked up and that they were
20 in a fight, and when they broke -- when they both separated,
21 the victim, she was bleeding from her ear.

22 Q Okay. This all occurred in Hampton County?

23 A Yes, sir.

24 Q And you remember the date?

25 A Yes, sir.

DIRECT EXAMINATION OF M. THOMAS BY WRIGHT

1 Q What was that date, August 22nd?

2 A August 22nd, 2015.

3 MR. WRIGHT: Please answer any questions the
4 defense attorneys have for you.

5 THE COURT: Mr. Plexico.

6 MR. PLEXICO: Thank you.

7 CROSS EXAMINATION

8 BY MR. PLEXICO:

9 Q When you saw my client, how did he appear when you
10 first saw my client?

11 A Explain "how did he appear."

12 Q Well, did he have blood on him?

13 A I didn't see any, no, sir.

14 Q You didn't see any blood on him?

15 A I didn't see any blood on him, no, sir.

16 Q Okay. All right. Now, how did Ms. Fields appear
17 to you when you saw her; did you see any blood on her?

18 A No, I didn't see any blood on her.

19 Q Okay. You said she was just nervous?

20 A Yes. She appeared to be nervous, and stated that
21 she was nervous, and that she couldn't write her statement,
22 yes, sir.

23 Q And that's why. To the best of your memory,
24 that's why she couldn't write her statement is that she was
25 nervous?

CROSS EXAMINATION OF M. THOMAS BY PLEXICO

1 A Yes, sir.

2 Q Okay. Who wrote the statement?

3 A Ms. Manual Faith.

4 Q Okay.

5 A Or Faith Manual, excuse me.

6 Q All right. So she was a witness, too, correct?

7 A I believe so, yes, sir.

8 Q Okay. So is it normal police procedure in Estill
9 to allow witnesses to the same crime to write each other's
10 statements?

11 A I see no wrong in that, yes, sir.

12 Q Is that the way they train y'all at the academy,
13 is to let different witnesses write the statements for other
14 witnesses?

15 A As long as they're both present and allow for it,
16 yes, sir.

17 Q Is there any reason you didn't write the statement
18 for her?

19 A No, sir. I wanted to show a total unbiased.

20 Q Okay. But you weren't there and you don't know
21 that, correct?

22 A That's correct, sir.

23 Q Okay. All right. How long afterwards did you
24 arrive there?

25 A About two hours, sir. I'll say about two hours.

CROSS EXAMINATION OF M. THOMAS BY PLEXICO

1 Q And you saw -- you interviewed them on the scene.

2 A The patrol officer interviewed at the scene, I
3 interviewed at my office.

4 Q At your office?

5 A Yes, sir.

6 MR. PLEXICO: The Court's indulgence.

7 THE COURT: Yes, sir.

8 (Pause.)

9 MR. PLEXICO: I don't have anything further.

10 THE COURT: All right. Ms. Smart. Ma'am?

11 CROSS EXAMINATION

12 BY MS. SMART-GITTINGS:

13 Q Melissa Fields that you're referring to, did you
14 see her here today?

15 A Yes, sir -- ma'am, I have.

16 Q Okay. And she was the lady with the blunt short
17 hair?

18 A The weave, yes. Yes.

19 Q Okay. And so it's your testimony to this jury
20 that she told you that she saw Mr. Grant with a gun?

21 A Yes, yes.

22 Q She verbally told you that?

23 A Yes.

24 MS. SMART-GITTINGS: I don't have any other
25 questions.

CROSS EXAMINATION OF M. THOMAS BY SMART-GITTINGS

1 THE COURT: Okay. Any redirect?

2 MR. WRIGHT: No redirect.

3 THE COURT: Thank you, sir. You can step down.

4 Oh, Mr. Plexico?

5 MR. PLEXICO: I don't have anything further.

6 THE COURT: Thank you. You can step down.

7 All right. Mr. Wright.

8 MR. WRIGHT: I would ask that he stick around,
9 but I would like him to be dismissed in case
10 something comes up, he can go handle his business.

11 THE COURT: Okay. Any objection to that?

12 MR. PLEXICO: I have no objections, Your Honor.

13 MS. SMART-GITTINGS: I don't have any
14 objection.

15 THE COURT: Just follow his instruction. Okay?

16 MR. WRIGHT: You're free to go, if you need to.

17 THE COURT: All right. Mr. Wright.

18 MR. WRIGHT: The Court's indulgences.

19 THE COURT: Yes, sir.

20 MR. WRIGHT: The State rests, Your Honor.

21 THE COURT: Okay. Ladies and gentlemen, the
22 State has rested, which means that the State has
23 presented all the evidence it is going to present in
24 it's case-in-chief. The rules that we operate under
25 require me to take a recess at this point to take up

STATE RESTS/COLLOQUY

1 matters with the lawyers that will be relevant to
2 the further conduction of the trial. So if you
3 would please go to your jury room. You may not
4 discuss the case at all. Have you back out as soon
5 as possible.

6 (The Jury exits the courtroom at
7 2:43 p.m.)

8 THE COURT: Okay. Let me put a couple of
9 things on the record before they slip my mind.
10 Put on the record the Bench conference. My
11 ruling in response to the defense objection to
12 hearsay, and I think Ms. Smart joined in that, too;
13 is that correct, Mr. Plexico, hearsay objection?

14 MS. SMART-GITTINGS: That is correct,
15 Your Honor.

16 THE COURT: The objection was made when the
17 last witness, Mr. Thomas, testified that Ms. -- or
18 Mr. Grant -- excuse me, Ms. Fields told him certain
19 things in her statement. There are two rules that
20 come into play I want to make sure the record is
21 clear on.

22 First of all, a prior inconsistent statement
23 under Rule 801 is not hearsay. That's why I
24 overruled that objection. And along with that, I
25 wanted to explain my ruling on the record under 613 A

STATE RESTS/COLLOQUY

1 and B, specifically B, that extrinsic evidence of a
2 prior inconsistent statement by a witness -- in this
3 instance, Ms. Fields -- is not admissible unless she
4 is advised of the substance of the statement, the
5 time and place it was allegedly made, the person to
6 whom it was made, and she was given the opportunity
7 to explain or deny the statement. If she did not
8 admit that she made the prior statement, extrinsic
9 evidence of the statement is admissible.

10 And the case law goes a little bit further and
11 says if she equivocates or denies it in any respect,
12 then extrinsic evidence is admissible.

13 I allowed the extrinsic evidence of Investigator
14 Thomas, because I think that the foundation had been
15 laid, not only with the direct examination of
16 Ms. Fields, but also the cross examination of her by,
17 I believe, both Ms. Plexico and Ms. Smart.

18 So that's why I wanted to make sure that the
19 record clearly contains my reasoning.

20 Also, to go back on the res gestae theory
21 offered by Mr. Wright in support of him offering the
22 prior difficulty evidence, I read off earlier the res
23 gestae case law excerpts. My ruling in letting that
24 in was I thought it was relevant to establish the
25 whys and wherefores of why they chose to engage in an

STATE RESTS/COLLOQUY

1 altercation on this particular day, and Ms. Smart's
2 objection was, under 403, that the probative value
3 that that prior difficulty -- of that prior
4 difficulty was substantially outweighed by the danger
5 of unfair prejudice.

6 There are a couple of key words in there. One
7 is "substantially" and also "unfair."

8 Obviously the testimony is designed to be
9 prejudicial, that's why the State wanted to offer it.
10 But my view is that the probative value of that prior
11 difficulty evidence is not substantially outweighed
12 by any danger of unfair prejudice.

13 I think the jury is not expected to decide the
14 case in a vacuum, and to give the jury a clear
15 context or full picture of why they were doing what
16 they were doing at any given time, I think that
17 evidence was admissible.

18 Okay. Mr. Plexico and Ms. Smart, if you could
19 come forward and allow your clients to be sworn.

20 Thereupon,

21 BARRINGTON GRANT

22 was called as a witness, having been first duly sworn,
23 was examined and testified as follows: Barrington Grant.

24 Thereupon,

25 EVELYN CASTRO

DEFENDANTS SWORN AND QUESTIONED BY THE COURT

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE COURT: All right. Mr. Grant and
4 Ms. Castro, we've reached the stage now in your
5 trial where you can, if you choose to do so, present
6 your own defense. That includes whether or not you
7 will testify in this case.

8 In that regard, I want to talk to you about your
9 rights. You have the right under the fifth
10 amendment -- or what the fifth amendment states in
11 pertinent part is no person in any criminal case
12 shall be compelled to be a witness against
13 themselves. That applies to both of you. That right
14 that you have under the fifth amendment is a personal
15 right that both of you enjoy.

16 Since it is a personal right, no one can give it
17 up except for you. I'm talking you together, but
18 you're to consider these things just individually.
19 Again, it's a personal right, no one can give it up
20 except for you.

21 If you decide to testify, I will tell the jury
22 that that does not mean that you have chosen the
23 burden of proving or disproving anything. But if you
24 choose to testify, you will be subject to the same
25 basic rules that govern the direct and cross

DEFENDANTS SWORN AND QUESTIONED BY THE COURT

1 examination of any other witness who's testified.

2 You've seen that firsthand with the witnesses
3 who've been called. Questions are asked on direct
4 and questions are asked on cross examination. The
5 same rules essentially apply to you, too.

6 In addition to that, even though it might not be
7 relevant, based on our discussions from Monday, if
8 you have been convicted of any crime that involved
9 dishonesty or false statement, depending upon the
10 timing of that conviction or your release from
11 confinement, those can be introduced to impact your
12 credibility only. Your believability. Not whether
13 or not you're a bad person, or your character, in
14 order to prove that you did these things, only on the
15 issue of your credibility.

16 In addition to that, under the same rule, if
17 you've been convicted of a crime that carried
18 potential imprisonment for more than one year, and if
19 I conduct a certain balancing test and determine that
20 the probative value of allowing that conviction does
21 not weigh -- outweigh a prejudicial effect to you,
22 that conviction might well be introduced to impact
23 your believability. But for that reason alone.

24 When all is said and done, the decision is going
25 to be yours whether or not you will or won't testify.

DEFENDANTS SWORN AND QUESTIONED BY THE COURT

1 One of you could decide to testify, one of you could
2 decide not to. Both of you could decide to or both
3 of you could decide not to. Your decision has to be
4 made based on the advice of your lawyer, your own
5 thoughts, and any input from other people that you've
6 spoken to.

7 No one can force you to take the witness stand
8 at all. Even if you want to testify and your lawyer
9 doesn't want you to, what you want to do trumps what
10 your lawyer wants you to do. Make sure you
11 understand that.

12 And you understood everything so far on that
13 point, Mr. Grant?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Ms. Castro?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I know that you -- I requested your
18 lawyers to talk to you about that during the lunch
19 break. If you want to discuss that with them, with
20 your lawyer further, you can do that because we're
21 going to take a few minutes in recess anyway. And
22 in a moment, when you sit down, the lawyers are
23 going to make some motions, I would assume, and you
24 can be thinking about it and also consult with them
25 further and let me know your decision.

DEFENDANTS SWORN AND QUESTIONED BY THE COURT

1 And I'll tell you this also. If you decide you
2 do or don't want to testify, and you change your mind
3 either way, just let your lawyer know. If y'all need
4 further time to confer, you can do that.

5 In other words, when you tell me what you want
6 to do, that doesn't lock it in stone. The only time
7 you can't change your mind is after your side, your
8 particular case has rested.

9 All right? You understood that, Mr. Grant?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Ms. Castro?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Any objection to those
14 questions from you, Mr. Plexico?

15 MR. PLEXICO: No, Your Honor.

16 THE COURT: Ms. Smart?

17 MS. SMART-GITTINGS: No, sir.

18 THE COURT: Mr. Wright, did I cover everything
19 in your judgment?

20 MR. WRIGHT: You did, Your Honor.

21 THE COURT: Okay. Y'all can have a seat.

22 All right. Mr. Plexico, do you have any
23 motions?

24 MR. PLEXICO: Yes, Your Honor. In regards to

25 Nathans 2015 GS 2500305 and Indictment 2015 GS

MOTIONS

1 2500297, I would move for a directed verdict on the
2 grounds that they have failed to put up sufficient
3 evidence taken most favorably in the light in
4 regards to the State.

5 In the light most favorable to the State, Your
6 Honor, to carry the case forward, we'd ask for a
7 directed verdict of both indictments of not guilty.

8 THE COURT: All right. Mr. Wright.

9 MR. WRIGHT: Your Honor, it's in evidence from
10 the victim stating that Mr. Barrington Grant did
11 present a firearm while making boisterous statements
12 to her about her and his sister been involved in a
13 fight. We believe that, along with the stipulation
14 made by myself and Mr. Grant's attorney, establish
15 prima facie cases for both pointing and presenting a
16 firearm and possession of a firearm by a person
17 convicted of a violent felony. I think that there's
18 more than enough evidence to take to the jury.

19 THE COURT: Okay. Mr. Plexico, any response?

20 MR. PLEXICO: No, Your Honor.

21 THE COURT: All right. Those motions are
22 respectfully denied. I think they're -- if the jury
23 chooses to believe Ms. Singleton, the jury could
24 conclude beyond a reasonable doubt that Mr. Grant
25 did possess a weapon. But she says he pulled it out

MOTIONS

1 from his belt or pants area, kind of showed it to
2 her, and said what she said he said.

3 In addition to that, the stipulation is evidence
4 that he has been convicted of a predicate crime that
5 brings the other statute into play. It all's going
6 to depend on whether or not they believe her.

7 And also the prior inconsistent statement
8 evidence, I'm using that term as a term of art, not
9 because I think that it's inconsistent, of
10 Ms. Fields, that she told Investigator Thomas that
11 Mr. Grant had a gun.

12 All right. Ms. Smart, do you have any motions?

13 MS. SMART-GITTINGS: I do, Your Honor.

14 Your Honor, in regard to Defendant Castro, I
15 make a motion for directed verdict, in that the State
16 has failed to prove competent evidence to prove the
17 elements of assault and battery in the second degree
18 in that --

19 THE COURT: You mean, ABHAN.

20 MS. SMART-GITTINGS: I mean --

21 THE COURT: Assault and battery of a high and
22 aggravated nature.

23 MS. SMART-GITTINGS: For Ms. Castro.

24 THE COURT: Okay. There's no A and B second,
25 at least from an indictment standpoint.

MOTIONS

1 MS. SMART-GITTINGS: Assault and battery, high
2 and aggravated nature..

3 Your Honor, there is no -- the bodily injury,
4 the EMT testified, and I would believe that she was a
5 competent witness as far as an expert to testify to
6 the level of injury that the victim received. And
7 with that being said, we don't believe that they've
8 met their burden to prove with competent evidence the
9 elements of the charge.

10 THE COURT: All right. Mr. Wright.

11 MR. WRIGHT: Your Honor, the statute reads
12 great bodily injury means bodily injury with --

13 THE COURT: Slow down for the court reporter.

14 MR. WRIGHT: I apologize.

15 The statute, 16-36-00, reads: Great bodily
16 injury means bodily injury which causes substantial
17 risk of death or which causes serious permanent
18 disfigurement or protracted loss or impairment of the
19 function of a bodily member or organ.

20 The victim stated multiple times that she
21 doesn't have full sensation in her ear, and she
22 showed the jury a keloid scar on her ear which all
23 lead the jury to believe that's a permanent
24 disfigurement and protracted loss and impairment of
25 the function of that skin on her ear. I think that's

MOTIONS

1 enough evidence for the great bodily injury portion.
2 I think there's enough evidence presented from
3 multiple people that the injuries had to come from
4 this locking up of two, based on Ms. Melissa Fields
5 and from the victim, and from Ms. Mary Ann Fields,
6 saying that those two were the only two together
7 before she got cut. And I believe the statement from
8 the actual victim saying she saw a sharp object in
9 her hand and that the Defendant told her she was
10 going to cut her is more than enough evidence to go
11 to the jury, and they can make a decision of whether
12 or not there's pertinent information to find the
13 Defendant guilty.

14 THE COURT: Okay. Ms. Smart, any follow-up or
15 response to that argument?

16 MS. SMART-GITTINGS: None, Your Honor.

17 THE COURT: Okay. I think that's a jury issue
18 as well. It's certainly a jury issue on the issue
19 of disfigurement and loss of impairment of an organ.
20 I'll have to read that statute.

21 I don't think the fact that the paramedic was
22 not qualified as a medical doctor has anything to do
23 with the jury's own view of that scar in determining
24 whether or not that scar, which is now four plus --
25 about nine months old, whether or not it could have

MOTIONS

1 -- it may well be permanent. I think they can
2 resolve that in their own minds.

3 I don't think that they need any medical
4 testimony to reach that conclusion. Of course, the
5 absence of medical testimony can be argued by you as
6 a reason that there's certainly reasonable doubt as
7 to whether or not great bodily injury has occurred.

8 All right. So that will -- I respectfully deny
9 your motion for directed verdict.

10 Y'all need some more time to talk, Mr. Plexico
11 and Ms. Smart?

12 MR. PLEXICO: I don't think I do, Your Honor.

13 THE COURT: All right. Mr. Grant, would you
14 please stand right where you are.

15 Have you had a chance to decide whether or not
16 you will or will not testify?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: What is that decision?

19 THE DEFENDANT: I will not, sir.

20 THE COURT: Okay. And has anyone forced you to
21 make that decision?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anyone at all used any type of
24 threat or promise to get you to do that?

25 THE DEFENDANT: No, sir.

MOTIONS

1 THE COURT: You made that decision of your own
2 free will?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you understand that at any time
5 after Mr. Plexico says the words, Defendant Grant
6 rests, you can change your mind, you just need to
7 let him know?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Thank you. You can
10 have a seat.

11 Ms. Castro, if you could please stand. You're
12 still under oath, of course.

13 Have you had sufficient time to decide whether
14 or not you will or will not testify?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you made that decision?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And what is it?

19 THE DEFENDANT: I will not.

20 THE COURT: Has anyone used any threat or
21 pressure to get you to make that decision?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anyone promised you anything?

24 THE DEFENDANT: No.

25 THE COURT: Is that your decision of your own

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1 free will?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: As I mentioned to Mr. Grant, if you
4 change your mind, even when the jury is walking in
5 or up to the point where your lawyer says that you
6 rest, you can change your mind. Is that clear?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And by the way, do you have any
9 questions of me about your rights?

10 THE DEFENDANT: No.

11 THE COURT: Mr. Grant, do you have any
12 questions about the rights I've explained to you?

13 THE DEFENDANT: No, sir.

14 THE COURT: Okay. Thank you. You can have a
15 seat.

16 All right. It's 3 o'clock now. We've talked
17 about the jury charge, we haven't talked anything
18 about the verdict form or lesser included. With
19 regard to Mr. Grant, there are no potential lesser
20 includes.

21 Is the Defendant or the State, do you think
22 there is, Mr. Plexico?

23 MR. PLEXICO: No, Your Honor.

24 THE COURT: So Mr. Grant's verdict form will
25 be -- it'll say -- there'll be two verdict forms for

MOTIONS

1 him. Indictment number, whatever the one is, we the
2 jury find the Defendant not guilty/guilty of
3 pointing or presenting a firearm. And then on the
4 other one, it'll be a not guilty or guilty charge as
5 well. So he'll have two separate verdict forms, one
6 for one indictment, one for the other.

7 Ms. Smart and Mr. Wright, what are y'all's
8 prospective positions on any lesser includeds on the
9 ABHAN?

10 MR. WRIGHT: The State is not opposed to lesser
11 includeds being included in the jury charge, down to
12 assault and battery first degree.

13 THE COURT: All right. Assault and battery
14 first is the -- got ABHAN here, right below that's A
15 and B first. Right below that's A and B second.
16 And right below that is the magistrate's level, A
17 and B third.

18 Do you want all of those on there?

19 MR. WRIGHT: Well, I'm okay with that, yes.

20 THE COURT: All right. Ms. Smart.

21 MS. SMART-GITTINGS: The Court's indulgence.

22 THE COURT: All right. Yeah. Take your time.

23 I'll tell you what, let's take about five
24 minutes so y'all can discuss that, because that's
25 something that certainly merits some discussion. So

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1 let's take a few minutes in recess.

2 (Whereupon, a brief recess was
3 taken.)

4 THE COURT: Yes, ma'am.

5 MS. SMART-GITTINGS: Your Honor, I've spoken
6 with Ms. Castro, and we'd be opposed to any lesser
7 includeds.

8 THE COURT: All right. Mr. Wright, what's your
9 response to that?

10 MR. WRIGHT: It's my understanding that I have
11 the right to have lesser included on there. I think
12 that she can object, but I don't think it's her
13 right to ask for them or not. It's the State's --

14 THE COURT: Well, you're right about that. If
15 either side wants it and it fits, I have to give it.

16 Do you still want all three? Let me -- what's
17 the code section 16, dash 23, dash what?

18 MR. PLEXICO: 600.

19 MR. WRIGHT: 600. I definitely want something
20 like a first degree. We can do second degree. I
21 don't want third degree.

22 THE COURT: Okay. Well, you don't want any, so
23 I guess --

24 MS. SMART-GITTINGS: I don't want any,
25 Your Honor.

MOTIONS

1 MR. WRIGHT: Split the baby, put first.

2 THE COURT: 16-23-600?

3 MR. WRIGHT: I thought I was being generous by
4 putting all three of them on there, but we can just
5 do two.

6 THE COURT: 16-3-600.

7 MR. WRIGHT: Yes, sir.

8 THE COURT: I know this statute was amended.

9 MR. WRIGHT: In 2010.

10 THE COURT: No, it was amended after that, too.
11 Arguably, to make it clearer. I don't think they
12 succeeded.

13 All right. A person commits the offense of
14 assault and battery of a high and aggravated nature
15 if the person unlawfully injures another person and
16 great bodily injury results, or the act is
17 accomplished by means likely to produce death or
18 great bodily injury.

19 The Legislature has defined great bodily injury
20 as bodily injury which causes a substantial risk of
21 death or which causes serious permanent
22 disfigurement, or protracted loss or impairment of
23 the function of a bodily member or organ.

24 And you go back down. A and B first is a lesser
25 included of assault and battery of a high and

MOTIONS

1 aggravated nature. I think A and B first certainly
2 fits, especially based on your argument that there
3 wasn't great bodily injury.

4 A and B second moves down from great bodily
5 injury to moderate bodily injury. And A and B third
6 just says injury. So I think I have to give all of
7 those.

8 I can tell a story, not going to tell it, but I
9 could tell a story about a jury's struggle with that
10 in another county. It's not a -- sometimes it's not
11 a pretty site to have to charge that to a jury, but
12 that's what my responsibility is.

13 Yes, sir.

14 MR. WRIGHT: I do have a question. In the
15 back, I believe, Ms. Smart-Gittings alluded to the
16 fact that she may try to assert the self-defense.

17 THE COURT: Well, we're going to talk about
18 that now, yeah. Go ahead, since you brought it up.

19

20 MR. WRIGHT: It's my understanding that it has
21 to be achieved in that cause difficulty by her not
22 putting up any testimony. I don't want to infringe
23 upon her client's rights by saying that she did
24 cause some difficulties. I don't want to go into
25 any of their defense stuff. I'd like to have some

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1 clarification on what I can and can't say. But I
2 know she's going to bring it up in her closing, and
3 I don't want to -- I'm going first, and I don't want
4 to step on her client's rights.

5 THE COURT: You can't say anything about the
6 fact that her client didn't testify.

7 MR. WRIGHT: I know that, but if she's -- I
8 know she's going to put up the self-defense in her
9 closing, which is going to be after my closing.
10 That puts me into a conundrum. If I comment on it
11 and she doesn't say anything about self-defense, you
12 know, I just want some instruction from the Bench.

13 THE COURT: Well, are you asking for a
14 self-defense charge?

15 MS. SMART-GITTINGS: I am, Your Honor.

16 THE COURT: And do you object to that?

17 MR. WRIGHT: I do.

18 THE COURT: Okay. And the basis for that?

19 MR. WRIGHT: She -- part of that self-defense
20 is that she did not cause the difficulty that she
21 was in.

22 THE COURT: Can you tell from what
23 Ms. Singleton testified to as to who brought on the
24 difficulty?

25 MR. WRIGHT: Yeah. She came to the Rose

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1 Quarters. She didn't live there, she came to --

2 THE COURT: It's a public street, though.

3 MR. WRIGHT: I know, but she -- but, Your
4 Honor, she didn't come there just to buy apples.
5 She came there, you know, with an intent. They had
6 been in so many difficulties prior, she knew
7 something was going to happen when she came there.
8 So that's why she came with a crew.

9 THE COURT: All right. How about the immediate
10 difficulty, is there at least evidence that
11 Ms. Castro didn't bring on the immediate difficulty?

12 MR. WRIGHT: I think, since there were multiple
13 fights, and the first fight didn't result in the
14 injury, I think she was there long enough that she
15 could have got in her vehicle and left prior to
16 cutting the victim.

17 Because based on testimony from the witness
18 stand, something happened where the victim was jumped
19 on by multiple people, and that's why she really
20 wanted to fight her the second time. And then they
21 were in front of Ms. Fields's house and the second
22 fight started. So I'm thinking at that point, any
23 defenses of not bringing upon difficulties were gone.
24 But she could have got in her vehicle and went back
25 to her neighborhood, instead of being in the Rose

MOTIONS

1 Quarters at that point.

2 And I think that it's improper for that defense
3 to be used because she brought the difficulty by
4 being in her neighborhood. After all the spitting
5 and the fighting in the past, I think her best bet
6 would have been to leave the neighborhood.

7 THE COURT: Okay. Ms. Smart.

8 MS. SMART-GITTINGS: Your Honor, first of all,
9 Ms. Middleton testified that she went to Ms. Castro,
10 she said, do you want to fight me, come on, let's
11 fight.

12 Ms. Castro said, no, I don't want to fight,
13 because you always call the police on me.

14 And she said, yes, come on, let's fight.

15 She said that Ms. Castro spit at her and then
16 that's when, I guess, how she's saying that this
17 altercation occurred.

18 Ms. Fields also testified that Ms. Middleton
19 approached Ms. Castro --

20 MR. PLEXICO: Who's Ms. Middleton?

21 THE COURT: Ms. Singleton.

22 MS. SMART-GITTINGS: Singleton. Monique
23 Singleton approached Ms. Castro and started it.
24 That she went across the street to where Ms. Castro
25 was, and that's how the fight started.

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1 Ms. Castro couldn't have left because her
2 daughters were fighting, there was a huge crowd of
3 people there, there's no way she could have left.

4 And when she was pinned to the trailer, she
5 certainly couldn't have left. And Ms. Singleton
6 testified that she kept pounding on her, she kept
7 pounding on her.

8 Ms. Melissa Fields testified that Ms. Singleton
9 was pounding on her. So I don't think that the State
10 has proved any evidence that she started the
11 difficulty. Just by being in a neighborhood does not
12 start a fight.

13 MR. WRIGHT: The part she said about her saying
14 she didn't want to be in a fight, I don't remember
15 that being brought into evidence. That may be
16 something that she gathered from her client, but
17 that wasn't brought up in court, Ms. Ebony Castro
18 saying anything about not wanting to fight.

19 THE COURT: Well, how about your client, your
20 -- Ms. Singleton testified about 11:55 this morning
21 the Defendant started fighting another girl. And I
22 walked over to her and we fought because she was
23 supposed to be fighting me, not this other girl.

24 And then on the bottom, she said -- further
25 down, says, my purpose was to show her she couldn't

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1 beat me. And then she said, I had her pinned against
2 the house.

3 And I guess this part doesn't matter. She also
4 says she thinks she won the fight. That part doesn't
5 matter.

6 But she walked -- according to the victim, she
7 walked over to the Defendant because she didn't like
8 the fact that the Defendant was fighting somebody
9 else instead of her.

10 MR. WRIGHT: We don't deny there's mutual
11 combat, but I'm just saying that --

12 THE COURT: But isn't that part of
13 self-defense?

14 MR. WRIGHT: Mutual combat, and that she pulled
15 out a knife to cut her. That's way beyond -- she
16 caused difficulty. She was there fighting multiple
17 people, including my -- the victim.

18 THE COURT: Okay. Well, I'm going to charge
19 self-defense.

20 MR. WRIGHT: Thank you, Your Honor.

21 THE COURT: Okay. But going back to your
22 original question, since you've asked for the
23 charge, I'm going to charge it. If you remain
24 silent about it during your closing, I'm still going
25 to charge it, if that's what you want.

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1 In other words, you can't cry foul if he talks
2 about the fact that he has disproven self-defense.

3 Of course, if everybody agrees that the
4 Defendant doesn't have to prove self-defense, the
5 State has to disprove it.

6 MR. WRIGHT: Correct, Your Honor.

7 THE COURT: And you can argue all those things
8 you mentioned to me. But if he doesn't -- if he
9 talks about self-defense in his closing and you
10 don't -- I can't imagine that you won't --

11 MS. SMART-GITTINGS: That's what I was
12 thinking. Are you instructing me that I cannot?

13 THE COURT: No.

14 MS. SMART-GITTINGS: Okay.

15 THE COURT: He's afraid what happens if he
16 talks about self-defense and you don't say anything
17 about it. I think that's what you were --

18 MS. SMART-GITTINGS: Oh.

19 MR. WRIGHT: Yeah, and I don't want the deal --
20 mostly saying that I'm speaking about her defense
21 because I'm not allowed to comment on anything of
22 her defense. And I think that self-defense could be
23 extrapolated, saying that I'm speaking about her
24 defense and then have an issue to be --

25 THE COURT: No, you're entitled to argue the

MOTIONS

1 law to the jury as I'm going to charge it. And
2 she's asked me to give that law to the jury, and
3 I've agreed to do it.

4 MR. WRIGHT: Thank you, Your Honor.

5 THE COURT: So you certainly can do that.

6 MR. WRIGHT: Thank you, Your Honor.

7 THE COURT: What you can't say is the only way
8 they could really try to prove self-defense in this
9 case is if they had called Ms. Castro to the stand
10 and they didn't do it. You can't do that, because
11 that would be headed right to a mistrial.

12 MR. WRIGHT: Yes, sir.

13 THE COURT: Okay. All right. We'll take --
14 y'all want to go ahead and get started on the
15 argument right after the recess?

16 MR. WRIGHT: Good with me.

17 MR. PLEXICO: Yes, sir.

18 THE COURT: Now, remember y'all, if y'all
19 change your mind about testifying, nudge your lawyer
20 when that jury's coming in.

21 And by the way, are you going to offer any other
22 witnesses?

23 MR. PLEXICO: No, Your Honor. We'll rest and
24 we'll make another motion on sufficiency.

25 MS. SMART-GITTINGS: No witnesses on Defendant

MOTIONS

1 Castro.

2 THE COURT: All right. Take a few minutes,
3 I'll let you get your thoughts together, and we'll
4 move forward. Maybe about seven or eight minutes.

5 (Whereupon, a brief recess was
6 taken.)

7 (The Jury enters the courtroom
8 at 3:28 p.m.)

9 THE COURT: All right. Thank you for your
10 patience, ladies and gentlemen, and everybody.

11 All right. The State has rested, ladies and
12 gentlemen.

13 Mr. Plexico, I'll ask you first on any evidence
14 from Mr. Grant?

15 MR. PLEXICO: No, Your Honor. The defense
16 would rest for Mr. Grant at this time.

17 THE COURT: All right. Ms. Smart.

18 MS. SMART-GITTINGS: None, Your Honor.
19 Defendant Castro rests.

20 THE COURT: All right. I'll note that any and
21 all motions have been made.

22 Any supplements on those, Mr. Plexico and Ms.
23 Smart?

24 MR. PLEXICO: Yes, for me, but we can do it at
25 your convenience, Your Honor.

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1 THE COURT: All right. I'll note those as
2 being made. Okay?

3 MS. SMART-GITTINGS: Thank you, Your Honor.

4 THE COURT: All right. Ladies and gentlemen,
5 what this means is, is that the evidence that is
6 going to be presented in this case has now been
7 presented. We move forward now to the presentation
8 of closing arguments to you, and right after that, I
9 will give you a charge on the law.

10 What we did during that relatively extended
11 break was go over the jury charge that I'm going to
12 give you. Because if you had come back out and heard
13 them rest, I'd have to send you back out and we'd
14 have to deal with the jury charge outside of your
15 presence, so we just did it all at the same time.

16 The closing argument stage of the trial is
17 extremely important. I remind you that you must
18 continue to pay very close attention.

19 This is the opportunity of the lawyers to argue
20 to you the conclusions that they believe the evidence
21 or lack of evidence would compel you to reach. What
22 the lawyers say is not evidence, but they are
23 permitted under our rules to refer to the evidence
24 that has been produced.

25 If one of the attorneys perhaps -- it won't be

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1 done intentionally -- but if one of the attorneys
2 perhaps characterizes some evidence or summarizes it
3 or quotes it or refers to it in a way that does not
4 correspond with your collective memory what the
5 evidence actually was, you go with your memory.

6 Similarly, the lawyers are permitted to include
7 within their closing argument the law that I'm going
8 to give to you. If they misquote or mischaracterize
9 or refer to the law in any way that does not
10 correspond with the law as I give it to you, you
11 must, under your oath, go or follow the law as I tell
12 you it is, not necessarily what the one of the
13 lawyers tells you it is.

14 They'll also be permitted to refer to the
15 verdict forms that you will have in your jury room
16 with you. And those are the instruments on which you
17 will record your unanimous verdicts.

18 Again, pay very close attention to what they
19 have to say, and remember that they are not
20 themselves witnesses.

21 And the order of the argument will be the State
22 presenting the first argument. And after that,
23 Mr. Plexico will have the right to argue on behalf of
24 Mr. Grant. After that, Ms. Smart will have the
25 opportunity to argue on behalf of Ms. Castro.

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1 If Mr. Plexico and Ms. Smart want to switch, one
2 goes first over the other, that's between them. I'm
3 just giving you the basic order that it will be
4 presented.

5 All right. Mr. Wright.

6 CLOSING ARGUMENT BY MR. WRIGHT

7 MR. WRIGHT: Thank you. As I told you guys
8 earlier, be careful what you ask for because you
9 just might get it.

10 In 1997, I was a sophomore in college at USC,
11 studying biology. I was going to be a doctor. Never
12 thought I'd be here in front of you guys. But that
13 summer, there was a fight on TV. That's the first
14 time I went to my apartment, I remember me and my
15 buddies we paid for the pay per view to see it.
16 Tyson versus Holyfield two. It's known now as the
17 bite fight.

18 But back then, the commentators, they were all
19 in the news, talking about how do you beat Mike
20 Tyson. Everybody had a plan. You got to move to the
21 left. When he swing, you got to -- you got to duck
22 when he swing. Everybody had a plan. And they
23 interview Mike Tyson, say, Mike Tyson, what do you
24 think about these folks saying this is how he beat
25 you and that's how he beat you?

Closing Argument by Mr. Wright

1 And Mike, eloquently as he always talks,
2 everybody got a plan to beat Mike Tyson until I punch
3 them in the mouth.

4 That's what happened in this case. Ms. Castro
5 went to Rose Quarters. She had a plan. She was
6 going to whip Ms. Monique Singleton. But everybody
7 has a plan. Talking about Tyson punch them in the
8 mouth.

9 We presented evidence today from the jury stand,
10 from Ms. Monique Singleton, from Ms. Melissa Fields,
11 Ms. Mary Ann Fields, that when the incident involved
12 those two occurred, it was just those two together.
13 And I don't know if you remember --

14 MR. WRIGHT: Permission to move freely, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. WRIGHT: I think Ms. Smart-Gittings is the
18 one that said, was she against the wall? Said,
19 yeah, she had her against the wall. Ms. Mary Ann
20 Fields said, she had her locked in and she was
21 beating her. Little teeny thing. You saw when she
22 walked up, she had the heels on, she still about
23 5-foot with heels on.

24 Everybody got a plan to beat Mike Tyson until he
25 punches them in the mouth. She was not planning on

Closing Argument by Mr. Wright

1 grabbing a hold of that souped-up wildcat that she
2 grabbed a hold of. But when she did, it was more
3 than she could handle.

4 Be careful what you ask for because you just
5 might get it. She came to that lady's neighborhood
6 looking for a fight. And when she started losing,
7 she decided to cut. That's not fair. Just because
8 you lose, take your butt cutting and go back home.
9 Get back in your vehicle, say, hey, you got me. She
10 could have went home. We wouldn't be here today.
11 But she decided to cut her, almost cut her ear off.

12 This evidence presented -- I'm going to reach
13 around you, Miss Madam Court Reporter.

14 This was shown to you. You all had a chance to
15 look at it. Almost cut her ear off. Imagine the
16 amount of pain involved in getting your ear cut that
17 way.

18 She came up, she showed you guys the scar. I
19 submit to you that that scar, and the fact that she
20 told you that she has like loss of sensation in her
21 ear, is the deformity and the protracted loss of an
22 organ that's thought of in the statute. And I'm
23 going to go over the statute with you in a minute for
24 ABHAN.

25 As it pertains to Ms. Ebony Castro, this young

Closing Argument by Mr. Wright

1 lady over here with the pink top on, I submit to you
2 there was more than enough evidence for you to find
3 her beyond a reasonable doubt guilty of assault and
4 battery of a high and aggravated nature.

5 She had no business cutting her. We admit she
6 was getting her butt cut. But you don't have no
7 right to cut her just because you're losing. Could
8 have just said, hey, you win.

9 Ms. Singleton told you, hey, she's the one that
10 cut her, but she wasn't trying to hurt her.

11 As far as it pertains to Mr. Barrington Grant,
12 while it was chivalrous to come to your sister's aid,
13 if you've been convicted of a violent felony, as the
14 Judge told you in the stipulation, you have no right
15 having a gun. So even if you think you're doing the
16 right thing, hey, don't touch my sister, it's going
17 to get serious, you could have did it a different
18 way. You could have just said, hey, you ladies break
19 it up, you're being childish, you have no business
20 fighting in front of your kids, in front of these
21 people. Y'all going -- that would have been the
22 right thing to do, not pull out a gun and say, hey,
23 if you don't get off my sister, it gonna get serious.
24 That's not appropriate.

25 The appropriate thing to do would have been to

Closing Argument by Mr. Wright

1 break them up. And let's just put it all on the
2 table. Grown women got no business fighting in the
3 middle of the street. They should have been home
4 doing other things, but these women were fighting.

5 And that fighting led to Ms. Ebony Castro taking
6 measures in her own hands, because she was losing the
7 fight. Decided to cut this young lady.

8 It would have been great if they were home doing
9 crocheting or baking cakes for the grandkids, but
10 they were fighting. And a fight is a fight. When
11 you pull a knife into that situation, that's no
12 longer just a fight. Now, you're trying to kill
13 somebody. You're trying to hurt somebody.

14 Thank the Lord it was just an ear. The EMT told
15 you there's a lot of stuff in that area. She wasn't
16 a doctor, but she said she had multiple number of
17 times, too many to even name, about lacerations she's
18 gone to, and she's been an EMT since 2001, and she
19 knows this type of stuff. And she said that that was
20 the type of injury contemplated here today.

21 I submit to you that you have more than enough
22 evidence to go in the back and come back with a
23 guilty verdict of assault and battery high and
24 aggravated nature as it pertains to Ms. Ebony Castro.
25 And you have more than enough evidence that

Closing Argument by Mr. Wright

1 Mr. Barrington Grant, who is not allowed to have a
2 gun, had a gun.

3 You say, why? Where's the evidence coming from?
4 Let's go through the witnesses that they got on the
5 stand. We had Ms. Mary Ann Fields, the older lady.
6 I think they call her Knapp. You know they talked
7 about being in front of Knapp house, you know.
8 Everybody -- she said she couldn't say that Mr.
9 Barrington Grant had a gun, she didn't see him with a
10 gun. She was being honest as possible.

11 Nobody came up here, from what I saw, with any
12 ill will toward any of these Defendants. They were
13 just trying to tell the truth, and I commend them for
14 that. That is very rare in this community for people
15 to just want to tell the truth. A lot of times
16 people, uh, I'm not going to say nothing, I don't
17 want to get involved in that. They came forward and
18 they told the truth the best they could.

19 Ms. Mary Ann Fields said she didn't see
20 Mr. Barrington Grant with a gun, but she did see him
21 in the vicinity, which puts him there. That's the
22 only thing that her information was saying. And she
23 talked more about the fact that she saw the two
24 ladies fighting, and that Monique had the upper hand.
25 She was talking about how she was beating her.

Closing Argument by Mr. Wright

1 And she did -- she couldn't say she saw a knife
2 or not, but she knew after those two broke up, her
3 ear was laying open and she thought she was about to
4 pass out, and she called her son over there, da, da,
5 da, da. That's what she said.

6 Then we presented Ms. Melissa Fields Daughtry.
7 She was a spicy one. She said she was friends with
8 both of them, she didn't want to really be involved.
9 She didn't really, you know -- she said, hey, Ebony's
10 my friend, Monique's my friend. I'm just going to
11 say what I saw.

12 And she didn't want to tell everything. I
13 understand. But that's why we had Officer Thomas
14 come in to explain what she really said. She didn't
15 want to say it, but she had said it before, and it
16 was in his head, and it was written down, so he was
17 able to explain what she really said, when she said
18 that she saw the gun, and that she didn't see the
19 actual knife, but she corroborated Ms. Mary Ann
20 Fields, Ms. Knapp, that those two the only people
21 over there when the ear got cut. All that beyond a
22 reasonable doubt, that both of those -- both of these
23 Defendants are guilty.

24 We presented the law enforcement officer, just
25 to kind of establish the scene, set the date that it

Closing Argument by Mr. Wright

1 happened, on August 22nd, 2015. None of the law
2 enforcement officers saw the incident, and we admit
3 that. You know, that's something that was brought
4 up.

5 You weren't there, you didn't see it. Now, it's
6 not going to tell, law enforcement not going to be
7 there when things happen. They come after the fact,
8 and they go around and ask for information and
9 collect information. They decide who the person is
10 and then they submit it and it goes through the
11 system.

12 The victim. Ms. Sandra Monique Singleton.
13 Don't get much more honest than that. She said what
14 she had to say. She didn't hide anything. She
15 wasn't trying to be extra mean or put anything -- she
16 told you exactly, said, hey, she's from New York,
17 Ebony's from New York, she wanted to fight me, bring
18 it. And I'm going to beat your butt. And that's
19 what happened.

20 She talked about the fact that Ms. Castro said
21 she was going to cut her that day, and she cut her.

22 You have more than enough evidence to go in the
23 back, do your full duty, come back with guilty
24 verdicts for ABHAN. The Judge is going to submit
25 that you have the option to find Ms. Ebony Castro

Closing Argument by Mr. Wright

1 guilty of assault and battery first degree, assault
2 and battery second degree.

3 The ABHAN says that there is -- and it's a term
4 of art, great bodily injury, and we define it as
5 either something that's going to cause you to die or
6 could have caused you to die, or -- and I may be my
7 mistaken and the Judge is going to give it verbatim,
8 so go off what the Judge says -- but basically that
9 you got injured to a point where you have a
10 deformity.

11 I wouldn't want to go around with a big chunk of
12 my ear sliced up and having a keloid growing in
13 there, when I didn't know -- I didn't do it to
14 myself. And from the witness stand, Ms. Monique
15 Singleton said that she has like less sensation in
16 her ear. Your skin is an organ. Your ear is a part
17 of your ear system, you know, with the inside and
18 things of that nature. I majored in biology, but
19 that was about 15, 20 years ago, so excuse me if I
20 don't know the details on that.

21 But cutting the ear, I submit to you is causing
22 a deformity to an organ, being the skin. Ms. Brenda
23 Ellis alluded to that when she testified.

24 And I think when we first started, the Judge
25 read off a long list of names. And there were more

Closing Argument by Mr. Wright

1 people on that list. We decided to streamline it,
2 try to get it all to you guys while it's fresh on
3 your mind, so when you go in the back it wouldn't be
4 like, what did he say yesterday? I can't remember
5 from yesterday. We wanted you to get it all today.

6 So you go in the back, you can sit down, you can
7 talk about it amongst yourselves and use your common
8 sense to say, I think the girl is guilty.

9 Somebody say, hey, why is it guilty, and you'll
10 have the tools. I gave you the tools to say why
11 they're guilty of ABHAN, pointing and presenting a
12 firearm. Because when you take it out, I don't have
13 to take it and point it at a person, the way the
14 statute's written, it's pointing and presenting.

15 Presenting it, if I take it out and say, hey,
16 I'm going to shoot somebody, I presented it. I don't
17 have to point it at you, it's pointing and
18 presenting. It's really pointing, slash, and/or
19 presented, but everybody say pointing and presented.

20 So you have the tools to go in the back and come
21 back guilty.

22 Wrote some notes, let me make sure I didn't miss
23 anything.

24 The Judge is going to charge you on
25 self-defense. I submit to you self-defense isn't

Closing Argument by Mr. Wright

1 appropriate in this situation because Ms. Ebony
2 Castro caused the situation. She came to Rose
3 Quarters. She could have kept her butt in her own
4 neighborhood. She knew she had difficulties. There
5 was testimony that, yeah, they were fighting for a
6 long time. Their daughters been fighting. Daughters
7 started the fight. Every time they see each other,
8 they picking at each other. They always fighting.

9 She knew when she came to Rose Quarters
10 something was going to happen. They weren't going to
11 sit down and have a tea, they weren't going to share
12 a cake. She knew something was going on, she came
13 over there looking to start some mess. Be careful
14 what you ask for, you just might get it.

15 I ask that you take everything I said into
16 consideration, and when you go in the back to
17 deliberate, you do your full duty. Come back with a
18 guilty verdict against both these Defendants for all
19 three charges.

20 Thank you very much.

21 THE COURT: Mr. Plexico.

22 CLOSING ARGUMENT BY MR. PLEXICO

23 MR. PLEXICO: If it pleases the Court.

24 All the evidence is in now. I really think it's
25 time just to put a stop to this.

Closing Argument by Mr. Plexico

1 There were a crowd of 60 people, 15 to 20, most
2 of who are unidentified are fighting. Okay? They're
3 involved with some kind of fight.

4 Now, out of this huge crowd of people raising
5 the dickens, you only see two people on trial.

6 Why is my client really on trial? My client's
7 on trial because of his sister. That's all. That's
8 the only reason. Now, he wouldn't even be involved
9 in this. Think about it.

10 Ms. Melissa Fields came in. Now, they wanted to
11 run away from her testimony, but she came in, said
12 there were 15 to 20 people involved in a fight.
13 Okay. If there were five girls fighting, for
14 whatever reason, okay, you take five out of that
15 number, so instead of 15 to 20, you can reduce it by
16 five, and that's ten to 15.

17 Then the other person involved, over here, that
18 you have heard testimony about, is my client. That
19 leaves -- that's nine to one.

20 Now, my client's supposed to have a gun. Okay?
21 Now, that's what Ms. Singleton said to start with,
22 that before anything started, he pulled out a gun.
23 Then he had nine people, according to Ms. Singleton's
24 testimony, that came and jumped on a man armed with a
25 gun. How does that make any sense? That's the

Closing Argument by Mr. Plexico

1 craziest thing, that's just unfathomable. That's
2 just not credible that nine people are going to jump
3 on somebody with a gun.

4 So if that's not believable, that gives you
5 doubt with Ms. Singleton's -- for the recollection of
6 what she said.

7 Now, the bottom line here is, they have to have
8 credible evidence, credible evidence to show beyond a
9 reasonable doubt. And the key on my client's case
10 is, did he have a gun? Period. Did he have a gun?

11 What credible evidence do you have? You heard
12 the officer start -- when you heard Officer Smith
13 wasn't there, doesn't know what happened. The next
14 testimony I believe the State mischaracterized --
15 well, the next testimony was from Brenda Ellis, but
16 she said that at the time, Ms. Singleton didn't know
17 how she got hurt, whether she got cut or her ear was
18 bit. She was confused at that time. She was
19 confused way back last August.

20 Then you had Ms. Fields' testify. And
21 Ms. Fields did not testify in this courtroom and
22 identify my client as being there. That's not what
23 she came in here and did. So she never said that the
24 State wanted to use Ms. Fields as -- that she saw him
25 there.

Closing Argument by Mr. Plexico

1 But she specifically said, use your own
2 recollection, that she couldn't say my client was
3 even there. The State conceded in their closing that
4 she didn't say my client had a gun.

5 Then, if you go to the next -- the next witness
6 was Ms. Singleton. Now, she says -- she's the one
7 that says my client had a gun and pulled it out of
8 his pants.

9 Now, if you compare that with the testimony of
10 Ms. Daughtry Fields, Melissa Fields, she said my
11 client walked up after the fight had already started.
12 And remember, Ms. Melissa Fields, Ms. Daughtry, is
13 friends with Ms. Castro and friends with
14 Ms. Singleton. She says she knows who my client is,
15 but she's not friends with him. She has no reason
16 not to tell you the truth in regards to that matter.
17 He's nobody to her.

18 Why would she commit perjury for somebody that
19 doesn't even matter, okay, to her? That's not a
20 reasonable conclusion. That shows you that the more
21 believable or the more credible testimony is that of
22 Ms. Fields, because she truly didn't have a dog in
23 this fight.

24 And as far as the ladies go, she was just trying
25 to break it up between two friends. That was her

Closing Argument by Mr. Plexico

1 statement.

2 Now, if my client came later, after the fight
3 had already started, that means that Ms. Singleton
4 misremembers what actually happened in her accusation
5 that before the fight started my client was there.
6 Both of those things can't be true.

7 So what's one of your jobs as a juror, is to
8 weigh the evidence and the credibility. Who is more
9 believable. Somebody who's angry and mad, as
10 Ms. Singleton was when she testified on that stand
11 about how she had her down and she was beating on
12 her; and I'm not quite sure when she was planning on
13 stopping beating on that woman, after she had already
14 won the fight.

15 Well, you know, you don't have to keep hammering
16 them after you've already won the fight. Then you're
17 trying to do something else. Okay? Then you're
18 trying to do a lot more than just settle a
19 disagreement or a fight, when you keep beating them
20 down, down, down, down. Okay? That's beyond just a
21 fight.

22 Now, she is an angry person. She showed how she
23 loses control through her own testimony. Okay? She
24 doesn't know when enough is enough. Okay?

25 Now, is that the kind of person that you would

Closing Argument by Mr. Plexico

1 find to be credible, when she sat in here and said
2 the things that she said? What she did was, she
3 wanted to wrap my client around the accusations of
4 Ms. Castro. That's all she wanted to do, she just
5 wanted to get them both because she hates the family.
6 She hates the kids. Okay? She just hates the
7 family. She's just getting rid of two of them. But
8 is that fair?

9 Now, when you have somebody in here testify, as
10 Ms. Fields testified about her injured hand, how she
11 was going to the doctor. Okay. I don't know about
12 these police practices, I always thought you did
13 line-ups and took witness statements away from the
14 other witnesses so one didn't hear what the other one
15 was saying, so one didn't see a police line up and
16 go, oh, you identified number three, I guess I'll
17 agree with you. Or she identified number five, I'll
18 agree with her.

19 The better police practice is to separate these
20 people out. It's just common sense. But the police,
21 they don't know that in Estill.

22 When you get a witness doing a statement for
23 another witness, that's just a conflict of interest,
24 especially for a mutual witness, and have the
25 daughter of the alleged victim take the statement.

Closing Argument by Mr. Plexico

1 That's just contrary to common sense. That's just
2 bad police practice. That doesn't take -- I mean,
3 that's high school judgment. That's just wrong.

4 Now, she got in here and said, no, that's not
5 what I said. And I was in so much pain that I just
6 glanced over and signed it.

7 Now, they wanted to parade in Mr. Thomas here,
8 and you heard about the 30 or 40 people out there
9 that he interviewed. No, because he didn't do any
10 work on the case at all. But he did. He reviewed
11 statements that other officers had collected.

12 He couldn't even remember that she didn't write
13 because she was in pain. He was that unaware of the
14 situation, and his memory is that foggy, that what
15 he's saying, that he just read the statement. Well,
16 we know the statement's wrong because Ms. Fields
17 corrected that statement. She said, no, I didn't see
18 Barry with the gun. Okay? That's not what I said.

19 Now, she's not in pain, she's not suffering,
20 okay, so, she has a clearer recollection. All right.

21 Now, Mr. Thomas wants to come in here and say,
22 oh, she said something different. But if he couldn't
23 remember that she was in pain and waiting to go to
24 the hospital, do you think he was going to remember
25 what she said back in August?

Closing Argument by Mr. Plexico

1 And remember, how eager of a job -- how eager of
2 an investigator was he, going out and investigating
3 all these people? They got two people charged in
4 this melee. What about the other nine to 15 people
5 who were pummeling my client? You didn't hear
6 anything. Well, that was okay.

7 Well, that's not okay. You know, this is just
8 wrong. They don't have any credible evidence for you
9 to consider everything that my client ever possessed
10 a gun.

11 Yeah -- yes, he has a record, but you can't
12 judge a man by his past. That would just also be
13 wrong. Now, if he didn't have a gun, period, and
14 they don't have credible evidence that rises to the
15 level starting at zero and goes all the way up to
16 guilty beyond a reasonable doubt, okay, that's a long
17 walk to get there. Okay?

18 You have to find him not guilty. This isn't
19 probable. And remember, the presumption of
20 innocence, everyone in America comes to the
21 courthouse with a presumption of innocence. That's a
22 powerful, powerful legal concept that we have for our
23 citizens. We don't assume like some countries do
24 that you're guilty and you have to prove that you're
25 innocent.

Closing Argument by Mr. Plexico

1 Now, presumption of innocence alone, they must
2 overcome that all the way to a point of guilty beyond
3 a reasonable doubt. And presumption of innocence
4 alone is enough by itself to find someone guilty.
5 because they haven't done the job that they needed to
6 do. That's all there is to it.

7 Now, what evidence, again, do they have that my
8 client possessed a gun? None from Ms. Fields. Okay.
9 As a matter of fact, Ms. -- that was elder Mary
10 Fields, then you have Melissa Fields. She said no,
11 he didn't have a gun. Anybody says that is -- that's
12 just wrong. That's not what I said, it's a
13 misunderstanding.

14 Sandra Singleton is the only one who says that
15 my client had a gun. This is a one witness case from
16 an angry, bitter, bitter, bitter person over what
17 happened, who if she would have just had some
18 self-control, things would never have gotten out of
19 hand this much. Okay?

20 Now, what did they say my client said twice?
21 Y'all shouldn't be fighting. You don't put a man in
22 jail for that. That's just good sense. Wish they
23 would have listened to Mr. Grant.

24 But the women chose not to. Okay? You don't
25 have to go buckle up when somebody says something to

Closing Argument by Mr. Plexico

1 you. Okay? We teach our grandchildren that, we have
2 tried to teach our children that, and we're teaching
3 our great grandchildren. Okay? That's what we're
4 all about, not going out to fist fight and so on.
5 You first learn, things blow over.

6 But apparently that could -- I don't see any
7 point in wrapping up and convicting my client on the
8 weakest evidence possible from an angry involved
9 person who's conflicted, who has a reason to tell a
10 story on my client, because she doesn't like him or
11 like his sister..

12 Now, this is my client's only day in court. You
13 know, this evidence, this is some of the weakest
14 evidence that I could imagine. And you have a
15 potential for all those witnesses who could have came
16 to the courthouse to say my client had something, and
17 this is the best that they can do? A verdict of
18 guilty would deserve better in America. I put that
19 to you.

20 We deserve better from our investigators. Okay?
21 Putting forth reasonable information that you can
22 make.

23 And this is he said/she said, you're talking
24 50-50. Somebody has to be wrong. Is it more likely
25 Ms. Fields, who likes both parties, who doesn't even

Closing Argument by Mr. Plexico

1 know my client -- that's Melissa Daughtry Fields --
2 or is it this angry woman here? Which one's right?

3 Ms. Melissa Daughtry Fields says, Mr. Grant
4 didn't even get there until after the fight had
5 already -- they were already locked up and fighting.
6 So she could not have seen my client with a gun.
7 Then where's the evidence?

8 And that by itself, if you believe it, you
9 believe it, it wouldn't rise to guilty beyond a
10 reasonable doubt. If you believe what Ms. Fields
11 says.

12 The State's own case is conflicted, leaving you
13 with no choice except to bring back a verdict of not
14 guilty on both charges. Because if you didn't have a
15 gun, and they hadn't shown beyond a reasonable doubt
16 that my client had a gun, no gun in evidence.
17 There's nothing hardly in evidence at all. Why?
18 Because there is no evidence.

19 There's no evidence. You've got to bring back a
20 verdict of not guilty. And whatever evidence it is,
21 it has to be enough evidence to overcome any
22 reasonable doubt. And they haven't done it. They
23 just haven't done it.

24 Their own evidence balances each other out back
25 to zero. How could it? How could you be at zero and

Closing Argument by Mr. Plexico

1 find somebody guilty?

2 Please don't -- think about what you're doing,
3 don't do something like that. Give it a lot of
4 thought.

5 I want to thank you for your time. And, again,
6 this is my client's only chance. Y'all are his
7 judges.

8 THE COURT: Thank you, Mr. Plexico. Ms. Smart.

9 CLOSING ARGUMENT BY MS.

10 SMART-GITTINGS

11 MS. SMART-GITTINGS: May it please the Court,
12 Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. SMART-GITTINGS: Ladies and gentlemen of
15 the jury, just a few questions.

16 Do you know what great bodily injury is? Has
17 anyone from this witness stand told you what great
18 bodily injury is? Do you know what a substantial
19 risk of death is? Do you know what serious permanent
20 disfigurement is?

21 Has anyone from this witness stand given you any
22 evidence of serious permanent disfigurement? Has
23 anyone from this witness stand told you what
24 protracted loss or impairment of a function of a
25 bodily member or organ was?

Closing argument by Ms. Smart-Gittings

1 Aren't those medical terms? Aren't those terms
2 that doctors would know, people who treat those type
3 of injuries would know? And in order for the State
4 to prove all the elements of this particular case,
5 wouldn't it be necessary for a doctor to tell you
6 what those things are, or an EMT, or a paramedic, who
7 has no training in bodily organs?

8 But what she did tell you was that she came to
9 the scene, there was bleeding, and that they left the
10 scene without lights and sirens. What does that tell
11 you with regard to substantial likelihood of death?

12 When they left the scene that day, they left non
13 emergent. So if they left non emergent, did the
14 State prove to you, confirm it, are you firmly
15 convinced that the State proved great bodily injury,
16 or the substantial likelihood of death of
17 Ms. Singleton? Although the ambulance left non
18 emergent, was she at a substantial likelihood of
19 dying that day?

20 And I submit to you that if the State did not
21 prove to you that she had a substantial likelihood of
22 dying that day, then the State has not met its burden
23 of proof. They haven't met assault and battery of a
24 high and aggravated nature.

25 It is their responsibility to prove to you each

Closing argument by Ms. Smart-Gittings

1 and every element of the case. They can't just prove
2 to you that there was a fight. They can't just prove
3 to you that she was injured. They have to prove the
4 substantial likelihood of death.

5 And if they haven't, they certainly haven't
6 proved assault and battery of a high and aggravated
7 nature.

8 So let's talk about what they did tell you. I
9 told you at the onset the witnesses that they were
10 going to bring to you, and they didn't even bring all
11 the witnesses that they had on their witness list to
12 bring you.

13 One of the important witnesses that they did not
14 bring was the other officer, the other officer who
15 took statements. I think Officer Smith said that
16 what -- was the other officer that was interviewing
17 all the people out there. I was just more concerned
18 on making sure the victim was okay. I didn't really
19 talk to any other people.

20 Well, would it have been necessary for you to
21 hear from that officer who took the statements from
22 the other people, so he could have told you how many
23 people actually gave statements and how many people
24 witnessed the fight?

25 They didn't think it was important for him to

Closing argument by Ms. Smart-Gittings

1 come, because they have subpoena power. If they
2 thought it was important for you to hear from him, he
3 would have been here. But he wasn't.

4 So they didn't bring you a doctor, and they
5 didn't bring you the officer that was on scene
6 talking to other people.

7 Now, we know, it's uncontested that there were a
8 lot of people there. Exactly how many, we don't
9 know. Probably 40, I heard 30, but that's more than
10 four or five. But the State doesn't want you to know
11 what they had to say. They don't want us to know
12 what they had to say, because we weren't provided it.
13 So I don't know what those other people would have
14 said.

15 She had a plan. Ebony had a plan, because she
16 went to Rose Quarters. So I suppose if I go to Pizza
17 Hut, I have a plan. Because if I don't live at Pizza
18 Hut, I shouldn't go.

19 You can't restrict people's movements. You
20 can't say the only reason why she went to the
21 neighborhood was because she had a plan, because she
22 wanted to fight.

23 As a matter of fact, Ms. Sandra, Ms. Monique
24 said, I went to her. I told her, I heard you want to
25 fight, let's fight. She said, Ebony said, I don't

Closing argument by Ms. Smart-Gittings

1 want to fight you, you're going to call the police on
2 me. I don't want to fight you. But she insisted
3 that they fought. She was so insistent, and she was
4 so sure of herself that she was like, yeah, I know
5 her brother had a gun, but, okay, I'm still going to
6 fight you.

7 Now, you have to believe that she is very, very
8 cocky, or I'm not sure what would cause a person to
9 fight someone if their brother threatened them with a
10 gun prior to the fight.

11 So if you want to believe that she attacked this
12 girl, knowing that her brother had a gun, then that's
13 your choice to believe that part of her story, or
14 none of her story. Because none of it makes sense.
15 You're going to fight somebody whose brother has a
16 gun?

17 She wants to say -- the State wants to say, oh,
18 Ebony can't say she was acting in self-defense
19 because she went to Rose Quarters.

20 She went to Rose Quarters because Melissa said
21 her daughters were there. Her daughters were in a
22 fight. Everybody was fighting. There were three
23 different fights. So she went to get her children.
24 That's what the State's witnesses said. We didn't
25 even present any witnesses to you because the State's

Closing argument by Ms. Smart-Gittings

1 witnesses were so helpful to us.

2 So Melissa, who's a friend to both women, she
3 didn't think one was more of a friend than the other
4 one, she said, I didn't see her cut her. She said,
5 they were -- as a matter of fact, the one consistent
6 fact was, they were locked up. Ms. Fields said that
7 Monique had Ebony locked up. Melissa said that Ebony
8 was locked up. Everybody said that Ebony was locked
9 up. Ebony was being beat.

10 So how then, if she is locked down, there's no
11 issue as to whether or not she was locked down, how
12 did she cut her? How is it possible for her to be in
13 -- and I put myself against the wall. And I said,
14 was she pinned against your house? Yes, she was
15 pinned against the house. And Sandra said, I was
16 holding her down. She couldn't move. She couldn't
17 do anything.

18 So if she was holding her down, how did she cut
19 her?

20 Now, the EMS lady said, was she told me she
21 didn't know whether she was cut or whether she was
22 bitten. But when she got to law enforcement, she
23 wanted law enforcement to believe that she cut her.
24 She wants you to believe that she told Ebony, I'm
25 going to fight you even though you have a knife.

Closing argument by Ms. Smart-Gittings

1 She didn't have a weapon, but she wants you to
2 believe that she jumped on somebody who had a knife,
3 and their brother had a gun, and she doesn't have a
4 weapon.

5 Now, what we do know is that her ear was
6 injured. But we don't know, the State has not proved
7 to you beyond a reasonable doubt, how she received
8 the injury, because there's evidence that it was
9 either a bite or it could have been a cut. But there
10 is no substantial evidence that it was, in fact, a
11 cut.

12 So we know that there's an injury, but do you
13 know whether it was serious? Do you know whether
14 she's going to lose the ear?

15 You don't know the answer to those questions.
16 Now, self-defense. Ebony was in a situation. She
17 was pinned against the wall, and she was being
18 beaten. She told you how much force she was beating
19 her with.

20 Now, Ebony had a right, a legal right to defend
21 herself if she felt like she was in substantial risk
22 of being injured. What Ms. Sandra and Ms. Monique
23 told you, I was beating her. As a matter of fact, I
24 wasn't going to stop beating her. Even though my ear
25 was cut, I was going to beat her some more.

Closing argument by Ms. Smart-Gittings

1 I'm not going to tell you the words that she
2 used, she heard them, but she was adamant that she
3 was going to beat Ebony that day. That was it.

4 So if Ebony was being beaten, and substantially
5 beat, she had every right to defend herself. If she
6 was, as the evidence submitted to you, was pinned
7 against a trailer and she could not get up, she had
8 every means to use any force necessary to get herself
9 away from that danger.

10 Now, there were other people there, and they
11 were trying to separate them, but they couldn't.
12 That's just how much force, as the State would have
13 you, little old Monique had. So much force that it
14 took two different people to pull them apart, from
15 little old Monique and big old Ebony.

16 Big old Ebony was taking advantage of little old
17 Monique. Who was the aggressor? Who started this
18 fight?

19 Can you start a fight by going to a
20 neighborhood? I certainly would hope that your life
21 experiences will tell you that it's okay to visit any
22 neighborhood that you would like to, and not expect
23 to fight. Even if you tell her, I don't want to
24 fight you because you'll call the police on me.

25 Now, that is reasonable to know that if I fight

Closing argument by Ms. Smart-Gittings

1 you, you're going to call the police. So I don't
2 want to fight you.

3 So all the evidence has been presented, you have
4 an obligation to deliberate. You have an --
5 everybody can input in the deliberation, and whatever
6 your opinions and beliefs are, you have a right to
7 voice that. But what you have to do is come to an
8 agreement as to what the verdict is.

9 One of the things -- and I need you to be strong
10 in your convictions, whatever your convictions are,
11 be strong in those convictions. If you believe that
12 the State met their burden, be strong in that
13 conviction. But if you believe that they have not
14 met that burden, be strong in that conviction. Be
15 true to yourself. And at the end of the day, you
16 have done your duty as juror. Whatever your verdict
17 is, you have done your responsibility, your civic
18 responsibility.

19 But if you hesitate to act, if you are not
20 strongly convinced that the State has met their
21 burden beyond a reasonable doubt, then I submit to
22 you, Ebony Castro submits to you, that the true and
23 just verdict is not guilty.

24 THE COURT: Thank you.

25 All right. Ladies and gentlemen, the next order

Closing argument by Ms. Smart-Gittings

1 of business will be for me to give you a charge on
2 the law. That's going to take about 20 or 30
3 minutes, so we will take a recess to give you a
4 chance to stretch and remain refreshed.

5 So please go to your jury room. You may not
6 discuss the case at all. That time is coming soon.
7 Not yet.

8 (The Jury exits the courtroom.)

9 MR. PLEXICO: Thank you, Your Honor, I would
10 move for a directed verdict on the grounds that on
11 the lack of sufficiency of evidence to go forward.
12 I don't think that there's substantial evidence that
13 shows that my client actually presented a weapon.
14 They have two statements, both are contradictory.
15 There's nothing but a guessing game and I just don't
16 think that there's enough evidence to go forward. I
17 don't think that it's sufficient. It's not
18 substantial.

19 THE COURT: What were the two versions?

20 MR. PLEXICO: One version was, he walked up
21 before the fight began, from Ms. Singleton, and
22 pulled a gun out of his pants and presented the gun.
23 And then Ms. Melissa Daughtery Fields testified that
24 in fact he did not arrive until after the ladies had
25 already started fighting and she never, in fact,

MOTIONS

1 said she had a gun. She was the one who said she
2 was in pain due to the injured hand and she only
3 peripherally glanced at the statement before she
4 went to the doctor. There's no other evidence that
5 my client had a gun.

6 THE COURT: All right.

7 MR. WRIGHT: I disagree with Mr. Plexico's
8 characterization of the evidence. I believe that
9 there was definitely evidence from the victim, he
10 pulled a gun out. And the evidence that
11 Ms. Daughtery Fields gave originally was in align
12 exactly with what Ms. Singleton gave that was
13 brought back in through Officer Thomas. I think
14 that -- I'm not sure what Mr. Plexico is talking
15 about with that whole -- I don't remember what he's
16 talking about, I don't remember that being
17 characterized that way.

18 THE COURT: Anything else?

19 MR. PLEXICO: No, Your Honor, I think that the
20 testimony is clear.

21 THE COURT: Well, there's some variation
22 between the witnesses, but the jury -- there is
23 sufficient amount of evidence to go to the jury.
24 The jury could well believe every word that came out
25 of Ms. Singleton's mouth about that issue and that

MOTIONS

1 would be enough. The jury could conclude that
2 Ms. Daughtery Fields first alleged statement to the
3 police was the truth and go with that on the issue
4 of pointing and presenting a firearm or possessing a
5 firearm; period.

6 Okay, could y'all come up, please, and get your
7 copy of the verdict form and take a look at that real
8 quickly.

9 THE COURT: Ms. Smart, you object to the lesser
10 includeds on the ABHAN. Do you have any other
11 objection to the verdict form pertaining to
12 Ms. Castro?

13 MS. SMART-GITTINGS: No other objection,
14 Your Honor.

15 THE COURT: All right. Mr. Plexico, of course,
16 you moved for directed verdict on the two charges
17 against Mr. Grant. Otherwise, do you have any
18 objection to the verdict forms?

19 MR. PLEXICO: No, Your Honor.

20 THE COURT: Mr. Wright, do you have any
21 objections?

22 MR. WRIGHT: None, Your Honor.

23 THE COURT: All right. Are all parties --

24 MS. SMART-GITTINGS: Your Honor, I want to
25 renew my previous --

MOTIONS

1 THE COURT: I'm sorry. Yes, ma'am.

2 MS. SMART-GITTINGS: -- motion for directed
3 verdict.

4 THE COURT: Okay. That's respectfully denied.
5 Okay. Everybody ready for the jury?

6 MR. WRIGHT: Yes, sir.

7 MR. PLEXICO: Yes, Your Honor.

8 THE COURT: Let them know that if they're all
9 not ready. we'll wait on them. Okay?

10 THE CLERK: Yes, sir.

11 (The Jury enters the courtroom.)

12 JURY CHARGE

13 THE COURT: All right. Ladies and gentlemen,
14 as I mentioned to you before we last broke, we're
15 going to move forward now to the phase of the trial
16 where I give you a charge on the law. I certainly
17 do expect the same undivided attention that you've
18 given to the witnesses and the attorneys throughout
19 the trial.

20 This is the obligation I have under the law to
21 charge you the law. As I mentioned to you before,
22 you must accept the law exactly as I give it to you,
23 even if you thought the law was different, or if you
24 think it should be different. For today's purposes,
25 you must accept it exactly as I give it to you.

Jury Charge

1 Now, your deliberations in this case are going
2 to culminate in your foreperson's completion of these
3 verdict forms. When you retire to deliberate, your
4 first order of business will be to pick amongst
5 yourselves one person to act as foreperson. The
6 foreperson's responsibilities are going to be to make
7 sure that the deliberations are conducted in an
8 orderly fashion, that everybody is present in the
9 immediate area when they're being conducted, and also
10 to make sure your verdicts are unanimous.

11 That means that all of you have to agree. This
12 is not going to be an eight to four, nine to three,
13 or even an 11 to one vote. It must be, whatever your
14 verdicts are on each particular form you're reviewing
15 at that time, must be 12 to zero. Whether it's not
16 guilty or whether it's guilty, it has to be 12 to
17 zero. I want to make sure you understand that.

18 You can't vote unanimously to accept a verdict
19 that's not unanimous. In case juries like to get
20 creative, you can't do that either. If you have
21 seven to five or eight to four, 11 to one, you can't
22 unanimously agree to go with that. Can't do it.

23 All right. Now, as I mentioned to you before,
24 the fact that a person is arrested, charged, or
25 indicted is not evidence of anything. These

Jury Charge

1 Defendants have entered pleas of not guilty to these
2 charges.. They are presumed innocent, and the State
3 must prove the elements of the crime charged beyond a
4 reasonable doubt.

5 Who's going to decide whether that's been done?
6 You are. And you're the only person -- only people
7 in the world who can do that. You use your good
8 common sense view of the evidence, you take that
9 along with the law as I'm going to give it to you
10 over the course of the next few minutes, and you
11 reach those verdicts. And, again, they must be
12 unanimous.

13 I'm going to talk to you during the course of
14 this trial about different legal principles. I'm
15 going to talk to you about reasonable doubt, the
16 presumption of innocence. I'm going to talk to you
17 about criminal intent. I'm going to talk to you
18 about lesser offenses. I'm going to talk to you
19 about many other things that have labels or names,
20 and I will guarantee you one thing, I will repeat
21 myself. And the reason for that is not because I've
22 lost my place or I've forgotten what to tell you,
23 it's simply that one legal principle will intertwine
24 or relate to another legal principle. So when I talk
25 to you about one later on, I'm going to have to refer

Jury Charge

1 back to things I've already told you. If you hear me
2 repeating myself, don't tune me out because this is
3 extremely important.

4 Likewise, if you think that I'm emphasizing one
5 thing over another, put that out of your mind,
6 because I have to give a complete charge. I'm not
7 intending to give anything undue emphasis. I must be
8 complete and full, according to what the law is.

9 Now, you have a role to perform, a role to
10 fulfill, and I have a role to fulfill. As I've
11 mentioned to you, it's your responsibility to
12 consider the evidence that has been introduced. If
13 evidence has come in, you can consider it. If I have
14 instructed you to disregard something under your
15 oath, you must disregard it.

16 Now, ladies and gentlemen, no more evidence is
17 going to be introduced. Nothing else new is going to
18 be made known to you. However, if you want to hear
19 testimony played back for you, that can be arranged.
20 If you want to hear me give you the law again on a
21 certain point, that can be arranged. But nothing new
22 is going to be introduced.

23 And along those lines, if during the course of
24 your deliberations, if you have a question, your
25 foreperson in there will have a note pad. The

Jury Charge

1 foreperson writes the name down -- excuse me, writes
2 the question down, signs the question, dates it, taps
3 on the door, and let the bailiff know you have a
4 question. The law dictates if and how I can respond.
5 But, again, you're not going to get anything new in
6 the way of evidence or information.

7 Now, ladies and gentlemen, it's your
8 responsibility and your responsibility alone to give
9 evidence that's been introduced the weight and value
10 you think it deserves. You might have noticed that
11 when the witnesses testify, they're essentially
12 testifying to you. Their backs are kind of turned to
13 me. You know why that is? Because it doesn't matter
14 what I think. It doesn't matter whether I think
15 they're the most believable or the unbelievable
16 person whoever walked the earth. It doesn't matter
17 what I think. On that issue, it's your
18 responsibility to evaluate the credibility of these
19 witnesses. And as I mentioned to you before, you
20 have your common sense tools in doing that. I'll
21 touch on that more specifically in just a moment.

22 Now, in this case, the Defendant, Mr. Grant, has
23 been charged with two offenses. One -- and they're
24 both on these verdict forms -- one is pointing or
25 presenting a firearm at a person. The other is

Jury Charge

1 possession of a firearm by a person convicted of a
2 violent crime classified as a felony.

3 Your verdict on one of those does not control
4 your verdict on the other. Based on your view of the
5 evidence, you can find him guilty of both, not guilty
6 of both, or guilty of one and not guilty of the
7 other. That's your decision alone, as long as it's
8 unanimous.

9 Likewise, your verdicts as to Mr. Grant do not
10 control your verdict as to Ms. Castro. As I
11 mentioned to you before, she's charged with assault
12 and battery of a high and aggravated nature. Again,
13 your verdict as to her doesn't control your verdicts
14 as to him.

15 And ladies and gentlemen, on the issue of
16 credibility, which I almost started to cover a moment
17 ago, you have to determine credibility. You're the
18 only people who can do it. Use your common sense.
19 You can take anything into account that you think is
20 appropriate as long as it's based on common sense.

21 How did the witness appear on the stand? As I
22 mentioned before, demeanor. Was the witness hesitant
23 or straightforward when they were answering
24 questions? Did the witness have a bias or prejudice
25 for or against one side or the other? Has the

Jury Charge

1 witness said something different or the same on a
2 prior occasion?

3 You can also take into account whether or not
4 that witness's testimony had been strengthened or
5 weakened by other evidence that's in the record.
6 That's all for you to determine. You can believe one
7 witness over many, many over one. You can believe
8 everything a witness has to say, believe none of it,
9 or believe parts and disbelieve the rest.

10 I think you realize that, and that is, again,
11 something that's based on common sense.

12 Now, I have used the word "evidence" several
13 times, and I've talked to you about the ways evidence
14 comes in. I'm going to shift gears for just a
15 minute. There are generally two types of evidence
16 that are introduced during a trial. You may have
17 heard of these before, they're called direct evidence
18 and circumstantial evidence.

19 Now, direct evidence is evidence that
20 immediately establishes the facts sought to be
21 proved. I'll give you an example. Fundamental
22 example, probably two sentences.

23 If an issue in a case was whether or not a dog
24 crossed the street, and you had a witness to testify,
25 and you believed that witness, find that witness

Jury Charge

1 credible, and the witness said, I saw the dog cross
2 from one side of the street to the other. The
3 witness says he or she saw it, and that is an example
4 of direct evidence. It's evidence that immediately
5 establishes the facts sought to be proved.

6 Circumstantial evidence is proof of a chain of
7 facts and circumstances that indicate the existence
8 of a fact. To follow up on that example, if the
9 issue in the case was about that dog crossing the
10 street, and you had that credible witness you chose
11 to believe who said, I saw the dog on the left side
12 of the street, I looked down, rummaging through my
13 bags, and I looked up 20 seconds later, and the dog
14 was on the other side of the street. If you want to,
15 you can circumstantially conclude, based on those
16 circumstances, that the dog walked across the street.

17 Now, the law makes no distinction between the
18 weight or value that you're to give to either direct
19 evidence or circumstantial evidence. However, crimes
20 proven -- and crimes may be proved by direct evidence
21 or circumstantial evidence, or some combination of
22 the two.

23 The law, again, makes no distinction between the
24 weight or value that you can give to either one, but
25 to the extent the State may rely on circumstantial

Jury Charge

1 evidence, all of the circumstances must be consistent
2 with each other, and when taken together point
3 conclusively to the guilt of the accused person
4 beyond a reasonable doubt. If the circumstances
5 merely portray a defendant's behavior as suspicious,
6 then the proof has failed.

7 Again, the State has the burden of proving the
8 crimes charged beyond a reasonable doubt, whether the
9 State relies on direct evidence, circumstantial
10 evidence, or some combination of the two.

11 As I mentioned to you at the beginning of the
12 charge, these Defendants have entered pleas of not
13 guilty to these charges, and those pleas put the
14 burden of proof on the State to establish the
15 elements of the crime charged beyond a reasonable
16 doubt.

17 Whatever offense a person is charged with in
18 this state, it's a very important rule of law, that
19 person is presumed innocent. They're always presumed
20 innocent unless and until guilt is proven by evidence
21 satisfying your guilt beyond a reasonable doubt.
22 That presumption of innocence is not a casual phrase
23 or a theory that we casually toss around, it is a
24 substantial right that these defendants enjoy, again,
25 unless and until their guilt is established by

Jury Charge

1 evidence beyond a reasonable doubt.

2 Some people describe the presumption of
3 innocence like a robe of righteousness around the
4 defendant's shoulders, and it stays there until it's
5 stripped away by evidence that satisfies a jury that
6 guilt has been proven beyond a reasonable doubt.

7 I've used the words, "reasonable doubt" probably
8 20 times already. I'm going to tell you what that is
9 now. A reasonable doubt is the kind of doubt that
10 would cause an honest, sincere person -- a reasonable
11 person -- to hesitate to take action. The State,
12 again, has the burden of proving the elements of
13 these crimes charged beyond a reasonable doubt.

14 If you have been on a jury in a civil case, you
15 heard, probably, the Judge tell you that the burden
16 of proof was by the greater weight of the evidence.
17 That is when you have the scales of justice, and
18 they're even. If you have the burden of proof by the
19 greater weight, that person having the burden has to
20 tip those scales ever so slightly. That's the
21 greater weight.

22 Now, in criminal cases, the State's proof must
23 be more powerful than that. It must be proved beyond
24 a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that

Jury Charge

1 leaves you firmly convinced of a defendant's guilt.
2 Now, there are very few things obviously on this
3 earth that we know with absolute certainty. And the
4 criminal law does not -- the criminal law does not
5 require the State to present proof that overcomes
6 every possible doubt. The State does have to present
7 proof beyond a reasonable doubt.

8 If based on your consideration of the evidence
9 and the offense that you're considering at that time
10 on these verdict forms, if you are firmly convinced
11 of a defendant's guilt on that particular charge, you
12 find the defendant guilty. If on the other hand you
13 think there is a real possibility that the defendant
14 is not guilty, you must give the defendant the
15 benefit of the doubt and find him or her -- again,
16 him or her -- obviously not guilty.

17 Now, ladies and gentlemen, I instruct you, and I
18 emphasize to you, the fact that the Defendant Grant
19 and that the Defendant Castro did not testify in this
20 case is not something for you to consider or take
21 into account in any way whatsoever. It's not to be
22 considered by you in your deliberations or your
23 considerations of whether or not they are guilty or
24 not guilty. Again, don't consider it at all. Don't
25 think about it, don't talk about it, and do not let

Jury Charge

1 it enter into your decision-making process on these
2 verdict forms.

3 A defendant has the right to remain silent, and
4 a defendant's assertion of that right cannot in any
5 way be taken into account by you in your
6 consideration of the guilt or non guilt of that
7 particular defendant.

8 So under your oath to follow the law, you must
9 accept that law exactly as I give it to you.

10 Now, ladies and gentlemen, I'm going to get more
11 specific and go to the specific counts or charges
12 alleged against these Defendants. I had to address
13 these in some particular order, one before the other,
14 so don't think that if I'm going to one first, that
15 I'm giving it any more emphasis.

16 One verdict form as to Mr. Grant. It says: As
17 to pointing or presenting a firearm at a person, we
18 unanimously find the Defendant -- there are two
19 choices -- not guilty or guilty.

20 I charge you that with regard to that offense,
21 the State must prove beyond a reasonable doubt that
22 the Defendant Grant presented to or pointed at
23 another person a loaded or unloaded firearm. So the
24 pointing or presenting.

25 The word "point" means point. Given its common

Jury Charge

1 and ordinary meaning. The word "presenting," or
2 present, means to offer to view in a threatening
3 manner or to show in a threatening manner.

4 The next verdict form pertaining to Mr. Grant
5 says: As to the possession or the charge of
6 possession of a firearm by a person convicted of a
7 violent crime classified as a felony, we unanimously
8 find the Defendant -- two choices -- not guilty,
9 guilty.

10 Now, in order to prove that offense, the State
11 must prove beyond a reasonable doubt, first, that the
12 Defendant Grant possessed a firearm, and that the
13 State must prove beyond a reasonable doubt that the
14 Defendant Grant has been convicted of a violent crime
15 classified as a felony.

16 You previously heard my charge earlier in the
17 trial, that the fact that he has in the past been
18 convicted of a violent crime classified as a felony
19 is only to be considered by you in determining
20 whether or not the State has met its burden of
21 proving one of the elements of that crime. It is not
22 to be used by you for any other purpose, including,
23 not limited to -- you may not use it to, in and of
24 itself, to prove that he committed a crime.

25 Now, ladies and gentlemen, with regard to the

Jury Charge

1 Defendant Ebony Evelyn Castro, she is charged with
2 the offense of assault and battery of a high and
3 aggravated nature.

4 As I get into this part of the charge, I will
5 tell you what the pertinent things are the State has
6 to prove beyond a reasonable doubt, and I'll also
7 talk to you about a legal principle called a lesser
8 offense, or a lesser included offense.

9 Now, ladies and gentlemen, again, she is charged
10 with assault and battery of a high and aggravated
11 nature, and in that regard the State must prove
12 beyond a reasonable doubt that the Defendant Castro
13 unlawfully injured another person, and great bodily
14 injury to that other person resulted, or the act was
15 accomplished by means likely to produce death or
16 great bodily injury. Either one of those two. But
17 whichever one it is, when you're considering it, must
18 have been proven beyond a reasonable doubt.

19 I'm going to repeat that because I've got to
20 give you a definition. The State must prove beyond a
21 reasonable doubt that the Defendant Castro unlawfully
22 injured another person, and that great bodily injury
23 resulted, or the act was accomplished by means likely
24 to produce death or great bodily injury.

25 The words "great bodily injury," under the laws

Jury Charge

1 of this state, mean bodily injury causing a
2 substantial risk of death, or which causes serious
3 permanent disfigurement or protracted loss or
4 impairment of the function of a bodily member or
5 organ.

6 Now, on this verdict form, it says after -- as
7 to assault and battery of a high and aggravated
8 nature, sometimes we use ABHAN as an acronym for
9 that, as to assault and battery of a high and
10 aggravated nature, we unanimously define -- we
11 unanimously find the Defendant not guilty or guilty.
12 Whatever your unanimous decision is, you mark it
13 accordingly.

14 It goes on to say: If you have found the
15 Defendant guilty of this offense, stop and deliberate
16 no further. The foreperson sign and date the verdict
17 form.

18 It goes on to say: If you have found the
19 Defendant not guilty of this offense -- again, that's
20 ABHAN -- you must consider the lesser offense of
21 assault and battery in the first degree. And I'm
22 going to tell you what that is now.

23 So if you have concluded that the State has not
24 proven the Defendant guilty of assault and battery of
25 a high and aggravated nature, you must consider

Jury Charge

1 whether the State has proven her guilty of assault
2 and battery in the first degree.

3 I charge you with regard to that, that the State
4 must prove beyond a reasonable doubt that the
5 Defendant Castro offered or attempted to injure
6 another person with the present ability to do so, and
7 that act was accomplished by means likely to produce
8 death or great bodily injury. Same definition of
9 great bodily injury applies there.

10 Now, the verdict form has two choices for that,
11 not guilty or guilty. And bear with me, I'm getting
12 close to the end.

13 It goes on to say: If you have found the
14 Defendant guilty of that offense, assault and battery
15 first degree, stop, deliberate no further, foreperson
16 sign and date the verdict form.

17 If you have found her not guilty of assault and
18 battery in the first degree, you must consider
19 another lesser offense, which is assault and battery
20 in the second degree. In that regard, ladies and
21 gentlemen, the State must prove beyond a reasonable
22 doubt with regard to assault and battery in the
23 second degree that the Defendant Castro unlawfully
24 injured another person, or offered or attempted to
25 injure another person with the present ability to do

Jury Charge

1 so, and moderate bodily injury resulted or could have
2 resulted.

3 Moderate bodily injury, as opposed to great
4 bodily injury, means physical injury that involves
5 prolonged loss of consciousness or causes temporary
6 or moderate disfigurement or temporary loss of the
7 function of a bodily member or organ or injury that
8 requires medical treatment requiring the use of
9 regional or general anesthesia.

10 Moderate bodily injury does not include one time
11 treatment or subsequent observation of scratches,
12 cuts, abrasions, bruises, burns, splinters, or any
13 other minor injuries that ordinarily do not require
14 extensive medical care. That is the definition
15 adopted by our Legislature of moderate bodily injury.

16 Now, ladies and gentlemen, with regard to all of
17 these offenses that I've mentioned to you that have
18 been charged in this case, in order to establish the
19 elements of these crimes, or any crime, the State
20 must prove also the element of criminal intent beyond
21 a reasonable doubt.

22 Now, ladies and gentlemen, there's no way that
23 medical science can, at least yet, dissect a person's
24 brain and look at the brain and determine what, if
25 anything, a person intended to do at any given time.

Jury Charge

1 So the law says that criminal intent may be proven by
2 circumstantial evidence.

3 It's not necessary, but it's possible, it's not
4 necessary, however, to establish criminal intent by
5 direct evidence. But again, it may be established by
6 circumstantial evidence, by taking into account the
7 actions of the parties and all of the facts and
8 circumstances of the case.

9 Criminal intent is basically a mental state.
10 It's a conscious wrongdoing. And it's up to you to
11 determine what, if anything, a defendant intended to
12 do based on the circumstances shown to have existed.

13 Now, lastly, I'm going to talk to you about a
14 particular legal principle that involves only the
15 Defendant Castro. With regard to the charges of
16 assault and battery, high and aggravated nature,
17 assault and battery in the first degree, assault and
18 battery in the second degree, the issue of
19 self-defense is for your consideration.

20 Now, self-defense, under the laws of this state,
21 is a complete defense. The Defendant Castro does not
22 have to prove self-defense. The State must disprove
23 it beyond a reasonable doubt. If the State does not
24 disprove self-defense beyond a reasonable doubt, you
25 must find the Defendant Castro not guilty.

Jury Charge

1 Now, ladies and gentlemen, if you have a
2 reasonable doubt of her guilt after considering all
3 the evidence, including evidence of self-defense, you
4 must find her not guilty, as I mentioned it.

5 If, on the other hand, you have no reasonable
6 doubt of her guilt after considering all the
7 evidence, including any evidence of self-defense,
8 then you must find her guilty.

9 I'm going to go over now the three basic
10 elements of self-defense that must be -- that must
11 exist in order for that legal principle to apply.

12 First, the Defendant Castro must have been
13 without fault in bringing on the difficulty in this
14 case. And by the way, if I include the term "victim"
15 in this particular charge, it is not me sponsoring
16 the fact that Ms. Singleton is, in fact, a victim.
17 Victim is a term of art that I must use to
18 differentiate between Ms. Castro and Ms. Singleton so
19 you'll know which one I'm talking about.

20 To repeat, the Defendant, first of all, must
21 have been without fault in bringing on the
22 difficulty. If the Defendant Castro's conduct was
23 the type which was reasonably calculated to and did
24 provoke an assault, the Defendant would be at fault
25 in bringing on the difficulty and is not entitled to

Jury Charge

1 an acquittal or a finding of not guilty based on
2 self-defense.

3 If the Defendant Castro voluntarily participated
4 in mutual combat for purposes other than her own
5 protection, there is not self-defense. That's true,
6 even if during the combat, the Defendant feared death
7 or serious bodily injury.

8 However, if before the act is committed, the
9 Defendant withdrew and tried in good faith to avoid
10 further conflict, and either by word or act made that
11 known to the victim, the Defendant Castro would have
12 been without fault in bringing on the difficulty.

13 For mutual combat to exist, there must be mutual
14 intent and willingness to fight. That may be shown
15 by acts and conduct of the parties and the overall
16 circumstances surrounding the mutual combat.

17 Now, ladies and gentlemen, the second element of
18 self-defense is that the Defendant was actually in
19 imminent danger of death or serious bodily injury, or
20 she actually believed she was in imminent danger of
21 death or serious bodily injury.

22 If the Defendant was actually in imminent
23 danger, it must be shown that the circumstances would
24 have warranted a person of ordinary firmness and
25 courage to strike the blow that was struck in

Jury Charge

1 self-defense in order to prevent death or serious
2 bodily injury.

3 If the Defendant believed she was in imminent
4 danger, then it must be shown that a reasonably
5 prudent person of ordinary firmness and courage would
6 have had the same belief.

7 Now, ladies and gentlemen, in determining
8 whether or not the Defendant actually was or believed
9 she was in imminent danger, you should consider all
10 of the facts and circumstances, including the
11 physical conditions and characteristics of the
12 Defendant and the victim.

13 Now, the Defendant Castro obviously does not
14 have to show -- she doesn't have to show anything --
15 it does not have to be shown that she was actually in
16 danger. It is enough that she -- if she believed she
17 was in imminent danger and a reasonably prudent
18 person would have had the same belief.

19 A Defendant has the right to act on appearances,
20 even though the Defendant's belief may have been
21 mistaken. And it's for you to determine whether the
22 Defendant's fear of immediate danger was reasonable
23 and would have been felt by an ordinary person in the
24 same situation.

25 I further charge you, ladies and gentlemen, that

Jury Charge

1 words -- if any words were uttered by the victim, and
2 they were accompanied by hostile acts, the
3 self-defense may be established on that basis.

4 Evidence of prior difficulties between the
5 Defendant and the victim may be considered in
6 determining whether a threat existed, whether the
7 Defendant had a reason to believe a threat existed,
8 and how serious that threat was. The relative sizes,
9 ages, and weights of the Defendant and victim may be
10 considered in deciding the apparent or actual need
11 for force in self-defense and the amount of force
12 needed.

13 Now, ladies and gentlemen, the third element of
14 self-defense is that the Defendant had no other
15 probable way to avoid the danger than to act as she
16 did in this particular instance. A defendant has no
17 duty to retreat if by doing so the danger of being
18 killed or injured would increase.

19 I further charge you that a person cannot be
20 required to make an exact calculation as to the
21 degree or amount of force which may be needed to
22 avoid harm. Therefore, in self-defense, a defendant
23 has the right to use the force needed to avoid harm.
24 The force used does not have to be limited to the
25 degree or amount of force used by the victim.

Jury Charge

1 A defendant has the right to use so much force
2 as appeared to be necessary for complete
3 self-protection, and that which a person of ordinary
4 reason and prudence would have believed to be needed
5 to prevent harm.

6 And a defendant is justified in defending
7 himself or herself until it is apparent that the
8 danger of harm or injury has been completely ended.

9 Now, again, as I mentioned to you a few minutes
10 ago, if you have any questions about evidence,
11 testimony, you can present those. The law dictates
12 if and how I can respond. I'll field every question,
13 but I may tell you that this is information that is
14 not going to be given to you.

15 If you want something played back, that can be
16 arranged. If you want to re-hear a re-charge on any
17 of the law that I've given you, it can be changed.

18 Now, when you go into the jury room, remember
19 your first order of business is going to be who's
20 going to be your foreperson. As soon as you have
21 decided that, write the name down. The foreperson
22 who's been selected can tap on the door, hand that
23 piece of paper to the bailiff, the bailiff will bring
24 it to me, and we'll all know who your foreperson is
25 going to be.

Jury Charge

1 When you complete the verdict form, whoever the
2 foreperson is, it says foreperson by the signature
3 blank, just print your name -- John Smith, Jane Doe,
4 whatever your name is, just print it by the word
5 "foreperson".

6 Your responsibilities are just beginning, and
7 they're extremely important. You have been selected
8 to be jurors in this case. It's your solemn
9 obligation to follow your oath, to try this case
10 according to the evidence and the law, and you're
11 having the chance to do that in just a few minutes.

12 All right. The next order of business is going
13 to be for me to ask the lawyers if I left something
14 out or said something wrong. So, I'm going to let
15 you go to your jury room now, but don't deliberate
16 yet. Your signal to deliberate will be when the
17 foreperson comes to the door with these forms and the
18 exhibit that has been introduced and tells you that
19 you can begin. But don't start until then. Okay?
20 You can go to your jury room.

21 If Mr. Corbin and Mr. Altman would remain in the
22 hallway for the time being, the rest of you can go in
23 the jury room.

24 (The Jury exits the courtroom at
25 4:45 p.m.)

Colloquy

1 THE COURT: All right. Any exceptions or
2 additions from the State?

3 MR. WRIGHT: Let me look over this one statute.
4 I thought there was something different between
5 ABHAN and assault and battery first degree. And
6 when you read it, it sounded like there was no
7 difference.

8 THE COURT: Well, yeah. I was reading it from
9 the code section. Let me see if I can find it.

10 Can you print that?

11 I know what the difference is, but to be frank
12 about some things, sometimes it gets lost in
13 translation. But I read it verbatim from the
14 statute.

15 ABHAN is unlawfully injuring another person, and
16 great bodily injury resulted, or the act was
17 accomplished by means likely to produce death or
18 great bodily injury..

19 Assault and battery in the first degree is
20 offering or attempting to injure another person, and
21 the act is accomplished by means likely to produce
22 death or great bodily injury.

23 I'll be honest with you.

24 MR. WRIGHT: Yeah. I thought one of them was
25 the serious -- well, now that I think about it --

Colloquy

1 THE COURT: Well, that -- serious, great, and
2 moderate I believe were under the old law.

3 MR. WRIGHT: Yeah, that's what I --

4 THE COURT: Old, I say 2010.

5 MR. WRIGHT: That made sense.

6 THE COURT: And when they amended it in 2015,
7 they took out -- I think they took out serious, but
8 there is some marked similarity between the two
9 offenses.

10 MS. SMART-GITTINGS: Judge, I was following it
11 from the statute as you were reading it, and you
12 were reading it basically what the statute said
13 verbatim.

14 THE COURT: And I don't know what the
15 Legislature was thinking that day, but that's what
16 it says.

17 MR. WRIGHT: Have to roll with it then.

18 THE COURT: It's never been crystal clear to
19 lawyers or judges. I don't know about juries.

20 Okay. Any other exceptions or additions that
21 you'd like to bring to my attention?

22 MR. WRIGHT: None, Your Honor.

23 THE COURT: Mr. Plexico?

24 MR. PLEXICO: For Defendant Grant, none, sir.

25 THE COURT: Ms. Smart.

Colloquy

1 MS. SMART-GITTINGS: None, Your Honor.

2 THE COURT: Okay. All right. There's one
3 exhibit that's been introduced.

4 MR. WRIGHT: Yes.

5 THE COURT: Does anyone have an objection to me
6 releasing the alternates with the instructions to
7 call back tomorrow between 11 and 12?

8 MR. WRIGHT: No, Your Honor.

9 MS. SMART-GITTINGS: None, Your Honor.

10 THE COURT: Okay. You can bring them in and
11 you can tell the jury -- all right. The foreperson
12 is John R. Davis. Okay.

13 Okay. Mr. Altman and Mr. Corbin. Only 12
14 people can deliberate. In many instances jurors go
15 by the wayside because of illness or whatever else
16 may occur, but only 12 can deliberate, so you're free
17 to go. The rest of the panel is calling back. That
18 number, you have that piece of paper with the number
19 on it?

20 THE CLERK: They have to get it from the
21 security desk downstairs on the way out.

22 THE COURT: On the way out, ask the guard or
23 the officer for a piece of paper with a call back
24 number on it. Call that number between 11 and 12,
25 you'll hear a voice recording that will tell you

Colloquy

1 what your obligations are, either come back tomorrow
2 or your service will be over, or perhaps to call
3 back at another time. Just follow those
4 instructions.

5 You're free to go, and thank you for your time
6 this week so far.

7 (The Alternates are released.)

8 THE COURT: All right. Anything else before we
9 wait for the jury's verdict?

10 MR. WRIGHT: No, Your Honor.

11 MR. PLEXICO: Nothing from Defendant Grant.

12 MS. SMART-GITTINGS: Nothing, Your Honor.

13 THE COURT: All right. We'll be in recess.

14 (Proceedings in recess while the jury is
15 deliberating.)

16 THE COURT: All right. The jury has a
17 question, I'll read it, signed by Mr. Davis. It
18 says: What is the conditions for assault and
19 battery second degree?

20 Any input from the State or the Defendants as to
21 how I should respond?

22 MR. WRIGHT: I think we're stuck with just
23 maybe reading the statute again.

24 THE COURT: All right. Mr. Plexico?

25 MR. PLEXICO: I don't think I'm going to have a

Jury Deliberation

1 dog in that fight, Your Honor.

2 THE COURT: All right. Ms. Smart.

3 MS. SMART-GITTINGS: I think it's just the
4 statute, Your Honor.

5 THE COURT: All right. I will tell the jury
6 the elements of that offense.

7 Okay. Bring the jury in.

8 (The Jury enters the courtroom.)

9 THE COURT: All right. Ladies and gentlemen, I
10 have your question. And it reads: What is the
11 conditions for assault and battery second degree,
12 signed by your foreperson. I will relay the
13 information --

14 THE FOREPERSON: First degree, wasn't it?

15 THE COURT: You said second, it says second.

16 THE FOREPERSON: Second degree. You're right
17 sir.

18 THE COURT: All right. Okay.

19 All right. Ladies and gentlemen, I charge you
20 that the law in this state is that a person commits
21 the offense of assault and battery in the second
22 degree if the person unlawfully injures another
23 person or offers or attempts to injure another person
24 with the present ability to do so, and moderate
25 bodily injury to another person results, or moderate

Jury Deliberation

1 bodily injury to another person could have resulted.

2 In that regard, I charge you the definition of

3 moderate bodily injury.

4 It means physical injury that involves prolonged
5 loss of consciousness, or that causes temporary or
6 moderate disfigurement or temporary loss of the
7 function of a bodily member or organ, or injury that
8 requires medical treatment when the treatment
9 requires the use of reasonable or general anesthesia,
10 or injury that results in a fracture or dislocation.

11 Moderate bodily injury does not include one time
12 treatment and subsequent observation of scratches,
13 cuts, abrasions, bruises, burns, splinters, or any
14 other minor injuries that do not ordinarily require
15 extensive medical care.

16 That concludes and completes the request for the
17 response to your question.

18 All right. Thank you.

19 (The Jury exits the courtroom at
20 5:23 p.m.)

21 THE COURT: All right. Any exceptions or
22 additions from the State?

23 MR. WRIGHT: None, Your Honor.

24 THE COURT: Ms. Smart.

25 MS. SMART-GITTINGS: None, Your Honor.

Jury Deliberation

1 THE COURT: And, Mr. Plexico, you have none?

2 MR. PLEXICO: There's none from the Defendant.

3 THE COURT: All right. Thank you.

4 We'll continue to wait, but while we're out
5 here, if the jury is still deliberating at six,
6 that's just an arbitrary time, it may be appropriate,
7 dependent upon your input, for me to ask them if they
8 want to continue their deliberations tomorrow or
9 order supper and allow them to continue tonight.

10 So over the next 30 minutes or so, be giving
11 that some thought, and if that situation arises,
12 we'll deal with it at that time. Okay?

13 MS. SMART-GITTINGS: Yes, Your Honor.

14 MR. WRIGHT: Yes, sir.

15 THE COURT: Thank you.

16 (Whereupon, a brief recess was
17 taken.)

18 THE COURT: Okay. Thank you. Have a seat.

19 All right. I understand that the jury has
20 reached a verdict. Is that right?

21 THE CLERK: Yes, sir.

22 THE COURT: All right. The State ready?

23 MR. WRIGHT: Ready, Your Honor.

24 THE COURT: Mr. Grant?

25 MR. PLEXICO: Defense is ready.

Jury Verdict

1 THE COURT: Ms. Castro.

2 MS. SMART-GITTINGS: Defense is ready,
3 Your Honor.

4 THE COURT: Okay. You can bring in the jury.
5 Let's just make sure there's no reaction from
6 anyone. I know the lawyers won't, but no reaction
7 from anyone, audible or visible.

8 (The Jury enters the courtroom.)

9 THE CLERK: Mr. Foreman and members of the
10 jury, have you reached a verdict?

11 THE FOREPERSON: Yes, ma'am.

12 THE COURT: Are they unanimous?

13 THE FOREPERSON: Yes, sir.

14 THE COURT: Okay. Go ahead.

15 All right. Thank you.

16 All right. If the Defendants would please stand
17 and face the jury.

18 And publish the verdict.

19 THE CLERK: The State of South Carolina, versus
20 Barrington Wayne Grant, 2015GS250295, as to pointing
21 and presenting a firearm, not guilty. Signed by the
22 foreperson, John Davis, May the 11th, 2015:

23 305, the State of South Carolina versus
24 Barrington Wayne Grant as to possession of a firearm
25 by a convicted person, not guilty, signed by the

Jury Verdict

1 foreperson, John Davis, May the 11th, 2016.

2 2015GS250296, the State of South Carolina versus
3 Ebony Evelyn Castro as to the assault and battery of
4 a high and aggravated nature, not guilty. As to
5 assault and battery first degree, not guilty. As to
6 assault and battery second degree, guilty, signed by
7 John Davis, May the 11th, 2016.

8 THE COURT: All right. Ladies and gentlemen,
9 if these were your verdicts and are still your
10 verdicts, please signify that by raising your right
11 hand.

12 (Jurors comply.)

13 THE COURT: All right. The record will show
14 that all 12 jurors raised their right hand.

15 All right. Anything from the State before I
16 release the jury?

17 MR. WRIGHT: Nothing further, Your Honor.

18 THE COURT: Anything from the Defendant Grant
19 before I release the jury?

20 MR. PLEXICO: No, Your Honor.

21 THE COURT: Anything from the Defendant Castro
22 before I release the jury?

23 MS. SMART-GITTINGS: Nothing, Your Honor.

24 THE COURT: All right. Ladies and gentlemen,
25 that does conclude your service in this case.

Jury Verdict

1 You're now free to discuss this case all that you
2 want. I'm going to put one final qualifier on that.
3 The rest of the jury panel, which now includes you,
4 is calling back tomorrow between 11 and 12 to
5 determine whether or not there will be any further
6 service this week. After you know either from the
7 clerk's office or from me that your service is over,
8 then you can talk about this case all that you want.
9 Now, please don't talk about it until then.

10 When you leave today, when you leave, will a
11 deputy still be at the security area downstairs?

12 THE CLERK: Uh-huh, uh-huh. (Indicating
13 affirmatively.)

14 THE COURT: You'll need to pick up a piece of
15 paper, if you don't have it already, with a call
16 back number on it. Call that number between 11 and
17 12 tomorrow. You will hear a voice recording, and
18 the voice will tell you what your responsibilities
19 are. The voice may say -- it'll be somebody from
20 the clerk's office -- the voice will say come back
21 tomorrow at a certain time or that your service for
22 the week is over. Whichever the case is, just
23 follow that instruction.

24 If you need a work -- if by chance the recording
25 says that your service is over and you need a work

Jury Verdict

1 excuse, you can get that from the clerk's office
2 sometime this week or next week; is that correct?

3 THE CLERK: Yes, sir.

4 THE COURT: All right. Do I need to tell them
5 anything else?

6 THE CLERK: The check's in the mail, that they
7 don't have to come back.

8 THE COURT: Okay. All right. Now, you are
9 free to go. Thank you for your service in this
10 week. Thank you very much.

11 (The Jury is dismissed.)

12 THE COURT: All right. Mr. Plexico, I assume
13 you have no motions.

14 MR. PLEXICO: I do have -- I have no motions.
15 I'm going to have a matter tomorrow in regards to a
16 governing matter. It's just a violation of
17 probation of this. We can do that tomorrow.

18 THE COURT: All right. Ms. Smart, any motions
19 from the Defendant Castro?

20 MS. SMART-GITTINGS: Not at this time,
21 Your Honor.

22 THE COURT: All right. Would you like ten days
23 to make those?

24 MS. SMART-GITTINGS: Yes, Your Honor.

25 THE COURT: All right. I won't go out on a

Colloquy

1 limb and calculate the ten days for you. You'll
2 have to do that. Please note my address is PO Box
3 1716 in Sumter, 29151. That's in -- it's somewhere
4 in a book.

5 If you do file a motion, make sure you serve
6 Mr. Wright and send me a copy.

7 MS. SMART-GITTINGS: Yes, sir.

8 THE COURT: Otherwise, I won't know about it.

9 Okay. I appreciate the way you tried the case.
10 I know it's difficult in instances like this where
11 you have diverging stories, but I appreciate the way
12 the lawyers tried the case.

13 All right. Thank you. We're adjourned in this
14 case.

15 MR. WRIGHT: Are we going to sentence?

16 THE COURT: Oh, that's right. Do you want to
17 do that today or tomorrow? I must have
18 misunderstood you. I thought you said you would do
19 it tomorrow.

20 MR. WRIGHT: Oh, we can.

21 THE COURT: No, it's up to you. We'll do it
22 now, if you want to.

23 MR. WRIGHT: It'll be fine in the morning.

24 THE COURT: Okay.

25 MR. WRIGHT: The question is, she's on bond,

Colloquy

1 the trial is gone, there's nothing tying her in.

2 THE COURT: She's been found guilty. My --
3 what's your position on that?

4 MS. SMART-GITTINGS: Your Honor, she can be
5 back in the morning at 9:30. She's been here ever
6 since she's supposed to be here. If the Court's
7 inclined, you know, to -- it's up to the State.

8 MR. WRIGHT: My only inclination is that she
9 wasn't here when we first started the case. She has
10 been coming back and forth. If we're going to wait
11 until tomorrow, I don't want to have to put our
12 deputies at risk trying to find her if she doesn't
13 come back.

14 THE COURT: Where does she live?

15 MS. SMART-GITTINGS: In Luray, out in the
16 country. It's in Hampton County.

17 THE COURT: All right. Okay. Well, then I'm
18 going to order her to be held in custody --

19 MR. WRIGHT: Thank you.

20 THE COURT: -- overnight. Okay?

21 All right. Or we can do this now if y'all want
22 to. Y'all want to talk --

23 MR. WRIGHT: I got an assessment sheet, so
24 it'll probably be better for the Court's time to do
25 it early in the morning.

Colloquy

1 THE COURT: All right. 10 o'clock tomorrow
2 morning, if y'all would have her over here.

3 Can y'all have her here at ten in the morning?

4 THE DEPUTY: Yes. Okay.

5 MR. WRIGHT: Thank you, Your Honor.

6 THE COURT: All right. Thank you.

7 Who's that lady walking up? Deputy, they
8 needn't be letting her come on up here.

9 MS. SMART-GITTINGS: Your Honor.

10 THE COURT: Wait just a second.

11 MS. SMART-GITTINGS: There is an issue --

12 THE COURT: Wait just a second. Wait just a
13 second.

14 THE DEPUTY: Have a seat.

15 THE COURT: Okay. The lady behind, the officer
16 may not want her walking up.

17 Yes, ma'am.

18 MS. SMART-GITTINGS: She doesn't have anyone to
19 take care of her kids, and that's her concern, as
20 far as Monday, when she wasn't here.

21 THE COURT: I understand that. You told her
22 not -- I'm not faulting you for that.

23 MS. SMART-GITTINGS: I wanted the Court to take
24 that into consideration. But her concern today is
25 she has small children, and they don't -- they have

Colloquy

1 no idea what's going to happen. So I would ask that
2 the Court -- I think the officers know her, they
3 know where she lives.

4 THE COURT: All right. I'm going to release
5 her on her own recognizance.

6 If you're not back tomorrow morning, ma'am, by
7 ten minutes to ten, a bench warrant will be issued
8 for --

9 MS. CASTRO: I'll be here at nine, sir.

10 THE COURT: Don't interrupt me. Okay? I know
11 you're in uncharted territory, but --

12 MS. CASTRO: Sorry.

13 THE COURT: -- if you're not here by ten
14 minutes to ten, there will be a Bench warrant issued
15 for you to be picked up. I'm ordering you to be
16 here, and you'll be in contempt -- subject to being
17 held in contempt of court if you do not appear.

18 MS. CASTRO: Yes, sir.

19 THE COURT: All right. I know, Mr. Wright,
20 that's over your objection.

21 MR. WRIGHT: I'm okay with that.

22 THE COURT: In the meantime, you're further
23 under a court order not to have any communication at
24 all with Ms. Singleton or members of her family.

25 MS. CASTRO: Yes, sir.

Colloquy

1 THE COURT: Direct or indirect. I have no idea
2 what the jury sorted out as far as the troubles
3 between you and her or your daughters, but your
4 daughters, you better tell them. You evidently have
5 a daughter who's of age, where at least they can
6 move around with some freedom. So they're not
7 young. You better caution them that they better not
8 do anything because it may be interpreted as you
9 requesting that they do it.

10 MS. CASTRO: Okay.

11 THE COURT: And that's just digging deeper and
12 deeper and deeper. Is that clear?

13 MS. CASTRO: Yes, sir.

14 THE COURT: I don't know who in your family
15 might be in here now, but if they create any
16 difficulty that requires any law enforcement
17 response, that's going to come back perhaps and
18 somebody will try to paint you as having done that.
19 Everybody just needs to relax on both sides.

20 MS. CASTRO: Yes, sir.

21 THE COURT: And just behave.

22 MS. CASTRO: Yes, sir.

23 THE COURT: Okay. All right. 10 till 10
24 tomorrow. Thank you.

25 (Discussion off the record.)

Colloquy

1 THE COURT: We'll take care of one more matter
2 before we adjourn, and that deals with Mr. Grant's
3 probation matter.

4 The Department's position on the arrest warrant,
5 which is dated September 21, 2015, served
6 September 21, 2015.

7 PROBATION OFFICER: Yes, sir, Your Honor. Our
8 warrant was based on the incident report and
9 warrants that he was arrested for, for pointing and
10 presenting, which he was just found not guilty of;
11 therefore, there is no violation. I ask that you
12 continue Mr. Grant on supervision, restructure any
13 court ordered fines, and exempt any supervision fee
14 arrearage.

15 THE COURT: All right. Mr. Plexico.

16 MR. PLEXICO: No objection.

17 THE COURT: All right. Mr. Grant, you are
18 still on the probation that Judge Kinard put you on
19 in Allendale County back in 2014. Your begin date
20 was May 15, 2015. Your probation, according to
21 this, will end May 4, 2019.

22 You'll be subject to reporting to your agent
23 upon your release from the local jail. You
24 understand that?

25 MR. GRANT: Yes, sir. And once you get

Colloquy

1 released, don't start off on the wrong foot by not
2 reporting.

3 Has he been in jail since then?

4 PROBATION OFFICER: Yes, sir, he has, Your
5 Honor.

6 THE COURT: Okay. I take it that bond was
7 denied on the probation warrant or on the arrest
8 warrant in this case?

9 PROBATION OFFICER: The probation warrant was a
10 very high bond, in addition to the bonds for the
11 other warrants, Your Honor.

12 THE COURT: All right. Okay. I have no
13 authority over you since you've been found not
14 guilty. I just want to make sure you understand
15 that when you get out, you keep a low profile and
16 it'll certainly serve you well not to be a part of
17 any alleged activity or disputes between the two
18 families. Do you understand that?

19 MR. GRANT: Yes, sir.

20 THE COURT: All right. Good luck to you.

21 MR. PLEXICO: Thank you, Your Honor.

22 THE COURT: Okay. Do you want me to -- do I
23 need to sign anything?

24 PROBATION OFFICER: Yes, sir. I'm getting him
25 to sign it right now so I can bring it to you.

Colloquy

1 THE COURT: Okay.

2 See you tomorrow morning at 10 o'clock.

3 (Trial concluded.)

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Colloquy

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF BEAUFORT:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 16th day of August, 2016.

Mona L. Manley /s/
MONA L. MANLEY
Official South Carolina Court Reporter
Circuit Reporter for the 14th Circuit
(850) 893-6662
mmanley@sccourts.org

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WITNESSES

Michael G. Thomas - Estill Police
Department

DOCKET NO. 2015GS2500296

The State of South Carolina

County of Hampton

COURT OF GENERAL SESSIONS

April Term 2016

THE STATE

vs.

Ebony Evelyn Castro

ARREST WARRANT NUMBER

2015A2520200069

Indictment For

Assault and Battery of a High and
Aggravated Nature

SC Code: 16-3-600(B)(1)

CDR Code: 3411

TRUE BILL

Foreperson of Grand Jury

Date:

APR 29 2016

VERDICT

Guilty (A+B 2nd Degree)

Foreperson of Petit Jury

Date:

INDICT

After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

INDICTMENT

2015GS2500296

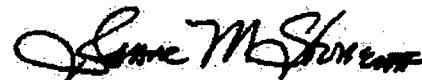
369

At a Court of General Sessions, convened on April 29, 2016, the Grand Jurors of Hampton County present upon their oath:

Assault and Battery of a High and Aggravated Nature

That in Hampton County, South Carolina, on or about August 22, 2015, the Defendant, Ebony Evelyn Castro, did cause "Great bodily injury" to the Victim, Sandra Singleton, and/or that the act involved did or was likely to cause great bodily injury to the Victim, to wit: the Defendant was involved in a fist fight with the Victim and then the Defendant pulled out a sharp object and cut the Victim's ear nearly severing it from the Victim's head and causing the Victim to lose a high volume of blood that could have resulted in death and/or resulted in permanent disfigurement or protracted loss or impairment of the function of the skin and/or ear, all in violation of Section 16-3-600(B)(1) et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

TRUE

0-3yrs

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

STATE

FILED
 HANPTON 12 PM 2:46
 VS. MYLINDA D. NETTLES
 CLERK OF COURT
 HAMPTON COUNTY, S.C.

AKA: Elony E.
 Race: BLK Sex: F Age: 38
 DOB: 12/19/77 SS#:
 Address: 15 [redacted] St.
 City, State, Zip: East 1, SC 2918
 DL# *SID#
 *COL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

INDICTMENT/CASE#: 2015GS-25-00296A/W#: 2015A2520200069Date of Offense: August 22 2015S.C. Code #: 16-3-600CDR Code #: 3411

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
 TO: Assault and Battery 2nd Degree

☒ CONVICTED OF or ☐ PLEADS

In violation of 16-3-600 of the S.C. Code of Laws, bearing CDR Code # 3413
☐ 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 Presentation to Grand Jury. (def.'s initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #
 WHEREFORE, the Defendant is committed to the State Department of Corrections ☐ County Detention Center,
 for a determinate term of 2 months or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment
 of \$; plus costs and assessments as applicable; the balance is suspended with probation for
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services 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 EmploymentPayment Terms: ☐ Set by SCDPPPSRecipient:

*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 \$
 §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) \$ 3.90
 TOTAL \$ 133.90

Clerk of Court/Deputy Clerk

Court Reporter: None MontleyObtain GED ☐Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender Fund

Other: Restitution hearing
must be held within
90 days.

☐ Appointed PD or appointed other counsel,
 \$47.12 requires \$500 be paid to Clerk
 during probation.

Presiding Judge

Judge Code: 2143/16Sentence Date: 5/12/16

RECEIVED

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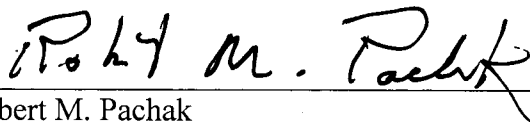
NOV 14 2016

SC Court of Appeals

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."

Respectfully Submitted,



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 14th day of November, 2016.